



MYTH & REALITY

A commentary focused on navigating the “Smoke and Mirrors”
of the New York State Teamsters Pension Crisis

TAPP

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Based on a recent report by Benchmark Financial Services, TRIFECTA OF IMPRUDENCE: Forensic investigation of “Critical and Declining” New York State Teamsters Pension Fund, it was determined that The New York Teamsters Pension Fund (“NYSTPF”) has high allocations of its assets invested in Alternative Investments.

What is an 'Alternative Investment'?

An alternative investment is an asset that is not one of the conventional investment types, such as stocks, bonds and cash. Most alternative investment assets are held by institutional investors or accredited, high-net-worth individuals because of the complex natures and limited regulations of the investments. Alternative investments include private equity, hedge funds, managed futures, real estate, [infrastructure, natural resources], commodities and derivatives contracts. -
INVESTOPEDIA

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Myth: Invested capital of nearly 45% of total pension fund assets to Alternative Investments with an additional 229 million in continued commitments to Alternative Assets is common for pension plans the size of the New York State Teamsters Pension Fund.

Reality: The combined allocation to Alternative Investments is extraordinarily high for a small \$1.2 billion fund, and not common amongst the Fund’s group of peers. This higher than usual allocation to private market partnerships (170 or more funds) is very costly to monitor and manage.

IMPORTANT: The forensic report did not say that Alternative Investments were inappropriate for pension funds. The report stated that the high allocation to this stand-alone group of investments were, and that diversification is prudent. Many professionals consider Alternative Investments its own unique asset class. Their argument is that these high-fee, illiquid, and volatile assets behave and perform very different than other traditional classes such as stocks and bonds.

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Myth: The high allocation to Alternative Investments have allowed the fund to outperform domestic and global equity markets.

Reality: The Fund’s alternative investments have not exceeded the rates of returns generated by traditional equity markets in recent years.

Some of the Fund’s Alternative Investments (such as private equity) have outperformed their benchmarks in their respective asset classes. The Benchmark report didn’t dispute this. However, the illiquid nature of these assets has prevented the Fund from enjoying global equity returns of nearly 14% since 2009. The report states an underperformance of approximately **\$400 million** in the last seven years, if the RUSSELL 3000 is the benchmark for comparison.

NOTE: The RUSSELL 3000 is comprised of 98% of U.S. companies and it measures the performance of the 3,000 largest publicly held companies incorporated in America. It represents approximately 98% of the American public equity market. -

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Myth: The Fund’s 8.5% assumed rate of investment return is typical for pension funds and has been realistically achievable through a high allocation of Alternative Investments.

Reality: World renowned investor(s) such as Warren Buffet have set benchmark expectations near 6.5% (down from 6.75% in 2014 and 2013). Of 1,300 multiemployer pension funds studied in 2016, assumed rates of returns are between 6-8%, with an average just below 7.5%. The Fund’s unreasonable 8.5% rate of return is significantly higher than average pension funds.

- The Fund has stated that it has achieved an 8.5% on average return in the past 25 years.

NOTE: Referencing data from 25 years ago, is irrelevant and out of context, as market performance and the world have changed dramatically since 2001.

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Myth: The New York State Teamsters Pension Fund has consistently achieved an 8.5% assumed rate of return in the last, 3, 5, 10, and 15 years.

Reality: Pension fund documents, and reports from State Street Bank (the Fund’s custodian) show investment return data in commonly reported time frames.

NY STATE TEAMSTERS PENSION FUND INVESTMENT PERFORMANCE				
	3 YEAR	5 YEAR	10 YEAR	15 YEAR
INVESTMENT RETURN	5.64%	6.36%	6.22%	6.39%

IMPORTANT: Often the Fund reports seven-year data from March of 2009 when markets began their “bear market” rebound. The Fund gained 23.57% in 2009. Thus, The Fund reports an investment gain of 10.8% from March 2009-December 2016.

Note: Despite this gain, world and domestic equities still outperformed over 13% in this same period.

Reporting investment returns beginning in March of 2009 without including 2008 which saw a 29.59% loss is deceiving and skews overall reality. Using a ten-year “smoothing period” most accurately includes the huge market swings in 2008 and 2009.

A COMPARISON: The public, New York State Common Retirement Fund has an assumed rate of return of 7.0%. This public fund has achieved a 5-year return of 10.17% and a ten-year return of 7.12%. *NOTE: The New York State Common Retirement Fund is the third largest public pension fund in the U.S., with \$178.6 billion in assets under management.*

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Myth: The Pension Fund’s overall performance is entirely “market driven” and any underperformance is completely unavoidable.

Reality: The Fund pays high fees to managers and consultants to invest the Plan’s money wisely and with prudence. Sub-par investment performance of the Plan’s portfolio is a product of decisions made by the Fund’s trustees and investment professionals, and not solely “market driven.”

- Meketa is the Plan’s overall investment consultant.
 1. They are the investment manager on Alternative Investments.
 2. They make recommendations to the Trustees on what to sell or keep.
 3. Meketa has full investment discretion on Private Equity Placements.
 4. Meketa has non-discretionary investment control on public bonds and equity; here they just advise the Plan on what should be done.
- Fund sources indicate that the Trustees started its private Alternative Investment program in 2005. Meketa became the Fund’s overall investment consultant at about the same time.
- Fiduciary Counselors Inc. were hired by the board to oversee Meketa’s investments & buying of Alternative Investments. They help monitor Market Investments.

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Myth: Participants were clearly told that the Rehabilitation Plan (or Funding Improvement Plan) enacted on January 1, 2011 was to merely improve funding and slow the progress towards insolvency, not to stop the Fund from going insolvent.

Reality: Participants were told in 2010 that government mandated funding improvement plans were designed to improve funding to 84% within a 10-year period (rehabilitation period). These messages were conveyed in newsletters and slide presentations which union officers presented to its members. Participants were told that “this plan is all that will be required to help the Fund emerge from critical status.”

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Myth: “The Pension Fund’s administrative expenses aren’t in any way excessive.”

Reality: The Fund’s overall expenses when compared to its peer groups in the United States, are very high. The PBGC premium increases took effect in 2015 and are the reason for expenses rising over \$500,000. However, plan expenses were well above average before 2015. -See charts below

- The Department of Labor (“DOL”) and other research groups measure a plan’s cost to operate as a percentage of expenses verses assets in the plan year being studied.

VALUE OF PLAN ASSETS

PLAN YEAR	2009	2010	2011	2012	2013	2014	2015
YEAR BEGIN (BILLION)	1.456	1.641	1.653	1.488	1.525	1.485	1.561
YEAR END (BILLION)	1.641	1.653	1.488	1.525	1.485	1.561	1.381
AVG ASSET BALANCE	1.548	1.647	1.571	1.507	1.505	1.523	1.471

PENSION PLAN EXPENSES

FUND EXPENSES/PLAN ASSETS = % TOTAL EXPENSE COST FOR PLAN

EXPENSES	2009	2010	2011	2012	2013	2014	2015
PROF FEES	\$2,475,446.00	\$3,217,128.00	\$2,245,207.00	\$2,380,273.00	\$1,923,837.00	\$2,773,503.00	\$4,771,928.00
INVESTMENT FEES	\$13,663,523.00	\$13,624,725.00	\$14,100,488.00	\$12,875,827.00	\$16,458,587.00	\$10,640,502.00	\$10,912,843.00
OTHER	\$2,633,865.00	\$2,814,509.00	\$2,647,214.00	\$2,669,692.00	\$2,832,159.00	\$2,989,214.00	\$3,370,737.00
TOTAL EXPENSES	\$18,772,834.00	\$19,656,362.00	\$18,992,909.00	\$17,925,792.00	\$21,214,583.00	\$16,403,219.00	\$19,055,508.00
	1.21%	1.19%	1.21%	1.19%	1.38%	1.08%	1.30%

- The median plan expenses for multiemployer plans in the United States is near .66% of a plan's assets.
- New York State Teamsters Pension Fund's cost to operate since 2009 is the highest among the top 10 largest U.S. multiemployer plans, and significantly higher than most plans overall.

OPERATING COSTS: A 2013 comparison of top highest asset multiemployer plans in the U.S.

TOP 10 MULTIEMPLOYER PENSION FUNDS	ASSETS IN 2013	EXPENSES	% OF ASSETS
WESTERN CONFERENCE PENSION FUND	40.0 BILLION	276 MILLION	0.69%
CENTRAL STATES PENSION FUND	21.2 BILLION	83.4 MILLION	0.39%
NEW ENGLAND PENSION FUND	4.5 BILION	24.5MILLION	0.54%
CENTRAL PA 1987 PENSION FUND	1.42 BILLION	7.24 MILLION	0.51%
AUTO INDUSTRIES PENSION FUND	1.34 BILLION	8.31 MILLION	0.62%
NEW YORK STATE TEAMSTERS FUND	1.54 BILLION	21.2 MILLION	1.38%
CENTRAL PA DEFINED BENEFIT FUND	993 MILLION	6.32 MILLION	0.64%
CWA/ITU PENSION FUND	877 MILLION	4.83MILLION	0.55%
WESTERN PA PENSION FUND	796 MILION	5.84 MILLION	0.73%
GRAPHIC ARTS INDUSTRY PENSION FUND	748 MILLION	4.27 MILLION	0.57%

Data provided by FindTheCompany and GRAPHIQ

VISIT: <http://401k-plans.findthecompany.com/> and go to **SEARCH** to compare all U.S. 401K and pension plans.

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Myth: The reason for the Fund’s consideration of MPRA benefit reductions, was because “unfortunately, circumstances had changed” and an arbitrator ruled in late 2015 that future Rehabilitation Plan annual contribution rates were unsustainable (over 6%) and didn’t conform to industry activity.

Reality: It is true that the arbitrator’s ruling would affect future contribution levels and put more pressure on funding for the Plan. However, scaling back future contributions from an average of 6%-8.25% to 3% in annual increases would only result in an approximate 4 to 5 million-dollar reduction per year going forward. This would seem hardly enough to make or break the immediate solvency of the Fund.

The Real Reason(s):

- In recent pension Fund newsletters (2013, 2014) the Fund reported: “whether there will be sufficient money to pay pension benefits that have been earned and promised: The simple answer remains: Yes!” The abrupt change when participants received their MPRA benefit reduction letters in February 2016, only 14 months after the Fund’s reassurances, took many families by surprise.
- In a recent rebuttal statement to the forensic investigation, the Fund states that “in recent years there has been an increase in legal and actuarial fees to prepare the Multiemployer Pension Reform Act (MPRA) application....”

This would seem to suggest, that the Fund has been preparing and paying for the “MPRA tool” for years prior to the arbitration case in late 2015 and in 2016 when the “cuts letters” arrived.

- Pension Fund Newsletters have stated on at least two occasions that its 8.5% investment assumption was high, and yet would still not be enough to meet benefit obligations. The chart below shows approximate “break-even” investment return needed each year for the fund not to incur a “backward step.”

PLAN YEAR	2009	2010	2011	2012	2013	2014	2015
ASSETS YEAR END (BILLION)	1.641B	1.653B	1.489B	1.525B	1.485B	1.561B	1.381M
CONTRIBUTIONS (MILLION)	91M	86M	107M	127M	117M	269M	118M
BENEFITS & EXPENSES (MILLION)	273M	286M	299M	297M	300M	296M	299M
SHORTFALL (MILLION)	182M	200M	192M	170M	183M	27M	181M
INVESTMENT RETURN NEEDED	11.10%	12.09%	12.89%	11.14%	12.32%	1.73%	13.11%

- Over 25% of the Fund’s assets were invested in foreign equities in 2015. World markets plunged as China’s economy missed growth forecasts. The Fund lost .72% on its overall investments in 2015, no help to high allocations of foreign equities, and The Fund saw a decline in its asset base of nearly \$200 million.
- Even with the help of large one-time employer withdrawal liability payments in 2014, the Fund still needed 13.11% investment return in 2015 to “break-even.”
- The Fund has seen sub-par investment performance for the last ten-years, in addition to not meeting “break-even” investment returns in 2015, and other years.
- The Fund was discussing MPRA as a possible “tool” to use, in its newsletters for years before 2014. In December 2011, when the Fund saw only a 1.67% investment return, an assumption was made that the Rehabilitation Plan wouldn’t likely work as originally projected. By late 2012 it was predictable that Plan insolvency would occur within 11-15 years

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Myth: “The Fund stated that, a recent Department of Labor (DOL) audit of the NYSTPF found only one issue, with respect an expenditure of less than \$200.00.” - See October 2016 newsletter which was posted on nysteamsterfundretireerep.com

Reality: The audit found four ERISA Title I violations which were subject to civil action. The DOL chose not to pursue any enforcement actions,” but would not refrain any other individual or government agency from taking any further action it may deem appropriate with respect to the violations.”

The issue of the Florida trips: The DOL opinioned that out of jurisdiction pension meetings were inappropriate for a Fund in critical status. The expenditures included travel, lodging, food and beverages. The DOL curtailed these trips to once a year instead of twice. The Fund stated that they’ve been having these meetings in Florida for decades because of the snow in Syracuse.

Participants have been asking why the trips are continuing now since the Fund’s condition has worsened to Critical/Declining status. Questions are also being raised: Why has it taken the DOL decades to discover this problem?

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Myth: The U.S. Department of Labor (“DOL”) and Benchmark Financial Services, Inc. have both performed full-scope and complete forensic audits of the New York State Teamsters Pension Fund (“NYSTPF”),

Reality: Former SEC attorney and investigator, Edward Siedle has reviewed over ten years of documents which were legally required to be filed with the U.S. Department of Labor (DOL) each year by the Fund. These documents include detailed financial, actuarial, and investment data. These documents are the same research tools that the DOL itself uses to investigate U.S. retirement plans. It was understood that Benchmark’s investigation would be limited in scope due to cost and non-transparency with certain pension fund documents.

The 2014-2015 DOL audit chose random data points to investigate and was also limited in scope.

NOTE: Nearly two thousand active and retired participants in New York have signed a petition to continue the preliminary forensic investigation, and commence a full forensic audit of the Fund through the Government Accountability Office (“GAO”).

Conclusion:

The Fund is being encouraged to show more transparency with its participants. When participants in 2016 asked to see a Meketa Asset Allocation slide presented by the Fund, they were denied. What exactly was the secret? Participants have written the Fund with simple questions with yes/no answers. They also were denied. After three failed rehabilitation plans since 2011, participants are entitled to answers.

In responding to criticism of failed rehabilitation plans by its members, the Fund wrote in a 2013 newsletter to its participants:” While the NYS Fund faces these challenges, there are some who see it as an opportunity to criticize the Fund or, for their own purposes, try to scare participants. This is unfortunate and misguided.”

The Fund has been, and continues to be critical of those who ask tough questions.

The Fund’s participants will want to ask:

- Why government mandated rehabilitation plans fall short of doing what they were intended to do.
- Why the banking industry continues to profit and enrich themselves through high fee, high commission investments, while participant’s retirement savings are being eviscerated.
- Why there is a sense of complacency and lack of proper government oversight of multiemployer pension plans.

Participants are asking the Fund to post on its website, all Form 5500s, financial statements, and actuary statements for the last 10 years as other U.S. pension plans have.