B.C.D. 02-85

NOV 21 2002

EMPLOYER STATUS DETERMINATION
Samuels Pacific Industries, Incorporated

This is the determination of the Railroad Retirement Board concerning the continued status of Samuels Pacific Industries, Inc. (BA number 9747) as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

In Board Coverage Decision 00-3, dated January 19, 2000, the Board determined Samuels Pacific Industries (Samuels Pacific) to be an employer under the Acts effective February 13, 1997 by reason of being under common control with a rail carrier employer, and performing a service in connection with the transportation of passengers or property by railroad. As recounted by that decision, Samuels Pacific was wholly owned by Richard Samuels, who also owned the Oregon Pacific Railroad, a covered rail carrier employer under the Acts. Samuels Pacific assumed the business of salvaging and scrapping or repairing abandoned rail line track and used locomotives which had been conducted by Mr. Samuels through another company; it also repaired and maintained railroad equipment and leased locomotives. At the time of the decision, yearly Samuels Pacific revenues derived from the rail carrier affiliate ranged from 57 to 75 percent.

Samuels Pacific requested reconsideration of B.C.D. 00-3 by letter dated January 23, 2001, which was received by the Board January 31, 2001. The employer stated that due to decline in the demand for scrap metal and competition with larger firms leasing locomotives, Samuels Pacific ceased doing business as of December 31, 2000. In B.C.D. 01-35, the Board dismissed the reconsideration request as filed outside the one-year period specified by section 259.3 of the Board's regulations (20 CFR 259.3), but directed that an investigation be conducted into the continued status of Samuels Pacific as an employer. The Audit and Compliance Section of the Board's Bureau of Fiscal Operations now advises that records of the Oregon Secretary of State, Corporate Division, show that while Samuels Pacific has not been dissolved, it was reclassified as an inactive corporation April 13, 2001.

Regulations of the Board at 20 CFR 202.11 provide that:

Samuels Pacific Industries, Incorporated

202.11 Termination of employer status.

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Section 202.12(b) of the regulations further provides in part that:

202.12 Evidence of termination of employer status.

* * *

(b) The actual date of cessation of employer status shall be the date upon which final or complete cessation of an essential employer characteristic occurs. The following indicate but do not delimit the type of evidence that will be considered in determining the actual date of cessation of an employer status: stoppage of business or operations * * *

The evidence is that Samuels Pacific ceased operations December 31, 2000, and became an inactive corporation April 13, 2001. Accordingly, the Board determines that Samuels Pacific ceased to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective with the close of business on December 31, 2000.

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever