

Chairman Mica, Congressman Turner and (other panel members)

Thank you for this opportunity to bring the committee up to date on our efforts to be treated by our government in a fair and equitable manner, something we have been denied thus far. My name is Bruce Gump and I am the Vice-Chairman of the Delphi Salaried Retirees Association. I was employed by GM for more than 22 years and then by GM's parts spin-off Delphi for 10 years as a Senior Engineer. I worked hard and played by the rules. I contributed greatly including creating 10 intellectual properties such that last November I was inducted into Delphi's Innovation Hall of Fame. Like many others who made GM and Delphi able to exist by working in thousands of salaried positions, we expected to be rewarded for our efforts, and not treated like yesterday's garbage by our government. You have heard some of the history and expectations; I would like to tell you what really happened.

When the President's Auto Task Force was formed, it quickly decided that in order for GM to be successful, it needed to secure GM's supply of critical Delphi parts so they looked at the roadblocks and worked to quickly eliminate them. Up to that point everyone involved recognized that there would be no way to resolve the Delphi situation without addressing the PBGC liens and claims that the PBGC had placed on Delphi's assets in connection with the Salaried Plan's missed contributions and underfunding. These liens and claims were worth billions, and as long as they were in place they ensured that neither Delphi nor GM could walk away from their long-standing pension obligations.

Because the PBGC had a number of legal tools at its disposal to force GM to take responsibility for the Salaried Plan's underfunding, including its liens and claims, in 2009 the PBGC started working with Delphi to persuade GM to assume the Salaried Plan. Then the Auto Task Force was formed, and took over the job of "facilitating" a resolution of the pension issues. Once this happened, any hope we had of the PBGC looking out for our interests was gone. Again, by statute, the PBGC Director reports to a three person board, each of whom is a political appointee of the president. Those appointees, the Secretaries of Labor, Treasury and Commerce, received regular briefings from the PBGC Director on important cases generally, and early in 2009 representatives from Labor and Treasury started receiving daily briefings from the PBGC.

From the outset, the Auto Task Force has testified that the Treasury was **"trying to facilitate an agreement where the salaried plan would get terminated and taken over by the PBGC," and not surprisingly, this is exactly what happened. The shame of it is that the termination was entirely unnecessary. The Plan was well funded.** Just a few weeks prior to the PBGC choosing to terminate the salaried pension plan, the plan's actuary completed an "AFTAP" analysis that determined the plan was about 86% funded, better than average at that time. The PBGC chose to entirely ignore this funding analysis.

Moreover, the PBGC's own actuaries concluded that GM assumption of the Salaried Plan would have cost GM as little as \$400 million through 2018. Given that GM wound up giving the PBGC over \$600 million in return for releasing its liens and claims related to the Delphi Salaried Plan, the obvious question here is why didn't the PBGC take a stronger stand to have GM assume the Salaried Plan?

For four years now we have been trying to gain access to records from the PBGC and Treasury so we can better understand why the salaried retirees were chosen by our government to lose everything while

others received full protection from those losses. Yet in spite of promises from everybody from the President on down to the leadership of the PBGC we have been fought every step of the way as we tried to gain access to the records that will either show why we lost everything or why we shouldn't have. Interestingly, the House Ways and Means Committee chairman recently requested records from the Treasury, and when denied suggested they could pursue those documents through the compulsory process. The response from the administration was to threaten to use Executive Privilege to keep them secret. The threatened use of Executive Privilege over a pension issue seems quite odd and a tacit agreement that those records would not support the Treasury's position that they did not make the decisions that led to the termination of our pension plan. We would really appreciate the help of this committee to gain access to those records!

When our attorneys served Treasury with a subpoena for those records, rather than complying with the subpoena and providing the transparency the administration promised, the Treasury moved to quash the subpoena in a different Federal Court which has only served to further delay our efforts thereby denying us the justice we have sought.

In addition, the PBGC previously testified in a hearing of the Oversight and Government Reform Committee that they had provided all of their records related to their termination of our plan, but since then through the Federal Court we have gained more than a million pages of very relevant documents, and they are still withholding an estimated half-million pages!

One might ask how we know that the Treasury played a major role in the decision to terminate our pension plan. While there is ample evidence, in the form of emails and testimony, to show how deeply responsible a select few in the Treasury were for our situation, one need look no further than the Vice President's own words. Vice President Biden, who spoke in an interview with a Youngstown, Ohio television reporter on the subject, said: "We were able to protect the hourly workers. Some salaried workers got hurt, particularly the younger ones." The "We" in that sentence refers to the administration of which he is a member and confirms that the Auto Task Force under the US Treasury was deeply involved in the choice to "protect the hourly workers." Also, I would note that while the PBGC has stated numerous times that everything they did in the termination of the Delphi salaried pension plan was done according to standard procedure and that they are proud of the role they played in the auto bailout, they and Treasury have worked tirelessly to keep the records of their actions secret! If they are so proud and nothing inappropriate was done, then why would they work so hard to keep those records secret?

Several of the principle actors in the termination of our pension plan profited personally, some to a very large degree.

Harry Wilson had been a partner at Silver Point Capital which shared \$1.3 billion in profit with Elliot Capital Management from Delphi's bankruptcy exit. He was paid at least \$250,000 by Silver Point in 2009. After the bailout, he was appointed to the PBGC's advisory board. Mr. Wilson also used three

different e-mail addresses including his own personal g-mail and Harvard addresses to conduct government business.

Matt Feldman came to the Treasury Department from Willkie Farr & Gallagher — the law firm that represented Silver Point Capital as it angled for a cut of the bankrupt Delphi's debt load. After the bailout in which Silver Point made so much money, he returned to the same law firm and remains there. Silver Point is presently among his clients.

Joshua Gotbaum was an operating partner at Blue Wolf Capital and represented that company in the bailout negotiations. After the bailout he was appointed Director of the PBGC.

There has been discussion about demands from the venture capital groups for the Delphi salaried pension plan to be terminated as the reason behind what happened to us. Our plan was the major obstacle because of its size, yet other pension plans which were less well funded were made whole by the infusion of funds from the taxpayers and so they were not considered liabilities that were subject to such demands.

We have had to deal with numerous and lengthy delays too. For example:

- PBGC produced what it called the "administrative record" but we found that it lacked information about the involvement of the Auto Task Force in spite of the fact that their Chief Negotiator was calling and e-mailing them on an almost daily basis regarding the Delphi pension plans. This required us to pursue a FOIA request which after a long delay resulted in heavily redacted material or entirely withheld materials.
- In spite of the Federal Judge denying multiple motions from the PBGC to have our lawsuit dismissed, and a discovery order from the court, PBGC refused to comply with the demand for documents from 2010 when the order was issued until 2012 and did so then only after forcing us to file and brief numerous motions, and only after the Court issued another FIVE orders explicitly stating our right to discovery.
- In the last order for discovery the court required PBGC to fully comply with our demands for records within 90 days, but supplied nothing until the 90th day and then was only forthcoming in dribs and drabs. It has now been more than a year and they are still withholding about 30,000 documents, and have not yet supplied a privilege log explaining why.
- We served the Treasury with a subpoena for their records regarding their involvement in the decisions to terminate our pensions. In response rather than living up to the promise of transparency made by the administration, they filed a motion to quash the subpoena and continued to keep those records secret. It should be noted that one of the arguments to quash was that the demand was "burdensome" but they had already compiled nearly all of the same information for the SIGTARP.

- Congressional attempts for much of the same information from Treasury have been met with shameful disregard and an implication that a subpoena would be met with a claim for executive privilege – over a pension issue!
- PBGC has offered misleading testimony while under oath regarding what information has been provided to the various committees and the Delphi Salaried Retiree Association. They simply lack any credibility.
- The SIGTARP investigation was so stymied by the refusal of Treasury to provide access to the principles from the Auto Task Force that a special hearing had to be held by the Oversight Committee to overcome it and get the investigation back on track.
- The PBGC has refused to supply legally required census information even after the DSRA agreed to a confidentiality process and also agreed that personally identifiable information was not required.
- After more than a year of effort requesting a meeting with the Director of Recovery for Auto Communities and Workers from the Department of Labor, who also happened to be the previous Mayor of Youngstown, Ohio, a meeting was finally held where there was a review and a proposal for resolution provided by the DSRA. The Director promised a response within three weeks, but only after repeated contacts and requests for a response and after three months had past was a response received that essentially said “go get a job...”

The point is that the administration has taken advantage of every opportunity to drag out and increase the cost of pursuing the justice we are entitled to. They have misrepresented their actions and misled the committee for nearly four years now. It is time to bring this to an end and do what should have been done to begin with – treat the salaried retirees in a fair and equitable manner by restoring the full pension they earned over decades of service.

Finally there is the economic impact of the decisions that left the salaried retirees without their full pensions and no health care insurance. According to an extended Youngstown State University study the cost to Ohio in terms of economic activity was nearly \$500,000,000 per year, and nearly 15,000 additional jobs lost – at the bottom of a major recession. After four years that amounts to nearly \$2 billion lost to the economy so far. Furthermore all of that income could have been taxed, and each transaction would have caused a sales tax that would have supported communities across the state. All of that has been lost but much of it can be recovered by returning the full pensions to the retirees.

In summary, what really happened is very different than what has been described by the PBGC and the Treasury. We are still trying to learn more and won't ever give up, but all we really want is what we earned just as was provided to our coworkers. Real people are suffering because of this horrible treatment by our government. There is no question that it looks like politically connected people forced GM to top up the hourly pensions but not the salaried pensions, even when some hourly groups had and still have no contract with New GM! At the end of the day, all of these decisions were made, vetted, encouraged and determined by the President's Auto Task Force. They played god. They played with people's lives and hurt tens of thousands of American citizens in the process.

Please help us force transparency into this issue by pursuing the records from Treasury and PBGC. Hold them accountable for their actions – good or bad. Show that American Citizens deserve to be treated equally regardless of who they associate with or what groups or clubs they belong to. Help the administration to live up to their promises of transparency and pension protection. Help us regain the pensions we earned without the use of any taxpayer funds, and help the economy to recover more quickly.

Thank you.