

ILLINOIS PUBLIC PENSION FUND ASSOCIATION

An Association of Police and Fire Pension Funds

PENSION TRUSTEE NEWSLETTER

Leading Public Pension Funds Through the 21st Century

SUMMER 2008

IPPFA NEWSLETTER

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A MESSAGE TO THE ILLINOIS MUNICIPAL LEAGUE:

HOW QUICKLY YOU FORGET!

By Richard J. Reimer & Keith A. Karlson

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From the files of: We hate to say we told you so.

Credit cards, when not used responsibly, have provided many families with financially distressful, if not ruinous, times. We all probably know that person, or is that person, who rather than paying the monthly credit card bill chooses to buy toys, trips, and other frivolities. Eventually, the amount owed, between principal and interest, becomes unmanageable. Simply put, the adage of pay me now or pay me more later seems to encapsulate the problem. Unfortunately, the Illinois Municipal League and some of its municipal members have taken the same attitude as the irresponsible credit card user.

For years, some Illinois' municipalities have chosen to use police and fire pension funds as their own personal credit cards. Some municipalities choose to balance their budgets on the backs of the police

officers and firefighters they have promised pensions to. Their same municipalities choose to shirk the debt they owe the pension funds so they can pay for other "priorities." Simply put, some Illinois' municipalities receive excellent service, ran up a big debt, and now do not want to pay. Now, the Illinois Municipal League wants to run out when it is time to pay the bill.

Hopefully, by now, you have gotten wind of the Illinois Municipal League's (IML) attack on police officers', firefighters', teachers', and other public employee pensions. The IML entitles its smear campaign as "Pension Reform Initiatives." In its attempt to justify its breaking the promises municipalities have made to their employees, the IML relies on rumor, makes innuendo, misstates facts, and flatly misstates the law. The IML should be embarrassed by the manner it seeks to affect a wholesale dismantling of the pen-

sions thousands have come to depends on. In many cases, the IML does make an excellent case for one proposition: it created the mess it complains about.

IML claims Article III and Article IV pension funds find themselves in a time of crisis due to lack of funding. Perhaps, the IML would benefit from a brief reminder. At the IML's behest, the Legislature amended Section 3-125 of the Illinois Pension Code (Amendment) (effective January 25, 1993). The Amendment changed how police pension funds were funded in two ways. First, the Amendment changed the beginning date of the forty (40) year amortization period from January 1, 1980, to July 1, 1993 (meaning, the funds had to be fully funded by 2033, not 2020). Second, the Amendment changed the method of computing the annual amount required to amortize the unfunded accrued (Continue on page 6)

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

**Litigation Release No.
20522 / April 7, 2008**

SECURITIES AND EXCHANGE COMMISSION v. MICHAEL T. UBERUAGA, ET AL., Civil Action No. 08 CV 0625 DMS (LSP) (S.D. Cal.) (filed April 7, 2008)

SEC CHARGES FIVE FORMER SAN DIEGO CITY OFFICIALS WITH FRAUD IN CONNECTION WITH CITY MUNICIPAL SECURITIES OFFERINGS

Commission Seeks Permanent Injunctions and Penalties against Former City Manager, Auditor & Comptroller, Deputy City Manager for Finance, Assistant Auditor & Comptroller, and City Treasurer

The Securities and Exchange Commission today charged Michael T. Uberuaga, the former San Diego City Manager, Edward P. Ryan, the former Auditor & Comptroller, Patricia Frazier, the former Deputy City Manager for Finance, Teresa A. Webster, the former Assistant Auditor & Comptroller, and Mary E. Vattimo, the former City Treasurer, with fraud in connection with the City's false and misleading financial statements in five 2002 and 2003 bond offerings. According to the SEC's complaint, these five former officials knew that the city had been intentionally under-funding its pension ob-

ligations so that it could increase pension benefits but defer the costs. They were aware that the city would face severe difficulty funding its future pension and retiree health care obligations unless new revenues were obtained, pension and health care benefits were reduced, or city services were cut. They specifically knew that the city's unfunded liability to its pension plan was projected to dramatically increase, growing from \$284 million at the beginning of fiscal year 2002 to an estimated \$2 billion by 2009, and that the city's liability for retiree health care was another estimated \$1.1 billion. The SEC's complaint alleges that the officials violated Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities and Exchange Act of 1934 and Rule 10b-5 thereunder by failing to disclose these and other material facts to rating agencies or to investors in bond offering documents and continuing disclosures. The complaint seeks a final judgment permanently enjoining the officials from further violations of the securities laws and ordering them to pay civil penalties. The Commission's complaint, filed in federal district court in San Diego, alleges the following. Uberuaga signed the closing letter for one of the bond offerings, falsely certifying that it was accurate and did not contain any misleading statements. Ryan signed

letters falsely representing that the city's audited financial statements included in the securities offerings were accurate. Frazier regularly reviewed and revised the false and misleading disclosure documents, and signed the closing letter for two of the five bond offerings. She falsely certified that the disclosures were accurate and did not contain any misleading statements. Additionally, she reviewed and made presentations to the rating agencies. Webster reviewed the city's financial statements that contained some of the false and misleading disclosures, and Vattimo participated in drafting the city's false and misleading disclosures. Additionally, Vattimo and Webster both knew that in 2003, the rating agencies had concerns about the city's growing pension obligations and that those obligations could negatively affect the city's credit rating. Nevertheless, they withheld material facts from the rating agencies. The Commission previously entered an order sanctioning the City of San Diego for committing securities fraud by failing to disclose to the investing public important information about its pension and retiree health care obligations in the sale of its municipal bonds in 2002 and 2003. To settle the action, the city agreed to cease and desist from future securities fraud violations and to retain an independent consultant for

UNITED STATES SECURITIES AND EXCHANGE COMMISSION (Continued from Page 2)

three years to foster compliance with its disclosure obligations under the federal securities laws. The Commission also previously filed a settled civil injunctive action against the outside auditors for the City of San Diego and its pension system, Thomas J. Saiz and Calderon, Jaham &

Osborn, an accountancy corporation, for violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. Saiz and Calderon, Jaham & Osborn consented to the entry of a final judgment permanently enjoining them from violating Section 17(a)

of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and ordering Saiz to pay a civil penalty of \$15,000.

<http://www.sec.gov/litigation/litreleases/2008/lr20522.htm>

ON THE ROAD AGAIN – DRIVING OR RIDING AND DUTY DISABILITY PENSIONS

By RICHARD J. PUCHALSKI, DEPUTY COUNSEL
& LAURA J. GOODLOE, ESQUIRE

One of the frequent ways that police officers sustain injuries is while on the road, either in a squad car, motorcycle or on a bicycle. The law in Illinois is unclear as to what activities on the highways or the byways will entitle a police officer covered under Article III of the Illinois Police Pension Code, 40 ILCS 5/3-101, *et seq.*, to a line-of-duty disability pension. This article explores some of the diverse decisions that have been rendered on this issue. At this point and time, it is clear that a police officer does not perform an act of duty under Article III of the Illinois Pension Code merely by being on duty at the time of injury⁽¹⁾.

One of the first cases dealing with this issue was Gibbons v. Retirement

Board⁽²⁾. In that case a police officer was transporting a prisoner in a paddy wagon that collided with another car. As a result of the accident, the officer developed an impaired mental condition and was awarded a line-of-duty disability.

In Worth v. Board of Trustees of the Police Pension Fund of the Village of Orland Park⁽³⁾, the police officer was riding in a squad car returning to the police station at the end of the work shift. While stopped at a red light, the squad car was hit by another car. Officer Worth suffered injuries to her knees as a result of the accident. She subsequently underwent knee surgery and she developed an infection as a result of the operation.

Officer Worth applied for a line-of-duty disability pension, but she was only granted a non-duty disability pension by the pension board. Worth filed for administrative review and the circuit court reversed the pension board's decision and ordered payment of a duty disability pension. The appellate court affirmed the reversal of the board's decision. In its decision, the appellate court declined to apply the definition of act of duty found in Article V of the Pension Code⁽⁴⁾. Construing only the language contained in 40 ILCS 5/3-114.1, the appellate court concluded that Officer Worth's auto accident entitled her to a line-of-duty disability pension⁽⁵⁾.

(Continue to page 4)

⁽¹⁾ *Morgan v. Retirement Board of the Policeman's Annuity & Benefit Fund*, 172 Ill.App.3d 273, 526 N. E.2d 493

⁽²⁾ 412 Ill. 373, 106 N.E.2d 516 (1952)

⁽³⁾ 230 Ill.App.3d 349, 595 N.E.2d 51 (1992)

⁽⁴⁾ 40 ILCS 5/5-113.

⁽⁵⁾ 595 N.E.2d at 55

ON THE ROAD AGAIN – DRIVING OR RIDING AND DUTY DISABILITY PENSIONS (Continued from page 3)

Then, in 1997, the Illinois Supreme Court issued its decision in Robbins v. Board of trustees of the Carbondale Police Pension Fund(6). In that case the supreme court defined the term "act of duty" under Article III of the Pension Code by applying the definition of "act of duty" under Article V, which pertains to the City of Chicago(7). In utilizing this definition, the supreme court held that in order to obtain a line-of-duty disability pension, the police officer's disability must result from "a special risk, not Ordinarily assume by a citizen in the ordinary walks of life."(8)

In the Robbins decision, the supreme court specifically disagreed with the reasoning in Worth v. Board of Trustees of the Village of Orland Park. The supreme court, in Robbins, held that the appellate court in Worth erred in not applying the

definition of "act of duty" found in Article V of the Pension Code(9). Thus, the decision in Worth can no longer be considered as valid legal precedent.

There are a number of recent cases from the Second District Appellate Court dealing with police officers injured in accidents while on patrol. In Fedorski v. Board of Trustees of the Aurora Police Pension Fund(10), the court held that the police officer was not performing an act of duty when he was injured after being struck from behind in his squad car. According to the Fedorski decision, "the fact that the injury could have befallen anybody traveling in an automobile for any reason, [that] does not, in itself, foreclose a line-of-duty disability."(11) The appellate court reasoned that the mere act of riding in a squad car was not considered as act, "that entailed any special risk at that particular time."(12) Ordinary individuals commuting to and from work are involved in auto accidents each day, according to this decision. However, many police officers would take issue with this ruling, because riding in a squad car full of police

equipment, is totally different from riding in one's personal motor vehicle.

Similarly, in In re Surviving Spouse Application of Misty Gruenes(13), the appellate court held that a police sergeant killed in the line of duty was not performing an act of duty involving a special risk at the time of his death. The officer was killed in a traffic accident while on his way to get film developed prior to reporting to work. At the time of this accident, Sergeant Gruenes was driving a rental car while his personal vehicle was being repaired. Two of the four pension board members voted to deny. In absence of a majority ruling in favor of awarding benefits, the application for survivorship benefits was denied.

On appeal the appellate court acknowledged that the term special risk does not merely encompass only inherently dangerous activities, it nonetheless held, "the act of driving to a department store to develop film did not inherently involve a special risk, not ordinarily assumed by a citizen in the ordinary walks of life(14)." What is interesting about the decision in Gruenes was that the appellate court issued its decision as a precedent opinion. Then, in November of 2007, the court withdrew its (Continued on page 7)

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- 6 77 Ill.App.2d 533, 687 N.E.2d 39 (1997)
- 7 Pension Code section 5-113 defines an "act of duty" as follows: "Act of Duty. 'Act of Duty': Any act of police duty inherently involving special risk, not ordinarily assumed by a citizen in the ordinary walks of life, imposed on a policeman by the statutes of this state or by ordinances ... saving of the life or property of a person other than the policeman, "40 ILCS 5/5-113 (West 1994)
- 8 687 N.E.2d at 44

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- 9 687 N.E.2d at 43
- 10 375 Ill.App.3d 371, 873 N.E.2d 15 (2nd Dist. 2007)
- 11 Id. at 19
- 12 Id.

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- 13 ___ILL.App3d___, ___N.E.2d___, No. 2-06-0532(2nd Dist. 2007)
- 14 Id.

HIGHLIGHTS OF PENSION REFORM LEGISLATION H.B. 5088 (AKA HB4905/SB2090) Passed MAY 31, 2008

BY JAMES MCNAMEE, PRES. IPPFA

As you are aware, the Illinois Municipal League has been pushing for a pension reform package. The IPPFA has been in negotiations with the IML over what would be contained in the legislation. There was give and take by both sides on these issues. We, at IPPFA, feel that the final draft of this is an acceptable piece of legislation.

Highlights of the legislation is as follows; benefit enhancement financial impact statements will be done by the commission on Government Forecasting and accountability. They will select municipalities for the sampling.

The schedule for examination of pension funds, by the Department of Financial Regulations and Institutions, will be once every three years.

The Illinois Gift Ban

will be in the pension code.

Pension Boards must file an annual statement with the sponsoring municipality covering the pension fund investment rate of return, market value of assets, total number of participants paying into the fund and total amount disbursed in benefits.

This legislation will also contain a section on fraud to include any person, member, trustee, or employee of the board makes or permits to make a false statement or falsifies a record of a fund, can be found guilty of a Class A misdemeanor.

An important section of this Legislation is quoted as follows; "(3) Serving as a trustee in addition to being an officer, employee, agent or other representative of a party in interest. (d) A fiduciary of a pension

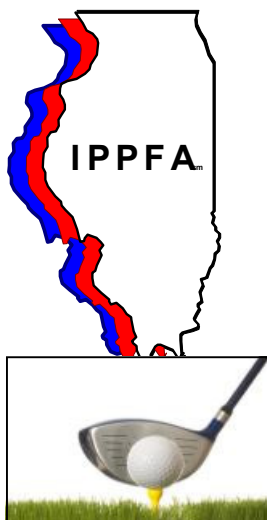
fund established under Article 3 or 4 shall not knowingly cause or advise the pension fund to engage in an investment transaction when the fiduciary (i) has any direct interest in the income, gains, or profits of the investment advisor through which the investment transaction is made or (ii) has a business relationship with that investment advisor that would result in a pecuniary benefit to the fiduciary as a result of the investment transaction.

Violation of this subsection (d) is a Class 4 felony. 13 (Source: P.A. 88-535.)"

If you are interested in viewing the legislation, check out the website; www.ilga.gov/legislation/BillStatus.asp?DocNum=5088&GAID=9&DocTypeID=HB&LegId=36071&SessionID=51&GA=95

(See Our Website as well!)

RESULTS OF THE IPPFA'S REMEMBRANCE FUND'S 4TH ANNUAL GOLF OUTING OF 2008



INCOME

Golf Proceeds	\$19,466.89
Raffle Proceeds	1,200.00
Betting Hole Proceeds	<u>730.00</u>

Total Income \$21,436.89

DISBURSEMENTS

Printing	\$1,000.00
Raffle Prizes	1,500.00
Golf Bag Gifts	826.25
Transportation	179.00
Golf Course Gratuities	200.00
Golf and Dinner Charges	<u>6,859.18</u>

Total Disbursement \$10,564.43

Net Profit \$10,872.46

A MESSAGE TO THE ILLINOIS MUNICIPAL LEAGUE: HOW QUICKLY YOU FORGET! (Continued from page 1)

liability from a level dollar amount to a percentage of payroll. Simply put, the Amendment allowed municipalities to pay less now and owe more in the future. The IML and its municipal members supported this law.

This is the perfect opportunity to remind the IML of the case of McNamee v. The State of Illinois, 173 Ill.2d 433, 672 N.E.2d 1159, decided by our Illinois Supreme Court on October 18, 1996. In McNamee, Article III pension funds and individual police officers, including IPPFA president James McNamee, filed suit seeking declaratory and injunctive relief in the Circuit Court of Cook County. The complaint alleged the Amendment violated Article XIII, Section V of the Illinois Constitution, which provides,

The only pension funds experiencing crisis' due to funding is the direct result of the municipality refusing to levy the proper amount recommended by their own actuaries.

"Membership in any pension or retirement shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." The plaintiffs' alleged that the refinancing allowed by the amendment to Section 3.17, diminished and/or impaired pension benefits of participants because it allows municipalities to contribute lower initial annual contributions to the police pension funds, thereby making the pension funds less secure. In support of its position the plaintiffs' introduced the affidavit of IPPFA actuary Art Tepfer who testified that police pension funds would be detrimentally affected because municipal contributions would be initially insufficient to pay the interest on a particular

fund's unfunded liability. Tepfer further explained, under the new funding provision pension liabilities would increase dramatically in the early years and pension funds would have fewer assets, thereby producing less secure funds.

Not surprisingly, the Illinois Municipal League participated as a "friend of the court" in this case. The IML filed a brief in support of the defendant, State of Illinois. The trial court entered a judgment in favor of the Plaintiffs. Predictably, the Defendants appealed. Unfortunately, the Illinois Supreme Court held that there was no violation of Article XIII Section V of the Illinois Constitution because there was no showing that the Plaintiff's rights to receive pension benefits were diminished or that the "new funding method will impair benefits by placing a fund on the default or imminent bankruptcy."

Ironically, the IML now attempts to claim there is some type of funding problem, or "crisis," threatening the health of Article III and Article IV pension funds. Of course the IML never tells you it created the problem itself. Having represented close to 200 police and fire pension funds across Illinois I have seen firsthand how municipalities have chosen to "charge" their debts to the pension fund. The only pension funds experiencing crisis' due to funding is the direct result of the municipality refusing to levy the proper amount recommended by their own actuaries. Fortunately,

those cases are infrequent. However, in some cases, pension funds are left with no choice but to sue municipalities for the money they are owed.

What the IML does not want you to know is the vast majority of Article III and Article IV pension funds are financially solvent. Also the IML is silent about the vast majority trustees and their respective municipalities that work together as a team to ensure the financial stability of the pension funds for their police officers and their firefighters'. All of this is accomplished even with the IML's ongoing attacks on the funds.

Most municipalities own up to their responsibilities. However, police officers and firefighters should not have to pay the credit card bill run up by irresponsible municipalities. Firefighters, and police officers, and other public servants went to work and paid their part into these pension funds. Now, the IML wants to not pay its part. One of the IML's stated purposes is to, "Promote competence and integrity in the administration of municipal government." How does running out on the commitment it made to firefighters and police officers prove municipal "competence" or demonstrate "integrity"? I hate to say I told you so, but...?



IPPFA 457 PLAN

ON THE ROAD AGAIN – DRIVING OR RIDING AND DUTY DISABILITY PENSIONS (Continued from page 4)

opinion and issued the decision as a non-precedential order. Nonetheless, the rationale in Gruenes is similar to that in Fedorski, although the former case involved a personal vehicle.

Likewise, in White vs. City of Aurora(15), the appellate court held that the police officer was not entitled to line of duty disability benefits for injuries he sustained while exiting his squad car to place a ticket on the windshield of another car. Following the precedent set forth in Johnson v. Retirement Board(16), the White court held, "unlike the case at bar the police officer in Johnson was performing an act that ordinary citizens are not obligated to perform; he was responding to a citizen in need of assistance."(17) In contrast to the situation in Johnson, the officer in this case was not performing an act which involved any special risk, but rather a clerical act which an ordinary citizen would assume. Thus, in ap-

Likewise, in White vs. City of Aurora, the appellate court held that the police officer was not entitled to line of duty disability benefits for injuries he sustained while exiting his squad car to place a ticket on the windshield of another car.

plying the standard set forth in Johnson, none of the officers in the three above cases were held to have been acting in a capacity in which they assumed a special risk not shared by ordinary citizens.

The Second District Appellate Court decision in Alm v. Lincolnshire Police Pension Board takes a different approach.(18) The court in Alm held that a police officer was performing an act of duty by merely patrolling the Village of Lincolnshire on his bicycle. The court reasoned that the plaintiff was acting in a capacity which amounted to an act of duty because in performing

his job duty of bike patrol, the officer was required to ride his bicycle at varying times over rough terrain and with significant amount of additional pack weight. The court believed that in working under such conditions, there was an increased risk of injury and other dangerous encounters which have no clear counterpart in civilian life.

The decision reached

in Alm is somewhat inconsistent with those reached in Fedorski and White. Although the Officers Fedorski and White were not held to be acting in a capacity that involved special risk by riding in or exiting a squad car, the officer in Alm was doing nothing more than riding his bicycle. Following the precedents in Fedorski and White, the Naperville Police Pension Board recently denied a line-of-duty disability pension to a Naperville police officer who was driving on her way home from a court appearance in her own car when she was rear-ended. The DuPage County Circuit Court, following the precedents in White and Fedorski, affirmed the Pension Board's decision.(19)

In conclusion, the majority view in the appellate courts would seem to be that merely riding in a police vehicle would not entitle the officer to a line-of-duty disability pension because ordinary citizens in Illinois are subject to the same types of risks. The Illinois Supreme Court needs to address this issue and render a decision that will provide some clarity.

15 323 Ill.App.3d 733, 753 N.E.2d 1244 (2nd Dist. 2001)

16 114 Ill.App.2d 518, 502 N.E.2d 718 (1986)

17 Id. At 1247

18 352 Ill.App.3d 595, 816 N.E.2d 389 (2nd Dist. 2004)

19 DeGregorio v. Naperville Police Pension Board, 07 MR 195 (Cir.Ct. DuPage Cty.)

U.S. Securities and Exchange Commission

SEC Charges Fidelity, Executives and Employees for Improperly Accepting Lavish Gifts Paid For by Brokers

**FOR IMMEDIATE RELEASE
2008-32**

Washington, D.C., March 5, 2008

The Securities and Exchange Commission today charged fund manager Fidelity Investments and 13 current or former employees including high-ranking executives for improperly accepting more than \$1.6 million in travel, entertainment, and other gifts paid for by outside brokers courting the massive trading business Fidelity generates on behalf of the mutual funds it manages.

In a settled Order against Fidelity, the SEC charged that the firm failed to seek "best execution" — the most favorable terms reasonably available — for its clients' mutual funds securities transactions. The Order found that Fidelity allowed the selection of brokers to execute those transactions to be influenced by lavish gifts as well as family and romantic relationships with brokers.

"The broker selection process on Fidelity's equity trading desk was compromised when gifts and lavish entertainment swayed the flow of brokerage business," said Walter Ricciardi, Deputy Director of the SEC's Division of Enforcement. "This misconduct created a serious risk of investor harm and violated Fidelity's duty of allegiance and loyalty to investors."

"This case demonstrates again the SEC's commitment to preventing conflicts of interest from compromising the integrity of the markets," said David P. Bergers, Regional Director of the SEC's Boston Regional Office.

"Investment advisers must insist that brokerage firms compete for mutual fund business based on their ability to deliver best execution, not based on personal considerations like event tickets."

The SEC Order requires Fidelity to pay an \$8 million penalty, which takes into account Fidelity's separate agreements with

its mutual fund trustees and institutional and other clients to make additional payments. The SEC also censured Fidelity, ordered the firm to cease any further violations, and required Fidelity to hire an independent compliance consultant to conduct a comprehensive review of Fidelity's current policies and procedures concerning equity trading operations, conflicts and gifts. Fidelity consented to the Order without admitting or denying the findings. According to the SEC Order, those charged received a host of travel, entertainment and other gifts paid for by outside brokers, including private jet trips to such places as Bermuda, Mexico, and Las Vegas and premium sports tickets to events including Wimbledon, the Super Bowl, and the Ryder Cup golf tournament.

The individuals charged by the SEC include Scott E. DeSano, Fidelity's former senior vice president and head of global equity trading. Other executives charged were Bart A. Grenier, a senior vice president who held supervisory responsibility for Fidelity's equity trading desk and other business groups, and Peter Lynch, Fidelity's trustee, vice chairman and former portfolio manager of Fidelity's flagship Magellan Fund. Grenier and Lynch settled the SEC's charges without admitting or denying the allegations.

The SEC's Order against Lynch found that he obtained numerous free tickets to concerts, theater and sporting events paid for by outside brokers through his requests to two traders on Fidelity's equity trading desk, causing those traders to violate an Investment Company Act provision that bars accepting compensation from outside sources when transacting on behalf of a mutual fund. The Order requires Lynch to cease committing or causing any further violations and to pay \$15,948 in disgorgement — equaling his ill-gotten gains — and prejudgment interest of \$4,183. The SEC's Order against Grenier found that he violated the Investment Company

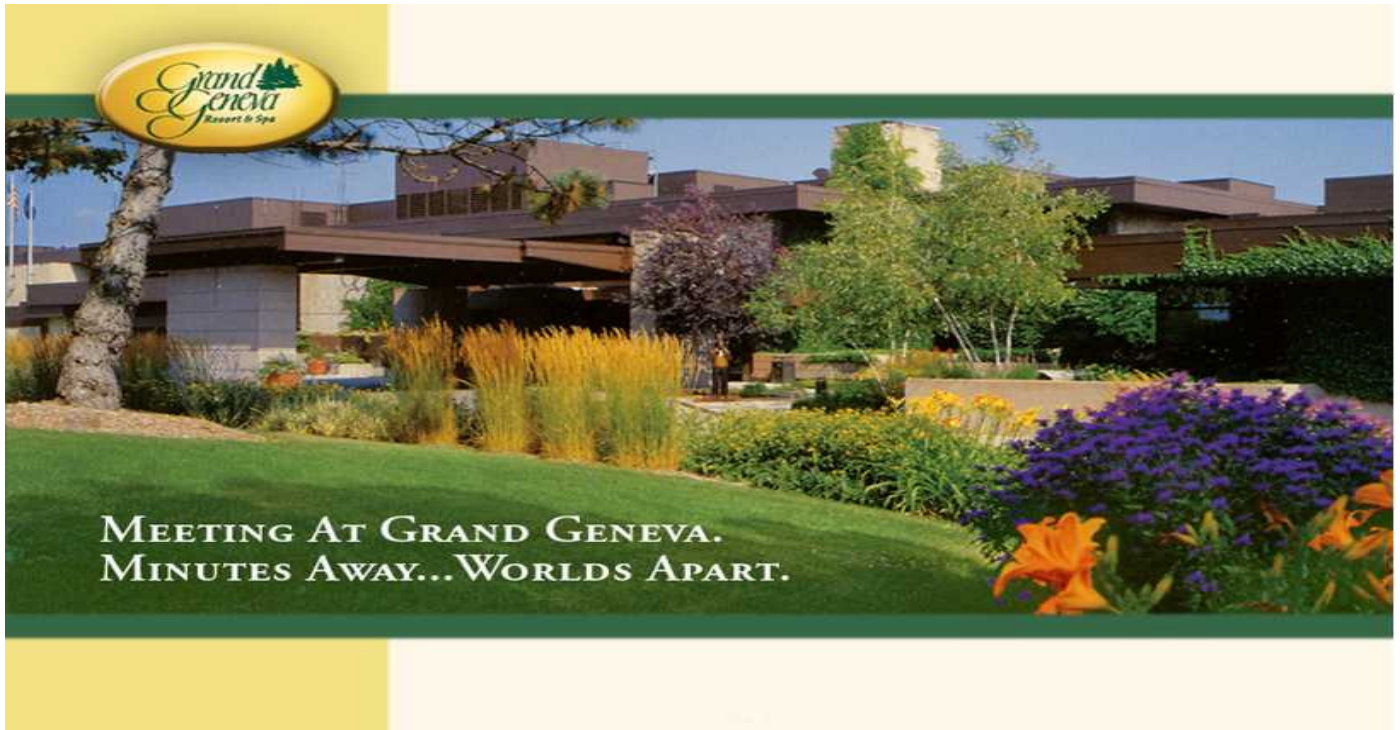
Act in connection with his acceptance of \$38,500 worth of tickets from brokers to 21 concerts and sporting events.

The Order further finds that Grenier caused violations of the Investment Company Act by DeSano, through whom Grenier requested the tickets from brokers. The Order requires Grenier to pay disgorgement and prejudgment interest in the amount of \$26,316.89, and a \$25,000 penalty. Grenier also was censured and ordered to cease further violations.

DeSano still faces SEC charges along with nine current or former Fidelity equity traders: Thomas H. Bruderman, Edward S. Driscoll, Timothy J. Burnieika, Robert L. Burns, David K. Donovan, Jeffrey D. Harris, Christopher J. Horan, Steven P. Pascucci, and Kirk C. Smith. Former Fidelity equity trader Marc C. Beran settled the SEC's action against him without admitting or denying the charges. The SEC alleges that DeSano knew that certain Fidelity traders directed transactions to brokers who provided them with travel, entertainment and gifts, and also to brokers with whom certain Fidelity traders had a family or romantic relationship.

On Dec. 1, 2006, the SEC brought a settled enforcement action against Jefferies & Co, Inc., its Director of Equities Scott Jones, and former Senior Vice President and equity sales trader Kevin Quinn in connection with Jefferies' provision of extravagant travel and entertainment, and other lavish gifts to Fidelity equity traders and DeSano in order to win securities brokerage business from the Fidelity mutual funds.

The Commission acknowledges the assistance and cooperation of FINRA, which first discovered the conduct at issue during a routine examination of Jefferies & Co., Inc.



IPPFA Midwest Training Conference

October 14-17, 2008

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Golf Outing on Tuesday October 14, 2008

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for all Public Pension Fund Trustees

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And you can go to www.ippfa.org

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IPPFA Conference room rate is \$134.00 + tax + resort fee

Advise them you are with the IPPFA Public Pension Conference.



The IPPFA Executive Board met on June 24, 2008, at the Abbey in Fontana, Wisconsin to go over several issues that needed to be addressed, including the moving of the IPPFA office. See below for our new location and phone numbers.



IPPFA'S OFFICE IS MOVING!!!

**WE ARE MOVING TO:
455 KEHOE, SUITE 106B
CAROL STREAM, IL. 60188
ON
AUGUST 1, 2008**

NEW PHONE # 630-784-0406/FAX #630-784-0416

Ex-San Diego City Officials Charged with Fraud

Five former city officials from San Diego were charged in a federal complaint (SEC) which said they misled Wall Street analysts and bond investors in borrowing \$262 million in 2002 and 2003.

One of the accused is the former City Manager, Michael Uberuaga who omitted details of ballooning pension and retiree health obligations in five bond offerings.

In addition to the city manager being charged, the other former officials charged were auditor Ed Ryan; his deputy, Terri Webster; treasurer Mary Vattimo; and Patricia Frazier, deputy city manager for finance.

The San Diego Union-Tribune first reported this is-

sue in February 2004 and SEC began their probe into the allegations. The outcome of this investigation has ruined San Diego's financial standing and their ability to borrow money at low rates.

The city has paid legal fees of \$920,000, but that was the cost as of one and one half years ago. The numbers as of this date have not been released, so this number is very low. As of this date, the city has paid \$6.8 million in pension-related legal fees for nearly 50 officials. The Securities and Exchange Commission (SEC) has sanctioned one person, the city auditor Thomas Saiz. He was also fined \$15,000 in December of last year. All of these charges are

going to take years to prosecute. The source of this article came from the San Diego Union-Tribune dated April 8, 2008.

As you can see, your position on the pension boards are extremely important and should understand that each decision needs to be thoroughly examined to make sure the decisions made are within the law to protect not only the pension, but the ripple affect to the whole city as shown by the poor decision made by the City of San Diego.

That is why the IPPFA strongly suggest that everyone take the Certified Trustee Program if you have not. See the next page for an application.
By John Edwards-IPPFA Editor

IPPFA

CERTIFIED TRUSTEE PROGRAM

Preparing pension fund trustees for tomorrow

We are now accepting registration for Program 21
The dates are January 22, February 26, March 26 & April 23, 2009

The 32-hour program is offered twice per year in four eight-hour modules, with classes beginning either in January through April or August through December each year, 8:00am to 4:00pm on Thursdays, approximately one month apart. Classes are held at the Multi-University Center, 1010 Jorie Blvd. Oakbrook, IL. All modules must be completed within a twelve month period. The cost of the program is \$650.00 per participant and includes all instructions, a notebook, all textbooks and related handout material. The Illinois Department of Financial & Professional regulation, Division of Insurance has approved this fee as a "necessary pension fund expense" under the Illinois Pension Code.

MODULE 1 JANUARY 22, 2009

FIDUCIARY FUNDAMENTALS

FIDUCIARY DUTIES OF PUBLIC PENSION FUND TRUSTEES

FUNDAMENTALS OF PENSION FUND INVESTING

MODULE 2 FEBRUARY 26, 2009

ACTUARIAL/MEDICAL

BASIC FUNDING CONCEPTS

UNDERSTANDING MEDICAL AND DISABILITY ISSUES

MODULE 3 MARCH 26, 2009

INVESTMENTS

FUNDAMENTALS OF FIXED INCOME INVESTING

FUNDAMENTALS OF EQUITY INVESTING

MODULE 4 APRIL 23, 2009

LEGAL/ADMINISTRATION PRACTICES

LEGAL ISSUES & ETHICS FOR PENSION FUND TRUSTEES

UNDERSTANDING THE ADMINISTRATION OF PENSION BENEFITS

For more information, contact the IPPFA, 40 DuPage Court, Suite 304, Elgin, IL 60120 Phone 847-608-6014 Fax 847-608-6019 or check out our website at www.ippfa.org for up to date class schedules and downloadable registration form or use the attached registration form. [After August 1st, 455 Kehoe, Suite 106, Carol Stream, IL 60188 Phone 630-784-0406 Fax 630-784-0416](#)

Please Print

Name _____ Police/Fire _____

Address _____ City/Zip _____

Phone # _____ Fax # _____ E-mail _____

This course must be taken in its entirety and is not available in individual modules. Each participant must successfully complete module one before selecting any of the three remaining modules and also must complete the four modules of instruction within a twelve month period.

Enclose a check for **\$650.00 payable to the IPPFA** with this form

These dates are subject to change

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