

**Extracts from Secretary Geithner's responses
related to PBGC / Delphi Salaried Pensions.**

**Full report of responses totaled 48 pages and included many
questions regarding AIG and banking bailout.**

Report was provided to DSRA on May 21, 2010

**Secretary Timothy F. Geithner
Questions for the Record
House Committee on Oversight and Government Reform
January 27, 2010**

Rep. Dan Burton

4. Since the beginning of 2009, the Obama Administration has exercised an unprecedented amount of control over the American automotive industry. Some believe this control has resulted in the picking of winners and losers among those retirees who have been impacted by auto bankruptcies. A review of the Master Disposition Agreement General Motors filed with the bankruptcy court Southern District of New York clearly indicates that “any GM contributions under a PBGC Agreement will be subject to U.S. Treasury consent.”

a. What role did the Treasury Department play in the decision to terminate the pension plan of the Delphi Salaried workers?

The decision to terminate Delphi’s pension plans was initiated by the PBGC and agreed to by Delphi as part of a settlement agreement. Treasury did not make this decision.

The termination of the Delphi Retirement Program for Salaried Employees and its placement under the PBGC’s trusteeship are currently the subject of litigation in *Black et al. v. PBGC et al.* in Michigan. I cannot comment on the specifics of any pending litigation. For your information, I have enclosed a copy of the brief filed by Treasury and other defendants on February 16, 2010 in *Black*.

In addition, I would note that the PBGC Board, via the Board Representatives, is regularly advised of probable terminations for accounting purposes, and PBGC’s actions affecting companies. The Board has been advised regularly about matters involving Delphi, the impact on PBGC, plan participants and benefit cutbacks. I note, however, that the PBGC Board does not make individual case decisions; rather it is advised of significant matters and consulted about them, but case decisions lie solely with the PBGC Director.

With regards to the government’s broader efforts to assist the auto industry, I would note that on December 19, 2008 President Bush announced that, in the absence of alternative aid measures from the Congress, he would use authority provided by the Congress under the Emergency Economic Stability Act (EESA) to make available capital to assist the domestic auto industry in becoming financially viable, to facilitate the restructuring of the domestic auto industry, and to prevent disorderly bankruptcies during a time of economic difficulty.¹ The initial loans to GM and Chrysler closed on December 31, 2008 and January 2, 2009, respectively.

b. Did the Treasury Department participate in discussions with the Pension Benefit Guaranty Corporation about the termination of Delphi Salaried workers’ pension plan?

Please refer to response to 4a. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

¹ White House Office of the Press Secretary, *Fact Sheet: Financing Assistance to Facilitate the Auto Manufacturers to Attain Financial Viability* (Dec. 19, 2008) (online at georgewbushwhitehouse.archives.gov/news/releases/2008/12/20081219-6.html).

- c. If so, what was the position of the Treasury Department in those discussions and the reasoning behind any decision to force only the Delphi Salaried workers to undergo substantial cuts in their pensions?**

Please refer to response to 4a. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

- d. Is the Treasury Department willing to publicly release all records and communications between the U.S. Department of Treasury and the President's Automotive Task Force, the United Auto Workers, the Pension Benefit Guaranty Corporation, General Motors, Delphi Corporation and Holding, and any Member of Congress or other public official, referring or relating to retirement or pension benefits for General Motors or Delphi Corporation employees, between November 1, 2008, and November 1, 2009?**

Please refer to response to 4a. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

- 5. The United Auto Workers, which represents Delphi Hourly Retirees, has stated that Delphi Salaried Retirees should be treated with fairness and equity. In other words, the UAW supports providing the same "top-ups" to the salaried workers that were provided to the other Delphi workers. Does the Administration agree?**

As you may know, the question of pension "top-ups" for certain Delphi retirees is currently the subject of litigation in *Black et al. v. PBGC et al.* in Michigan. I cannot comment on the specifics of any pending litigation. For your information, enclosed is a copy of the brief filed by Treasury and other defendants on February 16, 2010, in *Black*.

- a. If so, what steps is the Administration taking or planning to take as the majority owner of General Motors to implement "top-ups" for the salaried workers?**

Please refer to response to 4a. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

- b. If not, what is the Administration's justification for continuing to treat these two groups differently?**

Please refer to response to 4a. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

Rep. Michael R. Turner

1. The administrative record produced by the Pension Benefit Guaranty Corporation ("PBGC") indicates that PBGC staff discussed the Delphi pension plans with officials from the Treasury Department and the Auto Task Force before the plan was finalized to cut the pension plans. At what date did the Treasury Department know about the cuts to the Delphi pension plans?

The termination of the Delphi Retirement Program for Salaried Employees and its placement under the PBGC's trusteeship are currently the subject of litigation in Black et al. v. PBGC et al. in Michigan. I cannot comment on the specifics of any pending litigation. For your information, I have enclosed a copy of the brief filed by Treasury and other defendants on February 16, 2010 in Black.

In addition, I would note that the PBGC Board, via the Board Representatives, is regularly advised of probable terminations for accounting purposes, and PBGC's actions affecting companies. The Board has been advised regularly about matters involving Delphi, the impact on PBGC, plan participants and benefit cutbacks. I note, however, that the PBGC Board does not make individual case decisions; rather it is advised of significant matters and consulted about them, but case decisions lie solely with the PBGC Director.

With regards to the government's broader efforts to assist the auto industry, I would note that on December 19, 2008 President Bush announced that, in the absence of alternative aid measures from the Congress, he would use authority provided by the Congress under the Emergency Economic Stability Act (EESA) to make available capital to assist the domestic auto industry in becoming financially viable, to facilitate the restructuring of the domestic auto industry, and to prevent disorderly bankruptcies during a time of economic difficulty.[1] The initial loans to GM and Chrysler closed on December 31, 2008 and January 2, 2009, respectively.

2. In what manner was the Treasury informed about the cuts to the Delphi Salaried Retiree pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

3. Does the Treasury Department acknowledge that they knew about the Delphi Salaried Retiree pension cuts prior to final administrative action from PBGC to implement any cuts to those pensions?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

[1] White House Office of the Press Secretary, *Fact Sheet: Financing Assistance to Facilitate the Restructuring of Auto Manufacturers to Attain Financial Viability* (Dec. 19, 2008) (online at georgewbushwhitehouse.archives.gov/news/releases/2008/12/20081219-6.html).

4. With what frequency did these discussions occur, and at what level?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

5. Did the Treasury Department initiate the discussions with the PBGC regarding the Delphi Salaried Pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

6. Is the Treasury Department consulted in PBGC pension fund plan settlement negotiations?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

7. Did the Treasury Department authorize, approve, or consent to the PBGC terminating the Delphi Salaried workers pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

8. Does the Treasury Department deny it had the authority to disapprove of the cuts to the Delphi Salaried Retiree pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

9. What authority does the Department of the Treasury have to prevent the cuts to the Delphi Salaried Retiree pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

10. In the discourse between the Treasury, the PBGC and any other parties, what role did the Treasury Department play in the decision to terminate the pension plan of the Delphi Salaried workers?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

11. What was the position of the Treasury Department in any of those discussions and the reasoning behind any decision to force only the Delphi Salaried workers to undergo substantial cuts in their pensions?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

12. Recently, it was decided that certain hourly retirees and other union workers whose pensions were cut by the PBGC would have those pensions "topped-up" by the new OM. What role did the Treasury Department have in that decision?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

13. How much is the "topping-up" costing New GM?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

14. The Secretary of the Treasury sits as one of three board members of the PBGC. Did the Secretary of the Treasury take any action to prevent the cuts to the Delphi Salaried Retiree pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

15. The Secretary of the Treasury sits as one of three board members of the PBGC. Did the Secretary affirmatively consent and/or approve of cuts to the Delphi Salaried Retiree pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

16. The Secretary of the Treasury sits as one of three board members of the PBGC. Why did the Secretary not exercise any authority to prevent the cuts to the Delphi Salaried Retiree pension plans?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

17. Did the PBGC vote on the cuts to these plans, and what was the Treasury Secretary's vote?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

18. The Secretary of the Treasury sits as one of three PBGC board members. What does the Secretary see as his responsibilities to the PBGC as a board member?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

19. Please describe the actual conflicts and potential conflicts between the Secretary's duties as a PBGC board member and the Treasury Department's duties as the majority owner of New GM?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

20. How does the Secretary prevent conflicts between those two roles?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

21. After the Treasury Department's increased involvement in General Motor's operations, General Motors seemed to reverse its position with respect to assuming the obligations of Delphi's pension plan for salaried workers. Please describe the role of the Treasury Department in that decision?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

22. Please provide and describe any communications between the Treasury Department and General Motors with respect to General Motors' position of assuming the obligations of Delphi's pension plan for salaried workers.

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

23. By the time the PBGC initiated termination proceedings against Delphi's pension plans, the PBGC held approximately \$200 million in liens against Delphi foreign assets, and estimated that there were approximately \$2.4 billion in Delphi foreign assets that the PBGC could potentially assert liens against. The PBGC ultimately released these liens as part of settlement agreements with New GM and Delphi, in exchange for payments by New GM which did not include Delphi Salaried Retirees pension plans. What role did the Treasury Department play in approving and or crafting this settlement?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

24. When did the Treasury Department become aware that the PBGC believed that there were \$2.4 billion in foreign Delphi assets upon which the PBGC could assert liens?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

25. Had the PBGC refused to remove the liens, would the Treasury Department have been willing to permit New GM to assume sponsorship of the salaried pension plan?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

26. Did the Treasury Department (or the Auto Task Force) take part in negotiations with the PBGC in an attempt to have the PBGC release its liens against Delphi Assets? And in what manner?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

27. When the Treasury Department communicated with the PBGC regarding the negotiation of a settlement agreement and the release of the PBGC's liens, did the Treasury Department take any measures to ensure that the PBGC would not give undue weight to the negotiation position of GM and or the Treasury Department due to political considerations?

Please refer to our response to Question No. 1. As discussed, I cannot comment specifically on these topics as they are the subject of pending litigation.

28. Salaried Delphi retirees have made requests under the Freedom of Information Act to the Treasury Department and the Auto Task Force, respectively, regarding their involvement in the termination of the salaried pension plan. These requests have so far been ignored. Can you explain why the Treasury Department and Auto Task Force have refused to comply with these requests?

I apologize for the delay. Treasury has a first-in, first-out policy in responding to FOIA requests. Treasury personnel are working to respond to pending requests in a manner

consistent with department regulations.

29. Members of the House Oversight and Government Reform Committee, as well as other House Members have requested documentation related to the Treasury Department's knowledge and role in the cuts to the Delphi Salaried Retiree pension plans. These requests have so far been ignored. Please explain the Department's reasoning behind ignoring Congressional requests for information, and please describe when the Department will provide the requested information to the Members of Congress.

I apologize for the delay. Treasury personnel are working to respond to pending requests in a manner consistent with department regulations.

30. The United Auto Workers has recently stated that Delphi Salaried Retirees should be treated with "fairness and equity". Additionally, the UAW stated in a letter dated January 15, 2010 that it supports providing the same "top-ups" to the Salaried workers as a matter of "fairness and equity" that were provided to the other Delphi workers. Does the Administration agree?

As you may know, the question of pension "top-ups" for certain Delphi retirees is currently the subject of litigation in Black et al. v. PBGC et al. in Michigan. I cannot comment on the specifics of any pending litigation. For your information, I have enclosed a copy of the brief filed by Treasury and other defendants on February 16, 2010 in Black.