PUBLIC OVERSIGHT ROUNDTABLE

ON

"UPDATES FROM THE DISTRICT OF COLUMBIA OFFICE OF PERSONNEL CONCERNING ACTIONS TAKEN BY ING US FINANCIAL SERVICES TO PROTECT AFFECTED DEFERRED COMPENSATION PLAN PARTICIPANTS"

Before the
Committee on Government Operations
Council of the District of Columbia

The Honorable Vincent B. Orange, Chairman

June 29, 2006, 11:00 a.m.
John A. Wilson Building
Council Chambers

Testimony of
Lasana K. Mack
Deputy Chief Financial Officer and Treasurer
Office of Finance and Treasury

Natwar M. Gandhi
Chief Financial Officer
Government of the District of Columbia

Good morning, Chairman Orange, members of the Committee on Government Operations. My name is Lasana Mack, and I am the District's Treasurer and Deputy Chief Financial Officer for the Office of Finance and Treasury. I am here to present testimony on behalf of the Office of the Chief Financial Officer regarding issues related to the theft of the ING laptop computer containing information on participants in the District's 457 Deferred Compensation Plan ("DCPLUS") and the District's 401(a) Defined Contribution Pension Plan.

In 2001, the Office of the Chief Financial Officer (OCFO) entered into a competitively procured contract with ING Financial Services to provide investment management, trustee, custodial, record-keeping, and informational/educational services to 457 plan participants. ING formerly held a contract to provide similar services for the District's 401(a) Plan. That contract was awarded in 1999 and expired in October 2005, and another firm, CitiStreet, was selected via a competitive procurement process to provide such services for the 401(a) plan.

The OCFO, specifically the Office of Finance and Treasury, has a fiduciary responsibility in administering the plans, and fulfills that responsibility by conducting monthly, quarterly, semi-annual and annual reviews of the funds and investments of the plan, which includes conducting meetings and reviewing and providing questions and comments on reports from ING on the funds and investment performance of the plans, and facilitating an annual audit of the plans by independent auditors. ING has the fiduciary duty to manage and safeguard participants' accounts, funds and investments in a

manner that is consistent with applicable laws, regulations, guidelines, industry standards, and participants' investment choices.

Based on the most recent information that we have obtained from ING, the number of District employees or former employees whose information was on the stolen laptop computer is 14,131, consisting of approximately 10,000 current employees and approximately 4,000 former employees. This includes 12,967 participants in the 457 Plan (Deferred Compensation; DCPlus), and 1,164 participants in the 401(a) Plan (Defined Contribution).

Upon learning on the afternoon of Friday, June 16 of the theft of an ING laptop computer containing sensitive participant information, OCFO took the following actions: discussed with ING officials what could be done to protect affected participants; coordinated with ING officials to have a detailed letter mailed to each affected participant as soon as possible (which was mailed on Monday, June 19), informing them of the incident and offering credit monitoring and fraud protection services, free of charge; and conferred with ING officials and the Mayor's office regarding providing public notice of the incident, which resulted in ING issuing a press release on June 17 on this matter. Soon thereafter, we followed up with meetings with ING representatives, in which we presented them with detailed questions, seeking to ascertain all of the facts surrounding the incident. On Friday, June 23, the OCFO sent an email message to all District employees, advising them that affected plan participants should have received a letter from ING regarding this incident and the steps that they should take to address it, attaching an electronic copy of the mailed ING letter, providing the toll free phone number for further information, and advising all employees, including those not

directly affected by this incident, of the value of being knowledgeable about credit and identity protection in this day and age.

Subsequently, we have been working with ING officials, in coordination with the District's Office of Personnel and the Office of the City Administrator, to expeditiously develop a comprehensive outreach and educational program for all affected plan participants. The primary goal of this comprehensive, coordinated effort is to inform and educate all affected participants, or as many as possible, about the incident and its associated ramifications; to advise them of the free credit monitoring and fraud protection services that are being offered and encourage and assist those who have not already done so to enroll in such services; and to address any additional questions or issues that they might have. District and ING officials have agreed that an aggressive outreach program will begin the week of July 10.

Based on the District's contract with ING, which is with the District's OCFO, ING has a contractual obligation and fiduciary responsibility to maintain the confidentiality of participant data and information. Attorneys from the District's Office of the Attorney General and Office of the General Counsel to the Chief Financial Officer are working in conjunction with the CFO's Contracts office to determine whether this incident constitutes a violation of any contract provisions, and if so, what the ramifications of that breach should be.

ING officials, who are here today and can speak for themselves, have been very cooperative with us, have accepted responsibility for this security breach and have indicated a willingness to take significant actions to minimize the

potential harm that could be caused to District plan participants as a result of it. In that regard, ING initially offered to provide one-year of credit monitoring and fraud protection services to affected plan participants at no charge to the participants. In light of indications from District officials that we did not think that one year of protection was sufficient; ING has expressed a willingness to provide coverage beyond one year, and to cover any losses or expenses suffered by affected participants that are not covered by the Equifax credit protection services that are being offered. District officials are currently evaluating and weighing all of the facts, potential consequences, and desired outcomes, and will present to ING in the near future our position on the comprehensive courses of action that we desire to occur to address this matter as thoroughly as possible, given all of the relevant facts and circumstances.

Mr. Chairman, this concludes my testimony. I am available to address any questions that you might have.