



**Statement of
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Office of Inspector General
U.S. Department of Labor
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Subcommittee on Employer-Employee Relations
U.S. House of Representatives
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Good morning, Mr. Chairman and Members of the Subcommittee. Thank you for inviting me to testify today on the U.S. Department of Labor Office of Inspector General's (OIG) labor racketeering program, and in particular on our investigative activities in the pension arena.

The OIG's Labor Racketeering Program

The OIG, an independent agency within the Department, is responsible for conducting audits, investigations, and evaluations of departmental programs and operations; identifying potential problems or abuses; developing and making recommendations for corrective action; and referring cases for prosecution. The OIG at Labor is unique in that it is also responsible for carrying out a criminal investigations program to combat the influence of organized crime and labor racketeering in the workplace. In conjunction with this responsibility, we are active participants in the Justice Department's Organized Crime Program.

Labor racketeering is the infiltration, domination, and use of a union or employee benefit plan for personal benefit by illegal, violent, or fraudulent means. Organized crime is defined as activities carried out by groups with a formalized structure whose primary objective is to obtain money through illegal activities. Traditionally, organized crime has been carried out by *La Cosa Nostra* (LCN) groups, also known as the "mob" or "mafia." However, new organized crime groups are emerging and organizing, such as Asian, Russian, Eastern European, Nigerian, and West African groups.

The OIG conducts labor racketeering criminal investigations in three general areas: 1) employee benefit plans; 2) labor-management relations; and 3) internal union affairs.

Currently, we have 356 pending labor racketeering investigations as shown in Figure 1.

356 Pending FY 2002 Labor Racketeering Investigations

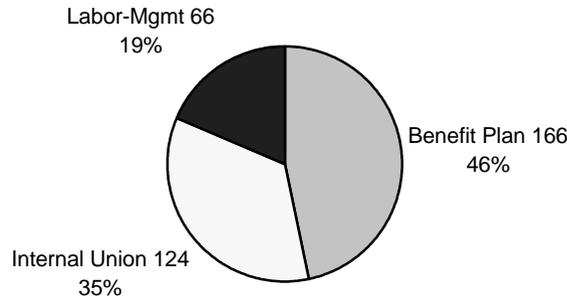


Figure 1

Traditional organized crime entities that employ the use of “strong arm” tactics and intimidation as well as “new generation” racketeers who make use of sophisticated financial schemes, also are investigated by the OIG. However, top priority is given to organized crime influence of labor unions and/or employee benefit plans. Our investigations have shown that the vast sums of money in these plans remain vulnerable to corrupt union officials and organized crime influence. Priority is also given to cases in which a position of trust (e.g. plan trustee, third-party administrator, or union official) is used for criminal purposes, as illustrated in Figure 2. Service providers to union pension and benefit plans continue to be a strong focus of the OIG’s investigations because the large amounts of money associated with these plans make them vulnerable to fraud and corruption.

Labor Racketeering Program Areas

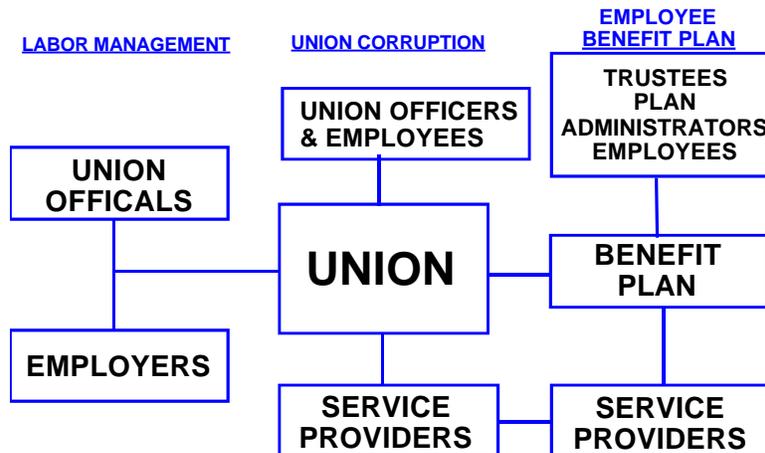


Figure 2

There is some jurisdictional overlap with the Pension and Welfare Benefits Administration (PWBA) regarding employee benefit plans. However, while PWBA conducts both civil and criminal investigations, its focus has predominantly been on civil cases distributed across the single and multi-employer plan universe. The OIG's focus has been on criminal investigations in the multi-employer plan universe, which is substantially composed of union-sponsored, jointly-administered plans. This arrangement has allowed each agency to utilize its particular expertise, resulting in a working relationship that has been beneficial and productive in the investigative arena. It should be noted that in recent times, we have been invited into a number of single employer plan investigations by prosecutors and other investigative agencies, including PWBA, because of our demonstrated investigative expertise in this area.

The OIG has conducted numerous criminal pension investigations over the years with impressive results. For example, during the latest 5-year period, our benefit plan investigations, which include both pension and health care plans, have resulted in 253 indictments; 237 convictions; and over \$271 million in criminal, civil, and administrative fines, restitutions, and recoveries. Currently, we are conducting investigations into pension plan improprieties involving plans with nearly \$1 billion in total assets suspected to be at risk.

The OIG's Pension Initiative

Mr. Chairman, according to the latest PWBA figures, there are over 3000 multi-employer plans with over \$379 billion in assets and growing. Given the size of this universe and recognizing a growing problem, the OIG has, since 1996, been engaged in a nationwide initiative designed to combat abuses of pension plan assets. This initiative was in response to an increase in private sector plans that were subject to abuse, as well as a proliferation of "white collar" crime in the pension arena dealing in investment activities. At that time, there was no coordinated effort by law enforcement agencies to address the effect organized crime had in this area. Building on the Attorney General's Pension Abuse Initiative in 1997, which sought to increase criminal enforcement and enhance coordination among federal agencies to combat pension abuse, we felt there was a need for a proactive examination of LCN-controlled and influenced union pension plans, and the service providers supporting them.

Our goal relative to the pension initiative was to focus our investigations on pension investment service providers, paying particular attention on the "Big Four" unions identified in the 1986 President's Commission on Organized Crime report (Teamsters, Laborers, Hotel Employees, and Longshoremen International Unions) as being organized crime-controlled, as well as other unions historically under the influence of organized crime. Our objectives were: 1) to coordinate with outside agencies to target criminal activity within the pension investment arena; 2) to utilize the support of the Department of Justice for the successful implementation of a taskforce investigative program; and 3) to identify and

promote legislative change within ERISA to deal with deficiencies regarding service providers.

The strategy behind our pension initiative was twofold. One was to develop targeting profiles that would surface program weaknesses, corrupt union and plan participants, and service providers involved in pension investment criminal activity. The other was to develop an integrated plan with outside agencies, delineating program responsibility to ensure the exchange of necessary information, training of personnel, and the deployment of resources. We have seen significant results and an impressive return-on-investment as a result of this initiative and, as resources permit, we plan to increase our casework in this area.

Our casework has shown that pension fraud schemes involving union officials/plan trustees have some common elements to them, with some variation. Typically, a corrupt union official/pension plan trustee will approve the investment of pension monies through investment service providers who may be associated with organized crime-associates, who in turn may be exerting influence over the pension plan. In exchange for transferring money, service providers will provide kickbacks from fees generated from servicing the plan to the plan trustee or organized crime associate. Figure 3 provides a quick overview of how such a scheme often operates.

Typical Pension Fraud Scheme

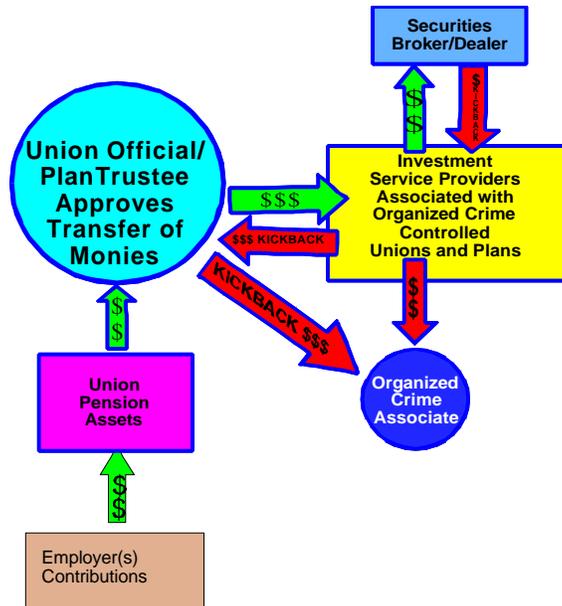


Figure 3

OIG Pension Investigations

Mr. Chairman, our investigations have shown that the billions of dollars in assets in multi-employer, union-sponsored benefit plans remain vulnerable to corrupt union officials and service providers, as well as to organized crime elements. Such plans are especially vulnerable because abuses by service providers have the potential for substantial dollar losses since they can affect more than one plan, management of the plans is often concentrated in only a few individuals, and plan trustees are often appointed because of their position rather than their financial expertise. Multi-employer plan investigations compose the vast majority of our pension-related casework.

Teamsters Local Union 875

For example, a case investigated in conjunction with the FBI, became the lead case in the Attorney General's Pension Abuse Initiative announced in 1997, as well as the cornerstone of our own pension initiative outlined earlier. In this case, two investment brokers for Infinity Investment Group were sentenced for their role in the loss of \$9.3 million from the pension fund of Teamsters Local Union 875 in Queens, New York. The investigation revealed that a Local 875 fund attorney induced the fund to divert pension assets to high-risk offshore investments in exchange for kickbacks from the two investment brokers. As a result, \$9.3 million (roughly one-quarter) from the fund's total assets of \$40 million were transferred into a third-party account and subsequently embezzled by the defendants and others. Those funds, unfortunately, were never recovered.

Capital Consultants, Inc.

In one of the largest pension frauds of all time, Capital Consultants, Inc. (CCI), a Portland, Oregon, investment-management company, bilked dozens of union pension funds of hundreds of millions of dollars. Before CCI's collapse in September 2000, the company invested pension and other funds in high-risk private investments and then covered up losses from these investments with new investment funds. At the time CCI was placed into receivership by PWBA and the SEC in parallel civil actions, it had over \$900 million under its management. In May, a partial multi-million dollar settlement was reached between dozens of union pension and benefit trusts with 11 parties.

The OIG was actively involved in a joint criminal investigation with other federal criminal law enforcement agencies, including PWBA, of CCI's activities to defraud their clients, including many union plans. The criminal investigation uncovered a complex scheme in which a former Laborers' union business manager retained CCI to make investments for the union's pension, health, and vacation plans. In return, the manager received secret cash payments. Plea agreements were reached with Barclay Grayson, CCI's president; Jeffrey

Grayson, Barclay's father and former CEO and founder of CCI; and John Abbott, former Laborers' union business manager.

In the most recent developments surrounding the CCI scandal, two union pension fund trustees and a former CCI salesman were indicted on 40 counts charging that they gave and received illegal payoffs in connection with the administration of two union pension plans. Additionally, two union trustees have pled guilty to filing false reports regarding gifts received from CCI. The investigation into CCI is ongoing.

Todd LaScola

In another joint investigation with PWBA, Todd LaScola, an investment manager and president of CPI Financial Services in Rhode Island, pled guilty in February 2001 to mail fraud and wire fraud charges for embezzling over \$6 million from clients to replace losses suffered by the pension fund of the International Brotherhood of Electrical Workers (IBEW) Local 99. Following IBEW's hiring of CPI to manage its \$16 million pension fund in 1996, LaScola placed over \$6 million of the fund into risky, unauthorized investments for which he received \$242,000 in illegal commissions that he did not report to IBEW. When IBEW learned of the prohibited investment and demanded the return of the \$6 million, LaScola illegally transferred \$6 million from other individual client accounts to the IBEW pension fund account. In May 2001, LaScola was sentenced to 8 years in prison and 3 years' probation, and was ordered to pay over \$8 million in restitution for defrauding investors, workers, and IBEW Local 99 of pension funds.

East/West Institutional Services

Finally, in another case worked in conjunction with PWBA, William Close, a trustee for the funds of the International Brotherhood of Teamsters (IBT) Locals 710 and 701 in Chicago, Illinois, pled guilty to charges of receiving kickbacks, money laundering, and aiding and abetting. Close accepted nearly \$1 million in payoffs through a money laundering scheme that was conducted in the Cayman Islands, Great Britain, and the Isle of Man from 1994-1997. In return for the payoffs, Close and a now-deceased associate used their positions as trustees to select investment advisors who would direct pension fund trades for the benefit of East/West Institutional Services (EWIS), a brokerage firm in Harper Woods, Michigan.

In addition, the owners of EWIS were indicted in 2000 on charges of paying kickbacks to Close and of Racketeer Influenced and Corrupt Organizations (RICO) conspiracy, including international money laundering, witness tampering, interstate and foreign travel in aid of racketeering, and extortion allegations concerning threats of physical violence. Plea agreements were recently reached.

Future Investigations in the Pension Arena

Mr. Chairman, it is our intention to build on the success of our pension initiative and increase our presence in the pension arena on a number of fronts as resources permit. From an investigative perspective, we plan to be even more proactive in our effort to combat labor racketeering relative to pension plan corruption and organized crime, or corruption affecting industries, unions, and boardrooms. The industry portion of our effort will focus on corruption in those industries that traditionally have been most vulnerable to the penetration of organized crime influence and labor racketeering, such as the construction, surface transportation, maritime, garment manufacturing, motion picture production, and gambling and hotel services industries. The union leadership portion of this effort will focus on labor racketeering carried out by high-level officials affecting labor unions, benefit plans, and service providers. Areas of concentration would include embezzlement from pension and welfare plans, and kickbacks from union vendors and service providers to union boardrooms. Finally, the OIG also plans to expand its investigative probe of pension plan service providers controlled or influenced by organized crime, or retained by pension plans that have a history of corruption.

Our work in these areas will contribute toward reducing the cost that corruption has on union members, employers, and the public through lost wages and benefits, diminished competitive business opportunities, and increased prices for goods and services. The Justice Department supports our effort and have asked us to work even more closely in partnership with them than we have on labor racketeering and organized crime cases, given the FBI's new focus on anti-terrorism in the wake of September 11th and our expertise in the pension area.

Recommendations for Further Safeguarding Pension Assets

Mr. Chairman, based on the work we have done in the pension arena, there are several recommendations Congress may wish to consider that we believe would further safeguard pension assets. Some of these recommendations include:

- Strengthen and make more consistent the criminal penalties in Title 18 of the U.S. Code to better protect employee pension plans subject to ERISA

Statutes under Title 18 prohibit the embezzlement or theft from employee pension and welfare plans (18 USC 664), the making of false statements and concealing of facts in documents required by ERISA (18 USC 1027), and the giving or acceptance of bribes or graft payments in connection with the operation of employee pension or welfare benefit plans covered by ERISA (18 USC 1954). These statutes are the primary criminal enforcement tools for protecting the millions of plans under ERISA and

their assets. Currently, 664 and 1027 violations are subject to 5 years' imprisonment, while 1954 violations are subject to three years' imprisonment. We believe that raising the maximum penalties to ten years for all three violations would serve as a greater deterrent and further protect employee pension plans than what currently exists.

- Require direct reporting of any ERISA violations to the Department

The public accounting profession has a responsibility to be cognizant of potential fraud and other illegal acts in financial statement audits. However, under current law, a plan auditor who finds a potential ERISA violation is not responsible for ensuring that it is reported to the DOL. Therefore, in the interests of plan participants, we recommend that plan administrators or auditors be required to ensure that any potential ERISA violations are promptly reported to the DOL.

Conclusion

Mr. Chairman, the OIG will continue to build on our pension casework by engaging in proactive investigations of union-sponsored plans that are at-risk so that the hard-earned benefits of workers are there when needed. This concludes my prepared statement. I would be pleased to answer any questions that you or other Subcommittee Members may have.