

## ***Kickback & Bribery***

**K**ICKBACK: *“The seller's return of part of the purchase price of an item to a buyer or buyer's representative for the purpose of inducing a purchase or improperly influencing future purchases.”*

**B**RIBERY: *“The expectation of a particular voluntary action in return is what makes the difference between a bribe and a private demonstration of goodwill. To offer or provide payment in order to persuade someone with a responsibility to betray that responsibility is known as seeking Undue Influence over that person's actions. When someone with power seeks payment in exchange for certain actions, that person is said to be peddling influence. Regardless of who initiates the deal, either party to an act of bribery can be found guilty of the crime independently of the other.”*

On 5/10/2011 the United Mutual Treasurer stated:

***“There have been many questions from residents, and the board would like to respond to those questions about our legal cost of our local investigation.”***

***“The total cost of our legal fees in our independent investigation of Third's charges were \$226,000 and PCM/Associa has agreed, as a good faith gesture, to help offset these costs.”***

As a senior living facility, most of us have watched our country sink farther and farther into the depths of immorality as is evidenced by our almost daily newspaper headlines concerning, ENRON, Madoff, and earlier this year, Federal prosecutors have identified 75 to 100 co-conspirators, including judges, attorneys and former police officers, at various levels of a massive fraud scheme involving Las Vegas Valley home-owners associations, the Las Vegas Review-Journal has written.

HOA residents blindly and in good faith have trusted the Management of these HOA's assuming that they have our best interest at heart. Las Vegas has learned otherwise.

One thing that is evident from all that is happening here and in many other areas; Companies are willing to take the gamble that they won't be caught in illegal or unethical governance of an HOA. This can only happen if the potential monetary gain is worth the gamble. Apparently the Las Vegas HOA's function differently than we do since PCM has constantly stated that the only money they get from LWV is via the yearly Management Fee from which they pay our Managing Agent. A few years ago that amounted to about \$250,000 a year but has subsequently gone up to approximately \$650,000 a year.

Yes, it is true! It is hard to believe that someone would risk prosecution of fraud for such a paltry sum. Of course the risk might be justified if there were other sources of income than what is openly acknowledged by our Managing Agent and that the HOA members are not aware of.

Then too, PCM probably does see additional income via their Real Estate companies. However, to ensure that there is no conflict of interest, these Real Estate companies obviously do not get any “special” treatment through our Managing Agent. To ensure that, wouldn't this be an area for our Boards to exert their Fiduciary Responsibility and oversight with an in depth audit.

Where have we failed? Our governance (both LWV and U.S., state and federal) is based on the assumption that those who govern do so within the boundaries of morality. No employee or director would perform an action that is knowingly unethical or illegal and rules are not to determine right from wrong, but to help determine legal from illegal.

Accepting money from someone who might expect a favor in return is prevalent with politicians and apparently also many HOA management companies.