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# CYPEN & CYPEN NEWSLETTER for APRIL 2, 2015

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Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001

and

Always Remember May 2, 2011

**1. U.S. RETIREMENT ASSETS NEAR \$25 TRILLION:** *Employee Benefit Advisor* says the amount of money socked away in retirement accounts jumped up 6% from year end 2013 to the end of 2014,

according to research by the Investment Company Institute. U.S. retirement assets totaled \$24.7 trillion at the end of December 2014, compared to \$23.3 trillion at the end of 2013. Retirement assets accounted for 36% of all household financial assets in the United States at the end of the fourth quarter of 2014. The majority is saved in individual retirement accounts and workplace retirement plans, both defined benefit and defined contribution. There was \$7.4 trillion in individual retirement accounts at the end of 2014, a significant increase of 1.4% from the end of the third quarter. Forty-eight percent of IRA assets, or \$3.5 trillion, was invested in mutual funds. DC plan assets rose 2.1% in the fourth quarter to \$6.8 trillion. Of that amount, 401(k) plans accounted for \$4.6 trillion in assets; private-sector DC plans accounted for \$560 billion; there was \$951 billion in 403(b) plans; \$261 billion in 457 plans; and \$427 billion in the Federal Employees Retirement System's Thrift Savings Plan. Mutual funds managed \$3.7 trillion, or 55%, of assets held in DC plans at the end of December. There was \$5.2 trillion stored in government defined benefit plans, including federal, state and local government plans. Private DB plans held \$3.2 trillion at the end of 2014 and annuity reserves outside of retirement accounts accounted for another \$2 trillion. As of December 31, 2014, U.S. total retirement entitlements were \$27.8 trillion, including \$24.7 trillion in retirement assets and another \$3.1 trillion of unfunded liabilities. Including both retirement assets and unfunded liabilities, retirement entitlements accounted for 41% of the financial assets of all U.S. households at the end of December. Unfunded liabilities are an issue for government DB plans as well as private sector plans. At the end of 2014, unfunded liabilities were 1% of private sector DB plans, 25% of state and local government DB plan entitlements and 56% of federal DB plan entitlements.

**2. ECONOMIC CONSEQUENCES OF A FAILED RETIREMENT POLICY:** Thomas J. Mackell, Jr., Ed.D., Special Advisor to the International President, International Longshoremen's Association (AFL-CIO) writes that nearly every asset class is expensive by historical standards. Stocks and bonds; emerging markets and developed economies; urban office towers and American farmland; high end housing; you name it, and it is trading at prices that are high by historical standards relative to fundamentals. However, the potential of a bubble is very real in terms of the riskiness of some

these assets. First, look for a moment in the rearview mirror of the past decade, where predatory capitalism wreaked its havoc on the American people. (This period is called "the lost decade.") In the years before the mortgage crisis, financial regulators often looked the other way, as banks and other lenders pursued reckless activities that cost investors, taxpayers and borrowers billions of dollars. When trouble hit, regulators had to scramble to fix the mess that their inertia had helped create. Today, auto loans are the face of the new subprime boom. Auto loans to people with tarnished credit have risen more than 130% in the five years since the aftermath of the financial crisis. Just as Wall Street stoked the boom in mortgages, some of the nation's biggest banks and private equity firms are feeding the growth in subprime auto loans. Policymakers are still trying to staunch the control over regulators, and we are still reeling from the consequences. The median family is in its worse shape since the late 1990s. We risk creation of a new underclass. We must sustain democracy by keeping America free from social and economic collapse, which is where we could be headed. In 2013, some 15% of student loans had defaulted. Fifty million Americans are in poverty, and 20 million of those are in extreme poverty. People on food stamps number 48 million. Jobless are much less visible today than they were during the Great Depression, because they are shored up by government checks, family support, unemployment checks, Social Security disability checks and food stamps. The United States of America, the richest country in the world, has the third highest poverty rate of the 30 leading industrial nations. The broadest measure of unemployment is some 14.5% -- way above the headline number of 6.3%. Job seekers are only one-third as likely to find work as they were five years ago. Corporate America has billions in cash, but is reluctant to commit to hire and put money into expansion. Real wage growth has stagnated for 30 years. Everyone knows that a good paying job is the most important family program, the most important economic program and the most important national program that America could have. Large and growing numbers of workers are tapping retirement accounts for non-retirement needs. Early withdrawals from defined contribution plans were \$57 billion, resulting in \$5.7 billion in penalties for those who withdrew their money. That number is estimated to grow to some \$75 billion per year, via withdrawals and loans. (With Social Security and Medicare under the gun, these withdrawals could be even more ominous.) In 2014, only

one in four workers had a pension plan! Only 43% of 401(k) participants in their 50s have account balances greater than \$100,000. The median mortgage debt among families ages 55 to 64 is \$97,000, up from just \$34,000 in 1989. Almost half of Americans say they are not confident about having enough money to live comfortably in retirement. A recent study found that 41% of adults between the ages 25 and 29 are now living or have lived recently with their parents. Overall, 50 million Americans are in multigenerational households, a 10% increase since 2007. Older people are going broke: they have lost their jobs, their home values have plummeted and their nest eggs have been diluted by the financial crisis. Every day, 10,000 Baby Boomers turn 65, and that will continue until 2030. Dr. Mackell has a horrible vision of elderly people living under bridges, along highways and byways and railways of America, somewhat akin to what this nation experienced during the Great Depression. The defined benefit plan is a relic in the private sector. In 1981, 80% of workers were covered by DB plans; by 2013, that number had diminished to 16%, and shrinks with each passing year. If DB plans face demise in the public sector in addition to what has happened in the private sector, what will the overall retirement landscape look like? What will be the quality of our first responders and teachers? These positions are not just as jobs, but, more importantly, "callings." These first responders and teachers who go into ghettos and barrios of America to engage young minds are a different breed. A recent report found that 58% of companies surveyed had offered lump sums to former employees or plan to do so, while 38% expect to transfer pension obligations to an outside insurance carrier within, the next five years. The sum and substance of these transfers merely transfer the risk from the company to the retiree. Pension stripping, as it is called, further diminishes pensioners' protection. The environment has become very hostile. Dr. Mackell firmly believes it is criminal to leave workers out there naked with only a defined contribution plan as their sole pension. The author does not consider himself a pessimist, but, an optimist and a realist. Challenges must be addressed. Our political leaders have to be educated, and corporate leaders have to become re-engaged about the reality of an all-inclusive retirement income security policy. What will happen to corporate profitability when people can no longer afford to buy the products and services that companies offer? Perhaps companies could be motivated by the potential of losing their market share. The American people are looking for

authenticity and leadership. Each and everyone must become an agent of change and a strong advocate for the defined benefit system. We owe it to our families, our fellow workers, our neighbors, our community. Failure should not be an option!

### **3. U.S. COMPANIES WITH THE MOST GENEROUS 401(K)s:**

Retirement has been a hot topic for benefits professionals, and remaining competitive is key to keeping the best and brightest talent in the workforce. The following companies, according to Employee Benefit Advisor, provide their employees some of the best 401(k) options around, with a rating algorithm calculating a single numerical value for each 401(k) plan. The data points cover broad categories such as total plan cost, company generosity and investment menu quality:

- Sullivan & Cromwell LLP - Average company contribution: \$48,666
- O'Melveny & Myers LLP - Average company contribution: \$43,553
- Oregon Anesthesiology Group, P.C. - Average company contribution: \$43,136
- Shearman & Sterling LLP - Average company contribution: \$43,114
- Anesthesia Service Medical Group, Inc. - Average company contribution: \$38,338
- Martin Resource Management Corporation - Average company contribution: \$37,447
- Bryan Cave LLP - Average company contribution: \$34,685
- Debevoise & Plimpton LLP - Average company contribution: \$34,324
- Cravath, Swaine & Moore LLP - Average company contribution: \$33,079
- Skadden, Arps, Slate, Meagher & Flom, LLP - Average company contribution: \$32,956

Interestingly, seven of the companies are law firms.

**4. RETIREMENT SURVEY REPORT:** Strategic Benefit Services has released a summary and analysis of its 2014 Retirement Plan Survey. The survey sought to identify significant trends in retirement plan services across an array of industries and organizations. Retirement

plan sponsors have a difficult challenge: balancing the desire to offer a valued and valuable retirement plan to their employees, with the administrative and regulatory requirements and expense of maintaining the plan. The need for retirement savings has never been greater. A report presented in 2014 found that prospective retirees throughout the country were unprepared for retirement, including inadequate retirement savings and an inability to meet significant retirement costs such as housing and health care. Boston College's Center for Retirement Research recently quantified that concern, finding that only 30% of people living in households headed by someone at the earliest retirement age of 62 have sufficient financial resources to retire and maintain their standard of living. The subject Retirement Plan Survey reveals varying levels of understanding and adoption of retirement plan administration best practices:

- Roughly 80% of respondents said they were unsure if their plan advisor was acting in a fiduciary capacity.
- Eighteen percent of respondents were unsure how their advisors were compensated.
- About one quarter of survey participants said they were unsure how often their plan went out to bid, with 21% indicating their plan had never been put out to bid.
- Thirty percent of participants said they did not elect to comply with §404(c) provisions.

Other survey findings offer indications that plan sponsors are aware of the challenges facing them, and have taken steps to address these challenges.

- Seventy-nine percent of respondents said they had an investment committee in place most often made up of a combination of board members and senior staff.
- Nearly 83% said they were comfortable or very comfortable with their understanding of §408(b)(2) fee disclosures.

Overall, survey results consistently underscored the overriding importance of implementing best practices in all areas of retirement plan oversight and administration. This report discusses in detail the survey findings and offers suggestions for plan sponsors to improve plan effectiveness and mitigate fiduciary risk.

**5. AS PENSIONS DISAPPEAR, ANNUITIES SURGE:** In 2012, deferred income annuities were offered by only five or six insurance companies. Total sales were just over \$1 billion. By 2014, fifteen companies were selling individual DIAs, and sales reached \$2.7 billion. One reason for DIAs' current popularity is the growing scarcity of traditional pensions, which have long provided retirees with a steady income stream. Over half of households with retirees 75 or older have pensions, while many fewer in the 46-54 age range expect to receive them. With a DIA, you will know how much you will receive for the rest of your life. But they do have their drawbacks: payouts generally are not adjusted for inflation, and buyers are reliant on an insurer's fiscal strength to ensure payment. DIA purchasers typically are between the ages of 58 to 63, and tend to wait four to nine years to begin their payments. The longer the waiting period, the greater the promised periodic cash flow. Most DIAs are purchased with a premium refund option; that is, beneficiaries will get a payment if the purchaser of the annuity dies before receiving the amount invested. Other, relatively recent innovations are flexible premiums, rather than a single initial lump sum and flexibility as to when payments will start and possibly some provision for accelerating payments. Onwallstreet.com has presented these details.

**6. THE WORST SUPREME COURT JUSTICES IN AMERICAN HISTORY:** Justices of the Supreme Court have shaped a nation where children toiled in coal mines, where Americans could be forced into camps because of their race, and where a woman could be sterilized against her will. The Court was midwife of Jim Crow, the right hand of union busters and the dead hand of the Confederacy. However, according to author Ian Millhiser, the modern Court is not a vast improvement, with its incursions on voting rights and its willingness to place elections for sale. Even amidst this dark history, certain justices stand out as particularly mean spirited, ideological or unconcerned about their duty to follow the text of the Constitution. Based upon a review of over 150 years of Supreme Court history, here are the five jurists who stand out as the worst justices in American history:

- **Justice Clarence Thomas.** Under Thomas's logic, the federal minimum wage, overtime rules, anti-discrimination protections for workers and even the national ban on whites-only lunch counters

are all unconstitutional.

- **Chief Justice Melville Fuller.** He presided over a trio of major decisions, two of which he authored. The first hobbled Congress' ability to tax the wealthy. The second gave a business trust that controlled over 98% of the nation's sugar production constitutional immunity to federal antitrust laws. And the third gave every federal judge in the country sweeping extra-legal powers to bust unions.
- **Justice James Clark McReynolds.** McReynolds would not even open briefs of lawyers until hours before the case was argued, and he frequently spent just a few hours crafting opinions that would govern all other courts in the country. He once labeled President Franklin Roosevelt as "that crippled son-of-a-bitch...in the White House."
- **Chief Justice Roger Taney.** Any list of terrible Supreme Court justices that does not include Chief Justice Roger Taney inherently would be controversial. Taney authored what is widely viewed as the worst single decision in the Supreme Court's history, the pro-slavery decision in *Dred Scott v. Sandford*.
- **Justice Stephen Johnson Field.** Field's vision of the Court as the enemy of business regulation did not gain ascendance until shortly before his death in 1899, and Field would not live to see the early twentieth century decisions striking down minimum wages, protections for unions and federal child labor laws. He did more than any other justice to lay the groundwork for these decisions, however, and many of them followed the same fabricated interpretations of the Constitution that once animated Field's dissents.

**7. HEALTH CARE COSTS WILL EAT UP THE RISING PERCENTAGE OF SOCIAL SECURITY BENEFITS:** The average expected retirement health care costs for Medicare B, D and Supplemental insurance for a healthy couple retiring this year at ages 65 will be \$266,589 in today's dollars, according to plansponsor.com. For a couple retiring in 10 years at 65, expected costs will rise to \$320,996. However, retirement health care costs are even higher when expected dental, vision, hearing, co-pays and all other out-of-

pocket costs are included. With these additional components, total projected retirement health care costs rise to \$394,954 for a couple retiring this year at age 65. For a 55-year-old couple retiring in 10 years, total lifetime health care costs are expected to be \$463,849, an increase in total year-over-year projected lifetime retirement health care costs of approximately 6.5%, not including the cost of long-term care services.

**8. WHICH COMPANIES GET THE MOST FEDERAL SUBSIDIES?:**

*Governing* has a new report that tallies federal grants and tax credits across more than 100 programs. With hundreds of programs spanning multiple agencies, it is difficult to say how much individual companies benefit from federal grants and tax credits. Spanish electric utility company Iberdrola was identified as the largest single recipient of federal grants and tax credits. The company has received nearly \$2.2 billion since 2000, mostly stemming from investments in power generation facilities supported by the Recovery Act. For the most part, it is a relatively small number of larger corporate players that receive big federal dollars. Two-thirds of all grants and allocated tax credits over the time period reviewed were awarded to 582 firms. Twenty-one of the companies netted more than \$500 million in federal grants and subsidies. The following is a list of parent companies receiving more than \$1 billion since 2000:

<u>Parent Company</u>	<u>Grants and Credits</u>
Iberdrola	\$2,172,641,752
NextEra Energy	\$1,938,811,949
NRG Energy	\$1,730,060,410
Southern Company	\$1,475,553,962
Summit Power	\$1,441,936,555
SCS Energy	\$1,254,154,000

Did you notice anything in common among these companies?

**9. MIAMI, ORLANDO, TAMPA, PALM BEACH AMONG TOP CITIES WITH MOST SUPER-RICH RESIDENTS:**

With 13,445 people possessing a net worth of over \$30 million, California has the largest number of Ultra High Net Worth residents, according to southflorida.citybizlist.com. New York (9,530), Texas (6,475), and Florida (4,650) round out the top four states in the highest number of

ultra-rich. However, among cities, New York retained its top status in the country and across the world. It has 8,655 UHNW. San Francisco and Los Angeles were ranked No. 2 and No. 3. An Ultra High Net Worth individual is one worth more than \$30 million. The United States is home to 69,560 UHNW individuals, more than any other country in the world. Last year, the United States' UHNW population grew 6%. Florida's UHNW population grew by 10.3%, as the sunshine state added 435 new UHNW individuals. Of the ultra-rich, there were 2,031 individuals in America worth more than \$500 million each -- together worth \$3.3 trillion. Here are some country rankings for Florida cities:

- Miami, FL (1,085) ranked 11<sup>th</sup>
- Orlando, FL (640) ranked 17<sup>th</sup>
- Tampa, FL (580) ranked 21<sup>st</sup>
- Palm Beach, FL (455) ranked 29<sup>th</sup>

**10. 36TH ANNUAL POLICE OFFICERS' AND FIREFIGHTERS' PENSION TRUSTEES' SCHOOL:** The 36th Annual Police Officers' & Firefighters' Pension Trustees' School will take place on June 2-4, 2015. You may access information and updates about the Conference, including area maps, a copy of the program when completed and links to register at the Residence Inn Tallahassee Universities at the Capitol. Please continue to check the FRS website for updates regarding the program at [www.myflorida.com/frs/mpf](http://www.myflorida.com/frs/mpf). All police officer and firefighter plan participants, board of trustee members, plan sponsors and anyone interested in the administration and operation of the Chapters 175 and 185 pension plans should take advantage of this unique, insightful and informative program.

**11. DILLERISMS:** I asked the waiter, is this milk fresh? He said, lady, three hours ago it was grass. Phyllis Diller

**12. APHORISMS:** The nicest thing about the future is that it always starts tomorrow.

**13. TODAY IN HISTORY:** In 1978, Velcro was 1<sup>st</sup> put on the market.

**14. KEEP THOSE CARDS AND LETTERS COMING:** Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think

would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

**15. PLEASE SHARE OUR NEWSLETTER:** Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

**16. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.**

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