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New York Truck Companies Investigated for Fraud

By WILLIAM K. RASHBAUM

Federal and local authorities are investigating whether what they say is a network of trucking companies — some of which worked on [1 World Trade Center](#) and the Second Avenue subway — has defrauded union benefit funds, according to court papers and people briefed on the inquiry.

Two of the companies employ union drivers and work on public projects like the subway and trade center and are required by federal law to make specified contributions into the union's pension, health and welfare and other benefit funds for each hour worked by their drivers.

The investigation, according to lawyers for some of the companies and people briefed on the matter, is examining whether the unionized companies, aided by five other trucking businesses that court papers filed by the union and city regulators say are linked to the unionized companies, failed to pay more than \$430,000 into the benefit funds.

Prosecutors from the office of [Loretta E. Lynch](#), the United States attorney for the Eastern District of New York, have issued grand jury subpoenas for records relating to the two unionized companies, Happy Time Trucking and Greenwood 2, as well as the others, the Rainbow Transport Corporation, Nicholas J, Marky O G, the T.E.V. Corporation and the CV Corporation, several of the lawyers said.

One of the lawyers said the prosecutors were seeking payrolls and tax returns as well as information on employees and corporate filings. Ms. Lynch's office is investigating the case with federal and state law enforcement agencies and the Business Integrity Commission, the city agency that regulates companies that haul construction debris.

In addition to the companies, the investigation is focusing on their current and former principals, several of whom have little or no experience in the trucking industry, according to the people briefed on the matter, who spoke on the condition of anonymity because the inquiry is developing. The principals include John P. Farnsworth, a man who was fired from his job as a police officer in a small New Jersey town in the 1980s; Eugene L. Kasakove, a financier and generous donor to Democratic political causes; and Toni Thompson, who owns Greenwood 2. Ms. Thompson's brother, Mark W. O'Grady Jr., operates Marky O G.

Some of the questions at the heart of the inquiry were laid out in a lawsuit filed last fall by the union, Local 282 of the [International Brotherhood of Teamsters](#). The lawsuit says that the trucking businesses and some of their principals "knowingly used their control over the companies in an ongoing scheme to defraud the funds of contributions."

While allegations of so-called benefit fund fraud are common, the investigation is notable because the companies under scrutiny, according to records maintained by the integrity commission, have a total of more than 130 trucks. Court papers, filed in separate lawsuits by the commission and the union that says it was defrauded, contend that the companies effectively operate as a single business, which would make them the largest hauler in New York City that just transports construction debris — more than three times the size of their closest competitor.

Lawyers representing the companies and their owners contended in interviews that their clients were cooperating with the investigation, that they had engaged in no wrongdoing and that the companies operated as separate, independent businesses. They said that the subpoenaed records would eventually bear out those contentions.

James Kousouros, a criminal defense lawyer representing Mr. Farnsworth, said that the investigation would clear his client.

“We’ve been served with several subpoenas, and we intend to fully cooperate and comply with all of them and provide all of the information that has been requested,” he said. “And we submit that when all of the records are reviewed carefully, it will be clear that all of the unionized employees were properly compensated and that the company acted within the bounds of the law in all respects.”

Mr. Kasakove, who at one time owned Rainbow, scoffed at the accusations.

“It’s absurd,” he said on Friday. He declined to elaborate.

The funds, which hold hundreds of millions of dollars, are organized under federal labor law and provide more than 3,000 union drivers with their pensions, annuities and health benefits, as well as pay for job training, vacations and sick leave. They are financed by employer contributions required by collective bargaining agreements that companies sign with the union.

The inquiry began with a routine licensing review by the Business Integrity Commission in March 2009, according to court papers. It has grown to include a half-dozen federal, state and local law enforcement agencies, including the [F.B.I.](#) and the inspectors general of the [Metropolitan Transportation Authority](#), the [Port Authority of New York and New Jersey](#) and the federal Departments of Labor and Transportation, several of the people briefed on the matter said.

The routine review was prompted by Greenwood 2’s application for a city permit to haul construction debris, but commission investigators came across allegations that the company and some of the others were engaging in unfair trade practices, according to court papers filed in connection with the licensing matter.

Ronald L. Tobia, a lawyer who represents Happy Time and T.E.V. and its principal, Thomas E. Vaughn, in the lawsuit brought by Local 282, said his clients were cooperating with the criminal

investigation and had provided a range of material to the prosecutors.

“We say that’s not so,” Mr. Tobia said of the allegations that the companies were effectively a single business. “We’re separate companies,” he said, adding: “They all do know each other, these people, and they work together on certain jobs, but as far as one having the connection to the other, we would say that they’re separate.”

Mr. Tobia said that he believed his clients made the required contributions to the benefit funds, and if they did not, it was because they made a mistake, not as part of “a purposeful scheme.”

Several of the trucking companies and a few related businesses — two fuel companies, a financing company and a truck wash that are also under scrutiny — are linked by family ties and shared principals, according to court papers and business records.

The union lawsuit says that the companies’ business and financial operations “are completely interrelated.” They share, according to court papers filed in that case, common management, equipment and facilities, along with the same supervisors and pool of employees, as well as customers and suppliers.

Craig R. Benson, a lawyer at Littler Mendelson who represents Greenwood, Rainbow, Nicholas J and Marky O G in the union lawsuit, said the companies had a strong defense.

“Nobody is trying to hide anything,” he said, adding that Greenwood “pays union scale” and did so on the Second Avenue subway and World Trade Center jobs.

He added: “I am comfortable that Greenwood abided by its contractual obligations.”

Lawrence B. Goldberg, who represents Ms. Thompson and Greenwood in connection with their license application before the integrity commission, has sued the agency on their behalf in an effort to force it to issue a decision. A ruling by the commission has been pending since March 2009, which he said was more than twice the usual waiting period.

His clients, he said, have broken no laws, and he suggested that the agency simply did not like the way the company does business.

“It seems to me that BIC has a problem with my client’s business model,” he said, “not with that what they’ve done or their operations or backgrounds — only with their business model.”

He said that Greenwood deserved an answer about the license.

“I think it’s absurd,” he said. “They’re entitled to know so that they can conduct business and make business plans. The city doesn’t have a right to starve a business based on the fact that they can’t make up their minds.”

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