October 6, 2022

VIA EMAIL - AND –
VIA FIRST CLASS MAIL

Mr Steven Sietz, Director
Federal Insurance Office
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220
Email: steven.seitz@treasury.gov

Dear Mr Seitz:

I am the Executive Director of Retirees for Justice, a retiree advocacy group that is committed to preserving and restoring earned benefits for retirees and their families. I also represent the Association of BellTel Retirees, the Association of DuPont Retirees and GE Retiree Benefit Solutions, among others, as an attorney and retiree advocate.

I write to bring to your attention the **urgent** need for better, more comprehensive, and uniform regulation of the burgeoning practice of pension risk transfer involving the purchase of group annuity contracts ("PRT"). Retirees and their families would greatly appreciate your working quickly and decisively to protect their interests.

Background

The Association of BellTel Retirees is a group of former Ma-Bell companies (now Verizon) that had their pensions literally transferred out from under them. For decades, Verizon assured its employees that the pension benefits they and their families were counting on would be secure. With this promise of "guaranteed lifetime benefits" in mind, many employees made the decision to take retirement at a young age. But in 2012, Verizon did what many more companies are doing today; it transferred over $8.4 billion in pension liabilities to Prudential in a de-risking transaction that impacted over 41,000 retirees across the nation.

The DuPont retirees and GE retirees are both facing similar situations. In 2019, more than 100,000 loyal DuPont retirees saw their pensions and other retirement benefits handed over to a newly created agricultural spinoff, Corteva Agriscience. Although retirees were told to take comfort in the fact that Corteva was "highly rated," the pension plan was under-funded by more than $3.2 billion at the end of 2018. Just shortly after having their pensions transferred to Corteva, all Dupont retirees – both current and future – had their DuPont life insurance coverage terminated by Corteva, some DuPont retirees lost dental coverage, and many will be required to pay all future increases to medical premiums. In 2019, approximately 100,000 GE retirees, who earned benefits but had not yet begun receiving them, were offered a one-time lump sum payment instead. Another 20,000 working employees saw their legacy defined benefits plan benefits frozen as of January 2021.

Retirees' Interests Are Being Cast Aside

Retirees are very concerned about the scope and pace of PRT deals such as those described above. The insurance industry would have you believe that PRT transactions are inconsequential for retirees – that group annuities and defined benefit pension plans provide equivalent protections for their retirement financial security. This is simply not true.

For example, as you know, under the McCarran-Ferguson Act, the business of insurance is relegated to the several states unless otherwise specifically authorized by Congress. In PRT transactions retirees lose all of the uniform protections intended by Congress under ERISA including the oversight, protections, and backstop provided by the Pension Benefit Guarantee Corporation ("PBGC"). While they have limited protection from state Guaranty Associations ("GAs"), this coverage varies based on a retiree's state of residence at the time of insolvency or impairment of the relevant insurance company. Such coverage is not reasonably equivalent to PBGC coverage – and any suggestion to the contrary is disingenuous. This is shown clearly in the three charts set out in Exhibit 1.

These charts consider the plight of an imaginary worker who retires at 65 and whose defined benefit plan gets taken over by the PBGC or whose annuity provider has entered into insolvency proceedings under a state's insurance law at exactly the same time. The charts show the progression of his payments (by the Guaranty Association) for a monthly pension benefit of $2500, $5000 and $7500 per month, as well as the maximum PBGC coverage for a straight life annuity for 2022. Each chart represents a different state – one with coverage capped at $250,000, one at $300,000, and one using $500,000 in Guaranty Association coverage maximums.

Guaranty Association coverage is per individual per lifetime, and it is capped in accordance with state law. Guaranty Associations limit the amounts they can assess their members (life insurers writing premiums in their state) generally based on a small percentage of their annual written premium. The ability of the Guaranty Association safety net to withstand an insolvency of an insurance company the size of Athene, Prudential, or MetLife is entirely uncertain. Further, many pensioners do not realize that their state of residence at the time an insurer becomes insolvent or impaired dictates how much "coverage" they will receive from their Guaranty Association (total coverage ranges from $250,000 to $500,000). As the attached charts show, pensioners who live more than a few years are invariably worse off if they have to depend upon the Guaranty Association safety net. To make matters worse, GA coverage nets out estate assets in satisfaction of certain common law and statutory subrogation rights. This means that coverage does not equal dollars contributed for the benefit of retirees.

In addition to the loss of the valuable PBGC coverage, retirees in de-risking transactions also lose ready access to the federal courts, their annuity payments may be subject to attachment by creditors and retirees no longer get any financial disclosures whatsoever.

Meanwhile, more and more insurance companies are transferring risk to wholly owned captive reinsurers in "regulation light" jurisdictions. This type of financial alchemy puts the entire financial system at risk.

You Are Empowered to Act

To ensure retirees are protected in PRT transactions, we need three things urgently:

- *Transparency*, so that retirees can monitor the financial products which ostensibly protect their financial security, and intervene if necessary;
- *Accountability*, to ensure that annuities purchased by employers in PRT transactions provide fully equivalent protection for retirees' financial security, the annuities are properly reserved, and they do not take on greater risk without beneficiaries' consent;
- *Standardization across the US,* so that PRT deals do not disadvantage retirees in some states more than others.

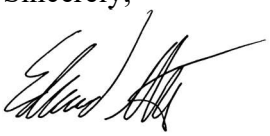
Under the Dodd-Frank Act, you are fully empowered to:

- monitor all aspects of the insurance industry.
- consult with the States regarding insurance matters of national importance.
- advise the Secretary of the Treasury on major domestic insurance policy issues.
- collect information on and from the insurance industry and insurers.
- issue subpoenas to require the production of this information.
- issue reports regarding all lines of insurance except health insurance.

We appreciate the efforts to date of the Financial Insurance Office ("FIO") in attempting to address the issue of PRT transactions in response to Senator Brown's request for information on this issue. However, in my humble opinion, more critical investigation and oversight is needed from your office. It is incumbent on the Financial Insurance Office to step in and require transparency and accountability to make sure that insurers that engage in PRT transactions fully protect retirees and their families.

I would be delighted to meet with you to discuss this matter further, share the research that I have compiled over the years and highlight other work we have done to protect pensioners, as well as provide you with insight into some of my clients' experiences with PRTs and the fears that they have about their retirement security.

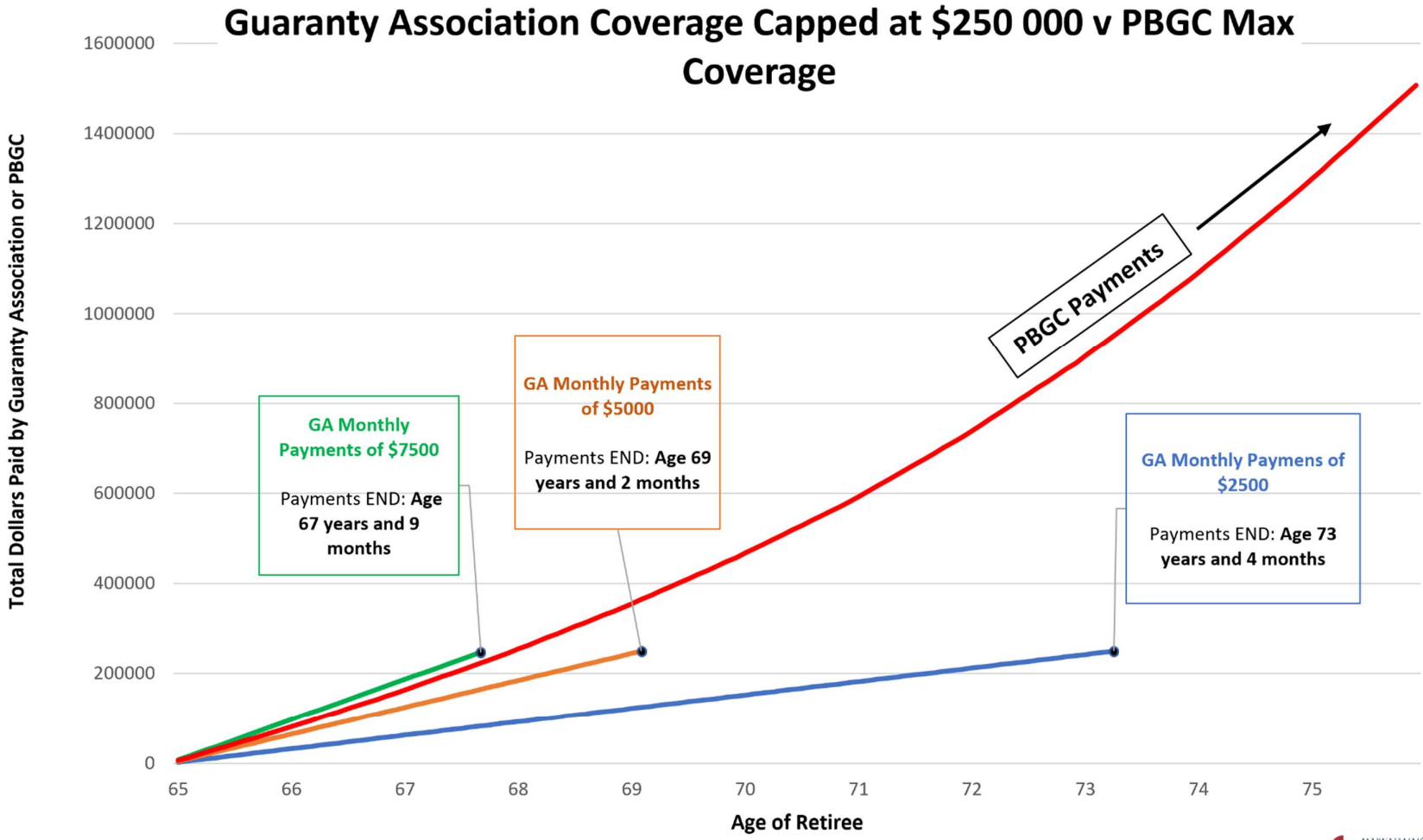
Sincerely,



Edward S. Stone
Email: estone@retireesforjustice.org

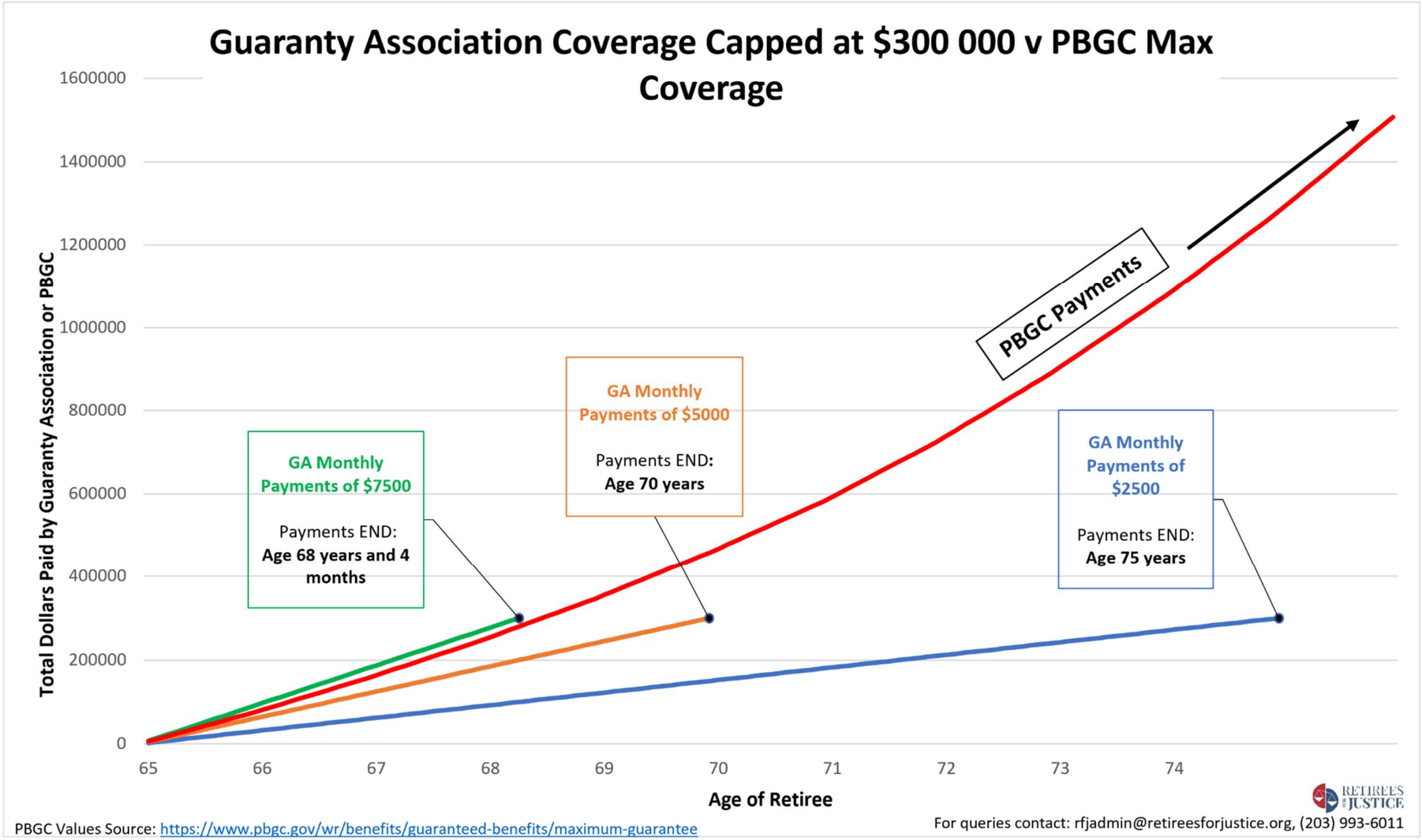
cc: Lisa Salmons, Retirees for Justice (rfjadmin@retireesforjustice.org)

EXHIBIT 1



PBGC Values Source: https://www.pbgc.gov/wr/benefits/guaranteed-benefits/maximum-guarantee

For queries contact: rfjadmin@retireesforjustice.org, (203) 993-6011



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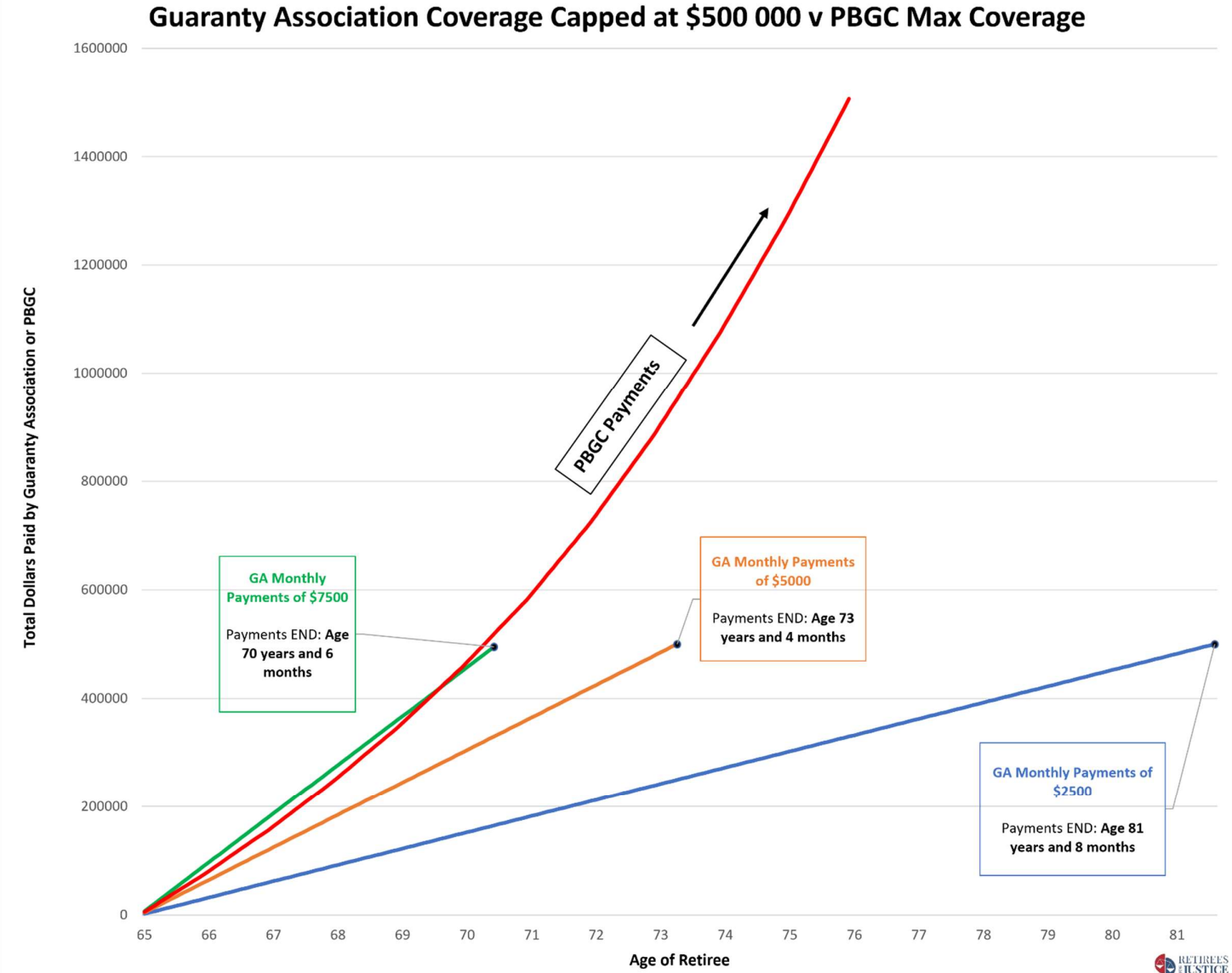
RETIREES FOR JUSTICE



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