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Labor Department Sues Machinists Union Pension Fund For Fiduciary Breaches

The International Association of Machinists national pension fund, long a centerpiece of the union's organizing efforts and strength because of its positive financial performance, has been sued by the Department of Labor.

In a complaint filed Jan. 24 in U.S. District Court in Washington, D.C., the Labor Department charged that the fund's nine trustees – including six union officials and three executives of companies that employ IAM members — did not follow proper procedures when they hired new asset managers and consultants.

Additionally, the complaint said, the trustees' spending on parties and dinner was lavish and improper. At one party,, they bought bottles of wine priced as high as $1,185, the complaint said. Expenses for the pension fund holiday parties in 2009 and 2010 exceeded $90,000, the complaint said.

The complaint alleged that quarterly meetings were scheduled at resort destinations like Hawaii, Beverly Hills and Martha's Vineyard, where trustees stayed in expensive hotels during peak season, and that one trustee billed the fund $750 a day to travel and attend meetings.

United Airlines is the fund's biggest employer, with 15,000 active duty employees. During United's 2006 bankruptcy, the IAM fought hard to preserve coverage during the airline's 2006 bankruptcy, threatening to strike to preserve the plan for fleet service workers and passenger service agents.

David Leib, United managing director for retirement investments and risk management, has been a pension fund trustee since 2014. He took office after the alleged improprieties occurred.

Other major employers with fund participants include American Airlines, Spirit Aerosystems, General Dynamics and UPS, largely a Teamster employer but also home to a few thousand IAM mechanics.

At a time when defined benefit pension plans, which offer fixed lifetime benefits to participants, are being eliminated by companies more willing to provide 401K plans where they have no continuing liabilities, the IAM national pension plan has remained a valuable asset for its participants.

The IAM responded to the suit Tuesday in a posting on its website.

The union summarized the complaint as alleging "that in the past, improper procedures were followed in the selection of certain service providers to the fund, and that the fund incurred improper expenditures between 2008 to 2012 in connection with fund-related activities."

The fund "is among the nation's most stable and best managed multi-employer plans, and is in full compliance with all DOL rules and regulations," the union said. "The complaint makes no allegations that relate to the stability of the fund or its assurance that its 90,000 beneficiaries will have a secure retirement because of the plan."

As for remedies, the DOL asked the court to require defendants to restore to the fund any losses it suffered and to return any financial benefit they realized; to require the fund to implement reforms to prevent similar wrongdoing in the future, and to require that defendants be enjoined from further violations of the Employment Retirement Income Security Act (ERISA), which protects pension plan participants.

The union said the remedies have already been implemented and urged the DOL to withdraw the complaint in order to "prevent further harm to the fund's reputation, and to prevent needless and costly litigation over issues previously addressed and properly resolved.

"All questionable expenditures were fully reimbursed and new policies put in place to ensure strict compliance with DOL rules," the union said.

The IAM itself was not named in the suit. The pension fund had no comment, according to a person who answered the phone at the fund's Washington headquarters. According to the fund's website, fund returns have averaged 11.49% since 1985. In an interview with *TheStreet* in 2013, a fund executive said the 2012 return was 15%, compared with 13.4% for the S&P 500 in the same year.

A key portion of the complaint concerns the trustees' 2013 decision to hire Graystone Consulting as general investment consultant, even though "it had not been recommended by their consultant."

The consultant ranked Graystone ninth among 12 bidders, the complaint said: nevertheless, the trustees agreed to pay Graystone $900,000 annually, which was "approximately

$125,000 more in fees per year for Graystone than the highest fee candidate recommended by the trustees' consultant."

The trustees wanted to hire John Granger, the Graystone representative who managed a different plan for the pension fund staff because "he did a fantastic job and is still doing a fantastic job," said a source familiar with the case. "He was a known quantity and everybody had a good experience with him.

"The government wants the lowest bidder, but the lowest bidder said he had never even run a Taft Hartley retirement fund," said the source, who summarized that section of the complaint as: "The trustees didn't hire the lowest bidder."

Buttons adorn a member of the International Association of Machinists and Aerospace Workers Local 175 during a 2007 strike at the Harley Davidson plant February 5, 2007 in York, Pennsylvania. (Photo by William Thomas Cain/Getty Images)