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Description of document:	Pension Benefit Guaranty Corporation (PBGC) Inspector General (OIG) final report/closing memo/referral letters, 2005-2013
Requested date:	30-November-2013
Released date:	28-March-2014
Posted date:	21-April-2014
Source of document:	Disclosure Officer Pension Benefit Guaranty Corporation 1200 K Street, N.W., Suite 11101 Washington, D.C. 20005 Fax: (202) 326-4042 (Attn: Disclosure Officer)

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Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

**VIA FEDERAL EXPRESS**

PBGC-2014-000400

March 28, 2014

Re: Request for Information under the Freedom of Information Act (FOIA)

This letter is in response to your Freedom of Information Act (FOIA) request dated November 30, 2013, requesting the Pension Benefit Guaranty Corporation (PBGC) to provide copies of each PBGC Inspector General final report/closing memo/referral letters for the period of January 1, 2005, to the present.<sup>1</sup> Your request was received in my office on December 6, 2013. We have processed your request in accordance with PBGC's FOIA and Privacy Act implementing regulations. I apologize for the delay in responding to your request.

Pursuant to your request, the Office of the Inspector General (OIG) conducted a search of agency records and located 13 OIG responsive reports consisting of 55 pages.<sup>2</sup> Unfortunately, it was necessary to withhold certain portions of these records. Four exemptions of the FOIA were relied upon to withhold this information.

The first applicable FOIA exemption, 5 U.S.C. § 552(b)(5), deals with internal documents: inter-agency or intra-agency memoranda or letters consisting of judgments, opinions, advice or recommendations which would not be available by law to a party other than an agency in litigation with the PBGC and as such are not required to be disclosed under 5 U.S.C. § 552(b)(5). In addition, attorney client communications would also be protected by this exemption. The Disclosure Officer has determined the disclosure of this material would not further the public interest at this time and would impede the operations of the PBGC.

The second applicable exemption, 5 U.S.C. § 552(b)(6), exempts from required public disclosure, "personnel and medical files and similar files the disclosure of which would

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<sup>1</sup>You requested "**a copy of each PBGC Inspector General final report/closing memo/referral letter, etc. (e.g., of an investigation or audit or management review or inspection or any other project) done for a different agency** (i.e., an agency other than the PBGC). You omitted records already published on the [www.pbgc.gov](http://www.pbgc.gov), and documents resulting from routine "OIG Peer Reviews". On December 20, 2013, you clarified your request, via email, to investigations done by the PBGC at the request of another agency and/or as a referral to the PBGC by another agency.

<sup>2</sup> You advised in your email dated March 27, 2014, that you did not want any attachments.

constitute a clearly unwarranted invasion of personal privacy." Some of the records you have requested contain "similar files" within the meaning of the above cited statutory language and the PBGC implementing regulation (29 C.F.R. § 4901.21(b)(4)). The FOIA requires agencies to conduct a balancing test. In applying Exemption 6, a balancing test was conducted, weighing the privacy interests of the individuals named in a document against the public interest in disclosure of the information. The public interest in disclosure is one that will "shed light on an agency's performance of its statutory duties." *Dep't of Justice v. Reporters Committee*, 489 U.S. 749, 773 (1989). The Disclosure Officer has determined disclosure of this information would constitute a clearly unwarranted invasion of an individual's personal privacy.

The third applicable FOIA exemption, 5 U.S.C. § 552(b)(7), permits the exemption from disclosure of "records compiled for law enforcement purposes" when disclosure would be detrimental to such purposes. Accordingly, § 552(b)(7)(A), protects records or information that could reasonably be expected to interfere with enforcement proceedings and disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. Some of the records responsive to your request contain information which falls within the meaning of the above-cited statutory language and the PBGC implementing regulation at 29 C.F.R. § 4901.21(b)(5) and, therefore, would be exempt from disclosure. The Disclosure Officer has determined disclosure of the information could reasonably create a risk of circumvention of the law. This exemption was applied to the 13 page report which is being withheld in its entirety.

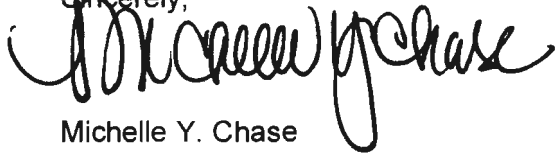
Finally, the fourth applicable exemption, 5 U.S.C. § 552(b)(7), permits the exemption from disclosure of "records compiled for law enforcement purposes" when disclosure would be detrimental to such purposes. Specifically, § (b)(7)(C) prohibits disclosure if it could reasonably be expected to constitute an unwarranted invasion of personal privacy. The FOIA requires agencies to conduct a balancing test when invoking this exemption. In applying Exemption 7(C), a balancing test was conducted, weighing the privacy interest of the individuals named in a document against the public interest in disclosure of the information. The public interest in disclosure is one that will "shed light on an agency's performance of its statutory duties," *Dep't of Justice v. Reporters Committee*, 489 U.S. 749, 773 (1989). The Disclosure Officer has determined disclosure of this information would reasonably constitute an unwarranted invasion of an individual's personal privacy.

Should you wish to appeal the Disclosure Officer's decision, PBGC's FOIA regulation provides at 29 C.F.R. § 4901.15 (2012) that if a disclosure request is denied in whole or in part by the disclosure officer, the requester may file a written appeal within 30 days from the date of the denial or, if later (in the case of a partial denial), 30 days from the date the requester receives the disclosed material. The appeal shall state the grounds for appeal and any supporting statements or arguments, and shall be addressed to the General Counsel, Attention: Disclosure Division, Pension Benefit Guaranty Corporation, 1200 K Street, N.W., Washington, D.C. 20005. To expedite processing, the words "FOIA appeal" should appear on the letter and prominently on the envelope.

Again, please accept my apology for the delayed response. There are no fees associated with processing this request, you may disregard any previous

communications concerning fees. You may submit future requests by accessing FOIAonline, our electronic FOIA processing system, at [www.foiaonline.regulations.gov](http://www.foiaonline.regulations.gov) or via our website at <http://www.pbqc.gov/about/pg/about/pg/footer/foia.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Y. Chase". The signature is fluid and cursive, with the first name "Michelle" being more prominent than the last name "Chase".

Michelle Y. Chase  
Government Information Specialist

Enclosures



**Pension Benefit Guaranty Corporation**  
Office of Inspector General  
1200 K Street, N.W., Washington, D.C. 20005-4026

September 20, 2005

**MEMORANDUM**

**TO:** [REDACTED]  
Benefit Administration Pension Department

**FROM:** Frederick T. Zigan  
Assistant Inspector General  
For Investigations

**SUBJECT:** Theft and Counterfeit of PBGC Pension Checks (State Street Bank)  
By [REDACTED]  
OIG Case Number [REDACTED]

On November 18, 2004, Ms. [REDACTED] Fraud Investigator, Internal Audit Department, Eastern Financial Florida Credit Union (EFFCU), Miramar, Florida, contacted the PBGC OIG concerning some checks which she believed were associated to the PBGC and were in question. Ms. [REDACTED] said she had what she believed to be two counterfeit checks. Ms. [REDACTED] provided the following information pertaining to the two checks:

The first check number [REDACTED] was written on State Street Bank, Boston and was made out to [REDACTED] for the amount of \$1224.58 and attributed to the Pan Am Cooperative Retirement Income Plan (PACRIP). The check was dated November 11, 2004.

The second check, number [REDACTED] was written on State Street Bank; Boston made out to [REDACTED] for the amount of \$805.24 and attributed to the PACRIP. The check was dated November 17, 2004.

In addition, Ms. [REDACTED] advised that she had an additional check that she had questions on. [REDACTED] provided the following information pertaining to that check:

Check number [REDACTED] written on State Street Bank, Boston made out to [REDACTED] for the amount of \$94.12 and attributed to the PACRIP. The check was dated November 2, 2004.

[REDACTED] wanted to know if [REDACTED] was a participant of the PACRIP and was entitled to the checks. She also wanted to know if the checks were legitimate and provided copies of the three checks.

OIG research disclosed that the November 2, 2004 check, number [REDACTED] written on State Street bank, Boston made out to [REDACTED] for the amount of \$94.12 was in fact a valid check and that Ms [REDACTED] was a participant of the PACRIP.

After reviewing the [REDACTED] check we considered the negotiating of this check suspect as [REDACTED] had passed away on October 20, 2004 which was verified through the Social Security Death Index. Additionally, to the untrained eye, it appeared that the signature on the November 2, 2004 check was different from documents containing Ms. [REDACTED] signature that had been scanned into the PBGC electronic data base.

Contact was made with [REDACTED] State Street Corporation Investigations, Boston, MA to inquire about checks [REDACTED] and [REDACTED] and color copies of the checks were provided. Ms [REDACTED] responded with the following:

[REDACTED] advised that she had examined the copies of checks [REDACTED] and [REDACTED] and determined that State Street Bank did not issue the two check numbers to [REDACTED]

Check number [REDACTED] was issued in the amount of \$116.90 and check number [REDACTED] was issued in the amount of \$118.05. [REDACTED] advised that the two checks were not issued to participants in the PACRIP.

It is not known how [REDACTED] obtained [REDACTED] check; however, we do know that the check was never received by the Estate of [REDACTED]. [REDACTED] had apparently purchased check printing software to create the State Street checks with the PACRIP listed as the pension plan and listed himself as payee. State Street Bank did not pay on the checks and sent them back to EFFCU as being fraudulent. EFFCU did not pay out on the \$94.12 of [REDACTED]

[REDACTED] was subsequently arrested by the [REDACTED] and was indicted and convicted, by the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida. [REDACTED] was sentenced to six years in jail for uttering a forged instrument and grand theft.

There is no further investigative activity required and this case is **closed**.

cc: Beverlyn Gordon, Manager, Atlanta, FBA



**Pension Benefit Guaranty Corporation**  
**Office of Inspector General**  
1200 K Street, N.W., Washington, D.C. 20005-4026

Date: April 3, 2007

**TITLE** Alleged Diversion Theft of Pension Funds [REDACTED]

**INVESTIGATOR** SA [REDACTED]

**SUBJECT** Close-out Memorandum

**Complaint/Case #** [REDACTED]

**FACTS:** On February 28, 2007, I spoke with [REDACTED], a social worker from Burlington, North Carolina. She said that the state of North Carolina, Alamance County, had been appointed guardian over a person by the name of [REDACTED]. She thought that [REDACTED] was receiving a retirement check through PBGC. She believed the check was going to a power of attorney that had been appointed by [REDACTED]. The power of attorney's name is [REDACTED]. [REDACTED] believed that [REDACTED] may be using the money for her own benefit. This matter had been brought to the attention of Ms. [REDACTED] by a person from Medicaid who had conducted a review of Ms. [REDACTED] finances.

**ACTION TAKEN**

Ms. [REDACTED] was a participant retired from American Marketing Industries, plan number 20085800.

[REDACTED] was receiving retirement income of \$55.25 per month with a start date of January 1, 2006.

On December 9, 2003, Ms. [REDACTED] awarded [REDACTED] power of attorney that delegated to [REDACTED] all of her financial business.

On January 6, 2006, Ms. [REDACTED] named [REDACTED] the beneficiary of her retirement plan.

On January 17, 2007, the state of North Carolina declared Ms. [REDACTED] an incompetent person. The court named Alamance County Department of Social Services as guardian of Ms. [REDACTED].

On February 27, 2007, [REDACTED] sent a fax to [REDACTED] PBGC, requesting that Ms. [REDACTED] pension check go to the Rehabilitation and Health Care Center, [REDACTED].

[REDACTED]

On April 2, 2007, [REDACTED] told me that [REDACTED] had turned over the March 2007 retirement check to the health care center. Ms [REDACTED] said that [REDACTED] address has been changed to the retirement center at [REDACTED]

On April 3, 2007, I received an email message from Ms [REDACTED] She confirmed that PBGC mailed the April 2007 pension check to the Rehabilitation and Health Care Center.

### CONCLUSION

I believe no criminal action has occurred. [REDACTED] the power of attorney, was granted authority to conduct financial business on behalf of [REDACTED] [REDACTED] made no attempt to contest the North Carolina court order placing [REDACTED] under the care of the Rehabilitation and Health Care Center. She surrendered one check and made no attempt to challenge the address change.

### RECOMMENDATION

I recommend this inquiry be closed,

**CONCUR:**

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Aaron R. Jordan,  
Assistant Inspector General  
For Investigation

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Date





**Pension Benefit Guaranty Corporation**  
**Office of Inspector General**  
1200 K Street, N.W., Washington, D.C. 20005-4026

Date: November 6, 2007

**TITLE** Theft of Pension Benefit Issue [REDACTED]  
**INVESTIGATOR** SA [REDACTED]  
**SUBJECT** Close-out Memorandum  
**Complaint/Case #** [REDACTED]

**FACTS:**

Bill Fitzgerald, Pension Benefit Guaranty Corporation (PBGC), disclosure officer, provided a written request for assistance from [REDACTED] Attorney-at-Law, Connecticut Legal Services, Willimantic, CT. In the letter [REDACTED] advised the following:

- [REDACTED] is the representative for [REDACTED] who is the Conservator for her mother [REDACTED]
- In September 2005, PBGC sent a retroactive check in the amount of \$4,521.50 to Ms. [REDACTED] at the residential care home, Lyon Manor in Willington, CT, where she lived.
- The check was supposedly intercepted by the owner of the facility who cashed the check without authorization from Ms. [REDACTED] or Ms. [REDACTED]
- In December 2005, Ms. [REDACTED] filed a criminal complaint against the owner of the facility for larceny.
- In order to obtain an arrest warrant against the owner of the facility, Inspector [REDACTED] Elder Abuse Unit, Office of the States' Attorney, Rocky Hill, CT requested that Ms. [REDACTED] provide a certified copy of the original check, and that the check should be notarized.

[REDACTED] requested that the PBGC provide a certified copy of the check.

**ACTION TAKEN:**

On April 4-6 and April 9-10, 2007, I left messages for Inspector [REDACTED] to contact me.

On April 11, 2007, I received a call from Inspector [REDACTED] and discussed the matter with him. Inspector [REDACTED] told me that he needed a certified copy of the PBGC pension check to initiate criminal proceedings against the [REDACTED] of the Lyon Manor Nursing Facility in Willington, CT.

On April 23, 2007, I spoke with Inspector [REDACTED]. He said that he had almost completed the affidavit for charges to be brought in the [REDACTED] case. His intent was to indict [REDACTED] for Larceny 3<sup>rd</sup> degree and Forgery 2<sup>nd</sup> degree. [REDACTED] had admitted to depositing the money but had not given a written statement.

On April 24, 2007, [REDACTED] State Street Corporation (SSC), called and said that she would contact Inspector [REDACTED] in reference to the certified check to see exactly what he needed.

On April 25, 2007, Mr. Bill Fitzgerald responded to Inspector [REDACTED] Freedom of Information Act request. In a letter to Inspector [REDACTED] he wrote that pursuant to the request, and the appointment of Conservator for [REDACTED] he was enclosing an attestation certifying that an attached check being sent to him was a true and complete copy as it appears in PBGC's files.

#### **CONCLUSION**

The [REDACTED] PBGC retirement check did reach the intended location at [REDACTED]. A stolen check complaint was filed with Inspector [REDACTED]. The only assistance Inspector [REDACTED] requested from PBGC was to obtain a certified copy of the check. This was completed and an attested copy was sent to him.

#### **RECOMMENDATIONS**

There is no other action required. I recommend this inquiry be closed.

#### **DISPOSITION OF EVIDENCE**

NA

**CONCUR:**

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Aaron R. Jordan,  
Assistant Inspector General  
For Investigation

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Date



# **PENSION BENEFIT GUARANTY CORPORATION**

*Office of Inspector General*

## **REPORT OF INVESTIGATION**

### **Possible Pension Fraud**



**March 19, 2009**

### **Important Notice**

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Pension Benefit Guaranty Corporation  
Office of Inspector General  
1200 K Street, N.W., Washington, D.C. 20005-4026

**REPORT OF INVESTIGATION**

<b>Case Title:</b> Possible Pension Fraud	<b>Complaint Number:</b> [REDACTED]
<b>Subject's Identifying Information:</b> [REDACTED]	<b>Type of Report:</b> <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
<b>Type of Investigation:</b> 18 U.S.C. § 641 Theft of Benefits	<b>Status:</b> Closed
<b>Period Covered:</b> May 13, 2008 – February 11, 2009	<b>Location:</b> Bucks County Pennsylvania
<b>Report Made By:</b> [REDACTED] Senior Special Agent and [REDACTED] Program Analyst	
<b>Concurrence:</b> Aaron R. Jordan Assistant Inspector General for Investigations <i>[Signature]</i>	<b>Date:</b> 3/19/09
<b>Concurrence:</b> Deborah Stover-Springer Deputy Inspector General <i>[Signature]</i>	<b>Date:</b> 3/19/09
<b>Concurrence:</b> Rebecca Anne Batts Inspector General <i>[Signature]</i>	<b>Date:</b> 3/19/09

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Bennie Hagans, Director, Benefits Administration and Payment Department  
Judith Starr, General Counsel, Office of the General Counsel

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**BASIS FOR INVESTIGATION**

On May 13, 2008, the Office of Inspector General (OIG) Hotline received a call from Detective [REDACTED] Office of the District Attorney, Bucks County, Doylestown, Pennsylvania. Detective [REDACTED] stated he was inquiring about Pension Benefit Guaranty Corporation (PBGC) participant [REDACTED]. On August 25, 1993, [REDACTED] and [REDACTED] reported [REDACTED] as missing. Detective [REDACTED] says he believes PBGC has been sending checks to [REDACTED] for the last 15 years. Detective [REDACTED] believes [REDACTED] is a victim of foul play.

**Allegation:** [REDACTED] took funds from [REDACTED] savings account even though she had reported him as a missing person and he had not been seen since August 25, 1993. [REDACTED] failed to notify PBGC of her [REDACTED] disappearance even though she contacted PBGC on June 13, 1999, almost 6 years after [REDACTED] disappearance, about a change in [REDACTED] savings account number by submitting a direct deposit request along with a signed Power of Attorney. According to PBGC records, [REDACTED] had no survivor benefits. [REDACTED] continued receiving [REDACTED] benefit payments after his disappearance and used the money for her own benefit which is a violation of 18 U.S.C. § 641, Public Money, Property or Records (Exhibit 1).

**Federal Statutes Implicated****18 U.S.C. § 641, Public Money, Property or Records, states in part:**

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted. - -

Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

**FINDINGS**

This investigation determined that [REDACTED] converted pension funds belonging to her missing [REDACTED] for her use. Bank records of [REDACTED] savings account show that [REDACTED] withdrew at least \$9,500 from [REDACTED] savings account beginning on January 9, 2002 through November 21, 2005. [REDACTED] withdrew money from [REDACTED] savings account without

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Revised March 7, 2007

having any ownership interest in the pension benefits paid by PBGC. Since the date of [REDACTED] disappearance in August 1993, PBGC paid [REDACTED] approximately \$62,642.07. As of May 5, 2008, the account balance was approximately \$31,430.71. At the OIG's request, PBGC's Office of the General Counsel (OGC) pursued collection and has completed legal action necessary to recover these funds.

### DETAILS OF INVESTIGATION

On May 13, 2008, the OIG Office of Investigations received information through the OIG Hotline relating to a PBGC participant, [REDACTED] Detective [REDACTED] Office of the District Attorney, Bucks County, Doylestown, Pennsylvania reported that [REDACTED] had been missing since 1993 and suspected foul play. Detective [REDACTED] reported that the missing person report took a higher priority after [REDACTED] was recently indicted for murder. Detective [REDACTED] said records were found during a search of [REDACTED] residence in Bucks County indicating that [REDACTED] was drawing a pension from PBGC. A review of PBGC records found [REDACTED] was a participant of the Messinger Bearings, Inc. Pension Plan and still in pay status receiving a monthly payment of \$353.91. Unaware of [REDACTED] status, PBGC paid approximately \$62,642.07 since his disappearance in 1993. In June 1999, [REDACTED] submitted a direct deposit request and a bank Power of Attorney (POA) on behalf of [REDACTED] but did not mention [REDACTED] was missing (Exhibit 2).

On May 19, 2008, [REDACTED] Benefits Administration and Payments Department (BAPD) confirmed that [REDACTED] was still in pay status receiving monthly benefits of \$353.91, which were deposited into a savings account at Wachovia Bank (f/k/a First Union National Bank and Savings). [REDACTED] opted for a straight-life annuity; therefore, there are no survivor benefits (Exhibit 3).

On May 27, 2008, OIG issued a Memorandum of Recommendation to [REDACTED] Director, BAPD, requesting the suspension of benefit payments to [REDACTED]. BAPD complied with the request suspending monthly benefit payments to [REDACTED] (Exhibit 4).

Detective [REDACTED] provided [REDACTED] Wachovia bank records for checking account number [REDACTED] and savings account number [REDACTED] for the period of May 2001 through May 2008 that he obtained through a Bucks County Search Warrant. Our analysis of the bank records showed (Exhibit 5, Att. 1 & Att. 2):

- There were no bank records for the period of August 1993 – April 2001.\*
- PBGC deposited benefit payments of \$353.91 into [REDACTED] savings account [REDACTED] each month from May 2001 – May 2008.
- The balance in the savings account on May 2001 was \$10,669.09.
- As of May 2001, \$21,890.73 was unaccounted (payments PBGC made from (8/93 – 4/01).

\*The bank has a seven-year records retention policy, therefore, records prior to May 2001 had been destroyed.

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- [REDACTED] withdrew a total of \$9,500 from [REDACTED] savings account: On January 9, 2002, \$3,000; on July 17, 2002, \$500; and on November 21, 2005, \$6,000.
- [REDACTED] deposited a total of \$400 into [REDACTED] savings account using her personal checking account at Harleysville National Bank.
- As of May 5, 2008, there was a balance of approximately \$31,430.71 in [REDACTED] savings account.

On June 5, 2008, Assistant United States Attorney [REDACTED] Public Corruption/Government Fraud section, U.S. Attorney's Office for the District of Columbia, declined prosecution due to the Bucks County District Attorney already having an ongoing criminal prosecution against [REDACTED] (Exhibit 6).

On June 11, 2008, SA [REDACTED] and [REDACTED] met with Attorney [REDACTED] OGC. OGC Attorney [REDACTED] agreed to assist OIG by petitioning the United States District Court for the Eastern District of Pennsylvania (District Court) to freeze funds contained in [REDACTED] savings account and to look into the presumption of death theory for missing persons (Exhibit 7).

On June 17, 2008, OIG issued a Management Advisory to BAPD recommending that funds contained in [REDACTED] savings account be frozen to ensure funds are not withdrawn from the account before recovery efforts could be implemented. We noted our consultation with OGC Attorney [REDACTED] regarding necessary legal action to implement the freeze (Exhibit 8).

On June 20, 2008, SA [REDACTED] contacted [REDACTED] Office of the District Attorney, Bucks County, Pennsylvania. When asked about providing assistance in state district court, [REDACTED] said he preferred to focus on the pending murder investigation and have PBGC place a freeze on the savings account; file the declaration of death; and subpoena the Harleysville Bank Records of [REDACTED] (Exhibit 9).

On July 1, 2008, OIG issued a subpoena to the Harleysville National Bank, Harleysville, Pennsylvania, for bank records of [REDACTED]. An analysis of the bank records could not find evidence of whether [REDACTED] deposited the three cash withdrawals from [REDACTED] savings account into her own bank account (Exhibit 10).

On July 8, 2008, PBGC OGC Attorney [REDACTED] filed a civil Complaint for presumption of death and order for restitution; Temporary Restraining Order Freezing Assets (Temporary Restraining Order) in [REDACTED] savings account; and Memorandum in Support of restraining order in the District Court. The District Court granted the Temporary Restraining Order to freeze assets in [REDACTED] savings account (Exhibit 11, Att.1).

On November 18, 2008, OGC Attorney [REDACTED] reported he entered into a verbal agreement with [REDACTED] attorney, [REDACTED] that [REDACTED] and [REDACTED] would sign a Consent Order to declare [REDACTED] presumed dead as of August 25, 2000 and all assets in [REDACTED] savings account after that date would be recovered by PBGC (Exhibit 12).

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On November 20, 2008, SA [REDACTED] contacted [REDACTED] to inquire about prosecuting [REDACTED] for theft in Bucks County District Court. [REDACTED] declined to prosecute PBGC's theft charge. Because [REDACTED] had been convicted of murder, [REDACTED] believes [REDACTED] would plead "not guilty" to the theft charges just to delay reporting for her prison sentence. [REDACTED] said he does not want [REDACTED] to have an excuse to remain in Bucks County's custody.

On March 10, 2009, OI received a signed Consent Order filed in District Court for Civil Action No. [REDACTED] (Exhibit 13). The Judge ordered that:

1. [REDACTED] shall be presumed dead as of August 25, 2000.
2. Neither [REDACTED] estate nor his heirs are entitled to any of the retirement benefits paid by PBGC into [REDACTED] account after August 25, 2000.
3. All assets in the account are traceable to retirement benefits mistakenly paid by PBGC after August 25, 2000 and are therefore subject to a constructive trust in favor of PBGC.
4. Wachovia Bank shall deliver to PBGC, upon demand with a certified copy of this Order, a bank check for [REDACTED] entire account balance.
5. PBGC may make such demand upon Wachovia Bank at any of its branches or offices.
6. PBGC releases Defendant from any liability not satisfied by the transfer of [REDACTED] account assets to PBGC.

### STATUS

#### Case Status:

The case is closed.

#### Judicial Status

On April 1, [REDACTED] was arrested and charged with first degree murder and possession of a firearm in the shooting death of a church parishioner.

On July 31, 2008, the District Court granted an order to freeze [REDACTED] savings account. Regarding the matter of presumption of death and restitution, the Court administratively closed the case for statistical purposes and the Court will reopen the case on the application by either party.

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Revised March 7, 2007



On October 30, 2008, Detective [REDACTED] notified OIG that [REDACTED] was found guilty of first-degree murder.

On November 20, 2008, [REDACTED] decided not to prosecute PBGC's theft charge because he believes [REDACTED] would plea not guilty just to delay reporting for her prison sentence. [REDACTED] said he does not want [REDACTED] to have an excuse to remain in Bucks County's custody.

On March 10, 2009, the District Judge signed the Consent Order filed in District Court for Civil Action No. [REDACTED] granting PBGC the right to recover all assets remaining in [REDACTED] account.

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Revised March 7, 2007



# Pension Benefit Guaranty Corporation

Office of Inspector General

1200 K Street, N.W., Washington, D.C. 20005-4026

December 15, 2009

**TITLE** [REDACTED]

**INVESTIGATOR** SA [REDACTED]

**SUBJECT** Close-out Memorandum

**Complaint #** [REDACTED]

## FACTS

On May 27, 2009, Special Agent (SA) [REDACTED] received information from Special Agent in Charge (SAC) [REDACTED] about a possible fraud committed against a Pension Benefit Guaranty Corporation (PBGC) participant. Bill FitzGerald, Office of General Counsel (OGC), reported to SAC [REDACTED] about a possible fraud committed against PBGC participant, Ms. [REDACTED] Plan Number 16920800. Officer [REDACTED] Union City, South Carolina Police Department, reported the fraud through the PBGC FBA, Richmond Heights, Ohio.

## ACTION TAKEN

On May 28, 2009, SA [REDACTED] contacted Officer [REDACTED]. According to Officer [REDACTED] Ms. [REDACTED] is currently in Adult Protective Services after the court deemed her a vulnerable adult. Officer [REDACTED] believes [REDACTED] diverted Ms. [REDACTED] pension funds into his bank account. Officer [REDACTED] said he came across a document while executing a search warrant that indicated [REDACTED] sent a bogus letter to the PBGC diverting these pension funds. Officer [REDACTED] said that [REDACTED] did not have Power of Attorney for Ms. [REDACTED].

A search of [REDACTED] PS files indicates a handwritten letter was mailed to State Street Bank requesting a change for direct deposit. [REDACTED] supposedly signed the letter. The letter was dated December 17, 2007 (Exhibit 1). SA [REDACTED] sent the letter to Officer [REDACTED].

On June 19, 2009, Union South Carolina Police Department arrested [REDACTED] the [REDACTED] of PBGC participant [REDACTED] for the Forgery of the letter sent to PBGC to change a bank account and Exploitation of a Vulnerable Adult. [REDACTED] was lodged in the Union City, SC jail (Exhibit 2, att. 1, 2, 3, & 4).

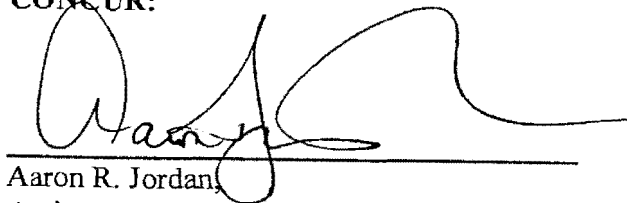
**CONCLUSION**

On December 4, 2009, SA [REDACTED] contacted Officer [REDACTED] about the disposition of the case. Officer [REDACTED] said the case was pending trial and he would contact the Office of Investigation once a disposition was made by the court.

**RECOMMENDATION**

Close pending final court disposition.

**CONCUR:**



Aaron R. Jordan  
Assistant Inspector General  
For Investigations

1/05/2010  
Date



# Pension Benefit Guaranty Corporation

Office of Inspector General

1200 K Street, N.W., Washington, D.C. 20005-4026

July 31, 2013

**TITLE**

**INVESTIGATOR**

**SUBJECT**

Close-Out Memorandum

**INVESTIGATION #** 12-0006-I

**FACTS:**

On November 2, 2011, Special Agent [REDACTED] (Case Agent) received an email from Assistant Project Manager [REDACTED] of the Richmond Heights Post Valuation Administration (PVA) related to the reported theft of [REDACTED] PBGC benefits by his [REDACTED]. In the email, [REDACTED] stated that an investigator with the Georgia Department of Adult Protective Services (DAPS) reported the theft of [REDACTED] benefits to the PVA on November 2, 2011 [Exh. 1].

**ALLEGATION:**

[REDACTED] forged [REDACTED] name on [REDACTED] PBGC benefit checks and did not use the PBGC funds for [REDACTED] benefit.

**ACTION TAKEN:**

On November 2, 2011, the Case Agent spoke with Investigator [REDACTED] with the Georgia DAPS [Exh. 2]. [REDACTED] provided the following information:

- [REDACTED] also referred this theft to the Brooks County Sheriff's office [Georgia].
- [REDACTED] did not report [REDACTED] PBGC benefits to Medicaid and [REDACTED] will end up owing all the money she received from PBGC to the state of Georgia.
- [REDACTED] told [REDACTED] that the PBGC money was used for [REDACTED] benefit. It was not used to pay for [REDACTED] nursing home care.

Also on November 2, 2011, [REDACTED] emailed the Case Agent his report, which [REDACTED] previously faxed to the Brooks County Sheriff's Department [Exh. 3]. [REDACTED] report contained the following:

- [REDACTED] is [REDACTED] years old and has advanced Alzheimer's disease. [REDACTED] is on Hospice care at the home of another [REDACTED]; [REDACTED] is not expected to live much longer.

## Close-Out Memorandum

Investigation: [REDACTED]

Page 2 of 5

- [REDACTED] lived with [REDACTED] until he entered the Presbyterian Nursing Home (Presbyterian) in Quitman, GA on March 29, 2007.
- [REDACTED] was transferred from Presbyterian to the Life Care Nursing Home (Life Care) in Fitzgerald, GA on October 12, 2009.
- During the time [REDACTED] was in the nursing home, [REDACTED] received [REDACTED] PBGC benefit checks and forged his name in order to cash the checks.
- [REDACTED] used the funds from [REDACTED] most recent PBGC check for her bills and expenses; none of the money was used for the care or welfare of [REDACTED]
- [REDACTED] intentionally did not report [REDACTED] PBGC benefits to the Georgia Department of Family and Children Services for the Medicaid Program. [REDACTED] referred the Medicaid fraud issue to the Georgia Department of Human Services Fraud Division [Georgia Department of Community Health, Office of Inspector General].
- On November 2, 2011, [REDACTED] spoke with [REDACTED] and she admitted forging [REDACTED] name on the PBGC checks.
- [REDACTED] told [REDACTED] that [REDACTED] had given her permission to cash [REDACTED] PBGC checks.
- [REDACTED] also told [REDACTED] that she had power of attorney over [REDACTED] but did not have a copy of the agreement.

The Case Agent reviewed [REDACTED] files in Image Viewer and Spectrum, which yielded the following [Exh. 4]:

- [REDACTED] was a participant in the LTV Steel Hourly Pension Plan (LTV Plan), PBGC plan number 19524000, which has a date of plan termination of March 31, 2002.
- [REDACTED] receives a PBGC monthly benefit of \$768.24 in the form of a check mailed to [REDACTED]
- [REDACTED] PBGC benefit is a life annuity.
- [REDACTED] began receiving PBGC benefits on August 1, 2002.
- [REDACTED] benefit check for May 2006 was mailed to [REDACTED] but was returned to PBGC. A new address of [REDACTED] was listed by the Postal Service.
- On May 1, 2006, PBGC issued a letter to both of the P.O. Boxes indicating [REDACTED] address was changed to [REDACTED] via MyPBA.
- The Case Agent did not locate a Power of Attorney (POA) Agreement in Image Viewer. [REDACTED] of the Richmond Heights PVA also provided that [REDACTED] had no POA or Guardianship on file [Exh. 1]).

[REDACTED] is alleged to have forged [REDACTED] name on PBGC benefit checks from at least the time [REDACTED] entered the nursing home, March 29, 2007, through November 2011. During this period, PBGC issued 56 monthly checks to [REDACTED] totaling \$43,021.44. No checks were deposited into bank accounts; all checks were cashed at non-bank entities [Exh. 5]. PBGC did not issue a check for December 2011 as Richmond Heights PVA suspended [REDACTED] benefits due to the allegation of fraud reported by Georgia DAPS [Exh. 6 and 7]. [REDACTED] subsequently passed away on December 4, 2011 [Exh. 8].

On August 6, 2012, the Case Agent briefed [REDACTED] United States Attorney's Office, Georgia Middle District, about this case [Exh. 9].

## Close-Out Memorandum

Investigation: [REDACTED]

Page 3 of 5

On August 30, 2012, the Case Agent and Brooks County Sheriff's Department Criminal Investigator [REDACTED] interviewed [REDACTED] at the Brooks County Sheriff's Department [Exh. 10]. [REDACTED] provided the following information:

- [REDACTED] has a POA agreement over [REDACTED]. The POA was prepared by an attorney in Haynes City, FL in 2003. [REDACTED] lost her POA when she moved.
- [REDACTED] does not have a bank account.
- [REDACTED] signed her [REDACTED] name on all checks sent to her [REDACTED], which she has had for years.
- [REDACTED] told [REDACTED] to sign his name on the PBGC checks.
- [REDACTED] told [REDACTED] to use the PBGC funds on a piece of property [REDACTED] owned. A 20 x 30 foot outbuilding was constructed for [REDACTED] on the property. The outbuilding had a full bathroom, electricity, and heat and air conditioning units. [REDACTED] lost the property last year because she was unable to make the payments. [REDACTED] ended up having to trade the property for her current house trailer.
- After [REDACTED] went into the nursing home, [REDACTED] told [REDACTED] to continue using the PBGC funds to pay expenses. [REDACTED] used some of the PBGC funds to pay some of [REDACTED] non-medical and medical bills.
- [REDACTED] was not aware that Medicaid paid a portion of [REDACTED] nursing home expenses.
- [REDACTED] often picked up [REDACTED] at Presbyterian Nursing Home and took him shopping; she gave him money from his PBGC checks. At times, [REDACTED] took [REDACTED] shopping 3-4 times a week.
- The Case Agent asked [REDACTED] why she signed [REDACTED] name on the PBGC checks if she had a POA instead of signing her own name and presenting the POA when cashing the PBGC checks. [REDACTED] replied that she never really thought about it. [REDACTED] told [REDACTED] to sign his name so [REDACTED] signed [REDACTED] name. [REDACTED] didn't know she was supposed to sign her name.

On August 30, 2012, the Case Agent spoke with attorney [REDACTED] via phone [Exh. 11]. [REDACTED] confirmed that he prepared a POA between [REDACTED] and [REDACTED] on March 28, 2005, which became effective immediately.

On October 12, 2012, the Case Agent received a Durable Family POA Agreement from [REDACTED] pursuant to an Inspector General Subpoena [Exh. 12]. The Case Agent reviewed the POA and determined the following:

- [REDACTED] granted [REDACTED] full power of attorney over [REDACTED] finances and specifically the authority to "receive, endorse, and deposit any checks and payment made to me, including pension payments..."
- The POA was signed by [REDACTED] and the POA was effective March 8, 2005.
- The POA was prepared by attorney [REDACTED] who also signed the POA as a witness.

On October 18, 2012, the Case Agent sent an email to [REDACTED] of the United States Attorney's Office, Georgia Middle District, informing her that [REDACTED] had granted power of attorney to [REDACTED]. Prior to sending the email, the Case Agent attempted to contact [REDACTED] several times by [REDACTED].

Close-Out Memorandum

Investigation: [REDACTED]

Page 4 of 5

phone and had left several voicemails. On October 18, 2012, the Case Agent received an email from [REDACTED] declining the case for prosecution [Exh. 13].

On October 19, 2012, the Case Agent received an email from the Georgia Department of Community Health, Office of Inspector General, indicating their investigation of [REDACTED] for Medicaid fraud] is ongoing.

**CONCLUSION:**

While [REDACTED] admitted that she forged [REDACTED] name on PBGC checks [REDACTED] had previously granted her power of attorney. [REDACTED] also asserts that she used the funds from the PBGC checks partially on [REDACTED] and that she disposed of the funds from the PBGC checks pursuant to [REDACTED] instructions. As these PBGC checks were negotiated for cash and [REDACTED] is deceased, there is no way to confirm or dispute these assertions. The case was declined by the United States Attorney's Office, Georgia Middle District, upon learning that [REDACTED] had granted [REDACTED] power of attorney.

**RECOMMENDATION:**

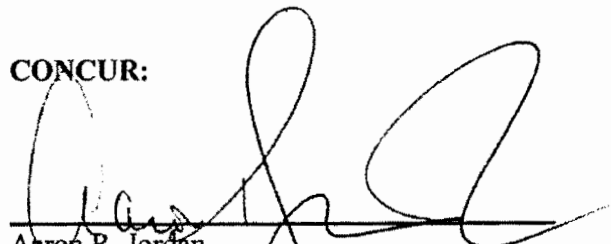
Close this investigation.

Forward these findings to Richmond Heights Post Valuation Administration.

**DISPOSITION:**

Closed.

**CONCUR:**

  
Aaron R. Jordan  
Assistant Inspector General for Investigations

8/9/13  
Date



# Pension Benefit Guaranty Corporation

Office of Inspector General

1200 K Street, N.W., Washington, D.C. 20005-4026

April 4, 2011

**TITLE** Prices Utility Contractors Inc - [REDACTED]  
**INVESTIGATOR** SAC [REDACTED]  
**SUBJECT** Prices Utility Contractors and Bud Prices  
Excavating  
**Complaint #** [REDACTED]

## FACTS

On February 24, 2010, the SAC received an investigative referral from the Little Rock, Arkansas FBI Field Office indicating that [REDACTED] had filed a complaint alleging an ERISA violation by the owners of Prices Utility Contractors and Bud Prices Excavating.

## ACTION TAKEN

On February 24, 2011, Special Agent in Charge (SAC) [REDACTED] contacted [REDACTED] Supervisory Special Agent, FBI Field Office, Little Rock, Arkansas. [REDACTED] was contacted to determine if the LRFO initiated a complaint on the allegation. [REDACTED] stated the LRFO did not initiate a complaint but instead referred the matter to the OIG for review.

On February 24, 2011, the SAC contacted complainant [REDACTED] to discuss the complaint submitted to the LRFO. According to [REDACTED] previous referrals had been made to the Department of Labor and the Employee Benefits Security Administration concerning the same matter. In addition [REDACTED] indicated that the EBSA investigation resulted in a disbursement of funds from the plan. Finally [REDACTED] stated she was suing the plan civilly in Federal Court.

On February 24, 2011, Special Agent [REDACTED] and Investigative Analysts [REDACTED] performed separate searches of the PBGC plans database for the identified plans. The search did not identify any of the plans referenced in the referral.

## CONCLUSION

There was not a PBGC nexus to the allegations made by the complainant.

## RECOMMENDATION

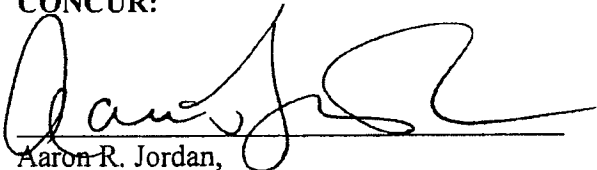
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## DISPOSITION

Closed



CONCUR:

  
\_\_\_\_\_  
Aaron R. Jordan,  
Assistant Inspector General for Investigations

4/18/2011  
\_\_\_\_\_  
Date



Pension Benefit Guaranty Corporation  
Office of Inspector General  
1200 K Street, N.W., Washington, D.C. 20005-4026

December 5, 2011

**TITLE** Theft/Fraud  
**INVESTIGATOR** [REDACTED]  
**SUBJECT** [REDACTED] (South Carolina)  
**Investigation #** [REDACTED]

**FACTS**

On October 27, 2011, Detective [REDACTED] from Rock Hill, SC contacted the OIG to report an allegation that [REDACTED] took pension payments from participant, [REDACTED]. [REDACTED] has been in a nursing facility since June 2011 with dementia. There have been several interactions with the PBGC regarding changes to mailing addresses and bank account information over several months.

**ACTION TAKEN**

Detective (Det.) [REDACTED] was already investigating [REDACTED] when he contacted the OIG. Special Agent (SA) [REDACTED] assisted him with pulling information regarding [REDACTED] pension information, getting copies of cashed checks and pulling additional background information on [REDACTED].

On October 31, 2011, SA [REDACTED] received call logs from the Kingstowne Customer Service Department that showed several calls from [REDACTED] phone number to the PBGC requesting updates to [REDACTED] mailing address and banking information.

On November 22, 2011, SA [REDACTED] talked to Det. [REDACTED]. Det. [REDACTED] stated he received copies of [REDACTED] bank statements and saw that she was depositing [REDACTED] pension payments, but was not using the money. Det. [REDACTED] stated the money was still in the bank account. Det. [REDACTED] stated that he will be closing his investigation since he cannot substantiate that [REDACTED] is using the money for her own personal benefit.

On November 22, 2011, [REDACTED] called the OIG to inquire about [REDACTED] pension payments. [REDACTED] stated she does not have Power of Attorney. [REDACTED] stated that because of [REDACTED] mental condition, she is not able to appoint anyone. SA [REDACTED] did not provide any personal information regarding [REDACTED] pension. Management at the Richmond Heights, OH office made a recommendation that [REDACTED] apply for a Guardianship and submit it to the PBGC before [REDACTED] pension can be discussed with her.

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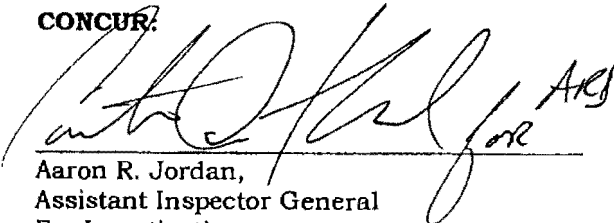
**CONCLUSION**

The total amount of checks that were taken from [REDACTED] was approximately \$405, which is under the OIG's threshold of \$3,500.

**RECOMMENDATION**

SA [REDACTED] recommends closing this complaint and transferring the matter to the appropriate PBGC officials.

**CONCUR:**

 <sup>AGJ</sup>  
\_\_\_\_\_  
Aaron R. Jordan,  
Assistant Inspector General  
For Investigations

  
\_\_\_\_\_  
Date



**PENSION BENEFIT GUARANTY CORPORATION**

*Office of Inspector General*

**REPORT OF INVESTIGATIONS**

**Office of Personnel Management- PBGC Human Resources  
Department Inquiry**



**February 3, 2009**

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# Pension Benefit Guaranty Corporation

Office of Inspector General

1200 K Street, N.W., Washington, D.C. 20005-4026

## REPORT OF INVESTIGATION

<b>Case Title:</b>  Office of Personnel Management - PBGC Human Resources Department Inquiry	<b>Complaint Number:</b> [REDACTED]
	<b>Type of Report:</b> <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
<b>Type of Investigation: Civil</b>  <b>Federal Statutes Implicated</b> 5 USC § 2301(b)(1) – Merit System Principles 5 USC § 2302(b)(6) – Prohibited Personnel Practices  <b>Federal Regulations Implicated</b> 5 CFR 300.103(b) – Basic requirements 5 CFR 300.104(b) – Appeals, Grievances and Complaints  <b>Administrative Policies Implicated</b> PBGC's Merit Staffing Policy Unauthorized Shredding of Documents	<b>Status:</b>  Closed
<b>Period Covered:</b> October 27, 2006 - December 2008	<b>Location:</b> PBGC Washington, DC
<b>Report Made By:</b> [REDACTED] Special Agent in Charge	
<b>Concurrence:</b> Aaron R. Jordan, Assistant Inspector General for Investigations	<b>Date:</b> 2/2/09
<b>Concurrence:</b> Deborah Stover-Springer, Deputy Inspector General	<b>Date:</b> 2/2/09
<b>Concurrence:</b> Rebecca Anne Batts, Inspector General	<b>Date:</b> 2/3/09

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indicated that they could find no justification for the vacancy announcement's five-day open period (Exhibit 2 – OPM Referral Letter Enclosure).

**Allegation 3:**

OPM alleges a former delegated examining unit chief [REDACTED] [REDACTED] "was working in the DE function." As part of the allegation, OPM requested the PBGC-OIG investigate to determine if PBGC took appropriate action and if hiring records are at risk (Exhibit 2 – OPM Referral Letter).

**Allegation 4:**

OPM alleges PBGC failed to comply with 5 CFR 451.106(b) by exceeding the authorized award limit of \$10,000 to senior leadership. According to OPM, the PBGC award practices did not follow approval regulations and "appear designed to circumvent this requirement". This was not considered an investigative issue. Therefore, PBGC OIG will review the practices associated with the senior leadership awards as part of planned audit.

**Federal Statutes and Regulations Implicated**

- **5 USC § 2301(b)(1) – "Merit system principles,"** states in part:

Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

- **5 USC § 2302(b)(6) – "Prohibited personnel practices,"** states in part:

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority

\* \* \*

(6) Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

- **5 CFR 300.103(b) – "Basic requirements,"** states in part

(b) Relevance. (1) There shall be a rational relationship between performance in the position to be filled (or in the target position in the case of an entry position) and the employment practice used. The demonstration of rational relationship shall include a showing that the employment practice was professionally developed. A minimum educational requirement may not be established except as authorized under section 3308 of Title 5, United States Code.

- **5 CFR 300.104(b) – "Appeals, grievances and complaints,"** states in part:

Examination ratings. A candidate may file an appeal with the Office from his or her examination rating or the rejection of his or her application, except that, where the Office has delegated examining

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authority to an agency, the candidate should appeal directly to that agency. The appeal and supporting documents shall be filed with the agency office that determined the rating.

### FINDINGS

#### **Allegation 1: HRD-SD-2007-0004 Improper Hiring Based on Improper Selective Placement Factors**

**The investigation substantiated the improper use of selective placement factors in the vacancy announcement for an HRD entry-level position, resulting in an improper hiring (Exhibit 4 – HRD-SD-2007-0004 Vacancy Announcement).**

The investigation revealed [REDACTED] PBGC's [REDACTED], agreed during the exit interview with OPM that the selective placement factors were improper (Exhibit 5 – [REDACTED] MOI). In our review of OPM's *Qualification Standards for General Schedule Position*, we found there are no specialized or educational requirements for a position in the GS-203 series above a GS-5. The investigation did not substantiate a violation of 5 CFR 300.104(b), as cited by OPM, because the cited regulation does not reference the establishment of minimum educational requirements by an agency (Exhibit 6 – 5 CFR 300.104 (b)). However, the investigation found that there was a violation of 5 CFR 300.103(b) which prohibits an agency from establishing minimum educational requirements if none are required in the *Qualifications Standards* (Exhibit 5 – 5 CFR 300.103(b)).

#### **Allegation 2: BAPD-OPSS-2008-0003 Improper Selection Based on Improper Selective Placement Factor & Recruitment Period**

**The investigation did not substantiate that the selective placement factor was improper for the BAPD-OPSS-2008-0003 announcement under 5 U.S.C. § 2302(b)(6).**

**The investigation did substantiate that the recruitment period did not meet OPM's recommended, though not required, 5-day time period.**

The Selective Factor. The investigation found that the use of selective placement factor "must have experience developing technical courses in the areas of pension law and regulations" did not "wrongly eliminate applicants from fair and open competition," as alleged in the OPM referral letter. Our conclusion is based on two factors. First, interested applicants could have gained knowledge of pension laws and regulations in both the private sector and other Federal agencies, not just from experience at PBGC. Second, according to [REDACTED] Operations and Policy Support Staff (OPSS), [REDACTED], and [REDACTED] OPSS, [REDACTED] the selective placement factor accurately reflected the needs of the position identified in the position description (Exhibit 3 – BAPD-OPSS-2008-0003). BAPD did not have a training specialist with an ability to develop pension related courses when [REDACTED] was selected. The specialized and technical specificity of the position required an individual capable of developing pension related training plans at time of appointment.

The investigation found the job analysis used generic language in the KSA column and failed to adequately reflect the need for a candidate to have pension experience. The poorly written job analysis was one of many historical problems that plagued PBGC's HRD and necessitated greater oversight by OPM (Exhibit 21 – Job Analysis BAPD-OPSS-2008-0003). Therefore, we conclude that the fault was not in an improper selective placement factor but in the quality of the job analysis.

Further, we note that even if we had concluded the selective placement factor was improper, it would not have been a prohibited personnel practice in violation of 5 U.S.C. § 2302(b)(6). Except for protection from whistleblower retaliation provided in subsection (b)(8), government corporations are specifically excluded

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from the coverage of 5 U.S.C. § 2302. Therefore, PBGC employees cannot be charged with a violation of 5 U.S.C. § 2302(b)(6) because of PBGC's Federal corporation status (see **Exhibit 7** – 5 U.S.C. § 2302 (a)(1)(2)(C)(i)), and **Exhibit 9** –OIG Legal Counsel August 7, 2008 Memorandum).

**The Selectee's Experience.** A review of the Quick Hire data for the vacancy announcement found one applicant was eligible and 38 individuals were ineligible. Quick Hire is an automated system used to assess the qualifications of candidates applying for vacancies with PBGC (**Exhibit 16** – Applicant Listing Report). Of the 38 individuals identified as ineligible, three were Service Connected Veterans. A review of the applicant data reports for the Veterans found that they did not possess the pension experience required in the job analysis (**Exhibit 19**– Service Connected Veterans Applicant Data Reports). The investigation revealed that the applicant deemed eligible had over 10 years experience as a trainer with the Washington, DC Metropolitan Police Department, where she developed and delivered training courses. In addition, the selected applicant worked as a PBGC Instructional Systems Specialist from [REDACTED] through [REDACTED] and as a PBGC Customer Contact Center Supervisor from [REDACTED] – [REDACTED]. As a result of this experience, the selectee obtained technical course development experience and knowledge of PBGC's pension requirements and operations.

**The 5-day Recruitment Period.** OPM's Delegated Examining Operations Handbook recommends an announcement stay open for at least "five business days to ensure that people who want to apply for the position have an adequate opportunity to do so" (**Exhibit 10** – Delegated Examining Operations Handbook, *A Guide For Federal Agency Examining Offices, Chapter 3, Section B*). The investigation found that vacancy announcement BAPD-OPSS-2008-0003 was open for five days, from March 28, 2008 – April 1, 2008, however, two of the days occurred over a weekend. According to HRD [REDACTED] and [REDACTED], the five-day vacancy period was not irregular and was authorized per the Delegated Examining Operations Handbook (**Exhibit 11** – [REDACTED] MOI's). [REDACTED] also stated that she and [REDACTED] believed it was justified to "limit the numbers of days due to the anticipation of the high volume of applications." However, while they did discuss it between themselves, they failed to document the justification in the hiring file (**Exhibit 18** – Email from [REDACTED]). We note that OPM's Handbook 5 business day recruitment period is a recommendation, not a mandatory requirement. Because this 5-day period included two weekend days, it did not meet OPM's best practice, but is not a violation.

### **Allegation 3: Personnel Records at Risk Due to Access by HR Supervisor Who Shredded Records**

**The investigation did not substantiate that HRD failed to take appropriate action and that HR records were at risk from a HRD supervisor who had previously shredded personnel records.**

It is undisputed that the [REDACTED] shredded hiring documents while assigned to HRD. [REDACTED] stated [REDACTED] shredded documents in accordance with the instruction of former [REDACTED] during the transition to an automated file management system. The investigation identified an email [REDACTED] sent [REDACTED] on May 19, 2008 detailing his shredding of documents (**Exhibit 8** – [REDACTED] Email). [REDACTED] stated [REDACTED] exercised no quality control during the process and gave the directions to shred the documents after they were loaded into the system to protect privacy information. [REDACTED] stated the current HRD director has provided guidance to staff and instituted training to correct past practices. The investigation revealed [REDACTED] resigned from PBGC on [REDACTED]. Thus, the investigation determined that appropriate actions to correct deficiencies and safeguard hiring documents resolved the issue of risk to hiring records.

### **DETAILS OF INVESTIGATION**

On July 11, 2008, the reporting agent contacted [REDACTED] Group Manager, Philadelphia Oversight and Accountability Group, U.S. Office of Personnel Management, to discuss the results of a

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human capital management evaluation conducted in March 2008, of PBGC's delegated examining operations. A June 27, 2008 letter from [REDACTED] unit detailed systemic deficiencies identified during the evaluation, as well as, allegations of U.S.C. Title 5 violation (**Exhibit 1** – OPM Letter, June 27, 2008). [REDACTED] stated a July 7, 2008 referral letter sent to PBGC-OIG from his unit identified the specific hiring activities in question. In addition, [REDACTED] stated that the referral letter also requested a review by the PBGC-OIG of PBGC's compliance with 5 CFR 451.106(b) (**Exhibit 2** – OPM Referral Letter, July 7, 2008). The reporting agent asked [REDACTED] if he felt the situations detailed in the July 7, 2008 referral letter amounted to criminal activity. [REDACTED] indicated that situations were abusive and not criminal.

On July 14, 2008, the reporting agent interviewed [REDACTED] an attorney in PBGC's Office of the General Counsel (OGC), concerning the improper appointment identified in the July 7, 2008 OPM Referral Letter as Case No. 2. According to [REDACTED] in early January 2008, the PBGC Human Resources Department (HRD) contacted OGC to report the improper appointment of possibly six employees. [REDACTED] stated that the HRD had identified several occurrences where a HRD specialist allowed candidates to move through the hiring process without educational transcripts as required for the positions. However, a further review by HRD staff found that only one of the six employees failed to meet the educational requirements for their appointed positions. [REDACTED] stated HRD identified an employee in the Benefit Administration and Payment Department (BAPD), [REDACTED] as an improper appointment in January 2008. In addition, [REDACTED] stated the specialist responsible for the improper appointment received a performance improvement plan (PIP) and has since resigned from the agency.

According to [REDACTED] once she confirmed that the employee did not meet the educational requirements of the position, she began to look into what actions would rectify the situation. One of the remedies [REDACTED] identified was to request a variation as detailed on the OPM web site (**Exhibit 12** – OPM Variation Instructions). [REDACTED] indicated that the language was not clear as to how to apply the variation so she contacted OPM directly for further guidance. [REDACTED] stated she received guidance from OPM employee [REDACTED] via email and telephone and that she in turn advised HRD per the guidance received. Specifically [REDACTED] advised:

- The employee could not be reassigned because they were not an "employee" due to the improper appointment;
- The position had to be re-announced; and
- Propose the employee's termination

In the email [REDACTED] also indicated that if the employee failed to meet the qualifications of the original announcement she would not be qualified for the revised announcement (**Exhibit 13** – [REDACTED] February 1, 2008, Email). However, [REDACTED] indicated that BAPD management was adamant that HRD and OGC figure out a way to fix this and that [REDACTED] did not want to propose a termination for a mistake that HRD made. Furthermore, in a February 7, 2008 email from [REDACTED] to HRD's [REDACTED] [REDACTED] with a copy to [REDACTED] [REDACTED] advises "...we do not want to present the termination notice until we have the new PD ready." The email also states "...[REDACTED] thinks it would be much better to have the PD ready so that there is no lag time between the presentation of the notice and when she can apply for a position" (**Exhibit 14** – [REDACTED] February 7, 2008 Email).

[REDACTED] stated that without her assistance or review, HRD and BAPD developed a new position description and vacancy announcement. According to [REDACTED] at some point, [REDACTED] informed her that they had actually accepted [REDACTED] to a new position. [REDACTED] indicated that her response to [REDACTED] was "are you sure this was done correctly?" [REDACTED] provided the reporting agent a copy of an April 3, 2008 email [REDACTED] sent [REDACTED] and copied [REDACTED]. The email contains a subject line of "RE: Improper Appointment". In the email, [REDACTED] advises [REDACTED] "...the employee who was improperly appointed is resigning effective [REDACTED]". The email goes on to state, "...she competed and was selected for

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another position at PBGC and is slated to start on April, 2008" (Exhibit 15 [REDACTED] April 3, 2008 Email). Finally, [REDACTED] stated she was not aware of any relationships, or personal or professional gains that might have influenced [REDACTED] appointment.

On July 14, 2008, the reporting agent interviewed [REDACTED] concerning the improper hiring practices identified in the July 7, 2008 OPM Referral Letter as **Case No.1 HRD-SD-2007-0004** and **Case No.2 BAPD-OPSS-2008-0003**. According to the referral letter, the selective placement factors used in both announcements "compromised fair and open competition." In addition, the referral questioned the justification for a five-day opening for the announcement identified as Case No #2. [REDACTED] advised the reporting agent that Case No. 1 involving two improper selective placement factors occurred before her tenure at PBGC, however, after reviewing the circumstances, she agreed with the OPM findings. [REDACTED] stated the PBGC Human Resources Division personnel involved with the decision were no longer with the agency and the improperly appointed employee subsequently competed and was selected for a position in another unit within PBGC.

Concerning Case No. 2, [REDACTED] believed that the selective placement factor of "...must have experience developing technical courses in areas of pension law and regulations" was properly applied to the position. According to [REDACTED], a former PBGC HRD specialist improperly appointed [REDACTED] to the position of instructional systems specialist in BAPD. The improper appointment was discovered when the manager reviewed the HRD specialist's work. [REDACTED] stated that when she learned of the improper appointment she contacted the employee's BAPD manager, [REDACTED]

Because BAPD had not taken any improper actions, [REDACTED] refused to be involved with the proposal for termination and insisted that HRD serve as the terminating official. [REDACTED] stated that the employee applied for a new position within the same department prior to termination. [REDACTED] stated she did not review the new position description and that [REDACTED] would have reviewed it and did not have any concerns. Concerning the five-day vacancy announcement, [REDACTED] stated that the Delegated Examining Handbook permitted the five-day position announcement.

On July 15, 2008, the reporting agent interviewed [REDACTED] a Human Resources Specialist in PBGC's HRD. [REDACTED] provided details concerning her role in addressing [REDACTED] original improper appointment as an instructional systems specialist (vacancy announcement BAPD-OPSS-2007-0018). [REDACTED] stated HR [REDACTED] contacted her at the end of December 2007 or the beginning of January 2008, to review a settlement offer prepared by the PBGC Office of the General Counsel for [REDACTED]. In addition, [REDACTED] stated that [REDACTED] asked her to follow up with OGC attorney [REDACTED] who was attempting to get guidance from the Office of Personnel Management on the improper appointment.

[REDACTED] stated that her involvement with the improper appointment also involved the human resources analyst responsible for [REDACTED] initial improper appointment under vacancy announcement BAPD-OPSS-2007-0018. [REDACTED] stated that former PBGC human resources analyst [REDACTED] failed to verify educational transcripts for six PBGC employees, including [REDACTED], and was subsequently placed on a performance improvement plan for failing to do so. [REDACTED] stated that part of [REDACTED] performance improvement plan was to contact the six employees and request copies of their transcripts. [REDACTED] stated [REDACTED] came to her attention at that point. According to [REDACTED] at the time of appointment, [REDACTED] did not meet the required educational requirements specified in the vacancy announcement.

[REDACTED] stated that between January 2008 and March 2008, [REDACTED] notified BAPD management about the improper appointment of [REDACTED]. According to [REDACTED] BAPD management identified another position in a different series that [REDACTED] could apply for that did not have the same educational requirement. [REDACTED] stated that [REDACTED] resigned on [REDACTED] from the improperly appointed

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position in order to apply for the new position. [REDACTED] stated that she and [REDACTED] advised HRD to make sure the selection "was by the book." [REDACTED] stated that she did not believe that the employee had been preselected and notification of the hiring came from HRD [REDACTED]

On July 15, 2008, the reporting agent and PBGC-OIG Special Agent [REDACTED] interviewed [REDACTED] Training Specialist in BAPD. According to [REDACTED], in September 2007, she applied for an instructional specialist vacancy under announcement BAPD-OPSS-2007-0018. [REDACTED] stated she completed a panel interview as part of the selection process, was selected and began working in the position on October 29, 2007. According to [REDACTED], on March 31, 2008, HR [REDACTED] met with [REDACTED] and [REDACTED] BAPD Operations and Policy Support Staff (OPSS), informing them that [REDACTED] failed to meet the educational requirements for the instructional specialist, and would have to resign or face termination.

[REDACTED] stated, during the March 31, 2008 meeting, [REDACTED] encouraged [REDACTED] to apply for a pending training specialist vacancy under announcement BAPD-OPSS-2008-0003 within BAPD-OPSS. In addition, according to [REDACTED], [REDACTED] stated, "hopefully it would be a seamless transition." [REDACTED] stated she resigned from the PBGC as an instructional specialist on April 2, 2008 and began working as a training specialist on April 7, 2008 in BAPD. [REDACTED] stated that the training specialist position was the same position she was working in, but without the educational requirements. [REDACTED] stated that although she did not have to complete an interview for the training specialist position, she did not benefit from any personal relationships in the appointment.

On July 15, 2008, the reporting agent interviewed [REDACTED] PBGC's HR [REDACTED] to identify her role in the two alleged improper appointments referenced by OPM. [REDACTED] stated she had no knowledge of the issues identified in the [REDACTED] appointment because they occurred before her tenure at PBGC. [REDACTED] stated she was aware of the issues related to [REDACTED]

According to [REDACTED], [REDACTED] received notification to resign or face termination on March 13, 2008 because [REDACTED] did not meet the educational requirements for the position of Instructional Systems Specialist. [REDACTED] stated that [REDACTED] failed to monitor a HRD specialist who allowed individuals to go through the hiring process without verifying educational requirements. [REDACTED] stated [REDACTED] applied for a training specialist position that did not have the educational requirements of the instructional system specialist. [REDACTED] stated that she did not review the position description for the new position before announcing it. However, she believes that the announcement was proper and that the employee was not preselected. [REDACTED] stated there were no irregularities about the appointment in spite of the five-day announcement period, nor were there any deviations from general practices in [REDACTED] appointment.

On July 16, 2008, the reporting agent and OIG Special Agent [REDACTED] interviewed [REDACTED] OPSS Division [REDACTED] and [REDACTED] a [REDACTED] in OPSS where [REDACTED] worked. The reporting agent interviewed [REDACTED] and [REDACTED] to identify any improper or questionable practices associated with [REDACTED] appointment under announcement BAPD-OPSS-2008-0003. Specifically, the reporting agent sought to determine:

1. Why were educational requirements not required for the position in the BAPD-OPSS-2008-0003 vacancy announcement?
2. Why was the instructional specialist position converted to a training specialist?
3. Why was the selective placement factor of "must have experience developing technical courses in the areas of pension law and regulations" added to the position description?

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█████ stated, in March 2008, █████ faced forced resignation or termination because the PBGC Human Resources Department failed to verify █████ educational background before appointing █████ to the position of Instructional System Specialist. As a result, █████ stated she began looking into remedies that would allow █████ to remain an employee in OPSS because she was a good worker. █████ stated since █████ had done nothing wrong she wanted to do everything humanly possible to help █████. █████ stated her group talked with the PBGC's OGC and HRD to determine what to do. █████ stated OGC and HRD advised █████ Instructional System Specialist position could be re-announced and █████ could apply under the new announcement.

█████ stated, on March 26, 2008, a position description was prepared for a Training Specialist to replace the position of Instructional Systems Specialist. According to █████, the PBGC Training Institute recommended the position change from an Instructional System Specialist (which requires a 4 year degree) to a Training Specialist (no college degree required). █████ stated the recommendation was based on the difficulty the Federal Government had retaining instructional system specialists over the private sector. █████ stated OPSS prepared the position description with the assistance of HRD. █████ stated the selective placement factor of "must have experience developing technical courses in the areas of pension law and regulations" reflected the needs of the position. In addition, █████ stated pension experience is not exclusive to PBGC and can be obtained in the private sector, as well as other Federal agencies.

On July 29, 2008, Special Agent █████ and Senior Special Agent █████ interviewed █████ who is currently a Management and Program Assistant, in BAPD's Retirement Services Division. When OPM reviewed PBGC's hiring practices, █████ appointment was one of the positions that got OPM's attention.

█████ began working in HRD as a Stay-In-School on █████. █████ applied for a full-time federal job through USAJobs as a Human Resources Assistant, Grade 5/7/9. █████ stated that she interviewed with █████ and possibly former HRD employee █████. █████ stated █████ notified her that she had been selected for the job. █████ effective date for her new position was █████.

█████ stated the position requirements of the announcement allowed her to apply for the job even though she did not have a four-year degree. █████ stated she had completed her college education but did not receive her degree until several months later because her school offered only one graduation ceremony per year. █████ stated she received education 4 years beyond high school, so she felt she was qualified to apply for the position in HRD at PBGC. █████ stated, "no one in HRD helped me get the position and no one encouraged me to apply to the HRD system."

After █████ worked a year in this position, she applied for the Upward Mobility Program. She was accepted in the program in her current BAPD position.

█████ also stated that before she left her HRD position, she had no knowledge of █████ shredding documents. █████ stated that her immediate supervisor did ask her to shred documents that had exceeded the office timeframe for storage.

On July 30, 2008, the reporting agent reviewed the Quick Hire data collected for second position █████ was selected for, PBGC vacancy announcement BAPD-OPSS-2008-0003. Quick Hire is an automated system used to assess the qualifications of candidates applying for vacancies with PBGC. According to the Quick Hire data collected for the position, one applicant was eligible and 38 individuals were ineligible (Exhibit 16 – Applicant Listing Report).

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The data also provided the following information concerning veteran status:

Number of Applicants	Veteran Type	Veteran Status
33	NV	Non Veteran
3	TP	Tentative Preference Vet – 5 Point Vet Preference Pending Verification Of Service
3	CP	10 vet compensable – 30% or less disability with compensation from VA

The data also revealed that [REDACTED] was the only applicant that met the selective placement factor (Exhibit 17 – Ineligible Applicant Report).

On August 6, 2008, the reporting agent and [REDACTED] interviewed [REDACTED] Pension Benefit Guaranty Corporation (Exhibit 5 – [REDACTED] MOI). The interview addressed OPM's identified systemic deficiencies in PBGC's Human Resources Department. Specifically the reporting agent sought [REDACTED] responses to the alleged:

1. Prohibited personnel practices by agency officials in the cases of [REDACTED] and [REDACTED]
2. Unauthorized shredding of documents by the former delegated examining unit chief [REDACTED]
3. Appropriateness of actions taken to protect official hiring records.

[REDACTED] agreed that the hiring of [REDACTED] under vacancy announcement HRD-SD-2007-0004 did not follow hiring regulations and best practices. [REDACTED] stated he was not involved with the hiring of [REDACTED] and first learned of the [REDACTED] issue when OPM representatives brought the issue to his attention during their exit conference. [REDACTED] stated he expressed concern to the PBGC's OGC concerning the hiring of [REDACTED] but was not involved with the preparation of the vacancy announcement or appointment of [REDACTED] to the training specialist position.

[REDACTED] stated there was no intent to cover anything up by [REDACTED] shredding documents in the delegated examining unit. According to [REDACTED] the [REDACTED] attempted to move HRD to a paperless management system. [REDACTED] stated [REDACTED] exercised no quality control during the process and gave the directions to shred the documents after loading them into the electronic system to protect privacy information. [REDACTED] stated the current HRD director has provided guidance to staff and training to correct the deficiencies identified in the OPM report addressing the delegated examining unit activities. In addition [REDACTED] stated [REDACTED] no longer works for the PBGC and oversight has improved in HRD.

On August 21, 2008, the reporting agent received an email from HRD [REDACTED] providing additional information concerning the improper hiring practices. More specifically, [REDACTED] provided an explanation regarding the justification for a five-day opening for the announcement identified as Case No #2 [REDACTED] [REDACTED] advised that she and [REDACTED] discussed the announcement period and decided that it was appropriate to limit the numbers of days due to the anticipation of the high volume of

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applications. [REDACTED] further stated that this was not anything new and that it had been done with BAPD before for positions that do not have a positive education requirement. Jobs that do not have the education requirement draw a higher number of applicants and for only one position it is not necessarily the best use of time in processing numerous applications since personnel rules permit only three names to be referred. [REDACTED] stated that the justification she discussed with [REDACTED] did not get included in the file. [REDACTED] admitted it was an oversight not to include the justification in the case file (Exhibit 18 – Email [REDACTED]).

On October 30, 2008, the reporting agent interviewed [REDACTED] Pension Benefit Guaranty Cooperation. The interview focused on the recommendations [REDACTED] made to [REDACTED] concerning an instructional systems specialist position. According to [REDACTED], she advised [REDACTED] that the Federal Government was having a difficult time recruiting instructional system specialist and that there were in fact very few in the Federal Government.

[REDACTED] stated OPSS did not need an instructional system specialist because the Training Institute contracted with vendors the course development for OPSS. As a result, [REDACTED] recommended [REDACTED] opt for a training series position. [REDACTED] stated that instructional system specialist designs training courses from start to finish, a training specialist could develop training plans, evaluate and assess the effectiveness of the contracted training. In addition, [REDACTED] stated that a training specialist best performed the position [REDACTED] was attempting to fill because it did not rise to the level of instructional specialist work.

On November 21, 2008, the reporting agent and [REDACTED] interviewed HRD [REDACTED] and HRD [REDACTED] concerning the improper hiring practice identified in the July 7, 2008 OPM Referral Letter [REDACTED] and [REDACTED] were asked to address the missing selective placement factor from the KSA column of the Job analysis. According to [REDACTED] when the job analysis was completed for announcement BAPD-OPSS-2008-0003, HRD was completing job analyses incorrectly and were “dinged” by OPM as a result. In addition, [REDACTED] stated that the details listed in the KSA column for the BAPD-OPSS-2008-0003 position was very generic compared to their current process.

[REDACTED] agreed that the rating factor should have been reflected in the KSA’s, but disagreed that the requirements of the position could be learned in 120 days. [REDACTED] indicated that it would be very difficult for a person without pension experience to communicate to the individuals they would be training. In addition, [REDACTED] stated “when we were talking to the managers the structure of pensions is very unique, you need to have a background in order to develop these types of courses”. Finally, [REDACTED] stated that when OPM completed the review they refused to discuss the issues surrounding announcement BAPD-OPSS-2008-0003 and that she was completely in the blind until the OIG brought the issue to her attention.

On December 16, 2008, the reporting agent and [REDACTED] interviewed OPSS [REDACTED] and OPSS [REDACTED] concerning the justification for use of the selective placement factor “must have experience developing technical courses in the areas of pension law and regulations.” According to [REDACTED] having a background in pension laws and regulations was required for the selected candidate to develop the course material to meet the training requirements for BAPD. [REDACTED] stated without functional knowledge of pension laws and regulations, it would have been very difficult for [REDACTED] to develop the course content. For example, [REDACTED] initial assignment was to develop the “Plan Asset Audit Course” for auditors within BAPD. Finally, [REDACTED] stated at the time [REDACTED] was hired, OPSS did not have a training specialist with a background in pensions to develop pension related courses.

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**STATUS**

**Case Status:**

Investigation completed.

**Referred Status:**

The Report of Investigation is submitted to management for appropriate action. Because there was no evidence of criminal action, we did not refer this matter for prosecution.

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[REDACTED] et al.

**Description:** [REDACTED] et al.

**Summary:** On February 19, 2010, the Office of Inspector General received a letter from the United States Government Accountability Office pertaining to an anonymous e-mail message. The e-mail message reported wrongdoing by [REDACTED] a contractor with the PBGC. The anonymous complainant states [REDACTED] Facilities and Services Department (FASD) is allowing contract employees to show up late or not at all to work while charging Federal government [REDACTED] Inc. has a personal relationship with [REDACTED] FASD and [REDACTED]. As received under previous complaint no. 09-093-C, the anonymous complainant states that [REDACTED] was committing time card fraud by showing up for work and altering the sign-in information when he was late. The anonymous complainant states that [REDACTED] had the hard drive of the contract employee suspected of filing complaint 09-093-C removed from their computer. The anonymous complainant stated that complaint 09-093-C was not investigated by [REDACTED] and fraudulent activity continues.

**Allegation** PBGC - 1200 K St, NW Wash, DC**Location:****Finding** The Office of Inspector General (OIG) followed up with [REDACTED]

**Summary:** [REDACTED] to see what actions he took regarding the initial referral pertaining to this matter. The OIG will not be taking any further actions based on [REDACTED] response to this matter. [REDACTED] response states the [REDACTED] contract is a firm-fixed priced, performance-based contract. It is not a hourly wage reimbursable contract; and thus, PBGC is not involved with [REDACTED] time and attendance. This matter is closed.

[Back](#)

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**Description:** Alleged fraud regarding travel reimbursements and salary payments to fictitious employees.

**Summary:** Complaint opening was predicated upon an anonymous internet submission made through GAO FraudNET on July 23, 2010. The anonymous source alleged that [REDACTED] PBGC Financial Operations Department, circumvented travel rules by purposely taking business trips to visit family members and to vacation near conference events. By doing so, [REDACTED] was able to get the government to pay for a portion of the trip. Additionally, the complaint alleges that the PBGC manager overseeing the contractor responsible for travel review chose to overlook [REDACTED] abuses. The reason for this, stated in the complaint, is that the contractor responsible for travel review had overbilled PBGC for nonworking personnel. However, the complaint does not state what, if any, benefit was received by the PBGC manager [REDACTED] overseeing the contractor responsible for travel review [REDACTED]

**Allegation** PBGC - 1200 K St, NW Wash, DC

**Location:**

**Finding** [REDACTED] travel and reimbursements appear to be for legitimate

**Summary:** business purposes and were conducted in accordance with the travel regulations found in PBGC Travel Policy (Effective 4/15/10) under section 7.ee. "Combined Official and Personal Travel." [REDACTED] did not seek payment or reimbursement for any personal travel done adjacent to [REDACTED] business travel. Also, no billings for non-working personnel were found pursuant to a thorough review of the [REDACTED] contract done in concordance with a review of who were the [REDACTED] contract employees working in the FOD Administrative Division travel office. PBGC's contract with [REDACTED] is a fixed-price contract.

[Back](#)

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Pension Benefit Guaranty Corporation  
Office of Inspector General  
1200 K Street, N.W., Washington, D.C. 20005-4026

December 12, 2011

**TITLE**

**INVESTIGATOR**

**SUBJECT**

Close-Out Memorandum

**INVESTIGATION #**

**FACTS:**

On October 20, 2010, an agent of the Washington, DC Document and Benefit Fraud Task Force (DBFTF) contacted PBGC OIG regarding Information Technology Infrastructure Operations Department (ITIOD) [REDACTED]

[REDACTED] The DBFTF Agent stated that [REDACTED] obtained her naturalization fraudulently [Exh. 11] [REDACTED] began working at PBGC on [REDACTED] and worked through [REDACTED]

Pursuant to the allegation by DBFTF, personnel from Facilities and Services Department (FASD), ITIOD, and CSC removed [REDACTED] from PBGC on [REDACTED] [Exh. 5]. The Office of General Counsel reported a potential breach of sensitive information to the United States Computer Emergency Readiness Team on October 20, 2010 [Exh. 6].

On October 21, 2010, Assistant Inspector General for Investigations Aaron Jordan, Special Agent in Charge [REDACTED] and Special Agent [REDACTED] (Case Agent) met with Agents of the DBFTF [Exh. 7]. DBFTF provided that [REDACTED] obtained her naturalization fraudulently through U.S. Citizenship and Immigrations Services (USCIS) supervisor Robert Schofield. Schofield solicited and accepted bribes in exchange for falsifying immigration documents to help immigrants illegally/fraudulently obtain U.S. citizenship. Schofield was sentenced in the Eastern District of Virginia to 15 years incarceration for violating 18 USC § 201(b)(2)(C) (Bribery of a Senior Public Official) and 18 USC § 1425 (Unlawful Procurement of Citizenship or Naturalization) [Exh. 8]. DBFTF is currently conducting Operation Hidden Patriot, which targets the facilitators and alien beneficiaries of the fraudulent activities of Schofield. Immigrations and Customs Enforcement- Homeland Security Investigations (HSI) is leading the investigation. The Department of State- Diplomatic Security Service, the Department of Homeland Security- OIG, the FBI and USCIS are assisting in the investigation. DBFTF identified [REDACTED] as a recipient of Schofield's illegal activities. According to DBFTF, [REDACTED] is working through false papers and is an unnaturalized citizen of the Peoples Republic of China.

Statutes identified by DBFTF regarding [REDACTED] are: 18 USC § 1546: Visa fraud and 18 USC § 1425: Naturalization fraud. DBFTF is working with Assistant United States Attorney (AUSA) [REDACTED]. DBFTF volunteered to vet other [REDACTED] contractors working at PBGC [Exh. 7].

DBFTF agents interviewed [REDACTED] on October 19 and October 27, 2010 [Exh. 9]. [REDACTED] admitted to paying Schofield for her Green Card but stated she completed the naturalization process on her own. [REDACTED] also admitted to dating Schofield for a brief period.

**ACTION TAKEN:**

On October 21, 2010, the Case Agent conducted an administrative search of [REDACTED] former workspace. On October 22, 2010, the Case Agent secured [REDACTED] laptop computer from PC Repair and [REDACTED] desktop computer from her former workspace [Exh. 10]. The Case Agent secured [REDACTED] computer in the OIG evidence room in case the DBFTF wanted to conduct analysis. While the DBFTF expressed interest in analyzing the computers, the units remain in the evidence room.

On October 21, 2010, the Case Agent contacted [REDACTED] via phone and scheduled an interview for the morning of October 22, 2010 at PBGC. [REDACTED] emailed the Case Agent on October 22, 2010, and stated she had retained legal counsel and would not be attending the interview with the Case Agent [Exh. 11].

Also on October 21, 2010, the Case Agent requested [REDACTED] investigative file from the Office of Personnel Management (OPM) [Exh. 12]. The Case Agent received the OPM file on October 27, 2010, and transferred a copy of the file to DBFTF on November 1, 2010 [Exh.s 12 & 13]. On her SF-85P dated July 1, 2004, [REDACTED] indicated she was a U.S. citizen and held dual citizenship with the Peoples Republic of China (PRC). On her SF-85P dated August 25, 2002, [REDACTED] indicated she was a U.S. citizen, but did not claim dual citizenship with PRC [Exh. 12].

On October 22, 2010, the Case Agent met with the DBFTF and informed DBFTF that [REDACTED] cancelled her interview with the Case Agent scheduled for the morning of October 22, 2010. The Case Agent supplied the DBFTF with relevant documents retrieved from [REDACTED] former workspace [Exh. 14].

On November 1, 2010, [REDACTED] provided the Case Agent with a list of [REDACTED] contractors working on the [REDACTED] ITIOD contract [Exh. 15]. [REDACTED] is the Contracting Officers Technical Representative (COTR) on this contract. The Case Agent reviewed the FASD security files on these contractors and compiled a list of [REDACTED] ITIOD contractors who could have similar naturalization issues. The Case Agent provided this list to DBFTF on November 12, 2010 for DBFTF to vet [Exh. 16]. To date, the Case Agent has not received the results of DBFTF's vetting of these contractors.

On December 14, 2010, the Case Agent reviewed [REDACTED] personnel file at [REDACTED] headquarters in [REDACTED] [Exh. 17]. The Case Agent also reviewed [REDACTED] personnel records of [REDACTED] pursuant to DBFTF's request. [REDACTED] has never worked at PBGC. The Case Agent

provided these documents to DBFTF on December 14, 2010 [Exh. 18]. On her Form I-9 dated February 1, 2008, [REDACTED] indicated she was a U.S. citizen [Exh. 17].

On January 23, 2011, the Case Agent received an email from DBFTF indicating that AUSA [REDACTED] proposed to charge [REDACTED] and offer a plea with no jail term. DBFTF stated the prosecution would seek forfeiture of the approximate amount of salary [REDACTED] received while working for the government. The DBFTF requested the Case Agent obtain [REDACTED] salary information [Exh. 19].

From March through May 2011, the Case Agent compiled [REDACTED] earnings from [REDACTED] and [REDACTED] [Exh. 3]. The Case Agent provided this information to DBFTF on May 13, 2011 [Exh. 20]. [REDACTED] salary for the period of her work at PBGC totals approximately \$793,000. [REDACTED] gross pay for her work at PBGC totals approximately \$507,000 [Exh. 3].

On June 16, 2011, the Case Agent attended a meeting at the AUSA's office in Alexandria, VA with AUSA [REDACTED] DBFTF Agents, [REDACTED] and [REDACTED] legal counsel. In the meeting, [REDACTED] stated he was not pursuing criminal charges against [REDACTED] [Exh. 21].

**OTHER RELATED ACTIVITIES:**

OIG Office of Audit conducted a review of [REDACTED] activity on the PBGC network and Internet Protocol addresses [Exh. 22]. ITIOD conducted a review of alert messages generated by [REDACTED] user account [Exh. 22].

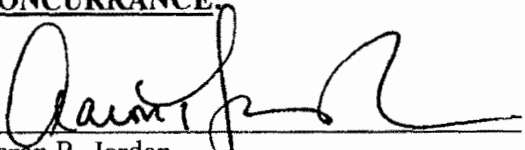
**CONCLUSION:**

PBGC OIG supported the DBFTF in their investigation of [REDACTED] and Robert Schofield's brokers. AUSA [REDACTED] decided not to charge [REDACTED] as she is a cooperating witness in the ongoing investigation and prosecution of individuals who served as brokers for Robert Schofield.

**RECOMMENDATION:**

The Case Agent recommends closure of this investigation as [REDACTED] was removed from PBGC and AUSA [REDACTED] declined to pursue criminal charges against [REDACTED]

**CONCURRENCE:**

  
Aaron R. Jordan,  
Assistant Inspector General  
For Investigations

1/4/2012  
Date



Pension Benefit Guaranty Corporation  
Office of Inspector General  
1200 K Street, N.W., Washington, D.C. 20005-4026

September 8, 2010

**TITLE** [REDACTED] Potential Ethics Violations

**INVESTIGATOR** SAC [REDACTED]

**SUBJECT** Charles Millard

**Complaint #** [REDACTED]

**FACTS**

On May 14, 2009, the PBGC-OIG received a request from The Honorable Max Baucus, Chairman, Senate Committee on Finance, The Honorable Charles E. Grassley, Ranking Member, Senate Committee on Finance, The Honorable Edward M. Kennedy, Chairman, Senate Committee on Health Education, Labor and Pensions, The Honorable Michael Enzi, Ranking Member, Senate Committee on Health, Education, Labor and Pensions, to conduct an investigation into the contact that former PBGC Director Charles Millard had with executives from investment firms that were awarded [REDACTED] contracts.

Specifically, it was requested that the PBGC-OIG further examine the extent of Millard's "later contacts with executives at the companies that were awarded [REDACTED] contracts". Emails between Millard and [REDACTED] executives identified during the OIG's audit *Former Director's Involvement in Contracting for Investment Services Blurs Roles and Raises Fairness Issues AUD-2009-5/PA-08-63* were the same emails referenced in the Senate request. According to the request, their review of emails between Millard, a [REDACTED] executive, and several executives at another investment firm "clearly shows Mr. Millard seeking placement assistance in the weeks following the contract announcements". The Senate request identified several instances of post award email communication between a [REDACTED] executive and Millard discussing employment prospects.

One email referenced an individual named [REDACTED]. In a second email, Millard requested contact information for an unnamed executive at [REDACTED]. A third referenced an email Millard sent to an investment firm about their interest in him. Finally a fourth email was a response from the [REDACTED] executive telling Millard "he really likes you and if times were better he would have hired you already" in response to the fourth email Millard sent. (Exhibit 1 – May 14, 2009 Senate Committee Request).

## ACTION TAKEN

The OIG-OI conducted a joint investigation with the United States Attorney's Office, Southern District of New York and the United States Postal Inspection Service, New York Field Office, which served as the lead investigative agency. The investigation focused on the identification of improper contact and evidence to support a conflict of interest or quid pro quo activities between Millard and individuals directly and indirectly involved with the [REDACTED] procurement.

The emails referenced in the Senate request were located in Millard's PBGC email account. The emails were communications between Millard and [REDACTED]. [REDACTED] Millard was requesting [REDACTED] provide contact information for [REDACTED] for the investment firm [REDACTED]. Finally, Millard sent an email to [REDACTED] concerning their interest in hiring him for a fund raiser position. The emails revealed that [REDACTED] served as a go-between for Millard and the [REDACTED] (Exhibit 2 – Millard and [REDACTED] Email Communications).

Grand Jury Subpoenas were served to acquire the work emails of [REDACTED]

The emails were analyzed to identify electronic communications related to post employment placement assistance for Millard in exchange for a [REDACTED] contract award. The analysis of the emails did not identify any electronic communications related to employment assistance that were not identified in the *Former Director's Involvement in Contracting for Investment Services Blurs Roles and Raises Fairness Issues AUD-2009-5/PA-08-63 audit report*.

Interviews were conducted with [REDACTED] concerning Millard's efforts to secure employment with their respective firms and any effort by [REDACTED] to influence their decision to hire Millard. On August 4, 2009, [REDACTED] were interviewed separately at [REDACTED] office. [REDACTED] was asked to detail how he was introduced to Millard. [REDACTED] "stated last year we were in the process of raising another [investment] fund and were considering hiring internally a person as a contact for the fund". [REDACTED] added the following details concerning Millard (Exhibit 3 – [REDACTED] Interview):

- "Charles' name came up some kind of way and [REDACTED] scheduled a meeting with him."
- [REDACTED] and I concluded he [Millard] did not have the [investment] background that was relevant for us."
- "I don't know who suggested that we meet."
- "A lot of people knew that we were looking for somebody so anybody could have called."

- "The meeting wasn't that significant to me."
- "I don't recall anybody calling me from [REDACTED]"

[REDACTED] stated that he and [REDACTED] were talking about putting together a financial services fund and the possibility of bringing someone in to raise money. [REDACTED] made the following statements concerning his interaction with Millard (Exhibit 4 - [REDACTED] Interview):

- "Charles came to me through [REDACTED]"
- "When people came in to talk to [REDACTED] and he didn't want to be responsive he hands them off to someone else."
- "Met with Millard in New York in the context of is this someone we want to hire."
- "After the meeting it was clear he [Millard] didn't have the relationships we needed to raise money."
- "He called him [Millard] and told him he didn't have the right specs for the job."
- "He was surprised Charles didn't have the relationships for the position."
- "Charles emailed me a week later and expressed that he really wanted the job."
- "Haven't heard from Millard in two or three months."

On August 19, 2009, [REDACTED] was interviewed at the Southern District of New York U.S. Attorney's Office. [REDACTED] made the following statements concerning his introduction and subsequent meeting with Millard (Exhibit 5 - [REDACTED] Interview):

- [REDACTED] contacted him via telephone and asked "would you be willing to sit down with Charles Millard."
- [REDACTED] was a highly respected person."
- "He was happy to meet with Millard because he had met most of his predecessors at PBGC."
- When [REDACTED] became head of [REDACTED] she and I became introduced."
- "She [REDACTED] was one of the people that I normally would interact with and that it was entirely common for [REDACTED] to discuss talent."
- [REDACTED] could have speculated there might be something for him [Millard] at my firm."
- "I was familiar with him [Millard] and was well aware of who he was although we never spoke before."
- "Stated the meeting with Millard occurred November 19, 2008 according to his calendar."
- "Stated while speaking with Millard it occurred to me there was nothing for him [Millard] at [REDACTED]"
- "Stated he [Millard] wanted a CEO position at a financial management firm."
- "Stated his [Millard's] aspirations were in no way a match, he wasn't a fit for our business."
- [Millard was] Totally unremarkable and Millard never followed up after the meeting.

## CONCLUSION

The analysis of electronic communications between Millard and [REDACTED] did not yield evidence to support an allegation of a conflict of interest or quid pro quo. In addition, interviews determined that efforts on the part of individuals assisting Millard with placement assistance did not result in any employment opportunities.

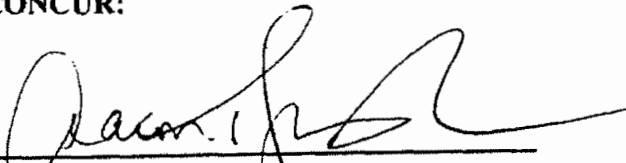
## RECOMMENDATION

N/A

## DISPOSITION

Closed

## CONCUR:

  
\_\_\_\_\_  
Aaron R. Jordan,  
Assistant Inspector General for Investigations

9-8-2020  
Date



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Wednesday, November 02, 2011 2:23 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: OIG - [REDACTED]

No, there is not a POA or guardianship for [REDACTED] on file.

[REDACTED]  
Assistant Project Manager  
[REDACTED]  
Richmond Heights, OH PVA  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Wednesday, November 02, 2011 2:10 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: OIG - [REDACTED]

Thanks for the heads up. No action required by your FBA at this time. Is there a POA for [REDACTED] on file with PBGC?

[REDACTED]  
*Special Agent*  
*Office of Inspector General*  
*Pension Benefit Guaranty Corporation*  
1200 K Street NW, Suite [REDACTED]  
Washington, DC 20005  
Phone: (202) 326-4030 ext. [REDACTED]  
Fax: (202) 326-4129

---

**From:** [REDACTED]  
**Sent:** Wednesday, November 02, 2011 2:07 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: OIG - [REDACTED]

[REDACTED]

We received a phone call from Mr. [REDACTED] of the Georgia Adult Protective Services today concerning the pension benefit payments for PP [REDACTED]. They have been advised that the participant's [REDACTED] has been cashing his checks for approximately four years.

It appears that the participant's address was changed via MyPBA in April 2006. At that same time a Designation of Beneficiary form was also completed through MyPBA changing the participant's beneficiary to his daughter, [REDACTED]. (The participant has a Straight Life Annuity and there will be no benefits payable after his death unless payments are owed to him at the time.)

(b)(6) Applied to this page

We are going to ask Mr. [REDACTED] to contact you directly regarding this situation, and we wanted to advise you prior to that. Please advise if there is any action we need to take in regards to the benefit payments or the beneficiary designation on file.

Thank you,

[REDACTED]  
Assistant Project Manager

[REDACTED]  
Richmond Heights, OH PVA  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Wednesday, November 02, 2011 1:10 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: OIG - [REDACTED]

Yes, I do.

[REDACTED] at the GA Adult Protective Services [REDACTED] He is familiar with OIG. He is awaiting my call back for information whether he needs to contact them or they will contact him. Thanks,

[REDACTED]  
Junior Pension Administrator  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Wednesday, November 02, 2011 12:40 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: OIG [REDACTED]

[REDACTED]  
I agree that this needs to be forwarded to the OIG.

We will let the OIG advise as to what steps they want us to take and whether the Designation of Beneficiary would be honored or not.

Does [REDACTED] have the contact information for Mr. [REDACTED] to provide OIG?

Thank you,

[REDACTED]  
Assistant Project Manager

[REDACTED]  
Richmond Heights, OH PVA  
[REDACTED]

(b)(6) Applied to this page

From: [REDACTED]  
Sent: Wednesday, November 02, 2011 12:16 PM  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: OIG - [REDACTED]  
Importance: High

[REDACTED] I am thinking we may have to go to OIG with this one and perhaps suspend future payments? There was also a Designation of Beneficiary filled out on line naming [REDACTED] as beneficiary, most likely sent by her also. Please advise

[REDACTED]  
Supervisor  
[REDACTED]  
[REDACTED]

From: [REDACTED]  
Sent: Wednesday, November 02, 2011 11:24 AM  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: OIG - [REDACTED]

Hi [REDACTED]  
Here is the information for the PP I spoke to you about. Mr. [REDACTED] called from Adult Protective Services called regarding payments he was advised about due to a Medicaid investigation. He stated they were informed a child of his, [REDACTED] of Quitman, GA) has been cashing his checks for the past 4 years. \*I did verify information in PLUS, she signs his name, then hers, it is being sent to a PO Box in Quitman, GA and seems to cash them at a drug store\*.  
Anyhow, would Mr. [REDACTED] need to contact OIG, since there is no guardianship paperwork on file, he stated the PP is in stage 3 Alzheimer and is not expected to live much longer? Thanks,  
PP [REDACTED]  
SSN [REDACTED]  
PLAN [REDACTED]  
Thanks,

[REDACTED]  
Junior Pension Administrator  
[REDACTED]



## UNITED STATES ATTORNEY'S OFFICE EASTERN DISTRICT OF VIRGINIA

ALEXANDRIA    NEWPORT NEWS    NORFOLK    RICHMOND

**UNITED STATES ATTORNEY CHUCK ROSENBERG**

**FOR IMMEDIATE RELEASE:**

**April 20, 2007**

Jim Rybicki  
Public Information Officer  
Phone: (703) 842-4050 Fax: (703) 549-5202  
E-Mail: [usavae.press@usdoj.gov](mailto:usavae.press@usdoj.gov)  
Website: [www.usdoj.gov/usao/vae](http://www.usdoj.gov/usao/vae)

### **Citizenship and Immigration Services** **Supervisor Sentenced for Bribery and Naturalization Fraud**

(Alexandria, VA) - Robert T. Schofield, a Supervisory District Adjudications Officer (SDAO) and a thirty-year federal employee with U.S. Citizenship and Immigration Services (USCIS) was sentenced today for Bribery of a Senior Public Official and Unlawful Procurement of Citizenship or Naturalization by United States District Judge James C. Cacheris. Chuck Rosenberg, United States Attorney for the Eastern District of Virginia, announced that Schofield, age 58, received the statutory maximum sentence of 15 years (180 months) for Bribery and 10 years (120 months) for Naturalization Fraud. The sentences are to run concurrently.

In addition, the Court ordered the forfeiture of \$3.1 million against Schofield. Schofield will forfeit his residence in Fairfax County, his bank accounts, and his government Thrift Savings Account. According to the statement of facts, as a SDAO, Schofield was responsible for providing supervisory oversight of (USCIS) adjudicators and for conducting research concerning eligibility entitlements of persons seeking immigration benefits, employment and/or legal status under the Immigration and Nationality Act. Schofield personally received over \$600,000 in bribes, and brokers working with him received another \$2,500,000 for the sale of falsely made Naturalization Certificates, Temporary I-551 Stamps and Advance Parole to aliens that they were not legally eligible to receive. Schofield had been selling United States immigration documents for at least eight years prior to his arrest last June 2006.

The Federal Bureau of Investigation; the Department of Homeland Security, Office of the Inspector General; U.S. Immigration and Customs Enforcement, Document and Benefit Fraud Task Force; U.S. Citizenship and Immigration Services; and, the Diplomatic Security Service, U.S. Department of State, all assisted in the investigation of this case. The case was prosecuted by Assistant United States Attorney Ronald L. Walutes, Jr.

###

## United States Senate

WASHINGTON, DC 20510

May 14, 2009

### Via Electronic Transmission

Rebecca Anne Batts  
Inspector General  
Pension Benefit Guaranty Corporation  
Office of Inspector General  
1200 K Street, N.W.  
Washington, DC 20005

Dear Inspector General Batts:

Thank you for your recent investigation of and report on former Director Charles E.F. Millard's involvement in the Pension Benefit Guaranty Corporation's (PBGC) implementation of its investment policy. This report brought to light very troubling actions regarding Mr. Millard's involvement in the procurement process, and we look forward to seeing the extent to which PBGC carries out your recommendations.

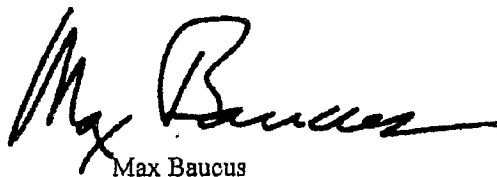
We write to request that your office conduct further investigation into Mr. Millard's later contacts with executives at companies that were awarded strategic partnership contracts. We refer in particular to e-mails between Mr. Millard and a top executive at [REDACTED] which was awarded \$700 million of PBGC assets for private equity investments. In e-mails that were sent within two weeks after the award was announced, Mr. Millard writes to one [REDACTED] executive regarding his job prospects, "Good to see you today. Thanks for speaking with [REDACTED] and for your offer to get in touch with" several non-Goldman Sachs investment firm executives. He later asks the executive for contact information for an executive at [REDACTED], an investment firm.

After the [REDACTED] executive confirms on November 12, 2008 that several executives are interested in meeting Mr. Millard, he responds "Ur grt. Tx. Will send info soon." Mr. Millard later e-mails several executives at another investment firm about their interest in him. He did not hear back for a period of weeks due to one of the executives' illness, until the [REDACTED] executive e-mailed him, "[The Executive] said he really likes you and if times were better he would have hired you already.... He definitely likes you - is just not in a rush due to the terrible markets. Hope that helps."

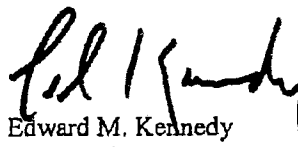
This correspondence clearly shows Mr. Millard seeking placement assistance in the weeks following the contract announcements. We do not know the extent to which these conversations took place in personal e-mails or telephone calls, and request that your office further examine this matter. Thank you for your prompt attention to this matter, and we would appreciate an initial response by no later than May 29, 2009. Should you have any questions regarding this matter, please contact John Angell of Senator Baucus's staff or Christopher Armstrong of Senator Grassley's staff at (202) 224-4515 and Ben Olinsky of Senator Kennedy's

staff or Greg Dean of Senator Enzi's staff at (202) 224-5375. All formal correspondence should be sent electronically in PDF format to [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov).

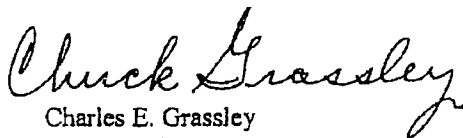
Sincerely,



Max Baucus  
Chairman  
Committee on Finance



Edward M. Kennedy  
Chairman  
HELP Committee



Charles E. Grassley  
Ranking Member  
Committee on Finance



Michael Enzi  
Ranking Member  
HELP Committee



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

JUL 07 2008

Ms. Rebecca Anne Batts  
Inspector General  
Pension Benefit Guaranty Corporation  
1200 K Street, NW, Suite 470  
Washington, DC 20005

Dear Ms. Batts:

The U.S. Office of Personnel Management (OPM) conducted a human capital management evaluation at the Pension Benefit Guaranty Corporation (PBGC) in Washington, DC, during the week of March 3, 2008. The evaluation team from OPM's Philadelphia Oversight and Accountability Group, Center for Merit System Accountability, found severe deficiencies in PBGC's delegated examining (DE) operations. This resulted in our suspension of the agency's authority to fill any positions via competitive examining without OPM's oversight and approval of each phase of the process.

We are referring two selections to you which we believe constitute merit system violations and provide sufficient cause to warrant further investigation by your office. We are requesting, under title 5, Code of Federal Regulations (CFR), part 5.2(c), your office investigate and determine if either of these actions constituted a prohibited personnel practice by agency officials under title 5, United States Code (U.S.C.), section 2302(B)(6), or a violation of law, rules, or regulations. The enclosure contains summaries of the two cases.

In addition, we learned PBGC's former DE chief, who had been reassigned from the examining unit for unauthorized shredding of hiring documents, was back working in the DE function. We believe this also warrants investigation by your office to determine whether the agency took appropriate action and whether official hiring records are at risk.

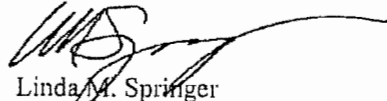
Finally, we believe your office should investigate whether awards granted to PBGC staff in the senior leader (SL) pay plan comply with 5 CFR 451.106 (b), which requires agencies to obtain approval from OPM for awards exceeding \$10,000. OPM's evaluation of SL awards for FY 07 led us to conclude that PBGC award practices appear designed to circumvent this requirement. We based this conclusion on the following findings: (1) each SL who received a ratings-based cash award also received a special-act award; (2) the aggregate amounts of the combined awards far exceeded \$10,000 in every case (in some cases one of the two awards given to an SL reached the regulatory limit of \$10,000; (3) special-act awards were supported by accomplishments that linked to elements in the individuals' performance standards; these same accomplishments also supported the performance awards; and (4) the size of contribution awards far exceeded the appropriate ranges in PBGC's own awards criteria when considered against the specific contributions.

Ms. Rebecca Anne Batts

2

We would appreciate receiving notice of your findings because of our ongoing oversight of PBGC under 5 U.S.C. 1104(b)(2). If you need additional clarification or have any questions, please feel free to contact Mr. Jeffrey Sumberg, Deputy Associate Director, Center for Merit System Accountability, at (202) 606-2786 or email at [jeffrey.sumberg@opm.gov](mailto:jeffrey.sumberg@opm.gov).

Sincerely,



Linda M. Springer  
Director

Enclosures

cc: Mr. Charles E. F. Millard  
Interim Director  
Pension Benefit Guaranty Corporation  
1200 K Street, NW, Suite 470  
Washington, DC 20005

Mr. Stephen E. Barber  
Chief Management Officer  
Pension Benefit Guaranty Corporation  
CMO Department  
1200 K Street, NW, Suite 470  
Washington, DC 20005

(electronic only)  
Mr. Jeffrey E. Sumberg  
Deputy Associate Director  
U.S. Office of Personnel Management  
Center for Merit System Accountability  
Human Capital Leadership  
and Merit System Accountability

Mr. Michael A. Smith  
Group Manager  
U.S. Office of Personnel Management  
Philadelphia Oversight and Accountability Group  
Center for Merit System Accountability  
Human Capital Leadership  
and Merit System Accountability



Ms. Rebecca Anne Batts

3

bcc: Ms. Lucy Antone  
Human Capital Officer  
Center for Small Agencies  
Human Capital Leadership  
and Merit System Accountability

Ms. Angela Bailey  
Deputy Associate Director  
Center for Talent and Capacity Policy  
Strategic Human Resources Policy



Pension Benefit Guaranty Corporation  
Office of Inspector General  
1200 K Street, N.W., Washington, D.C. 20005-4026

April 28, 2005

Robyn D. Stewart  
Director, GAO FraudNET Operations  
Office of General Counsel

Re: GAO Control Number [REDACTED]

Dear Ms. Stewart:

We are responding to confirm to you that we have completed our inquiry concerning this matter.

We found that the complainant [REDACTED] is a disgruntled former employee of [REDACTED]. [REDACTED] is a contractor to the PBGC and not an affiliate of the PBGC. In addition, we found that Mr. [REDACTED] just lost in a litigation matter against [REDACTED].

The matter was referred to [REDACTED] as it is an internal affairs matter of [REDACTED] and there was no federal involvement. The Director of Procurement for PBGC and the Director for Benefits Administration & Payment Department have been briefed on this matter.

We consider this matter closed and if you have any questions please call me at (202) 326-4000 Ext. 3104.

Sincerely,

Tom Zigan  
Assistant Inspector General  
for Investigations

Attachments