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*Southern District of New York*

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**MANHATTAN U.S. ATTORNEY ANNOUNCES PENSION DISABILITY  
FRAUD CHARGES AGAINST ELEVEN DEFENDANTS ASSOCIATED  
WITH THE LONG ISLAND RAILROAD THAT COULD COST  
\$1 BILLION**

*Doctors, LIRR Retirees, and Facilitators Allegedly Faked and Exaggerated Pre-Planned  
Disabilities to Fraudulently Obtain Benefits from the Railroad Retirement Board*

PREET BHARARA, the United States Attorney for the Southern District of New York, MARTIN J. DICKMAN, Inspector General of the Railroad Retirement Board, Office of the Inspector General ("RRB-OIG"), JANICE K. FEDARCYK, the Assistant Director-in-Charge of the New York Office of the Federal Bureau of Investigation ("FBI"), and BARRY L. KLUGER, Inspector General of the New York State Metropolitan Transportation Authority, Office of the Inspector General ("MTA-OIG"), announced today charges against 11 defendants for participating in a massive fraud scheme from 1998 to the present in which Long Island Railroad ("LIRR") workers claimed to be disabled upon early retirement so that they could receive extra pension benefits to which they were not entitled. Charged today are (i) two doctors and an office manager for one of the doctors who were involved in falsely diagnosing retiring LIRR workers as disabled; (ii) two "facilitators" who served as liaisons between retiring workers and the participating doctors; and (iii) seven LIRR retirees (including one of the charged facilitators) who claimed RRB disability benefits to which they were not entitled. The fraudulent scheme could ultimately cause the RRB to pay in excess of \$1 billion in unwarranted occupational disability benefits if disbursed in full.

Manhattan U.S. Attorney PREET BHARARA said: "Benefit programs like the RRB's disability pension program were designed to be a safety net for the truly disabled, not a feeding trough for the truly dishonest. And in these tough economic times – with stretched budgets,

rising costs, frozen wages, and unemployed people – it is especially disheartening to think that railroad employees would tell a train of lies to pad their early retirements, and that a handful of doctors would traffic on the credibility of their profession to promote a culture of fraud. If the charges are proved, it will be yet another disheartening example of the kind of corruption we have seen all too much of lately.”

RRB-OIG Inspector General MARTIN J. DICKMAN said: “Lying in disability applications is a serious crime that honest taxpayers cannot abide, and that the RRB-OIG will aggressively continue to root out. Through our ongoing investigation, we will continue to hold accountable those who would abuse a system that is meant for legitimately disabled workers who have served on our nation’s railroads. I would like to thank the dedicated agents from my Office for their outstanding work on this investigation, as well as our law enforcement partners at the United States Attorney’s Office and the FBI.”

FBI Assistant Director-in-Charge JANICE K. FEDARCYK said: “The Complaint lays out a pervasive scheme by doctors, facilitators, and retirees to defraud the Rail Road Retirement Board disability pension program. This massive fraud, an additional burden on cash-strapped commuters, could cost more than one billion dollars. Until today, this was a game where every retiree was a winner. But today’s arrests signal the end of the line for the money train.”

MTA-OIG Inspector General BARRY L. KLUGER said: “Public pension fraud takes a toll not only on our pocketbook, but on the credibility of our government, our pension systems and our sense of fair play. We have been working for quite some time on this matter, first, with the Attorney General of the State of New York under now-Governor Andrew Cuomo, and currently with the Manhattan U.S. Attorney, the FBI, and the Railroad Retirement Board Inspector General to take the investigation of railroad disability pension fraud to the next level. I thank US Attorney Bharara, his staff, and our partners for their dedication to combating pension fraud. We are pleased to have played a part in this investigation.”

### *Overview of LIRR & RRB Pension System*

The RRB is an independent U.S. agency that administers benefit programs, including disability benefits, for the nation’s railroad workers and their families. A unique LIRR contract allows employees to retire at the relatively young age of 50, provided they have been employed for at least 20 years. It is the only commuter railroad in the United States that offers a retirement pension at the age of 50. At that time, employees are entitled to receive an LIRR pension, which is a portion of the full retirement payment they are eligible for at 65, when they also receive an RRB pension. Therefore, if an LIRR worker retires at 50, he or she will receive less than their prior salary and substantially lower pension payments than what they would be entitled to at 65.

However, an LIRR employee who retires and claims disability may receive a disability payment from RRB on top of their LIRR pension, regardless of age. A retiree’s LIRR pension, in combination with RRB disability payments, can equal roughly the base salary earned during his or her career.

### *The Premeditated Disability Fraud Scheme*

As alleged in the Complaint, hundreds of LIRR employees have exploited the overlap

between the LIRR pension and the RRB disability program by pre-planning the date on which they would falsely declare themselves disabled so that it would coincide with their projected retirement date. These false statements, made under oath in disability applications, allowed these LIRR employees to retire as early as age 50 with an LIRR pension, supplemented by the fraudulently-obtained RRB disability annuity. Between 2004 and 2008, 61% of LIRR employees who claimed an RRB benefit were between the ages of 50 and 55. Each of these employees received a disability award. In contrast, only 7% of employees at Metro-North who stopped working and received disability benefits during this time period were between the ages of 50 and 55. It is estimated that the fraudulently-obtained RRB payments to LIRR retirees could exceed \$1 billion.

### *The Disability Doctors*

As alleged in the Complaint, three New York-area doctors accounted for 86% of the LIRR disability applications filed prior to 2008: PETER J. AJEMIAN, PETER LESNIEWSKI and a third unnamed doctor (“Disability Doctor-3”), who is recently deceased. AJEMIAN is a Board-certified orthopedist and recommended at least 839 LIRR employees for disability between 1998 through 2008. LESNIEWSKI is also a Board-certified orthopedist and recommended at least 222 LIRR workers for disability benefits between 1998 and 2008.

AJEMIAN, with the assistance of his office manager, MARIA RUSIN, and LESNIEWSKI used their respective medical practices as “disability mills,” preparing fraudulent medical narratives for LIRR retirees well before the employees’ planned retirement dates so that the narratives could be submitted to the RRB upon retirement. These medical narratives were fabricated or grossly exaggerated to recommend a set of restrictions that, if bona fide, would have rendered it impossible for the LIRR employees to continue in their occupations. Many of the purportedly “objective” findings from the tests they conducted showed nothing more than normal degenerative changes one would expect to see in patients within the relevant age bracket.

For example, in a conversation between AJEMIAN and a colleague, (“Medical Worker – 1”) that was consensually recorded, AJEMIAN stated in 2008 that he knew patients came to his office with the “expectation...[that] they’re gonna end up with a narrative suggesting disability,” and that he thought he had recommended disability “one hundred percent” of the time. In a statement written and signed by LESNIEWSKI after an October 2008 interview conducted by law enforcement agents, LESNIEWSKI admitted to preparing false disability narratives.

AJEMIAN and LESNIEWSKI received approximately \$800 to \$1,200, often in cash, for these fraudulent assessments and narratives, as well as millions of dollars in health insurance payments for unnecessary medical treatments and fees for preparing fraudulent medical support for the claimed disabilities. Of approximately 453 LIRR annuitants studied, AJEMIAN received approximately \$2.5 million in related payments from patients and insurance companies. In turn, those patients have already received over \$90 million in RRB disability benefit payments and are slated to receive more than \$210 million in total. From a sampling of 134 LIRR annuitants, LESNIEWSKI received approximately \$750,000 in related payments from patients and insurance companies. In turn, those patients have already received over \$31 million in RRB disability benefit payments and are slated to receive more than \$64 million in total.

### *The Facilitators*

To further increase one's chances of receiving disability from the RRB, LIRR employees utilized the services of "facilitators." Facilitators referred LIRR workers to the disability doctors, filled out the applications on behalf of their LIRR clients, and assisted and coached their clients to fill out their disability applications in such a way as to maximize the likelihood that they would receive disability benefits.

Two facilitators charged today are MARIE BARAN and JOSEPH RUTIGLIANO. Before working as a facilitator, BARAN served as an RRB district office manager in Westbury, New York, until her retirement in December 2006. BARAN's husband, an LIRR retiree, receives RRB disability benefits based on a medical assessment done by LESNIEWSKI.

In a September 2008 interview with BARAN that was conducted by a law enforcement agent, she said, "you are never going to figure it [this scheme] out honey." She also said it was not her fault the disability system was "broken," and she would simply tell her patients to, "go ahead, give it a shot at the O/D [occupational disability]."

RUTIGLIANO is a former LIRR conductor and union president who applied for and received an RRB occupational disability after his retirement in 1999. In the year prior to retiring, he worked well over 500 hours overtime, took no sick leave whatsoever, and then applied for a disability with a narrative prepared by LESNIEWSKI. The narrative stated that RUTIGLIANO fractured his spine in 1988 and that his back pain was getting worse over the years, but LESNIEWSKI offered no explanation for why this 10-year-old injury did not interfere with RUTIGLIANO's overtime collection or failure to require any sick days. Moreover, golf course records and law enforcement surveillance performed in July 2008 indicate that RUTIGLIANO played golf at one particular course about two times per month in 2008.

#### *The LIRR Retirees*

Hundreds of the disability doctors' patients, including JOSEPH RUTIGLIANO, GREGORY NOONE, REGINA WALSH, SHARON FALLOON, GARY SATIN, STEVEN GAGLIANO and RICHARD EHRLINGER, lied to the RRB about their ability to work in order to get disability payments.

NOONE annually receives at least \$105,000 in combined pension and disability payments, based on a disability he planned months in advance of its claimed onset. In his disability application, NOONE claimed that he suffered severe pain when gripping and using simple hand tools and pain in his knees, shoulder, and back from bending or crouching. In AJEMIAN's medical assessment, he claimed that NOONE's condition warranted restrictions on bending, stooping, and reaching overhead. Nevertheless, NOONE regularly plays tennis several times per week, and in a nine-month period in 2008, NOONE signed in to play golf at a particular course on 140 days.

WALSH, who worked as director of employee services at the LIRR, annually receives at least \$108,000 in combined pension and disability payments, based on a disability she planned months in advance of its claimed onset. In her disability application, WALSH claimed that sitting at a desk and using a computer caused her considerable neck, shoulder, and hand pain, and that she experienced leg pains when standing more than five minutes or when sitting more

than 15 minutes. Nevertheless, WALSH has been surveilled shoveling heavy snow for over an hour and walking with a baby stroller for approximately 40 minutes.

FALLOON, an LIRR human resources manager, annually receives at least \$90,349 in combined pension and disability payments, based on her claims that activities such as walking and standing cause her “disabling pain” and stairs are “very difficult” for her. Nevertheless, in January 2011, FALLOON was surveilled vigorously exercising at a gym, including approximately 45 minutes in a step aerobics class. Law enforcement recorded her continuously exercising at the gym for more than two hours, at which point the video concluded because the tape ran out, although FALLOON continued her workout.

SATIN annually receives at least \$69,559 in combined pension and disability payments, based on a disability he planned at least one year before its claimed onset. In his disability application, SATIN claimed that his condition rendered indoor and outdoor chores “difficult,” and AJEMIAN claimed that SATIN “cannot continue working.” Nevertheless, SATIN admitted to law enforcement agents that he was still capable of performing his railroad work. In addition, SATIN has performed landscaping, contracting, and electrical work for pay since retiring from the LIRR due to a purported disability.

EHRLINGER annually receives at least \$56,959 in combined pension and disability benefits, based on a disability he planned at least one year before its claimed onset. In his disability application, EHRLINGER claimed that his condition included knee pain that caused him problems walking and getting on and off trains. Nevertheless, EHRLINGER runs a party rental business and has been surveilled personally loading and unloading stacks of chairs and tables.

GAGLIANO annually receives at least \$76,810 in combined pension and disability payments, for a purported disability that he claimed rendered him unable to “do any of the physical labor required in his job as a signalman” because of “severe and disabling pain in back, shoulder & legs,” and that LESNIEWSKI claimed rendered GAGLIANO occupationally disabled. Nevertheless, in 2009, GAGLIANO participated in a 400-mile bike tour in northern New York.

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AJEMIAN, RUSIN, BARAN, RUTIGLIANO, NOONE, WALSH, FALLOON, GAGLIANO and EHRLINGER were taken into custody this morning and are expected to be presented in Manhattan federal court later this afternoon. SATIN was taken into custody in North Carolina and will be presented in federal court in Charlotte later today. LESNIEWSKI is expected to voluntarily surrender to authorities in the Southern District of New York tomorrow. All 11 defendants are charged with conspiracy to commit health care fraud and mail fraud, which carries a maximum sentence of 20 years in prison. Attached is a chart reflecting the age and place of residence for each of the charged defendants.

Manhattan U.S. Attorney BHARARA praised the RRB-OIG, the FBI, and the MTA-OIG for their outstanding work in the investigation, which he noted is ongoing. He also acknowledged the previous investigation conducted by the New York State Attorney General’s Office into these pension fraud issues.

The Office's Complex Frauds Unit is handling the case. Assistant U.S. Attorneys JUSTIN S. WEDDLE, E. DANYA PERRY and WILLIAM J. HARRINGTON are in charge of the prosecution.

The charge contained in the Complaint is merely an accusation and the defendants are presumed innocent unless and until proven guilty.

11-326

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U.S. v. Ajemian, et al.

<b>DEFENDANT</b>	<b>AGE</b>	<b>RESIDENCE</b>
PETER AJEMIAN	62	Syosset, NY
PETER LESNIEWSKI	60	Rockville Centre, NY
MARIA RUSIN	55	Farmingdale, NY
MARIE BARAN	64	East Meadow, NY
JOSEPH RUTIGLIANO	64	Holtsville, NY
GREGROY NOONE	62	East Islip, NY
REGINA WALSH	63	New Hyde Park, NY
SHARON FALLOON	56	Merrick, NY
GARY SATIN	62	Moorseville, NC
STEVEN GAGLIANO	55	North Babylon, NY
RICHARD EHRLINGER	64	Bay Shore, NY