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REPORTER: Fran Abrams

PRODUCER: Paul Grant

EDITOR: David Ross

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THE ATTACHED TRANSCRIPT WAS TYPED FROM A RECORDING AND NOT COPIED FROM AN ORIGINAL SCRIPT. BECAUSE OF THE RISK OF MISHEARING AND THE DIFFICULTY IN SOME CASES OF IDENTIFYING INDIVIDUAL SPEAKERS, THE BBC CANNOT VOUCH FOR ITS COMPLETE ACCURACY.

“FILE ON 4”

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ACTUALITY OF DEMONSTRATION

MAN: What do we want?

MEN: Pensions!

ABRAMS: These pensioners lost everything when their employer went bust. Cases like theirs forced the Government to provide a safety net – the Pension Protection Fund. But already it’s under strain. It’s running a deficit of more than a billion pounds, and a long list of under-funded pension schemes are queuing to get into it.

RALPHE: It’s always been a bit of a sticking plaster – it’s absolutely clear that the sums don’t add up.

ABRAMS: So, how safe is the safety net? And are some companies using the fund as a quick fix, so they can walk away from their pension deficits? File on 4’s uncovered evidence that many firms continue to trade, while the Government scheme bails out their pensioners.

BLAKE: This seems to be a perfectly legal and recognised way in which companies can game the system and offload their pension liabilities.

SIGNATURE TUNE

ACTUALITY OUTSIDE FACTORY

ABRAMS: I'm standing by a boarded up site on the outskirts of Worcester. There used to be a factory here which made work wear. It's now been razed to the ground. All that's left to indicate its past is a single sign that says 'Fabric deliveries only.' This was the home of Faithful Overalls, the long established family firm of Stephen Dorrell, the former Conservative cabinet minister. But in recent years it's hit troubled times, leaving hundreds of pensioners facing an uncertain future.

HALL: Faithful was a very long established work wear company and it had mainly sold into the what I'd call the blue collar area of work wear, originally sort of overalls and that type of thing, but with reduction in manufacturing output, the clothing had become more sort of jacket and trouser orientated.

ABRAMS: Steve Hall was the company's finance director, and he worked there for more than twenty years. The firm's origins went back to the 19th century. And it had brought in healthy profits. But Steve Hall says it all started to go wrong in 2004 - when Stephen Dorrell and his brother split the company - with each of them taking a separate portion of the business.

HALL: Stephen was the principal shareholder and really from that point onwards pursued a fairly aggressive, acquisitive policy. Things were just moving at a very turbulent rate. We'd had a group chief executive, he'd come, he'd gone, there'd been large cash drains on the company. The company had made several strategic acquisitions. Quite frankly, none of them seemed to have worked out.

ABRAMS: Did you think it was in danger of going into administration?

HALL: No, but certainly cash was tight inevitably, arrangements were being made with suppliers to maintain supplies and it was a very uncomfortable environment with the suppliers.

ABRAMS: But it wasn't just trading conditions and debt that were dragging the company down. Its pension fund was in trouble too. It was becoming clear that without substantial payments from the business, it wouldn't be able to meet its obligations. By 2005, nearly £3 million was needed to pay off the debt.

HALL: An agreement was negotiated so that a freehold premises that the company owned was pledged as security so that all members who had previously enjoyed a final salary scheme would become members of just a conventional money purchase scheme.

ABRAMS: So this was the factory site in Northwick Road?

HALL: That was it. It was the only freehold site in the organisation, all the other sites were leasehold. It had high value, in truth, as a housing development rather than as just a factory premises, and it was a prime and indeed is in a prime residential area of Worcester.

ABRAMS: How much was the site worth?

HALL: I would guess it was in the order of £3 million or so, yes, which was a substantial proportion of the deficit, that's for sure.

ABRAMS: So the pensioners would have been fine if that money had been paid over?

HALL: Yes, indeed they would, at that point in time anyway, yes.

ABRAMS: The site did go for £3 million – but none of the money went into the pension fund. Some of the £1.6 million that was left after paying off a mortgage was used to buy another business. The company continued to try and expand its way out of

ABRAMS: But surely some money could have gone into the pension from that?

DORRELL: That's perfectly true. Some more money could have gone into the pension fund, but it wouldn't have delivered the objective, which was to meet all the obligations, not just some of them, by trying to secure a future for the company on the basis that it traded through.

ABRAMS: In May 2009, insolvency practitioners were called in. They put the company into something called a pre-pack administration – it's a deal that allows companies to walk away from their liabilities but to carry on trading. A new company bought the assets. The creditors, the taxman and the pension fund got nothing. The biggest loser was the pension fund. It was left with a £3 million hole in it and with the company gone, no means of support.

HALL: A pre-pack is so easily arranged so that you can simply, in a single day effectively, remove the assets from a company and just leave the creditors and indeed the pension scheme out on a limb. It's the whole concept of it that I can't get my head round really, that you're allowed to do this. It's obviously a perfectly above board, legal thing, and it protects probably the workforce that it's leaving behind, but I think for the suppliers and certainly for the pensioners, perhaps immoral is too strong a word, but that's how I feel about it. It cannot be right that you can so easily rid yourself of liabilities.

ABRAMS: The administrators say the deficit now stands at £10 million. That means the pensioners will be thrown into the Government's Pension Protection Fund. It's supposed to pay up to 90% of people's pensions when their former employers go out of business. But the payments are capped, so higher earners lose out. Steve Hall says he faces an uncertain future.

HALL: It's been some eight months since the administration and all the pensioners are still in limbo as to what their pensions will be in the future. I think the worst case scenario is that I could lose probably 30% or 40% of my pension. But I mean the losers are across the board, it's not just the pensioners, it's the people who are still working in Faithful, who still have an interest in the scheme, and people that have left Faithful and

RALPHE: Well, the Pension Protection Fund was set up originally as a short term political fix, so it wasn't set up from a position of strength. If we go back a few years, what was happening was a number of company schemes were going bust, people were losing large chunks of their pension and they were marching up and down in Whitehall, and at one stage the Government was very clear that there should not be a Pension Protection Fund, but they then changed their minds, so it's always been a bit of a sticking plaster. And the way in which it operates is to take in levies from individual pension schemes, to put those into a pot, it also takes in the assets from schemes that have gone bust and those also go into the pot. They then pay pensions for the pension schemes and the pension scheme members who come into the Pension Protection Fund and those pensions are rather less than the members would get under the terms and conditions of their pension benefits.

ABRAMS: Part of the reason the Government hesitated was because of an obvious risk – if you create a lifeboat, people tend to jump into it. David Blake's the director of the Pensions Institute at the Cass Business School in London. He says ministers knew there was a trade-off between pensions and jobs.

BLAKE: There's a case to argue that the Government actually is tacitly approving this in order to allow British companies to offload their liabilities and then compete against the companies in China and India which don't have these legacy liabilities.

ABRAMS: I mean, there is an argument you might save jobs by walking away from your pension liability.

BLAKE: I think that's a very good point. There are lots of trade-offs here and there's lots of potential risk sharing. There's clearly a trade-off between the company and the pension plan. If the company puts a lot of money into the pension plan, it can't afford its investment programme. Well that then directly leads to not being able to employ workers or workers not getting the salaries that they would have had if the company had invested more heavily.

ABRAMS: In order to deal with the risk that some companies would try to exploit the scheme, the Government appointed a pensions regulator, as a gatekeeper to the protection fund. It's his job to stop companies abusing the system in order to dump their

ABRAMS cont: pension obligations. Generally he likes to do that by using his powers of persuasion. But there have been cases so blatant that he's been forced to take action.

ACTUALITY OUTSIDE GRAPHEX FACTORY

ABRAMS: I'm standing outside a rather anonymous looking corrugated iron building on an industrial estate in Gateshead. There's very little now to tell me the history of this building, apart from some rather ghostly lettering, where a sign has obviously been taken down. It reads 'Graphex'. Just a little bit further up the road there's a much smaller, newer sign which reads 'Rivermeade'. This company changed its identity about this time last year, and when it did that, it left its pensioners with a big problem.

CARTER: Graphex, as they formerly were, used to supply the display and exhibition industry, architectural sign components. They won some extremely prestigious projects, you know, the Royal Opera House, the Emirates Stadium for Arsenal, Manchester City's football ground stadium, a large number of extremely prestigious architectural projects.

ABRAMS: Steve Carter was Commercial Director of Graphex. He'd worked there for 27 years and he had no idea there was a problem with its pension fund.

CARTER: Early to mid January 2006 all of the members of the Graphex Ltd pension and life assurance scheme received letters from the Finance Director and the Managing Director informing people that there was a large deficit in the pension scheme's funding and a serious threat that this posed to the solvency of Graphex Ltd and hence to all of our jobs. This was the first I knew of the scale of the problem, and the letter asked us to consider transferring out of the final salary pension scheme.

ABRAMS: So what did you do?

CARTER: Being sort of very company minded, a lot of people within the organisation, and I also had the added sort of responsibility of being a director, I decided to take the sort of lump sum payment that was offered and transfer it into a personal pension plan.

ABRAMS: Steve Carter assumed that by persuading staff to move into personal pension schemes, the firm would reduce its liabilities and so wipe out the deficit. But some time later, and quite by chance, he stumbled on some emails to the company secretary, Nigel Ball.

CARTER: I was just looking for a routine email on Nigel's computer relating to a payment application we had made on a contract we were involved in, and I came across an email basically detailing something in relation to the pension scheme. That aroused my suspicion and from then on in I continued to sort of monitor the flow of emails.

ABRAMS: What he read was disturbing. The deficit still stood at £1.4 million. And the directors had come up with a way to solve the problem.

CARTER: The plan was to get rid of the pension liability by putting the company into administration. It would get rid of any sort of liabilities with the VAT, the taxman and any sort of trade suppliers who were owed money at that particular point in time. The plan would be to buy back the assets of the company shortly after, using the same sort of management team for pretty low amount of money and continue to trade as normal.

ABRAMS: In short, the directors of the company were planning to close it down so they could walk away from the pension deficit. File on 4 has seen the emails. One, from a financial adviser, read:

READER IN STUDIO: Nigel – one point we need to check with the lawyers, the main aim here is to get rid of the pension liability.

ABRAMS: And they weren't just planning to ditch their pension liabilities. They were going to strip the assets of the company before it went into administration. In another email, Mr Ball told the Managing Director, Mark Harrison:

READER IN STUDIO: I'm looking at stripping assets out of Graphex for cash before the pre-pack. If everything goes to plan, we'll buy back the assets for about £150,000 but without the pension liability.

ABRAMS: What were your feelings when you realised this?

CARTER: I was incredibly hurt. I also felt pretty strongly about the effect it may have on the future pension of a lot of incredibly loyal people on the shop floor and in the offices, many of whom had been there in excess of twenty years. All of a sudden the retirement futures of a lot of these people was just thrown into doubt.

ABRAMS: Steve Carter gathered a whole file of information about what was happening. And in January last year he took it to the pensions regulator. Within a month he brought in an independent trustee to try to safeguard the Graphex pension fund. But that didn't stop the company from going into administration just nine days later. After a round of redundancies, the firm's assets were sold for £110,000. The buyer was its parent company, Rivermeade Signs. The directors had been warned not to do this by the regulator's trustee. But more than a year on, they've yet to face any formal sanctions - something that leaves Steve Carter puzzled.

CARTER: At least by doing what I've done, I've given perhaps the pension regulator the opportunity to do something about it. What's happening, I'm not aware, to be perfectly honest, but hopefully if there's any justice in the world something good'll come out of all of this.

ABRAMS: What do you feel now about the people who were running the company, about what they planned to do and the fact that they could do it?

CARTER: If they've done what they've done and they've got away with it, there's something wrong with the regulatory bodies in this country. I'm sure they're not the only company to have done it or tried to have done it. But there's an awful lot of companies out there who appear to have sort of worked their way through massive pension fund liabilities. And at the end of the day they're still trading.

ABRAMS: We wanted to talk to the Rivermeade directors about why they closed down Graphex and why they forced its pensioners into the Pension Protection Fund. But they refused to comment. David Blake at the Cass Business School isn't surprised to learn of companies like this one using financial advisers to help them walk away from

ABRAMS: But isn't there a problem that there's a sort of industry, if you like, where basically people are being encouraged to find ways out of their deficit?

NORGROVE: Once you've got insurance, you automatically get some, what we think of as moral hazard, where people try to or have the potential to try to take advantage of that. And so in the 2004 act, Pensions Act, which created us, we were given powers to try to stop that happening and those were strengthened again in the most recent Pensions Act.

ABRAMS: If you are forewarned that a company is planning to go into pre-pack administration in order to avoid its pension liabilities, can you stop that from happening?

NORGROVE: We have retrospective powers in those kinds of cases. If there's been misbehaviour and it meets the terms of the Act, we can look back as much as six years and take action against the directors of the company.

ABRAMS: It doesn't seem you use those powers very often.

NORGROVE: Well we use powers very frequently, but what we found is that it's very effective to threaten these other powers, and of course if you can get the same result with a threat as you could with the use of it, it's better to do that, because it's expensive and time-consuming to actually use the power.

ABRAMS: The regulator does have the power to order a parent company to pay for the pension deficit of a subsidiary, but he's only used it once. And his investigations are carried out in secret. When he decides not to act, he won't say why. Nick Couldrey's a partner at Sackers, Britain's biggest firm of specialist pension lawyers.

COULDREY: I don't think he's hugely well resourced, he has got very few lawyers to deal with the whole industry. The large corporation can outspend the regulator enormously, I was involved in a case where I heard afterwards that a hedge fund had spent nearly £5 million in its defence. There's no way that the regulator's budget for lawyers is £5 million.

ABRAMS: How often are there cases where you go to the regulator for help and is it always forthcoming?

COULDREY: Unfortunately not. We all have many cases where we've gone for help to the regulator and for some reason, very often an understandable reason but not always, he decides to take no action. What is frustrating is we don't always know why he won't take action. If we don't know the reason why the pensions regulator won't take action, we can't do anything about it. If we don't know what we're looking for, it makes it very difficult for us to put the case together. It's the people whose pensions don't get paid that are the most disappointed, clearly. They're the ones that suffer.

ABRAMS: The regulator takes what's known as a risk-based approach. If there isn't much money to be recovered from a company, it may not be worth going after. But there is one case on his desk where the pension deficit runs not just to millions, but to hundreds of millions. It could involve one of the world's biggest car makers.

EXTRACT FROM NEWS REPORT

REPORTER: Employees made redundant at the Visteon plant in Basildon took their own action, as did staff at the factory in Enfield. They're all holding out for a better deal

ABRAMS: When the Visteon Corporation closed down three of its UK manufacturing plants last year, workers occupied one of them for six weeks, demanding better redundancy terms. Most of them had started their working lives with the Ford motor company. But in 2000 Ford had made Visteon a separate entity.

ACTUALITY AT BASILDON

BUCK: We're at Basildon radiator plant and we're standing near one of the main gates at the moment, gate 1.

ABRAMS: Michael Buck took early retirement from the company's Basildon plant a few months before it closed.

BUCK: That over there was the prototype shop in front of us. The warehouse was there, and that is the main factory building over there.

ABRAMS: All locked up now. It's a bit of a sad sight, isn't it, this locked up gate?

BUCK: It is sad, because when I come here it was quite thriving and there was quite a few people working here, and it's just sad to come back now. I honestly don't like driving past here to see it because it is just sad to see this building left as it is.

ABRAMS: The plants closed in March 2009, when the recession was hitting the car industry hard. Visteon's manufacturing operations were making huge losses. To a casual observer, it might have looked like a story of inevitable company collapse. But some of the workers are suspicious of the way it happened. They say it all started back in 2006, after workers refused to accept new terms and conditions. The Visteon company was split in two. In one part, the engineering knowledge which the management wanted to keep; in the other, the manufacturing operations, which they wanted to lose. Dennis Varney, who worked at the company's Basildon plant, says it was all carefully planned.

VARNEY: They defined the ways of reducing and offloading the bad side of the company and maintaining some of the more profitable side of the company. Part of the restructuring actions was that Visteon would set up a separate engineering function and they'd turn those Visteon Engineering Services, which meant that the company in the UK was now split in two between manufacturing and engineering support. And then behind the scenes there were covert actions taking place to enable the manufacturing operations to be resourced to other low cost facilities, hence the ability to close down the manufacturing operations in the UK.

ABRAMS: So, the company would keep the most valuable parts of its business, but would lose its loss-making manufacturing side. Dennis Varney accepts that's standard business practice. But what sticks in his throat is the way the pensions issue was handled. The company had a huge pension deficit, around £250 million. When the company split, so did the pension fund. A new plan was started for the employees Visteon wanted to keep. Dennis Varney says from that day on, the shop floor workers were bound to end up in the Pension Protection Fund.

VARNEY: The strategy then was to transfer engineering people to that new company with their pension, leaving the loss-making UK manufacturing operations to one side such that the company could divorce themselves from their obligations to their employees, and without informing the manufacturing pension plan that they would no longer in the future be able to support the plan because the operations were going to be closed in the UK.

ABRAMS: What effect would the pension deficit have had on that decision?

VARNEY: Well, one of the largest burdens on the UK operation was the £250 million deficit into the pension plan. It's too easy for companies to just restructure and ignore their obligations to their employees and ex employees. They just dump their burdens into the system and just walk away from it, and that can't be acceptable.

ACTUALITY WITH ACTION GROUP

MAN: Are we all set? Is everyone ready? Thank you. I was going to say another warm welcome, but it's blooming freezing out there, so just thanks again for coming. Another good turn out. Not quite as good a turn out ...

ABRAMS: The workers have formed an action group to try to get the Ford Motor Company to take responsibility.

MAN: I touched upon the anniversary when I was speaking earlier on, the twelve months since many of you were dumped out of the plants

ABRAMS: They say the company guaranteed their pension rights when their jobs transferred to Visteon. But Ford say it's not their problem.

READER IN STUDIO: The impact of this for former employees and retirees is very regrettable; however, the contractual responsibility is with the trustees of Visteon UK's pension fund and the administrator. Ford has stated that it will not provide further assistance to affected parties.

ABRAMS: We wanted to talk to Visteon Engineering Services, which continues to trade. But it refused to comment. Michael Buck paid into a pension fund for thirty-two years and he expected a good lifestyle when he retired. But like three thousand other Visteon workers, he's now forced to rely on the Pension Protection Fund.

BUCK: I just couldn't believe it, I thought I'd waited all them years, paid into something they'd told me was going to look after me for the rest of me life, and my family, and the all of a sudden it's being taken away.

ABRAMS: How much did you actually lose?

BUCK: We've had various letters from the trustees, from the pension, and one of them was telling me my annual pension would have been £1,443 per month. Under PPF rules this would drop to £1,176.35.

ABRAMS: So that's going to be £250 a month less.

BUCK: Yes. At the moment that's hard now, but because we won't get much of a pay rise like we would have under the Visteon scheme, basically I might have to live on that for the next ten years. Don't get me wrong, the PPF is a very good scheme, but my fear is that it is going to be overloaded with companies just dumping people in there. I could end up losing the lot. I've always been a bit of a family man and, as I say, I wanted if I could, like probably most parents do, to leave some money for my grandchildren and my children. But if this all goes wrong now, I'm going to have to use all that, the house, the lot, so I can't leave them anything. So in time it's going to mess them up and all. I am quite bitter.

ABRAMS: The Visteon pension plan currently represents one of the biggest liabilities on the Pension Protection Fund. The PPF is funded by a levy on private sector final salary schemes, but they're a dying breed. When Labour came to power, a third of the workforce were paying into these 'defined benefit' schemes. Now, less than a fifth do so, and the proportion continues to drop. Pensions consultant, John Ralfe, says it simply isn't sustainable.

RALPHE: The problem is it's not clear that there's enough money likely to be going into the Pension Protection Fund versus the amounts of money that are going to be going out, so at the moment I think the jury is out as to at what point it's absolutely clear that the sums don't add up. I think it's a matter of time, and that might be five years or it might be ten years. It's quite difficult to see that the numbers will add up.

ABRAMS: So what's the kind of endgame? What's going to happen at the end of the day when it all goes wrong?

RALPHE: Well, the way in which the Pension Protection Fund is set up means that the benefits that are payable can be reduced. Now they can't be reduced casually, it would be a very serious matter, but my guess is the first thing that will happen is that the benefits will get cut back. So at the moment you receive as a deferred pensioner 90% of your promised pension. That could very easily come down to 80%. At the moment you get some inflation linking year on year in relation to the RPI. That could be abolished. And at the moment there's a cap of about £28,000. That cap could be reduced. That would reduce the value of liabilities and it would allow them to balance the books. It would be a serious matter because it would mean that several hundred thousand people, possibly by that stage a lot more, who are relying on the Pension Protection Fund, would find that their standard of living was reduced because the compensation paid would go down.

ABRAMS: Many other experts believe his fears are justified. The pension schemes which pay for the protection fund have been hit hard by recent stock market losses. They're massively in deficit, and so is the fund. Its deficit is £1.2 billion. David Blake of the Cass Business School says the hole in Britain's pension system's going to cause major problems.

BLAKE: The Pension Protection Fund will have a reducing pool of good schemes to charge levies to and an increasing pool of weak schemes that it can't charge the fair levy to. And therefore those two trends are inevitably going to lead to increasing deficits in the Pension Protection Fund, and ultimately, although in the short term the Pension Protection Fund can borrow in the capital markets to cover those deficits, there'll come a time when it won't be able to do so, like the banks, we discovered two years ago, couldn't borrow in the capital markets to deal with its deficits. And in that case, in my view,

NORGROVE: Oh I see. No. Personally I think that's a greatly exaggerated fear.

ABRAMS: A lot of pensioners are hoping he's right. And so are a lot of politicians. There's an election coming up, and neither Labour nor the Conservatives want to admit they might have to bail out the Pension Protection Fund. But most experts believe when the crisis finally comes, the taxpayer will end up footing the bill.

SIGNATURE TUNE