



# **Aircraft Mechanics Fraternal Association**

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June 20, 2005

Ms. Elaine Chao  
Secretary of Labor  
Chairperson, PBGC Board of Directors  
U.S. Department of Labor  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

Mr. Bradley D. Belt  
Executive Director  
Pension Benefit Guarantee Corporation  
1200 K Street, NW  
Washington, DC 20005-4026

**RE: United Airlines' Pension Plan**

Dear Secretary Chao and Director Belt:

The PBGC and its plan termination insurance are increasingly called upon to protect and pay the pension obligations promised by large, troubled corporations. The PBGC and responsible plan fiduciaries should, as a matter of course, undertake forensic audits of any distressed plans in order to determine whether any of the parties providing financial services to the plans may have contributed to their demise. Unfortunately at this time forensic audits of pensions virtually never are undertaken and wrongdoing related to pension failures has gone undetected.

As you are aware, an investigation into the pension consulting industry by the Securities and Commission was conducted. The conclusion of these agencies was that business alliances among pension consultants and money managers can give rise to serious potential conflicts of interest that, at a minimum, need to be monitored and disclosed to plan fiduciaries. The Securities Exchange Commission Staff report raised serious questions about whether some pension consultants are fully disclosing potential conflicts of interest that may affect the objectivity of the advice given to their pension plan clients. The implication is that tainted advice may cause avoidable losses or pension under-performance.

It has also been reported that private fraud investigators have uncovered instances where banks custodial pension assets have had undisclosed financial arrangements with money managers handling plan assets.

All of the above referenced revelations are troubling and should be investigated. While the plan sponsor may be bankrupt, the parties that have been dealing with the plan are not and it may be possible to recover assets from these parties on behalf of the plan's participants.

*“The Employee Retirement Income Security Act (ERISA). ERISA sets standards of conduct for those who manage an employee benefit plan and its assets (called fiduciaries). Fiduciaries have important responsibilities and are subject to standards of conduct because they act on behalf of participants in a retirement plan and their beneficiaries. These responsibilities include: (a) acting solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them; (b) carrying out their duties prudently; (d) following the plan documents (unless inconsistent with ERISA); (e) diversifying plan investments; and paying only reasonable plan expenses. ERISA § 404, 29 U.S.C. § 1104.”*

*“A fiduciary who breaches any of the responsibilities, obligations or duties imposed upon fiduciaries by ERISA is personally liable to make good to the plan any losses resulting to the plan, and to restore to the plan any profits of the fiduciary which were made through use of plan assets by the fiduciary. ERISA § 409, 29 U.S.C. § 1109.” A plan participant may bring an action for appropriate relief under ERISA § 409, to enjoin any act or practice which violates ERISA or the terms of the plan, and to obtain appropriate equitable relief to redress such violations or to enforce any terms of ERISA or the plan. ERISA § 502(a)(2) & (3), 29 U.S.C. § 1132(a)(2) & (3).*

Under the ERISA regulations referenced in the above paragraphs and on behalf of our AMFA/United Airlines and AMFA/Northwest Airlines represented membership, we are requesting that the PBGC conduct a forensic audit on the plans and are seeking an initial review of the plan for any potential conflicts of interest in this matter. We would like to meet with you to discuss this matter and how you would like to proceed.

We await your reply.

Sincerely,



O.V. Delle-Femine  
National Director

cc: Members of the Senate Finance Committee  
Members of the House Committee on Education and the Workforce  
AMFA NEC  
AMFA Legal  
AMFA Legislative  
AMFA Economic  
AMFA Pension Actuary  
AMFA/UAL and AMFA/NWA Members  
Glenn Tilton, President & CEO, United Airlines