

**Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on the Need for Transparency in Asbestos Trusts
February 3, 2016**

Over 20 years ago, I was the lead Republican sponsor of the Bankruptcy Reform Act of 1994. That legislation gave courts the power to create asbestos bankruptcy trusts.

The purpose of these trusts, of course, is two-fold. First, they establish a system for victims of asbestos exposure to obtain compensation from the companies they worked for years earlier.

At the same time, the companies obtain some degree of certainty as they emerge from bankruptcy and re-enter the stream of commerce, creating tens of thousands of jobs along the way.

Importantly, these trusts are designed to ensure that all victims – both current and future – are ensured compensation for their injuries. If the available funds are being depleted unfairly through fraud and abuse, its future victims who will feel the impact. For that reason, we have to take a close look at how these trusts are being administered.

Since 1994, asbestos trusts have grown significantly. By most estimates, there is now over \$18 billion in assets in the trust system, with billions more on the way.

With this much money at stake, you'd think there would be independent oversight of some sort, but there isn't. The Department of Justice plays an extremely limited role because after the Bankruptcy plan is finalized, there is no longer a live case for the U.S. Trustee to oversee.

The courts, as well, have limited jurisdiction after confirmation.

And of course, there is no Inspector General or other watchdog to protect against fraud and abuse.

As a result, we have a situation where these trusts have assets in excess of \$18 billion dollars, but are without any meaningful independent oversight.

So, it's not hard to understand why we're witnessing reports of fraud and abuse in the system.

While a lack of transparency makes it difficult to know the extent of the problem, it's clear a problem exists. A bankruptcy judge in North Carolina recently detailed – in a 65 page opinion – the lengths some lawyers have gone to hide the truth about asbestos exposure, and game the system.

The judge in that case believed it was only the tip of the iceberg. Judge Hodges wrote, in part:

“It appears certain that more extensive discovery would show more extensive abuse. But that is not necessary, because the startling pattern of misrepresentation that has been shown is sufficiently persuasive.” That’s pretty strong language from a judge.

Likewise, the *Wall Street Journal* has written a series of articles detailing instances of fraud, including in one case where money was actually paid to a person who didn’t exist.

That money should have gone to a deserving and eligible victim.

Again, while it’s impossible to know how pervasive these problems are, based on the reporting, they aren’t limited to occasional “errors,” as some have claimed.

Fraud and abuse in the trusts doesn’t impact the company that established the trust, because after it is finalized, they are no longer involved and any outstanding litigation is “channeled” to the trust.

Fraud and abuse doesn’t impact the lawyers who handle these claims. They’re going to collect their fees – reportedly as high as 40% -- regardless of whether funds are unfairly or improperly drained from the trusts.

But if funds in the trusts are depleted with fraudulent claims, it is future victims who will pay the price, as compensation for illnesses will be reduced.

We owe it to those victims to gather the facts and examine the integrity of the asbestos trust system.

Thank you Senator Flake, and I look forward to hearing from the witnesses.