



ADVISOR



TEACHERS, EMPLOYEES, PUBLIC, STATE POLICE AND JUDICIAL

Vol. XXXI — No. 1

SERVING OVER 295,000 MEMBERS

July 2005

RSA Receives Approximately 85% in Enron Lawsuit

By Russell Hubbard, *Birmingham News*

Investment bankers for a corrupt company have surrendered to Alabama pension boss David Bronner for the second time in less than a year.

Five financial advisers and fund-raisers for disgraced energy trader Enron Corp. agreed to pay the Retirement Systems of Alabama \$49 million to settle a lawsuit, Bronner said in an interview Monday.

The advisers, all based outside Alabama, made the settlement rather than face the prospect of a trial in Montgomery County Circuit Court to settle claims they intentionally peddled shaky investments. In October 2004, advisers for bankrupt telecom giant WorldCom Inc. settled a similar suit filed by RSA.

The \$49 million settlement recoups the vast majority [approximately 85 percent] of the \$57 million RSA lost when Enron stocks and bonds collapsed in 2001, leading to what was then the largest corporate bankruptcy in U.S. history.

With WorldCom, RSA collected \$111 million, or 89 percent of what it lost [in late 2004] from investing in the company.

“Sleazy nonsense”:

Both are considered high recoveries for a legal settlement related to stocks and bonds of a bankrupt company.

“The message to investment bankers is that they are accountable,” Bronner said. “You can’t come to Alabama and slough it off by saying you didn’t know, or should have known but didn’t, or any other sleazy nonsense.”

The Enron advisers neither admitted nor denied wrongdoing as part of the settlement. They were Merrill Lynch, Citigroup Inc., JPMorgan Chase, Credit Suisse First Boston and Bank of America. The amount each paid to the \$49 million settlement is confidential and unknown even to RSA, Bronner said.

Attempts to reach Citigroup were unsuccessful. All the other advisers declined to comment.

RSA sued the advisers after Enron filed for bankruptcy caused by billions in losses and secret debts that were hidden in off-the-books affiliates. Each of the advisers underwrote or sold Enron stocks or bonds RSA owned, and earned millions in fees from Enron for doing so.

The pension fund developed informa-

tion during its trial preparation that suggested the advisers should have known the securities were flawed, said Tom Krebs, a lawyer for Birmingham’s Haskell Slaughter Young & Rediker, the firm that handled both the Enron and WorldCom cases for RSA.

“We believe we had a very compelling case to tell a jury,” Krebs said.

Haskell Slaughter will collect about \$6.7 million from the \$49 million Enron settlement, Krebs said. Other Haskell Slaughter lawyers on the case included Michael Rediker, Patricia Diak, Thomas Gallion, Michael K. Choy, Paige Poerschke, Matthew Franklin and V.J. Graffeo.

It has been a rough few years for investment banks, as the shake-out from the massive implosions at Enron and WorldCom continue. Last week, Citigroup, the country’s biggest financial services company, agreed to pay other Enron shareholders \$2 billion to settle a suit that alleged it aided the fraud.

Still pending:

The Monday settlement is only a partial

Continued on page 7

Social Security: Reform Lite

Any agreement between President Bush and Congress is likely to be a patch—not a full-blown overhaul

BENEFITS Expect promised benefits to be cut, with most reductions aimed at higher-income seniors. While the minimum retirement age won’t be raised, monthly benefits will reflect longer lifespans.

TAXES The cap on wages that are taxed, now at \$90,000, will likely be raised. That will dismay Republicans, but it’s the price of Democratic support.

PERSONAL ACCOUNTS Bush-style accounts are dead. But lawmakers may boost private savings outside of Social Security.

Source: *Business Week*

Governors Target Employee Benefits

Source: *Boston Globe*

PROVIDENCE— A number of governors around the nation are taking aim at the benefits paid to public employees—which, in many cases, are far richer than those offered to workers in private industry.

Warning that his state is heading for a pension crisis, Rhode Island Governor Donald L. Carcieri wants to boost the age at which teachers and state workers can draw pensions and trim the cost-of-living adjustment retirees get annually. “Our benefits are extraordinarily generous,” Carcieri said in an interview.

In Alaska, Illinois, and California, governors are coming to the same conclusion. Their main motivation is financial. Last year Rhode Island contributed \$184 million to its pension fund. This year it will be \$278 million, and by 2010 the total will reach \$400 million. In Massachusetts, state government will spend \$1.2 billion on pensions for the year beginning in July—more than it will spend on higher education.

Like the current debate on Social Security, the fight over pensions revolves around a basic question: How much does society want to spend to support retirees? But some governors insist there is a fairness issue involved, too. At a time when fewer employees in the private sector have traditional pensions and retiree health insurance, most workers in the public sector have both. “We are asking taxpayers to pay for benefits that are far in excess of what the average Rhode Islander is getting,” Carcieri said.

Compensation has not changed much in government. Workers get the same benefits they have always had. In private industry, benefits have grown stingier. In the private sector, traditional pensions, with guaranteed benefits for a given length of service, have largely been replaced by 401(k) plans, which come with no promise of future payouts. Each year more companies stop paying the bill for retiree health.

The result: The benefits gap between the two worlds has widened dramatically.

According to the Employee Benefit Research Institute, a nonprofit that tracks compensation, 90 percent of state and local employees have access to a tra-

ditional pension plan, compared with 24 percent of private-sector workers. Forty-five percent of those government pensions come with annual cost-of-living adjustments—a rarity in private industry.

About 77 percent of state and local government workers receive healthcare benefits when they retire. Only 36 percent of private workers at large firms get similar help, according to the Kaiser Family Foundation, a Washington, D.C. research group. Nationally about 110 million people work in private-sector jobs; 19 million work for state and local government. In Massachusetts, the numbers are 2.8 million and 356,000.

Rhode Island got into pension trouble the way many states did. It cut its contribution to the pension fund at various points, hoping the stock market would take care of the problem. The market slump since 2000 has created a big shortfall that can only be made up with more state money.

Like Governor Mitt Romney, Carcieri came out of the business world. He was chief executive of Cookson America, part of a London-based conglomerate. He can list all the ways in which Rhode Island’s benefits are out of line with those in the private sector: Workers can collect a full pension after 28 years, regardless of age; they can earn a maximum pension of 80 percent of their salary; and they get an automatic 3 percent cost-of-living adjustment each year.

The governor wants to set the minimum retirement age at 60. He proposes tying the cost-of-living changes to the consumer price index. “This is not a Draconian plan,” he said.

Public employees don’t agree.

“We’re appalled by his proposal. It gouges retirees,” said Marcia Reback, president of the Rhode Island Federation of Teachers and Health Professionals. Reback says comparisons between public and private employees are unfair because her members contribute heavily—more than 9 percent of pay—toward their own pensions.

In California, public employees launched a full-scale attack on Governor Arnold Schwarzenegger when he endorsed a ballot initiative that would have put new hires into a 401(k)-style

plan. Schwarzenegger branded his opponents “special interests,” but he was forced to retreat when polls indicated he was coming across as the bad guy in the fight.

When he was first elected, Romney floated the idea of putting new employees in 401(k) plan. “The reaction was so negative, the idea never went anywhere,” said Michael Widmer, president of the Massachusetts Taxpayers Foundation.

The pension struggle may be a warm-up for an equally big fight brewing over retiree health benefits. Starting in 2007, states and cities will have to treat those benefits the way they treat pensions—by recognizing their future cost on financial statements. The accounting change sounds highly technical, but the implications are significant. In the early 1990s, when a similar rule went into effect for corporations, employers responded by cutting benefits, rather than setting aside money to meet the obligation.

Public-employee unions recognize the threat and lobbied the Governmental Accounting Standards Board unsuccessfully to get the rule changed.

In Rhode Island, Carcieri’s campaign on pensions resembles President Bush’s efforts to rein in Social Security spending. Like the president, the governor has gone on the road to sell his message in a series of town meetings. But Rhode Island has strong unions, and both houses of the Legislature are controlled by Democrats. Carcieri is a Republican.

“We can’t sweep this thing under the rug,” said Carcieri. “If we don’t do something now, the pain later will only be worse.” ■

WORKING OUT

What the research shows about the benefits of exercise to treat depression

- Exercise was beneficial both immediately and long term
- Exercise was most effective for those most physically and/or psychologically unhealthy at the start of the exercise program
- Exercise was equally effective for both genders
- The longer the exercise program and the larger the number of sessions, the greater the decrease in depression

Source: The American Psychological Association

PEEHIP Board Rejects Staff Recommendations

At the PEEHIP Board meeting on May 24, 2005, the PEEHIP Staff advised the Board that the Education Trust Fund budget did not fully fund the teachers' insurance program. Additionally, the staff apprised the Board of their concerns that several new programs passed by the Legislature in the 2004 First Special Session could very likely add significant costs to the program. Coupled with the fact that health care costs are increasing at an alarming rate, the PEEHIP staff recommended a slight increase in the member

out-of-pocket cost for insurance. Specifically, single coverage would increase \$36 per year and family coverage \$132 per year. A Medicare eligible retiree would see an increase of \$46 year.

However, after a lengthy discussion, the PEEHIP Board rejected the staff's recommendations. An active teacher with single coverage will continue to pay \$2 per month, a teacher with family coverage will pay \$134 per month and a Medicare eligible retiree will pay \$1.14 per month. ■

Free Annual Credit Reports

Effective June 1, 2005, residents of Alabama may receive one free annual credit report from each of the nationwide consumer reporting companies: Equifax, Experian and Trans-Union. There are three ways to receive the reports:

- Request your credit report online at www.annualcreditreport.com. You will be asked for personal information, but the information will be encrypted for security.
- Request your credit report by phone by calling 1-877-322-8228. You will go

through a simple verification process over the phone and the report will be mailed to you.

- Request your credit report by mail by filling out the request form and mailing to:

Annual Credit Report Request Service
P.O. Box 105281
Atlanta, GA 30348-5281

The request form is available from www.annualcreditreport.com or www.ftc.gov/credit. ■

RSA Supports Troops In Iraq and Afghanistan

On May 12, 2005, an American flag was flown on a C-130H Hercules during *Operation Iraqi Freedom* on behalf of Dr. David Bronner and the RSA staff. The aircrews of the 357th Airlift Squadron based in Al Udeid, Qatar, wanted to show their appreciation of the support shown by RSA employees. The flag was presented to the RSA by SMSGT

Richard Cantrell from Millbrook and will be placed in the RSA lobby. RSA employees have "adopted" troops overseas since April 2004 and raised money through bake sales and collected supplies to send to them. RSA employees also send emails and cards of support and encouragement that are greatly appreciated by our brave troops. ■

Enron Lawsuit (Continued from page one)

one for RSA, whose \$25 billion of assets dwarfs any loss that could come from one bad investment. Still pending in the case are claims against former Enron Chief Executives Ken Lay and Jeff Skilling and finance chief Andrew Fastow. Claims against Enron auditor Arthur Andersen are also unresolved.

The RSA lawsuit that led to the settlement has taken a circuitous route. It was first filed in state court in Montgomery; the advisers objected, saying it should be heard in federal court in Houston, where Enron is based. After bouncing around several times, it wound up back in federal court in Texas.

But Monday's settlement came just as a federal appeals court was set to hear RSA's argument that the 11th Amendment and federal pension-protection laws make Alabama state court the proper venue.

Krebs said RSA had a good chance of winning that argument and the case would have returned to Alabama for a trial if not for the settlement.

"That's what we specialize in, fighting removals to federal court," said Krebs, the former head of the Alabama Securities Commission, who in the 1980s helped draft some of the state law that applied to the case.

Didn't join class-action:

In both the Enron and WorldCom cases, RSA didn't join the massive federal class-action lawsuits that include dozens of other state pension funds, preferring to go it alone in state court.

Those other state pension funds are still waiting to collect on their loss claims. By joining federal class action suits, they had their Enron and WorldCom cases swept up in what's called multi-district litigation. That means they were combined with dozens of other related suits. Those pension fund recovery cases won't even be heard until related Enron and WorldCom federal criminal trials are finished, which might take years.

"Most took the federal class-action route," said Bronner, whose fund invests money to generate earnings for the pensions of 289,000 active and retired state workers. "But we have strong state securities laws because of the outstanding job our Alabama Securities Commission and legislators have done over the years." ■

Dear Dr. Bronner:

I was born and raised in New York City, and about thirty years ago I moved to Tuxedo Park, New York (near West Point). In 1992, I became a Southerner, relocating to the southernmost area of the United States, and still reside there.

Last year I had an opportunity to return to the East Coast, and while there I spent a number of weeks in and around NYC. One of my most enjoyable events is to walk the streets of the city. While spending time in lower Manhattan on a beautiful spring day last year, I came upon 55 Water Street. There, in the open public area, was this wonderful oasis surrounded by a memorial to the veterans of the Vietnam conflict.

While spending considerable time reading everything (which I did on multiple occasions), I made a mental note of the fact that the property was offered for use by the Retirement Systems of Alabama. I promised myself that upon my return home to Hawaii I will express my admiration, gratitude and heartfelt thanks for having such a moving display, and furnishing the land for it. Therefore, to the members and staff of the Retirement Systems of Alabama, and all others who are owners and trustees of 55 Water Street, I hereby thank you for such a wonderful tribute....

It is customary for public displays to be situated on public land. When however, these same displays are located on private property, but with free and unlimited access for the general population to sit and reflect, that says something about the land owner.

The memorial for New York City's Vietnam veterans has such a profound impact on me and I regret that I do not live closer. The display of short sentences, remarks and letters make for wonderful reading and reflection. And in my case, contemplation. There are similar tributes to the veterans of this time period in my state. One in Honolulu on the grounds of the State Capitol, and another in Hilo in a state park. While both of these are impressive, they don't move me as 55 Water Street does.

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**Report — Street Lights that are Out — to the Power Company!
Report — Weedy Lots — to the Mayor!**