Track Record

November 11, 2013

A financial consultant that helps oversee more than $2 billion in Chicago Transit Authority retirement assets has been accused of misconduct by members of a public-sector pension board in Atlanta – and is now the subject of a federal investigation, the Better Government Association has learned.

The U.S. Securities and Exchange Commission is investigating Atlanta-based Gray & Co., which has been a key adviser to the CTA's main pension plan for more than a decade, after the firm's president and founder Larry Gray steered investments in Atlanta toward his own private fund, allegedly without disclosing his ownership stake to board members, according to interviews and pension documents.

Angela Green, a trustee with the City of Atlanta General Employees' Pension Fund, said that Gray, while advising the board how to invest, solicited money for a fund owned by his firm without initially telling board members his affiliation. Green said she filed a complaint with the SEC after discovering the potential conflict of interest.

The SEC, a federal agency that regulates the financial sector, wouldn’t confirm the existence of a probe to the BGA. But a Gray & Co. executive said via email the firm “is cooperating with the SEC and on advice of counsel cannot offer additional comments at this time.”

Green’s contention is Gray “shouldn’t be the consultant and the manager. . . . It’s like the fox watching the hen house.”

Some experts in retirement plan governance seem to agree. Ronald Hagan, chairman of the Fiduciary Standards Committee of the consulting firm Roland Criss, said investment advisers have a duty of loyalty to their clients, as well as a duty of independence.

“Independence means the decisions made by the service provider must be free of any economic consequences that would bias its advice,” Hagan said.

Any breach of those duties could potentially “deliver economic damage” to the pension fund, he said.

“If the fund is investing assets in a pool that exists only because its trusted adviser owns it, but it’s not necessarily the best fund to be invested in, then the pension fund could suffer.”

Gray recently resigned from the Atlanta pension fund, but his firm remains in business as the investment consultant to the CTA’s pension and retiree health plans, which provide retirement income and health-care coverage to more than 9,000 former transit workers and family members. Thousands of active CTA employees are also contributing money (for many of them more than 13 percent of their paychecks) to the accounts with the hope of collecting benefits upon retirement.

Those retirement plans together have investments totaling more than $2 billion as of earlier this year, in-house records show. The aim is to invest money well so returns are healthy enough to support retirees for years to come.

For the CTA retirement accounts, Gray & Co. provides recommendations and advice on fund managers and monitors the performance of investments. The firm has been paid more than $855,000 so far this year by the CTA's retirement and health-care plans, according to a top official there, John Kallianis.

He described Gray's role in Chicago as "significantly different" than the role in Atlanta.

"Neither of our plans (Retirement Plan or Health Care Trust) has ever put money into funds managed by Mr. Gray or Gray and Company and no one from Gray and Company has ever advised that we should put any money into such funds," Kallianis said via email.

CTA pension officials interviewed by the BGA said they are concerned by the allegations in Atlanta, but not alarmed and don't think any of their money is at risk. Bob Kelly, president of Amalgamated Transit Union Local 308 and a CTA pension board member, said officials are "monitoring" the situation, and have asked Larry Gray to attend an upcoming board meeting to answer questions.

The CTA retirement portfolios that Gray advises on have had positive returns over the past year, according to the most up-to-date financial statements on the web. More than 10 percent for the health-care trust, and more than 9 percent for the pension fund, records show.

CTA pension officials said it was too early to say whether they would try to dump Gray, although Kallianis noted his agency is required to put that consulting contract out to bid in coming months.

In February and September, a Gray official "advised us that certain issues relating to Gray and Company and Mr. Gray in particular had received some press in Atlanta," Kallianis said via email.

"As a result of that press, Plan Counsel has had discussions with the compliance staff at Gray and Company, and has been directed by the Trustees, along with staff, to continue to monitor the situation for any further developments."

CTA President Forrest Claypool, whose aides serve on the retirement boards, didn't respond to interview requests.

On top of the questionable financial deals, the Atlanta-Journal Constitution discovered Gray has had some personal financial trouble as well. According to the paper, Gray failed to report to regulators that he had $425,000 in federal tax liens filed against his home for unpaid payroll taxes and a $1 million settlement for a lawsuit that accused him of fraud.

Gray also has ties to a recent pension fund scandal in Michigan that has led to criminal indictments and an SEC lawsuit. As the investment consultant to the Pontiac General Employees' pension fund, Gray oversaw an investment deal with Roy Dixon, Jr., who is now facing federal charges of bribery and embezzlement. Gray has not been charged in the case.

Gray has been somewhat active in Chicago-area charities and politics, donating $1,000 to now-former Mayor Richard M. Daley's campaign fund in 2006 and another $1,000 to city Treasurer Stephanie Neely's campaign fund in 2007, according to state records. Kelly also confirmed that a foundation affiliated with Gray gave money to a Local 308 college scholarship fund, though he declined to say how much.

Meanwhile, news about Gray & Co. apparently has not trickled down to many CTA retirees yet.

The BGA contacted former CTA employees involved in "retirement clubs," and they relayed they knew nothing about the problems.

Said retired CTA bus driver Frank Ippolito, "The only thing we know is our . . . insurance is going up."

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