

# Head of investment firm indicted over BWC losses

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*Plain Dealer Reporters*



Lay

"When that trust is violated, offenders must be held accountable."

Lay, 43, was charged with three counts of fraud and a count of aiding and abetting. A court date has not been scheduled.

The head of a politically connected company that lost \$216 million in a risky investment for the Ohio Bureau of Workers' Compensation was indicted in U.S. District Court Thursday, accused of misleading state officials.

Mark Lay was not honest with BWC officials about how he was investing the bureau's money, U.S. Attorney Greg White said.

"Those entrusted to manage public funds owe the public a duty of good faith, loyalty and fair dealing," White said.

Lay was chairman and co-chief executive of Pittsburgh-based MDL Capital Partners. Between 1998 and 2003, Lay's company got \$355 million from the BWC's \$19 billion portfolio to invest in relatively safe fixed-income securities.

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Tom Noe, a Republican fundraiser and coin dealer, was sentenced to 18 years in prison for stealing millions of dollars from a \$50 million investment in rare coins that Gasper approved. Then-Gov. Bob Taft was convicted of misdemeanor ethics charges for failure to report gifts from Noe and others. The scandal was blamed for Republicans losing nearly every statewide executive office in the November election.

Ohio Inspector General Tom Charles, who leads the task force, said the group sifted through hundreds of thousands of pages of documents in putting together the case against Lay.

"This is a big indictment," Charles said. "The Noe case got a lot of attention . . . but the real truth of the matter is the MDL loss was four times as great."

The BWC is suing MDL in an effort to recoup its losses. Federal prosecutors are trying to recover the \$1.8 million in fees MDL received from the bureau.

While the charges against Lay accuse him of fraud, there is no reference to bribes or corruption.

Bureau officials hired MDL under a program called "emerging managers," which was created to promote minority-owned and small firms.

MDL employed Mildred "Mimi" Forbes, the daughter of NAACP President George Forbes, who sat on the BWC's oversight board at the time of the investments. George Forbes has since resigned from the board.

A grand jury has been hearing testimony about the MDL investments for several months.

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## MDL

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### Investment firm head indicted in BWC case

Neither Lay nor his attorney could be reached for comment. Lay has previously denied wrongdoing and called the losses legitimate investment losses.

Lay established a fund in Bermuda whose sole client was the BWC. Lay put the BWC's money into investments far riskier than he represented to state officials, according to the indictment.

BWC officials repeatedly questioned Lay about large losses throughout 2004, but he never told them about the risky positions he took with the money, prosecutors said. He finally came clean in September 2004. The risky hedge fund investments violated BWC policy.

That revelation led to the forced resignation of BWC chief financial officer Terry Gasper, who is now serving a five-year prison sentence for accepting bribes from investment managers.

Lay is the 19th person charged as a result of work done by a task force investigating BWC investments.