

PENSION RIGHTS CENTER

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**STATEMENT OF THE PENSION RIGHTS CENTER
ON
"SETTLING FOR SILVER IN THE GOLDEN YEARS"
BEFORE THE
SPECIAL COMMITTEE ON AGING
OF THE
UNITED STATES SENATE
WASHINGTON, D.C.
MAY 23, 2001**

Mr. Chairman, Members of the Committee, my name is John Hotz. I am the Deputy Director of the Pension Rights Center. The Center is the nation's only consumer organization dedicated solely to protecting and promoting the pension rights of American workers, retirees and their families. For the past 26 years, the Center has been at the forefront of efforts to help individuals understand and enforce their retirement rights. I also coordinate the Center's Technical Assistance Project, providing training and legal assistance to the Administration on Aging's Pension Information and Counseling Program, a network of pension assistance projects around the country which offer free help to older Americans, particularly disadvantaged seniors, women and minorities. We thank you for inviting us to testify on the resources available to women to enable them to avoid pension pitfalls and effectively prepare for their retirement years.

You have just heard Joan Mackey testify about her experience upon encountering one such pitfall – not knowing to ask for a widow's pension benefit at the time of divorce. It is the sad reality that Joan Mackey is not alone. At the Pension Rights Center, we hear from numerous women each year who tell us their own version of Ms. Mackey's heart-wrenching story. Her situation is different from these other women in only one critical respect. She was fortunate to find one of the very few legal services attorneys in the country willing to help individuals whose

issues fall into the complicated area of pension law. We met Ms. Mackey through her lawyer, who contacted us to help her receive the benefits that her ex-husband was sure she would get.

For other women around the country with pension questions and problems, the good news is that tremendous strides are being made in building a nationwide system to provide pension counseling and assistance. In 1992, recognizing the complexity of pensions and their importance to the retirement security of older Americans, Congress established a Pension Information and Counseling Demonstration Program as part of the Older American's Act Amendments. Last Congress, thanks to the leadership of this Committee and particularly its former Chairman, Senator Charles Grassley, the Counseling Projects became a permanent Program of the Administration on Aging. The Program provides workers, retirees and their families free, personalized pension counseling and advocacy.

The AoA Program is currently providing invaluable, hands-on assistance to individuals in sixteen states: Alabama, Arizona, California, Connecticut, Delaware, Illinois, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New York, Ohio, Rhode Island and Vermont. The projects deal with all types of retirement plans, whether sponsored by a private or government employer. Since its inception, the Pension Information and Counseling Program has served over 10,000 individuals and has helped those clients receive more than \$40 million in pension and other retirement benefits. Due to these impressive and cost effective results, the AoA is interested in expanding the Program nationwide.

Each of the projects operates differently. For example, the Alabama project is run as a law school clinic, supervised by one of the nations foremost experts on pension law. The Missouri project is administered by the St. Louis chapter of OWL, and specifically targets its efforts toward low-income, minority women; and the Arizona project operates out of an Area Agency on Aging, calling on its network of retiree-volunteers to assist clients.

The best way to communicate the value that the AoA projects bring to women in need of pension assistance is through examples of their good works. An impoverished widow from rural Alabama, Sallie Mae B., contacted the Alabama project for help. Years earlier, Ms. Bell's husband lied to the lumber yard where he worked, claiming he was divorced and electing his daughter from another relationship as his beneficiary. It was only after her husband's funeral, that the yard supervisor told Sallie Mae she "should have something coming" from his pension.

Normally, this case would present an easy set of facts for a counseling project, needing only to show that the wife was still married to the pensioner at the time of his death to override the actions the plan had mistakenly taken. However, the plan had already begun to pay the daughter, and was reluctant to alter its course. After months of intervention, the project successfully represented Sallie Mae in settlement negotiations, and she received her rightful benefits.

When 62-year old Consuelo M. contacted the California counseling project, she was fearful that her abusive ex-husband would learn that she was inquiring about pension benefits through his old employer's pension fund. She barely spoke English, was in ill health and lived alone in a home desperately in need of repair. She already had a professionally prepared domestic relations order providing her both retirement and survivor's benefits from her ex-husband's retirement plan. Yet, she had not applied for the benefits she had been entitled to for nearly seven years for fear of retaliation. The project helped Consuelo apply for her benefits, carefully explaining the different payout options under the plan, and how much she might expect to receive given different life expectancies. The caring assistance of the counseling project allowed Consuelo to make an intelligent benefit choice and - within only weeks - receive a lump sum of more than \$17,000 and a life annuity of \$200 a month. Those critical resources allowed her to pay for much needed prescription medications, and make necessary repairs to her home.

The Counseling Projects also assist working women. One such service is to assist individuals to track down their “lost” pensions – those benefits from pension plans sponsored by companies that have moved, been bought out or have otherwise gone out of business in the years since the client last worked there. The projects have also been extraordinarily helpful in obtaining 401(k) distributions for clients who are changing jobs. In some instances, these individuals have been laid off and are in danger of losing their homes, or are unable to cover medical expenses. The projects provide a critically valuable resource to the clients they assist.

In addition to personalized assistance and advocacy, the program has produced fact sheets to educate women and others on a variety of pension and retirement related issues, including: “Important Facts on 401(k) Plans” and “Pension Issues for Divorced Persons and Survivors.” They have also produced special fact sheets for federal pensioners and their families covering the federal civil service, military and railroad retirement systems.

Starting in 1997, the U.S Department of Labor’s Pension and Welfare Benefits Administration significantly expanded its pension assistance efforts. The Labor Department’s 15 field offices now provide information to individuals with questions about private pension and health insurance plans. In addition, the Internal Revenue Service operates a technical advice hotline available to practitioners and participants with pension questions, and the Pension Benefit Guaranty Corporation responds to queries about terminated defined benefit plans. The counseling projects work closely with each of these important agencies.

For women needing an attorney to help them file a pension claim, or divide a pension at divorce, there is the National Pension Lawyers Network. This nationwide network of pension and domestic relations attorneys was originally developed by the Pension Rights Center, and is now operated by the AoA Counseling Project in New England, with financial assistance from the Pension and Welfare Benefits Administration. Additionally, the American Academy of

Actuaries offers the Pension Assistance List, or PAL program - a referral service for participants who need actuarial help in calculating their pension benefits. The PAL program is relatively young and does not yet have actuaries in every state, but it is steadily growing.

Indeed, great strides have been made toward the development of a nationwide pension assistance service delivery system, but gaps still exist. Most notably, there are still 34 states without pension counseling projects. To help close these gaps we are turning to the Internet. Under contract with the Labor Department, we developed a prototype for PensionHelp America, a nationwide pension assistance website exclusively for retirement plan participants and their families. PensionHelp America will be launched later this year with initial funding from the Administration on Aging and the Public Welfare Foundation. As a single point of entry for those seeking information on any pension system in America, PensionHelp America will provide its visitors free information through its pension-specific search engine, as well as referrals to pension and domestic relations attorneys, actuaries and other retirement-related professionals. It will also enable users to anonymously search for their "lost pensions."

It has been a primary goal of the Pension Rights Center to build, through partnerships with both government and private entities, a nationwide network of professionals willing to assist individuals with their pension questions. Throughout this course, we have ensured that issues faced by women remain a top priority. We would be pleased to work with the Committee to continue the growth of pension assistance in America and to increase retirement security for women -- and all American workers.

Thank you for allowing us the opportunity to share this information. I would be pleased to answer any questions you may have.