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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
Expected at 9:00 a.m.
August 25, 1980

STATEMENT OF
ELMER B. STAATS, COMPTROLLER GENERAL
OF THE UNITED STATES
BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ON THE
GOVERNMENT'S INVESTIGATION OF THE INTERNATIONAL BROTHERHOOD
OF TEAMSTERS' CENTRAL STATES, SOUTHEAST AND SOUTHWEST
AREAS PENSION FUND]

See report

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Mr. Chairman and Members of the Subcommittee:

We are pleased to appear here today to discuss the results of our review of the Government's investigation of the International Brotherhood of Teamsters' Central States, Southeast and Southwest Areas Pension Fund (the Fund). This is the first major Federal Government investigation under the Employee Retirement Income Security Act of 1974 (ERISA).

ERISA was the first comprehensive Federal legislation regulating private pension plans. The Congress enacted ERISA to help stop the misuse and abuse of private plans, which was resulting in employees, even with many years of service, losing pension benefits.

The act established a comprehensive framework of minimum standards, including standards of conduct, responsibilities, and obligations for the administrators, trustees, and fiduciaries of private pension plans. Such standards are intended to protect benefits of an estimated 40 million participants in about 500,000 private pension plans. The assets of these plans have been estimated at about \$290 billion.

The Department of Labor and the Internal Revenue Service (IRS) share the responsibilities for enforcing ERISA. Labor is primarily responsible for enforcing ERISA's reporting, disclosure, and fiduciary provisions. IRS enforces the act's participation, vesting, and funding provisions.

In addition to establishing standards of conduct, ERISA gives the Federal agencies the tools to regulate, investigate, and review the plans' operations and management. To illustrate, under section 504 of ERISA, Labor, for the first time, has the authority to make comprehensive reviews and investigations of private pension plans by requiring plan administrators to submit books and records or by inspecting books and records at the plans' place of business. Labor also has the power to subpoena records and books and to take testimony under oath or by affidavit from trustees, plan employees, or interested parties.

In addition, Labor has authority to initiate litigation in Federal district court to seek (1) broad-ranging civil remedies against fiduciaries to require them to make good any loss suffered by the plan because of a breach of fiduciary duty or to restore any profits gained through violation of fiduciary obligations or (2) removal of a trustee or other fiduciary.

ERISA also provides criminal enforcement authority for willful violations of reporting and disclosure provisions. ERISA requires that, during an investigation, if Labor detects criminal violations, such as embezzlement or kickbacks, this information is to be referred to the Department of Justice for consideration for investigation or prosecution under title 18 of the United States Code.

At December 31, 1979, the Fund had about \$2.2 billion in assets and a membership of about 500,000 active participants and retirees receiving benefits. Employer contributions total about \$586 million annually, and pension payments total about \$323 million annually.

The Fund, which was established in February 1955, is the 41st largest private and public pension fund (assets) and the second largest multi-employer trust organized under the Labor Management Relations Act (Taft-Hartley Act). This act provides that the trust fund be administered by a board of trustees equally represented by the employers and employees. Since October 1976, half of the Fund's trustees have been selected by the Teamsters' Central and Southern Conferences and the other half by the seven trucking associations contributing to the Fund. (See apps. I, II, and III for lists of the Fund trustees from October 29, 1976, to April 15, 1980.)

LABOR'S INVESTIGATION OF THE FUND

For many years, the Fund's trustees have been a subject of controversy and allegations of misusing the Fund's assets. Allegations included charges that individuals linked to organized crime had connections with the Fund and that questionable loans had been made by the trustees to people linked to organized crime. Consequently, in mid-1975, the Department of Labor initiated an investigation of the Fund. Labor set up a Special Investigations Staff (SIS) for the

investigation. The objective of Labor's investigation was to determine whether the Fund was being administered in a manner consistent with the fiduciary standards of ERISA and for the exclusive interests of the participants and beneficiaries.

At the time Labor initiated its investigation, the Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs, was considering starting its own investigation of the Fund's management and operations. However, before the Subcommittee undertook its investigation, Labor officials in December 1975 presented a detailed briefing to the Subcommittee members and staff on the scope, concept, and basis of its investigation.

The Chairman of the Subcommittee, in describing Labor's briefing and the Subcommittee's understanding of the parameters and scope of Labor's investigation, commented

"In short, as it was described to the Subcommittee, the Central States Fund task force envisaged a broad based, carefully planned, and well-coordinated executive branch inquiry into the affairs of the Central States Fund, using the combined resources and expertise of the Labor and Justice Departments and the IRS."

The Chairman also stated that, during the briefing, a good deal of attention was devoted to considering whether the Subcommittee should also investigate the Fund. He said it was recognized, however, that a simultaneous congressional investigation of the Fund might impede the work of the task force, result in a competition for witnesses

and documents, and be counterproductive. Therefore, the Subcommittee Chairman stated:

"To obviate such a situation and in view of the executive branch's major commitment to the task, * * * the subcommittee decided to defer any investigation of the fund to avoid duplicating and possibly complicating the work of the task force."

Labor officials continued with their investigation, but agreed to keep the Subcommittee apprised of the investigation. However, as the investigation proceeded the Subcommittee was not satisfied with the information Labor provided or the progress of the investigation. The Subcommittee, therefore, requested the General Accounting Office (GAO) on June 13, 1978, to undertake a comprehensive review of the adequacy and effectiveness of Labor's investigation.

SCOPE OF GAO REVIEW

As agreed with the Subcommittee, our review focused on whether Labor (1) effectively planned, managed, and carried out the investigation, (2) committed adequate resources and staff to the investigation, and (3) adequately coordinated and cooperated with the Department of Justice and IRS. We also reviewed Labor's and IRS' negotiations with the trustees to reform the Fund's operations and requalify the Fund as tax-exempt after IRS revoked its tax-exempt status. We also determined how effectively Labor and IRS monitored the trustees' compliance with the Government's conditions for requalification.

We made the review at (1) Labor's national office in Washington, D.C., and its field site in Chicago, Illinois, located near the Fund headquarters and (2) Justice's national office in Washington, D.C., and U.S. attorney's office in Chicago, Illinois.

Our review of Labor's coordination with IRS was based on a review of Labor's records, transcript of hearings held by various congressional subcommittees on the investigation, interviews with current and former Labor and Justice officials, and material supplied by the Senate Permanent Subcommittee on Investigations. We did not review IRS records or interview IRS officials involved in the investigation in light of the restrictions imposed by section 6103(1)(2) of the Internal Revenue Code on the disclosure of any information concerning its investigation of a single taxpayer. An IRS headquarters official advised us that the Service considers the Fund an individual taxpayer. Therefore, IRS considered that it was prohibited from giving us any information on its investigation of the Fund--"if such an investigation by IRS was made."

We did not review the records of the Fund at its office in Chicago or interview the trustees or Fund officials. ERISA does not give GAO access to the records of private pension trusts. Also, consistent with our office policy of not addressing issues in litigation, we did not review the merits of Labor's civil law suit filed on February 1, 1978, against former

Fund trustees and officials. 1/ In addition, we did not review Labor's ongoing investigation of the Teamster Central States, Southeast and Southwest Areas Health and Welfare Fund.

HIGHLIGHTS OF GAO REVIEW

Labor's investigation of the Fund is almost 5 years old and has cost about \$5.4 million. The Department of Justice's and IRS' investigations are older, but the cost figures are not available.

According to Labor's and IRS' investigations, 2/ the former trustees and officials of the Fund had failed to prudently carry out their fiduciary responsibilities and had not operated the Fund for the exclusive benefit of the plan participants and beneficiaries--as required by ERISA. IRS, as a result of its investigation, on June 25, 1976, revoked the Fund's tax-exempt status.

Before restoring the Fund's tax-exempt status, the Government 3/ imposed several demands on the trustees to reform and improve the Fund's operations. The trustees agreed to the demands, and several significant changes were made, including:

--The trustees adopted amendments to have the Fund conform to ERISA and the Internal Revenue Code.

1/Marshall v. Fitzsimmons et al., C.A. 78-342 USDC, N.D.Ill.

2/A chronology of key events in the Government's investigation is presented in app. IV.

3/A list of principal officials involved in the Government's investigation is shown in app. V.

--The trustees appointed independent investment managers to manage the Funds' assets and investments.

Labor's investigation resulted in the Secretary of Labor filing a civil suit in February 1978 against 17 former trustees and two former officials to recover losses, for the Fund, that resulted from these officials' alleged mismanagement, imprudent actions, and breaches of their fiduciary duties.

Despite the apparent benefits from the Government's investigative efforts, we believe that the investigation and subsequent dealings by Labor and IRS with the Fund's trustees had significant shortcomings and left numerous problems unresolved. Our review disclosed shortcomings and deficiencies in (1) Labor's investigative efforts, (2) the coordination among Labor, IRS and Justice, (3) Labor's and IRS' dealings and agreements with the trustees in reforming the Fund, and (4) Labor's and IRS' monitoring of the current trustees' operations and compliance with the conditions for requalification. Thus, we question whether the benefits and improvements imposed by the Government will result in lasting reforms to the Fund, without the continued diligent effort of Labor and IRS. In fact, as a result of the current trustees' failure to comply with the conditions for requalification, IRS renewed its investigation of the Fund on April 28, 1980. At the same time, Labor resumed its onsite investigation.

Following is a discussion of our findings and conclusions on weaknesses and shortcomings in the Government's investigation of the Fund and subsequent actions.

LABOR'S ATTEMPT TO HAVE COORDINATED
GOVERNMENT INVESTIGATION UNSUCCESSFUL

Labor's investigation started in the summer of 1975. It was headed by the former Administrator, Pension and Welfare Benefit Programs (PWBP), Department of Labor. To be successful, the former administrator, considered that the investigation would require unique levels of coordination between Labor, IRS, and Justice.

In addition, ERISA requires that Labor coordinate its investigative efforts with Justice and IRS. Labor, therefore, attempted to develop a coordinated Government approach by inviting Justice and IRS to join in the investigation. Justice agreed, and on December 1, 1975, Labor and Justice entered into a memorandum of understanding.

At the time Labor began its investigation, IRS had an investigation in process at the Fund's headquarters in Chicago. IRS had been investigating the Fund since about 1968.

On August 22, 1975, the former administrator wrote to the Commissioner of IRS advising him of Labor's investigation and inviting IRS to participate in a joint investigation. IRS declined to participate and advised Labor that it wished to continue its separate investigation of the Fund. IRS declined to join Labor's investigation despite the fact that

IRS was looking into basically the same areas as Labor, such as prudence of loans and whether other fiduciary standards of ERISA were followed.

Fund officials expressed concern about the overlapping and duplicate investigations by Labor and IRS. Before Labor's onsite investigation began at the Fund's headquarters, the Fund's counsel initiated a meeting in an attempt to get the Federal agencies to coordinate the investigation. IRS officials at the meeting, however, were opposed to Labor's entrance into the general area of their investigation, and they told Fund officials that Labor would not be a part of IRS' audit. IRS, however, did agree to provide Labor with tax information needed on the Fund's transactions under investigation.

Labor's joint task-force concept was designed to ensure that the broad civil remedies made available for the first time to the Government by ERISA were effectively used. The former administrator, PWBP, who handled Labor's early discussions with IRS, advised us that his intention at the earlier meetings with IRS and Justice was to attempt to establish a one-government-team approach on the investigation. Thus, the investigation would be viewed as an overall Government effort and not the individual efforts of the various Government agencies. In the former administrator's opinion, this combined Government approach never got off the ground because of IRS's refusal to participate in the investigation.

IRS' REVOCATION OF THE FUND'S TAX-
EXEMPT STATUS ADVERSELY AFFECTED
LABOR'S INVESTIGATION

IRS' "go-it-alone" attitude and unwillingness to join the investigation did not burden or adversely affect Labor's investigation until June 25, 1976, when IRS decided and without prior notice to the Fund or Labor, to revoke the Fund's tax-exempt status. In a letter to the trustees, IRS' Chicago district director stated that the qualification was revoked because the Fund was not operating for the exclusive benefit of plan beneficiaries and the investment policies and practices of the Fund were imprudent. The revocation was effective immediately and retroactive to February 1965.

IRS' revocation surprised not only Labor and Justice, but also Fund officials. According to the Fund's former executive director, IRS' action had an immediate and devastating effect on the Fund's financial operations because some of the 16,000 employers withheld their contributions and others threatened to place the money in escrow accounts.

He also said that the six banks who were then handling several hundred millions of dollars of the Fund's assets raised serious questions about their own rights to engage in legal investment activities. This, he said, resulted in a drop in return on the Fund's investments.

IRS recognized that its revocation had the potential for a substantial adverse effect on the Fund's estimated 500,000 participants and beneficiaries. IRS officials stated that, if

the provisions of the revocation had been fully implemented, each of the employees and/or beneficiaries would have been taxed retroactively, on their individual tax returns, for some of the benefits received.

Neither Labor nor Justice had advance knowledge or warning of IRS' intention to revoke the Fund's tax qualification. In fact, in January 1976 IRS told Labor "there is no way the Fund will be disqualified." And, again on June 20, 1976, 5 days before IRS' letter revoking the Fund's tax-exempt status, Chicago district director told the former director of Labor's SIS that a decision on revocation of the Fund's tax status would not be made until the fall of 1976.

According to Labor officials, IRS' action created a "chaotic situation." For example, the officials stated that onsite work at the Teamsters' headquarters stopped because Fund officials believed that "the Federal Government's act was not in order" and the Fund was not dealing with the Government as a whole but as an assortment of departments. As a result, Fund officials became less cooperative. Labor officials said that they then had to spend more time trying to resolve the situation with the Fund and IRS than on the investigation.

Recognizing the severe consequences of its revocation, IRS, beginning on July 2, 1976, granted the Fund a series of reliefs from the retroactive effect of the revocation. IRS, however, continued to meet with Fund officials and

tentatively agreed to a series of actions the trustees had taken or planned to take, in managing the Fund's assets and benefit payments.

Labor officials strongly objected to IRS' approach because they believed that IRS' acceptance of preliminary or partial reforms could bind the entire Government and jeopardize the joint Labor/Justice investigation and Labor's negotiations with Fund officials. The former Administrator, PWPB, in a letter dated August 17, 1976, to IRS, stated that IRS' proposed action to accept the Fund's commitment to take certain actions may seriously impede the ultimate success of the joint Labor/Justice investigation. He also stated that IRS' action could compromise Labor's ability to obtain more pervasive equitable relief against the Fund and its fiduciaries available to Labor under ERISA. In August 1976, IRS officials agreed to coordinate their efforts with Labor.

LABOR'S INVESTIGATION NARROWLY FOCUSED
ON REAL ESTATE LOANS AND IGNORED OTHER
AREAS OF ALLEGED ABUSES

Labor's investigation disclosed many significant problems in the former trustees' management of the Fund's operations. However, Labor narrowly focused on the Fund's real estate mortgage and collateral loans because of the significant dollar amounts involved and Labor's primary goal of protecting and preserving the Fund's assets. Labor's approach ignored other areas of alleged abuse and mismanagement of the Fund's operations by the former trustees and left unresolved questions

of potential civil and criminal violations and alleged mismanagement raised by its own investigators.

Labor's investigation was also incomplete. Labor targeted for investigation 82 of the Fund's 500 loans. Labor's investigators apparently found significant fiduciary violations and imprudent practices by the former trustees on many of the 82 loans. Labor terminated its investigation of the asset management procedures at the Fund even though its investigators had not obtained the records or completed investigations on all of the 82 targeted loans.

Labor used voluntary approach
rather than subpoena powers

Labor began its investigation in January 1976, at the Fund's headquarters in Chicago. Rather than using the administrative subpoena powers under ERISA, Labor officials accepted the trustees' offer to voluntarily cooperate by making the Fund's records and books available for review and its personnel available for interviews. Labor agreed to this approach, because, according to the former administrator, PWBP, the investigation could be conducted more efficiently and expeditiously and it gave Labor immediate access to the Fund's records.

Under this approach, however, the records were not authenticated or obtained under oath and, as indicated below, despite the offer of voluntary cooperation, the Fund did not give Labor all of the records it requested. In addition,

a subpoena was later needed to authenticate and update the information.

Labor's investigation disclosed many problem areas

Labor's initial analysis of the Fund's books and records disclosed many problem areas and patterns of apparent abuse by the trustees. These included numerous indications of apparent loan and investment practices that constituted fiduciary breaches under ERISA, such as loans made to companies on the verge of bankruptcy, additional loans made to borrowers who had histories of delinquency, loans to borrowers to pay interest on outstanding loans that the Fund recorded as interest income, and lack of controls over rental income.

Labor's initial analysis also disclosed other problem areas or patterns of apparent abuse, including:

- Failure to properly manage real estate, and non-real estate-related investments.
- Appropriateness of the Fund's liquidity position.
- Questions on the reasonableness of administrative expenses.
- Failure to properly manage fees the Fund charged borrowers for loans.
- Questions on the propriety of payments made to the former trustees for allowances and expense claims--some of which could involve potential criminal violations.

--Questions on the reasonableness of payments to firms providing services to the Fund.

--Allegations of improprieties regarding payments of pension benefits and determinations of eligibility.

SIS's chief auditor indicated in a report that, based on the patterns of alleged abuse disclosed by the preliminary analysis, full-scale audits were justified in most of the above areas. Labor officials, however, focused their investigative efforts on the Fund's asset management, specifically on the portfolio of real estate mortgage and collateral loans. Labor made no significant analysis, nor did it complete its review of or pursue, other potential areas of abuse.

Labor said it focused on the Fund's real estate loans because of the significant dollar value of these assets, and because its primary objective was to protect and preserve the Fund's assets. This single purpose, in Labor's opinion, may have been justified and the results somewhat successful. However, this approach ignored other alleged areas of abuse and mismanagement of the Fund's operations by the trustees. As a result, Labor left unresolved questions of potential civil and criminal violations and mismanagement raised by its own investigators.

Labor found many imprudent practices

At the beginning of Labor's investigation, the Fund's investments totaled about \$1.4 billion. Of this amount, \$902 million was real estate mortgages and collateral loans,

consisting of 500 loans made to 300 borrowers. Labor targeted 82 of the loans, valued at \$518 million, for review. Its analysis showed that \$425 million of these 82 loans were made to 7 entities or persons.

Labor's review identified many imprudent practices in the former trustees' management of the 82 targeted loans, as well as apparent violations of ERISA's fiduciary requirements. Labor found that, on a number of the loans, the former trustees had failed to follow virtually any of the basic procedures that would be followed by a prudent lender.

For example, according to Labor the former trustees failed to obtain adequate financial or other pertinent information when granting loans or restructuring or modifying them. They also failed to obtain adequate collateral. Once loans were granted, the former trustees failed to monitor them and take appropriate action to assert or exercise rights--legal, contractual, or equitable--available to the Fund under the terms of the loans.

During its investigation, Labor determined that 12 of the 82 targeted loans or groups of loans would support immediate litigation. Labor's civil complaint filed in February 1978 stated that the former trustees during their tenure as plan fiduciaries engaged in a pattern of violations of ERISA fiduciary obligations as exemplified by the 12 loans.

Labor did not complete investigation
of targeted loans

Labor did not complete its investigation on the 82 targeted loans.

In late 1976--after Labor had been onsite at the Fund for almost a year and obtained records showing many imprudent practices and apparent fiduciary violations on many of the 82 loans--the former director of the investigation formulated for extensive investigation of third parties connected with the targeted loans; i.e. parties who were not principals to loan transactions. The former director planned to make investigations of about 75 to 100 third parties in early 1977. Those to be investigated included the borrowers' affiliates and/or associates, and lenders that previously had refused to make loans to these borrowers.

The investigations planned would have involved issuing investigative subpoenas to obtain documents and investigative depositions of Fund trustees and key third parties related to the targeted loans. The former director said the objective of the third-party investigations was to "close the circle" of the overall investigation of loan transactions. That is, to find out as much as possible about a loan transaction before any litigative action and to determine whether the former trustees tried to find out if borrowers used loans for the purpose intended.

In addition, the planned third-party investigations were emphasized by the Secretary of Labor and other officials in hearings in July 1977 before the Senate Permanent Subcommittee on Investigations. The Secretary and other officials stated that Labor's investigation was shifting from a review of Fund records to a search for evidence in the possession of third parties, including obtaining depositions from third parties.

However, some of the third-party investigations planned by the former SIS director for early 1977 were not made because, at that time, Labor shifted to a civil litigative strategy-- i.e., analyzing documents and assembling evidence on hand to determine the potential for a civil suit.

We accumulated the following information on subpoenas issued as of mid-1979 from the records and files of SIS and the Solicitor's office.

--The former SIS director prepared a list of about 80 third parties to be deposed and interviewed and subpoenaed to produce records in connection with 19 of the targeted loans.

--The SIS and Solicitor's records showed that only 14 of these third parties were actually deposed and subpoenaed--many in September and October 1977.

In addition, a few on the former director's list had

voluntarily agreed to be interviewed in 1979, after Labor filed its civil suit.

The records also showed that Labor issued a total of 80 subpoenas--including the 14 above--for testimony or records. More than half were issued in the last half of 1977, and most related to only two loans--a \$3.15 million loan to the Alsa Land Development Corporation, and a \$18 million loan to the Morefield Enterprises Limited Partnership.

Some of the 19 loans with respect to which the former director of SIS intended to make third-party investigations eventually became part of Labor's civil suit in February 1978. The acting director of SIS told us that Labor has not requested any subpoenas in connection with the loans since the suit was filed. Labor's records show, however, that about 119 third parties had voluntarily agreed to interviews by Labor officials and that most of these third-party interviews relate to five loans on the former director's April 1977 list.

We believe Labor lost an opportunity during its investigation when it failed to complete the third-party investigations as planned by the former director. This may have precluded Labor from obtaining valuable information for its own investigation as well as potential criminal violations.

Labor did not obtain
all Fund records needed

After Labor shifted to a litigative strategy, it terminated that portion of its investigation onsite focusing on the Fund's

management of real estate assets and reviews of Fund records and documents. This termination was publicly announced by the Secretary of Labor in March 1977. Labor's investigators left the Fund's headquarters in May 1977. At that time, however, Labor had not obtained all of the documents from the Fund on 17 of the 82 targeted loans. Also, the trustees refused to provide documents on 6 of the 17 loans.

After Labor's investigators left the site, Labor officials requested various documents on the Fund's loan transactions and other activities. For example, in the fall of 1977, Labor requested records on 39 different loans. However, the trustees refused to provide Labor with any more documents or records. They cited as their reason public statements by the Secretary of Labor and other Labor official that the investigation of records had been terminated and that Labor supposedly was shifting to a search for evidence from third parties. In March 1978, the trustees formally notified Labor that they were terminating their voluntary cooperation.

As a result, Labor had to gain access to documents during the discovery phase of its civil suit, 1/ which it filed in February 1978 against former trustees and Fund officials to recover losses because of alleged fiduciary violations, concerning asset management, on some of the 82 targeted loans.

1/See note 1, p. 7.

PROBLEMS IN HIRING AND TRAINING
LABOR'S INVESTIGATIVE STAFF

In January 1976, Labor established SIS to plan, develop, and conduct highly complex and sensitive investigations of the operations of selected pension plans suspected of violating ERISA. Until SIS was abolished in May 1980, it was responsible for the investigation of the Fund. Labor advised the Office of Management and Budget and the Congress that, for SIS to investigate the Fund's pension and health and welfare funds in an adequate and timely manner, a staff of 45 professional and investigative support positions were required. In August 1976, SIS was authorized the 45 positions requested.

Labor, however, reduced SIS allocations for 1979 from 45 to 36 positions and to 34 for 1980. Moreover, SIS had problems in hiring professional staff, and many positions were unfilled throughout the investigation. In fact, SIS never filled all 45 authorized positions; its maximum permanent staff was 28.

SIS officials, who were the selecting officials, said that the positions were unfilled because (1) qualified people were difficult to find, (2) SIS set too high a standard, and (3) problems inherent in the Civil Service Competitive hiring system prevented SIS from hiring people outside the system who wanted to join the team. Also, the former SIS director was too busy to interview applicants. However,

a Labor-Management Services Administration (LMSA) personnel and placement official said that the delays in recruiting and filling the vacancies occurred because the SIS selection officials procrastinated and were unable to make decisions in selecting candidates.

Although the SIS staff for the most part appeared experienced, Labor provided little formal training during the onsite investigation. For example, upon examining the personnel records of 16 selected SIS staff members, we found that none had been provided formal classroom training pertinent to the enforcement of ERISA's provisions. More importantly, none had been given training to obtain knowledge of, or how to detect and identify, fiduciary violations of ERISA even though this was the main thrust of Labor's investigation.

On May 5, 1980, Labor abolished SIS and transferred most of the personnel to the Solicitor's office to support the litigative effort for Labor's civil suit against the former trustees and fund officials. These former SIS personnel, except for two individuals, will not be performing any new investigative work at the Fund. The remainder were transferred to other LMSA offices. Labor in April 1980 established a special unit, at its Chicago office, to perform future investigative work at the Fund.

Labor officials told us that SIS could not investigate the patterns of alleged abuse and mismanagement its investigators found--other than real estate mortgage and collateral

loans--because of staffing shortages. Had SIS filled the 45 authorized permanent positions, we believe that it would have been able to review some of the unresolved areas and complete more third-party investigations.

Labor estimated SIS's costs, for the investigation from 1976 to May 1980, at about \$5.4 million. This does not include costs incurred by the Solicitor's office. Since 1978, the Solicitor's office has had four attorneys, plus support staff, working full time and various attorneys working on a part-time basis. In early 1980, it added seven attorneys.

COORDINATION PROBLEMS BETWEEN LABOR AND JUSTICE

Labor and Justice, in December 1975, entered into an agreement to coordinate their joint investigation of the Fund. Justice was to center its efforts on possible criminal violations of Federal laws, including ERISA. Under the agreement, Labor was to refer to Justice all information relating to potential criminal violations for use in Justice's criminal investigative activities.

We found, however, that problems in coordination and cooperation arose periodically between Labor and Justice despite the interagency agreement.

Coordination problems

During the first year of the investigation (1976), the coordination arrangements were informal and apparently worked well. In 1977, Labor's management of the investigation

changed from an investigative to a litigative posture. This resulted in changes in Labor's philosophies in handling the investigation, which were not always fully atuned to Justice's needs.

For example, Labor postponed most of its planned investigative work, involving third parties until after the civil suit was filed. According to the official from Justice's Criminal Division, who was the liaison with Labor, this may have dried up a source of information on potential criminal activity.

The deteriorating coordination was expressed in a January 31, 1978 memorandum from the Deputy Assistant Attorney General, Criminal Division, to the Assistant Attorney General, Criminal Division. The memorandum stated that several distinct problems had arisen which presented grave difficulties and which appeared not to be resolvable at the operational level. These problems included:

- The inability of Justice's liaison to obtain information indicating potential crimes or criminal misconduct under ERISA from Labor.
- A total shutdown of communications between Justice representatives on the Teamster Investigative Task Force and Labor's representatives.

As a result, significant problems surfaced. One problem dealt with the contention by Justice's Criminal Division that Labor, in late 1977 and early 1978, did

not provide sufficient advance notice to it, and the appropriate U.S. Attorney's office, of Labor's intent to file the civil suit against the former Fund trustees and officials. Justice officials stated that the lack of advance notice caused problems because their main witness in a criminal case against a former Fund official was named as a defendant in Labor's civil suit. The witness then became less cooperative and did not agree to testify until about an hour before the trial began.

Another problem dealt with the flow of information from Labor to Justice. Labor denied Justice officials copies of summaries prepared by Labor's attorneys because Labor considered these documents internal drafts. This problem was particularly significant because Labor was the focal point for the joint investigative effort through the large resources it committed and its onsite access to Fund records. Justice relied on Labor's investigative efforts to help detect potential criminal violations. Officials in Justice's Criminal Division stated that Labor's actions ran counter to the spirit of full cooperation originally envisioned in the agreement with Labor.

Policy and working group committees

Although an interdepartmental policy committee of high-ranking Labor and Justice officials was established in December 1975 to oversee the investigation and resolve disputes, the committee seldom met once the investigation began. The committee was nonexistent when the above problems surfaced.

It was replaced in mid-1977 by an informal interagency work group composed of intermediate level officials who were to coordinate each department's ERISA responsibilities as well as the investigation of the Fund. The work group was formally established by a December 1978 interagency agreement and was to meet biweekly.

Despite the work group, coordination problems still arose. For example, the Justice criminal division liaison official with Labor attempted at work group meetings to obtain Labor's plans about filing a lawsuit at least 3 months before the suit was filed. He was not told until the day before the suit was actually filed, and then he was advised by officials from Justice's Civil Division.

Some of these coordination problems may have been avoided if the interdepartmental policy committee had played a more active role and carried out its oversight function.

Referrals of potential criminal violations

Labor's and Justice's combined efforts failed to produce a significant number of information referrals that Justice could pursue through its criminal investigations. Labor in 5 years of investigative activity, provided Justice's Criminal Division 11 formal loan information referrals that had potential for criminal investigation.

Labor made five referrals in 1977, five in 1978, and one in 1979. On August 18, 1980, Justice's Assistant Attorney General,

Criminal Division, told us in a memo, that none of the 11 referrals had resulted in any criminal indictments and only one referral was still under investigation. He said, however, six of the referrals were being pursued as part of other investigations.

The Assistant Attorney General said Justice investigated other matters which, directly or indirectly involve 15 other Fund loans. Of these 15 cases, he said that only one resulted in a conviction. For three others, criminal indictments were secured, but two resulted in an acquittal or dismissal and the other went to trial in August 1980. For the remaining 11, 7 were still under investigation and the investigations were closed without any indictments for 4.

In addition to the above referrals, a Labor official said that at work group or other meetings Labor had informally discussed or provided Justice staff with other information.

Justice officials, told us that, overall, most of the information received from Labor had not been useful for their criminal investigative efforts, including organized crime strike force program activities.

The Secretary of Labor in March 1980 testified 1/ that the work group setup was being used to satisfactorily discuss

1/Hearings on Central States Teamsters Fund before the Subcommittee on Oversight, House Committee on Ways and Means, 96th Cong., 2nd Sess. (March 24, 1980).

enforcement activities of mutual interest. The Secretary said Labor hoped that initial problems in coordination had been resolved and they will continue to have good coordination with Justice.

The Deputy Assistant Attorney General, Criminal Division also testified at the March hearings that there may have been some friction between the two departments in the past; however, they are now cooperating smoothly, and the work group meetings have successfully minimized and averted potential conflicts.

However, as indicated by our review, Labor and Justice have experienced continuing coordination problems despite several agreements and despite the working group committee.

THE FUND'S TAX-EXEMPT STATUS RESTORED

Labor and IRS, after IRS agreed to fully coordinate in August 1976, had extensive discussions and considered many options--from a court-enforced "consent decree" 1/ to requiring a neutral board of trustees--in reforming the Fund and having IRS restore its tax-exempt status. The Fund's tax-exempt status was restored in April 1977. The

1/A consent decree is an order of preliminary or permanent injunction entered by a court of competent jurisdiction on the basis of the Government's complaint, the consent of the defendant to the entry of a decree embodying certain relief (usually without admitting or denying the allegations of the complaint), and an agreed form of judgment.

requalification was based on the trustees oral agreement to operate the Fund in accordance with ERISA and to comply with eight specific conditions prescribed by Labor and IRS.

From August 1976 to February 1977, IRS and Labor officials continued to meet and coordinate on the conditions for IRS to restore the Fund's tax-exempt status. As a result of these meetings, both IRS and Labor proposed minimum standards to correct practices and govern the Fund's future operations. For example, IRS proposed that the trustees be required to transfer all of the Fund's assets and receipts, except those needed for current benefit payments, administrative expenses, existing loan commitments, and operations, to an independent outside professional investment manager. Labor, on the other hand, proposed that a "neutral" board of trustees, composed of a majority of individuals not affiliated with the Fund, be established to govern the Fund.

Labor officials and Fund representatives in September 1976 had informal negotiations on changing the Fund's operations, limiting the scope of the trustees' management, and removing some trustees. Labor officials discussed the possibility of obtaining a consent decree which would have been judicially enforceable in a Federal district court. The proposed consent decree would have prescribed, during the period of Labor's investigation, the manner in which the trustees would manage the existing assets and make investments. Labor dropped

the consent decree requirement when the Fund, in October 1976 agreed to restructure its board of trustees from 16 to 10, and 11 of the 16 trustees agreed to resign (one had previously resigned) and 6 new trustees were appointed.

A new Secretary of Labor was appointed in late January 1977. After reviewing Labor's investigation and assessing the evidence, the Secretary stated that Labor had a strong case that could stand up in court. The Secretary stated, however, that the chance of protracted and bitter litigation was significant. The Secretary decided that Labor's primary goal was to preserve the Fund's assets. He also decided that Labor should explore, with the Fund's representatives, the possibility of achieving the relief believed necessary without litigation.

On February 16, 1977, Labor and IRS presented to Fund representatives the Government's demands to restore the Fund's tax-exempt status. Labor and IRS' demands included the requirements that the (1) four trustees who served before October 26, 1976, should resign and (2) board be restructured so that the new board consisted of a majority of neutral professionals and a minority of representatives of the union and contributing employers.

Labor and IRS officials also told Fund officials that they were prepared to go to court to (1) remove the four holdover trustees and require new trustees to remove themselves from the day-to-day management of the Fund's

assets and (2) make certain changes in the pension plan and procedures, outside the asset management area, to bring the plan into compliance with ERISA's minimum standards and to meet certain IRS qualification requirements.

In a February 23, 1977, meeting, Fund representatives presented a counteroffer under which, among other things, the board would remain but deal only with noninvestment matters and delegate investment authority over Fund assets to a committee of independent, neutral professionals. The Fund also agreed to amend its plan to comply with ERISA outside the asset management area.

Although Labor and IRS were not completely satisfied with the Fund's progress; IRS on February 26, 1977, extended the relief of the Fund's tax exemption to the end of April 1977.

IRS and Labor had additional negotiations with the trustees, and on April 26, 1977, the final Government conditions were explained in a letter IRS issued restoring the Fund's tax-exempt status. The letter said that the continued qualification of the Fund would depend on its effective operation, in accordance with ERISA, and compliance with the following eight conditions.

1. The trustees amend the trust agreement to have the Fund conform to ERISA and the Internal Revenue Code.

2. The Fund have in operation, not later than December 31, 1977, a data base management system that would be sufficient to determine "credited service" in accordance with the pension plan's requirements for all participants from 1955 to April 26, 1977, inclusive.
3. The Fund review all benefit applications that were originally rejected but subsequently approved to insure that the effective date and amount of benefit payments were in accordance with the plan provisions in effect at the appropriate governing dates.
4. The Fund complete by May 1, 1978, an examination of all Fund loans and related financial transactions from February 1, 1965, to April 30, 1977, to determine whether the Fund has any enforceable causes of actions or other recourse as a result of the transactions.
5. The trustees amend the trust to provide a statement of investment policies and, annually, the trustees provide written investment objectives to the investment manager retained by the Fund.
6. The trustees amend the trust to establish a qualified Internal Audit Staff to monitor Fund affairs.
7. The trustees amend the trust to publish annually, in at least one newspaper of general circulation

in each State, the annual financial statements, certified by the Fund's Certified Public Accountant.

8. The trustees place all Fund assets and receipts, including moneys derived from liquidation of existing investments (except funds reasonably retained by the Fund for payment of plan benefits and administrative expenses), under direct, continuing control of independent professional investment managers as defined by section 3(38) of ERISA.

The IRS letter also required the Fund to allow IRS, but not Labor, access to Fund records, reports, etc. Also, the letter said IRS was not passing on the actuarial soundness of the plan or the reasonableness of the actuarial computations. The IRS letter also required the trustees to submit monthly reports on the progress made in complying with the eight conditions.

Labor, after the Fund agreed to meet the Government's conditions, stated it would terminate that portion of its investigation focusing on the Fund's asset management procedures and review of the Fund's records and documents. Labor did terminate the onsite phase of the investigation in May 1977 and shifted primarily to a civil litigative strategy.

LABOR PLAYED NO ACTIVE ROLE IN
SELECTING FUND'S NEW TRUSTEES

On October 29, 1976, the trustees amended the trust agreement, with the consent of the employer trucking associations, to reduce the board from 16 to 10 members--5 union

and 5 employer appointed. Also, all but 4--2 union and 2 employer--of the 16 trustees resigned. On April 27, 1977, the four trustees resigned and new trustees were appointed.

Neither Labor nor IRS played an active role in the selection of the new Fund trustees, although they had developed qualifications and criteria that the new trustees were to meet.

Labor played no active role in selecting six new trustees appointed in October 1977

Six new trustees--three union and three employer--were appointed to bring the board up to full strength. The three union trustees were selected by the Teamsters union conferences and the three employer trustees by the trucking associations.

Labor officials did not review the six new trustees' qualifications, experience, or associations with the old trustees. In fact, Labor did not know what methods were used or who selected the union or the employer trustees.

Labor officials, including those who negotiated with Fund officials, apparently considered suggesting a method for selecting the new trustees. They also considered suggesting that the Fund appoint "independent" or professional trustees who were not affiliated with the plan sponsors. However, the officials concluded that Labor could tell the Fund which of the trustees were not acceptable, but it could not be placed in the position of selecting the new trustees by approving or rejecting nominees. Also, some Labor officials had reservations about the public perception of Labor excluding

union members from serving as trustees of collectively bargained plans.

Labor and IRS played no active role
in selecting four trustees
appointed in April 1977

Labor and IRS met several times to develop a coordinated format for dealing with the Fund and criteria to be used in selecting new trustees to replace the four holdovers. Labor and IRS agreed on criteria that included the following:

(1) the board would be restructured so that a majority of the trustees would be persons--either individuals or entities, such as banks or insurance companies--not affiliated with the union or any employer contributing to the Fund, (2) the neutral trustees would be highly qualified professionals from a variety of disciplines with recognized ability and independence, and (3) the Government would be involved in the selection and would exercise veto power over any proposed candidate.

Labor had also coordinated with Justice on the use of a majority of neutral trustees--chosen by the union and employers. In fact, the Secretary of Labor on January 18, 1977, requested an opinion from the Attorney General on whether the proposed neutral board of trustees would comply with the Taft-Hartley Act. Justice advised Labor on January 27, 1977, that such a proposed board of trustees would comply with the requirements of the Taft-Hartley Act.

In the initial negotiations with the Fund, Labor and IRS demanded that the remaining four original trustees resign and a board composed of a majority of "neutrals" and minority of union and employer representatives be appointed. The Fund refused.

Later, during the final negotiations, Labor and IRS gave the trustees a choice to (1) restructure the board to obtain a majority of neutral trustees or (2) retain the present board structure, with the remaining four original trustees to resign and turn over control of asset management to a professional, independent investment manager. The trustees chose the second option, and on April 29, 1977, the four holdover trustees resigned and four new trustees were appointed.

IRS and Labor played no active role in selecting the four new trustees, nor did they insist on (1) deciding on the qualifications and characteristics of the new trustees or (2) Government approval of the persons selected. The trustees were selected by the Teamsters' Central and Southern Conferences and the trucking associations.

According to the Special Consultant to the Secretary of Labor, who headed Labor's negotiations with the Fund, Labor's first goal was to get the assets out of the hands of the former trustees, irrespective of who the new trustees were, so that they would have no control over or impact on investment or asset management decisions. One official said that Labor did not want to subject itself to possible criticism for having approved trustees who could later be found to be not upright.

Concern that former trustees controlled
selection of new trustees

Concern was expressed in congressional hearings in June 1978 1/ that the former trustees who resigned influenced the selection of the four new trustees.

The Assistant Secretary for Labor-Management Relations acknowledged in response to a question from the Subcommittee that some of the former union trustees, who were forced to resign from the Fund, held offices in the Central and Southern Conference of the Teamsters organizations. These organizations appointed the new trustees, and the former trustees apparently participated in the selection of their successors. Labor apparently was not concerned by this fact because the Assistant Secretary stated that the selection did not violate ERISA's provisions.

More recently, however, Labor officials have become concerned about the influence of the former trustees, as well as the behavior of the current trustees. Labor officials had indicated in February 1980 that a review of the new trustees' performance demonstrated significant disregard for the interest of the participants and beneficiaries and a determination to frustrate the efforts of Labor in its ERISA enforcement activities. The officials also indicated that the record of the new trustees' conduct also supports the inference that the former trustees still exert significant influence over the Fund's operations.

1/See hearings on Central States Teamsters Fund, Subcommittee on Oversight, House Committee on Ways and Means, 95th Cong. 2nd Sess., p. 77 (June 1978).

The officials cited the (1) trustees' lack of cooperation with the Government on the civil suit by their repeated attempts to block Labor's discovery of evidence to be used against the former trustees, (2) trustees' attempt to curtail the independence of the investment managers, and (3) influence of former trustees as evidenced by their open involvement in day-to-day Fund operations.

TRUSTEES TRIED TO REASSERT
CONTROL OVER FUND'S ASSETS

As a condition of requalification, the trustees agreed to appoint an independent investment manager to handle the Fund's assets and investments. Labor, in coordination with IRS, established certain qualifications for the investment manager and told Fund officials it would veto any firm chosen by the trustees that did not meet its qualifications.

During its negotiations with the Fund in March 1977, Labor told the trustees' representatives that the investment manager had to meet Labor's general criteria--independence, professionalism, and national stature. Labor also told the trustees that (1) they would have to be prudent in their choice of the manager, (2) they would not be relieved of their duties to monitor the investment manager's performance, (3) the manager selected would have to be competent and be able to withstand the public scrutiny that would inevitably begin when the choices were made public, and (4) the contractual structure had to be workable and meet ERISA's requirements.

On June 30, 1977, the trustees entered into a series of contracts with the Equitable Life Assurance Society of the United States and the Victor Palmieri Company. Under the contracts, Equitable became the overall or managing "fiduciary" of the Fund as well as manager for Fund real estate assets east of the Mississippi, and Palmieri became manager for Fund real estate assets west of the Mississippi. Neither the Equitable nor the Palmieri appointment could be terminated, changed, modified, altered, or amended in any respect before October 2, 1982, except for cause and only on written consent of the Secretary of Labor. After October 2, 1982, the Fund can terminate the contracts without Labor's consent.

Labor was satisfied with the arrangement and did not exercise its veto. In fact, the Secretary of Labor stated in a letter dated September 28, 1977, to the Chairman of the Senate Committee on Human Resources that he believed the contracts provide a sound basis for the future management of the Fund's assets. He said that they contain great promise of ending years of suspicion, allegations, and wrongdoing that surrounded the asset management of the Fund and persons associated with it.

Equitable shifts Fund's investments from real estate loans

One of the principal criticisms of the Fund's investment portfolio was the concentration of investments in real estate related loans. However, since Equitable has taken over,

the Fund's assets have been largely redirected to investments in stocks and other securities. On October 3, 1977, when Equitable assumed control of the Fund's \$1.59 billion in assets, almost 60.7 percent (\$966 million) of the assets was real estate, mortgage, and collateral loans. The other 39.3 percent (\$626.2 million) was primarily invested in stocks and bonds.

However, on December 31, 1979, almost 2 years after Equitable assumed control, the Fund's total assets had grown by about \$622 million to \$2.2 billion. The real estate and mortgage investments had decreased to \$670.4 million, or about 30 percent of the total assets. Equitable reported that somewhat more than half of the increase in assets resulted in employer contributions. (See app. VI for table showing the investments before and after Equitable assumed control.)

Also, since Equitable assumed control of the Fund's income its investments have steadily increased. One of Equitable's investment objectives is that, overall, the Fund's minimum annual rate of return should be at least at 6.5 percent over a 4-year period. Equitable has reported that from an investment standpoint, the increase in investment assets through December 31, 1979, has been at an annualized rate of return equal to 8.23 percent, as compared to 4.5 percent in 1976.

For calendar year 1979, the Fund's total investment income was about \$151.3 million, or more than double the \$73 million earned as reported by the Fund for 11 months in 1976, when the former trustees controlled the investments and assets.

Trustees attempt to compromise
independence of investment managers

Despite the investment managers' performance and the agreement with Labor and IRS, the current Fund trustees have repeatedly and openly sought to undermine the independence of Equitable and Palmieri, and reassert control over the Fund's assets and investments.

The trustees' attempts to compromise the independence of Equitable and Palmieri came less than 6 months after the firms assumed control of the Fund's assets in October 1977. In March 1978 the trustees passed a series of resolutions which stated, among other things, that the trustees (1) could remove Equitable and Palmieri for cause, before the 5-year contract period had expired, without the Secretary's consent and (2) had to be given at least 30 days' notice before disposal of assets over \$10,000.

In a April 18, 1978, memorandum to the Secretary of Labor, the Assistant Secretary for Labor-Management Relations expressed concern about the trustees' resolutions and indicated the possibility that they were laying the groundwork to remove Equitable and Palmieri as their investment managers. The Assistant Secretary said Labor would take appropriate action if the dismissal occurred. Labor notified the trustees and investment managers that the resolutions were not enforceable.

Other actions taken by the current trustees to undermine the investment managers' function included having the Fund hire its own internal staff of real estate analysts. This

staff, according to the Labor officials, duplicated much of the investment managers' work. Also, according to Palmieri, the trustees recently instructed the staff to perform independent inspections of all assets under Palmieri's management.

Further, the Fund's staff is managing a considerable amount of assets that apparently were acquired after Equitable became investment manager or were not turned over to Equitable. The Fund's annual reports showed that \$72.7 million as of December 31, 1977, and \$100.5 million as of December 31, 1978, in securities was managed by its staff.

The trustees also attempted to have Palmieri reduce its management fees--which were fixed for the 5-year contract period--in light of the overall decline of assets managed by Palmieri. Because of loan amortization and asset sales, the assets managed by Palmieri had declined from \$550 million in October 1977, to \$430 million as of August 1979. Palmieri, however, refused.

In August 1979, the trustees passed resolutions demanding that (1) Palmieri enter immediate negotiations to reduce its fee, and (2) Equitable and the Fund's custodian bank stop payment of contracted fees until Palmieri agreed to renegotiate. Labor notified the trustees and Equitable that the resolutions were not enforceable. Also, according to Labor officials the fees were paid to Palmieri.

Finally, the Fund's trustees on November 23, 1979, submitted a request to Labor for an advisory opinion on whether Palmieri's fees should be renegotiated and whether

the Fund could terminate, without Labor's consent, Palmieri's contract, because it refused to renegotiate the fees.

On May 7, 1980, Labor issued an opinion stating that (1) Palmieri's management fees were not unreasonable and should continue to be paid, (2) because Palmieri's fees were not deemed unreasonable, the trustees did not have cause for terminating Palmieri, and (3) the requirement of written consent of the Secretary to terminate Palmieri's appointment as investment manager was still valid and enforceable.

According to the Fund's counsel, the request for the advisory opinion reflected a genuine effort by the trustees to resolve serious ERISA issues without resorting to other available remedies. The counsel also stated that it should be understood that the request would not diminish the right and opportunity of the trustees to resort, in the future, to one or more of other remedies, after the "advisory" opinion was analyzed. The Fund's letter did not provide information on what other remedies it would take.

LABOR AND IRS NOT ADEQUATELY MONITORING
CURRENT TRUSTEES ACTIVITIES

Although Equitable has been appointed to handle the Fund's assets and investments, the Fund's trustees still control all the moneys the Fund receives. Moreover, after transferring moneys to Equitable for investment, the trustees still control a substantial amount of moneys in the Benefits and Administration (B & A) account.

Our review disclosed that Labor has not adequately monitored the B & A account to assure that the trustees are prudently using these funds.

IRS has responsibility for assuring that the Fund complies with the eight conditions of the April 1977 requalification letter. The trustees, after complying with only four of the conditions to IRS' satisfaction, notified IRS on August 24, 1979, that they would no longer submit progress reports and considered that the eight conditions were substantially satisfied.

Under its contract with Equitable, the trustees determine the Fund's needs for (1) pension benefits, (2) administrative expenses, and (3) an "appropriate reserve" in the B & A account. The trustees, after determining these amounts, turn over the excess ("new funds") to Equitable for investment. Although the amounts transferred to Equitable for investment purposes have been substantial, the trustees retained a significant amount of the Fund's income in the B & A account.

To illustrate, during calendar year 1979 the trustees transferred \$186 million to Equitable. On the last day of December 1979, the trustees controlled \$142 million in this account. (A schedule of the B & A account for calendar year 1979 is in app. VII.)

Equitable's contracts with the Fund state that Equitable does not have any duty or responsibility with respect to the B & A account. Thus, the trustees have sole responsibility for the account.

The fact that the trustees would still control substantial income through this account, and the need for adequately monitoring it, was recognized early by the Senate Permanent Subcommittee on Investigations. Labor officials, including the Secretary of Labor, in testimony in July 1977 acknowledged the need for adequate monitoring and assured the Subcommittee members that Labor would continually monitor and review the trustees' handling of the funds they control.

Labor not adequately
monitoring B & A account

However, contrary to the Secretary of Labor's and other officials' testimony, Labor did not adequately monitor the B & A account.

Labor's SIS was responsible for monitoring the account, but it performed little monitoring. In fact, Labor left the Teamsters site in May 1977, several months before the B & A account was set up, and Labor's monitoring consisted of reviewing monthly and annual reports at Labor's headquarters, plus information from other agencies, such as IRS.

The acting director of SIS in 1979 agreed that there was little monitoring. He said there was little time for Labor to do any monitoring before the civil lawsuit was filed in February 1978. After the suit was filed, the Fund stopped all cooperation with Labor. He said that Labor would have had to issue a subpoena to obtain records from the Fund. Labor, however did not issue a subpoena. He also said there were no allegations regarding mishandling of this money, or any evidence of mishandling in the annual reports.

Further evidence on the lack of adequate monitoring of the Fund's B & A account by Labor was noted in a November 1979 report prepared for the Deputy Assistant Secretary of LMSA on Labor's investigation of the Fund. Regarding the financial operation of the Fund, the report stated:

--"There is virtually no information available on the current financial operation of the fund."

--"The methods by which a determination is made as to how much money should be transferred to the assets managers, how expenses are approved, what authority is delegated to the executive director, and in general, how the Fund operates financially are all unknown at the present time."

--"We have very little knowledge of the details of how much money is actually received by the Fund, how much money is transferred to the asset managers, or how money being held by the Fund is managed."

The report stated Labor should investigate to determine the actual moneys maintained by the Fund, the moneys transferred to asset managers, and the reasons why the Fund needs to maintain an estimated \$100 million in escrow in the B & A account since it can request and receive any moneys from the asset managers needed for the account. The report also said Labor needs to review how well the Fund is managing the assets it controls.

The continuing congressional concern over the lack of effective monitoring and the size of the B & A account was expressed in congressional hearings held in March 1980. 1/ The Secretary of Labor was asked if Labor knew the size of the account and whether there was a problem with the size. The Secretary said that he did not have any information that would lead Labor to believe the account was unreasonably large. He said information received from IRS showed that the B & A account had approximately \$65 million as of June 1979. He said that this figure did not appear (1) to be unreasonable in view of the size of the payments the Fund makes or (2) to violate ERISA. He concluded that

"It is up to the asset managers to determine whether the amount is in violation of the asset management agreements."

However, Equitable's contract with the trustees specifically states that Equitable has no responsibility for the B & A account. Moreover, the November 1979 report by the Deputy Assistant Secretary/LMSA acknowledges that Equitable has no control over or responsibility for the B & A account, and that the trustees can request any amount desired from Equitable for the account, and Equitable is bound to honor the request.

In addition, as noted previously, the B & A account balance had grown to \$142 million as of December 31, 1979, or more than double the \$65 million considered reasonable by the Secretary.

1/ See note 1, p. 28.

A further indication of the lack of adequate monitoring is shown in comments made in April 1980 by the Fund's assistant executive director in response to the following question by a congressional committee. 1/

"Has IRS, the Department of Labor or the investment managers questioned the size of the Benefits and Administration Account, and whether such size was in fact reasonable, within the past year?"

The assistant executive director stated that two inquiries were made, one by Equitable in January 1980 asking why the balance had grown by \$28 million during 1978, and another by IRS in March 1980 requesting information regarding the amounts retained in the B & A account. He said that the Fund responded to both inquiries within several weeks.

The assistant executive director concluded that

"other than the inquiries above, the Fund is not aware of any other inquiries regarding the B & A account."

Fund attempts to use B & A account
to make questionable loan

According to information gathered by Labor, as well as statements made by the Fund's assistant executive director, the moneys in the B & A account were invested in certificates of deposit (normally 6-month maturity) and commercial paper that allowed the Fund to earn the current market rate.

However, Fund trustees, in one case, apparently intended to use the moneys in the B & A account to make a \$91 million loan, as part of an out-of-court settlement of a suit against them for failing to fulfill a loan commitment. In this case, the

1/See note 1, p. 28.

trustees in January 1975 had approved a commitment to loan a prospective borrower \$40 million to renovate a hotel in Las Vegas, Nevada, and to construct a 1,000-room addition. The borrower had previously received loans from the Fund. However, in June 1976 the trustees rescinded the commitment because the loan would have been a "prohibited transaction" under ERISA. This arose because the prospective borrower's firm is related to a contributing employer and, as such, is disqualified from receiving a loan under the act.

The prospective borrower, in June 1976, sued 1/ the trustees, seeking approval of the loan and \$100 million in damages. The case continued for several years, and in September 1979, the trustees attempted to have the court approve a settlement by making an additional \$85 million loan plus \$6 million to restructure the old loan. The Fund's counsel, in presenting the proposed settlement to the court, stated:

"I might state for the record that the position of the Fund is that we are not, in addressing this lawsuit, in the business of asset managing. We are not seeking to make real estate loans or acquire real estate. We are attempting to extricate the Fund from the litigation as I have previously stated in the status report and we consider this to be an administrative matter."

Labor, which had intervened in the suit to protect the Fund's interest, was not aware of the settlement until the Fund proposed it. At the court's request both Labor and Equitable reviewed the proposed settlement and both objected

1/ M & R Investment Company, Inc. v. Fitzsimmons et al.,
No. LV-76-114 in U.S. District Court, Las Vegas, Nevada.

to it, stating that the loan would not be an appropriate transaction. As a result, the court did not approve the proposed transaction.

Also, in January 1980, the court ruled for the Fund holding that the proposed initial \$40 million loan was unlawful under ERISA's prohibited transactions. The court also denied the prospective borrower's claims for damages.

According to Labor officials, in the transparent attempt to circumvent the authority of the investment managers, the trustees planned to increase the balance of the Fund's B & A sufficiently to fund the \$91 million loan.

Fund failed to meet all eight conditions of requalifications

Under its agreement with IRS, the Fund was required to submit monthly reports on the progress made in meeting the eight conditions under which IRS requalified the Fund's tax-exempt status. The Fund submitted the required monthly reports until August 1979, when it advised IRS that it would no longer send them and that the Fund considered each of the conditions to be substantially satisfied.

IRS disagreed, however, and advised the Fund that some of the conditions were not fully satisfied. According to IRS, the Fund had not taken action to fully satisfy four conditions.

--Condition 2--to have an adequate data base in operation to determine creditable service and benefits for all participants. IRS stated that only 50 percent of the

retiring employees' benefit applications are processed using the improved data base. IRS said the Fund needs to improve its procedures for verifying past service and locating plan participants.

--Condition 4--to review all loans and related transactions from February 1, 1965, to April 30, 1977. IRS said delays in the loan review program occurred; no progress was made until October 1977. At that time 35 loans were in various stages of review, and 6 had been referred to outside legal counsel for consideration. Subsequently, the Fund suspended further efforts in complying with this condition.

--Condition 7--to publish financial information on the Fund in newspapers. The Fund issued a news release containing the required financial statements in 1978. IRS said, however, in August 1979, the trustees passed a resolution to terminate the newspaper publication of its financial information.

--Condition 8--to decide on the appropriate reserve amount in the B & A account. In June 1979, the Fund decided that the reserve amount in the B & A account should be \$65 million. IRS stated it does not have current information to determine the amount retained or to determine whether it exceeds the amount reasonably needed to pay plan benefits and administration expenses. In IRS' opinion, the appropriate amount of the reserve was still in dispute at March 1980.

THE FUND'S FINANCIAL SOUNDNESS

ERISA requires that employee pension plans satisfy minimum funding standards each year and that each plan submit an actuarial report in which the actuary states his opinion that the contents of the report in the aggregate are reasonable and represent the best estimates of anticipated experience under the plan. IRS is to use the actuarial reports to determine the plan's financial soundness.

IRS is responsible for enforcing ERISA's minimum funding standards. However, IRS' April 1977 requalification letter stated that its determination on the Fund's tax-exempt status is not an indication that IRS is in anyway passing on the actuarial soundness of the plan or on the reasonableness of the actuarial computations.

Since 1975, the trustees have had four actuarial valuations of the Fund's financial soundness--three used data as of January 31, 1975, and one was as of December 31, 1978.

The first actuary, who had been the Fund's actuary since 1955, concluded that the Fund was financially sound. In 1975, the Fund hired a second actuary, who stated the Fund was not financially sound. He also stated that the Fund would require contributions significantly higher than those estimated by the first actuary. A third actuary was hired to break the tie, and he agreed with the second actuary. According to the former executive director of the Fund, the actuary concluded, in his report, that the Fund's unfunded liabilities were reaching staggering proportions.

The last actuary's report dated March 3, 1980, which was based on 1978 data, stated that the current funding should satisfy ERISA's requirements. However, the actuary also said that the funding policy allowed very little margin for error and that, if actual experience differed, funding problems would occur after the ERISA standards become effective for the Fund in 1981.

In our opinion, IRS should closely monitor the financial status of the Fund to assure that it, in fact, meets the standards in 1981 and in future years.

LABOR AND IRS NEED TO INVESTIGATE UNRESOLVED
PROBLEM AREAS OF ALLEGED MISMANAGEMENT

During its original onsite work at Fund headquarters-- from January 1976 to May 1977--Labor decided to concentrate its investigation on the practices Fund fiduciaries use to make real estate mortgage and collateral loans. However, Labor's investigators also identified patterns of apparent abuse and raised questions of potential criminal violations in the Fund's other operations.

SIS' chief auditor in 1976 indicated that full-scale audits were justified in the areas of (1) rental income, (2) commitment and service fees, (3) funded interest, (4) real estate owned and operated, (5) trustee and allowance expenses, and (6) service providers.

To illustrate, the Fund charged borrowers a fee for loans. The fee was usually a percentage of the loan commitment.

SIS' investigation showed that the Fund established neither a receivable account for these fees when it issued loan commitments nor the necessary accounting controls to assure collection of these fees. Also, the Fund had no uniformity on when or how the fees were to be paid. SIS uncovered instances where the fees had been reduced, waived, or refunded.

SIS investigators also raised questions of potential criminal violations in two areas. One dealt with the impropriety of payments made to Fund trustees for allowance and expense claims, and the second dealt with payments to firms or others providing services to the Fund. These improprieties could possibly constitute a violation of section 664, title 18, U.S. Code, which prohibits theft or embezzlement of assets of pension plans covered under ERISA.

SIS investigators also disclosed other problem areas, including the appropriateness of the Fund's liquidity position and allegations of improprieties regarding how the Fund determines eligibility for pension benefits and how it makes benefit payments.

SIS, however, did not finish its work on these areas. According to a Labor official, staff was limited and the available staff was directed to review the Fund's real estate loans. As a result of this decision, the investigation was not completed and questions of alleged mismanagement and potential criminal violations went unresolved.

Labor report recognizes incompleteness
of the investigation

Not until late 1979, almost 4 years after Labor's initial onsite investigation began and 2-1/2 years after it ended, did Labor decide to investigate new areas of abuse.

The impetus came from the report prepared in November 1979 for the Deputy Assistant Secretary, LMSA. The report pointed out that the scope of the original investigation was reduced substantially because of the then-critical need to gather evidence on asset management, and because of this, together with the filing of lawsuits, a number of issues had never been investigated. It said Labor has reached the point where it is critical to develop an understanding through investigation of how all aspects of the Fund are being administered under the current trustees.

The report recommended that Labor review the areas of the Fund's operations that were not completed in the original investigation. Four specific areas were recommended for investigation. The first covered the appropriateness of the B & A account and administrative expenses for trustee allowances, employee salaries, legal fees, valuation services, consulting services, and other expenses. The other three areas were (1) employer contributions, (2) asset management--by the independent managers and the Fund--and (3) the purchase of a new aircraft for \$3 million, which according to the report is a potential fiduciary violation.

The report stated that, if all the issues are investigated, a minimum of 7 to 10 investigators would be needed for 1 to 2 years. The PWBP official who made the review stated that it is critical that serious consideration be given to how the investigation is to be made. He said

"I do not feel the investigations can be effectively conducted from the National Office. The location of the Fund and the lack of quality investigators in the National Office would cause many of the problems experienced in the past three years to continue."

He recommended that LMSA's Chicago Area Office handle the investigation.

Also, officials in Labor's Solicitor's Office in February 1980 indicated that the performance of the new trustees had demonstrated significant disregard for the interests of the participants and beneficiaries. They also commented on the need for Labor to investigate areas of the Fund's operations, including some of those cited in the Deputy Assistant Secretary's report.

Labor and IRS resume
investigations of the Fund

As a result of the current trustees' actions and the above reports, Labor investigators on April 28, 1980, returned to the Fund's headquarters to start a second onsite investigation. As recommended in the Deputy Assistant Secretary's report, the LMSA Chicago office is performing the investigation.

The scope of the new investigation includes areas not initially completed as well as other areas of the Fund's operations that were never investigated. Two areas are payments to (1) trustees for travel allowances and expenses, and (2) firms or others providing the Fund services. These are "old" areas identified in the summer of 1976. According to Labor's current plans, however, the investigation will not cover payments to trustees and service providers incurred before January 1977. As a result, the investigators will not review the payments made to the 12 former trustees that resigned in 1976. Labor, therefore, may lose an opportunity to develop information of potential violations, which occurred before 1977, on payments to the former trustees or the service providers.

IRS also started an onsite investigation of the Fund's operations at the same time Labor began its investigation. In an April 7, 1980, letter to the Fund, IRS stated that:

"* * * The seriousness of the Fund's past problems, coupled with the Fund's recent refusal to allow on-site review and to provide monthly reports showing compliance with the conditions of the April 26, 1977, letter requalifying the Fund's tax-exempt status compel the Service to review the Fund's current activities."

IRS' investigation did not begin until almost 8 months after the Fund--in August 1979--notified the Service it would no longer send in monthly reports, and that the Fund considered each of the conditions to be substantially satisfied.

IRS' letter also stated that its investigation would cover Fund administrative expenses, including the B & A account, investment activities--both the Fund and independently managed assets--and payment of pension benefits. Some of these are similar to areas to be investigated by Labor.

Labor and IRS advised the Fund that their investigations were being coordinated. Labor officials also advised us it was coordinating with IRS. However, both agencies issued a subpoena or a summons for the same records and are apparently reviewing some of the same activities and operations.

In view of the past problems between IRS and Labor, we believe that close coordination is needed to (1) prevent overlap and duplication between the two agencies' investigations and (2) assure that any further reforms or improvements needed in the Fund's operations are presented as unified Government requirements.

LABOR SUES FORMER TRUSTEES AND
OFFICIALS TO RECOVER LOSSES
RESULTING FROM THEIR ALLEGED
MISMANAGEMENT AND FIDUCIARY BREACHES

As a result of its original investigative effort, Labor on February 1, 1978, filed a civil suit in the U.S. District Court for the Northern District of Illinois, Eastern

Division, against 17 former Fund trustees and 2 officials 1/ to recover losses resulting from their alleged mismanagement and breaches of their fiduciary duties.

The Secretary of Labor filed the civil suit against the former trustees and officials under the authority of section 502(a)(2) of ERISA, which authorizes him to bring a civil action seeking appropriate relief from any fiduciary who breaches any of the responsibilities, obligations, or duties imposed on fiduciaries by title I of ERISA. Labor's suit alleges that the defendant trustees by their mismanagement of Fund assets and breach of their fiduciary duties have caused great financial harm to the plan and its participants and beneficiaries.

Labor intended to recover losses the Fund incurred or expected to incur. Labor did not estimate the Fund's past or future losses because of the nature of the real estate market, the lack of specific information on the current status of some investments, and the fact that many investments would not mature until some time in the future. Labor stated

1/The suit listed these 17 former trustees: Frank Fitzsimmons, Roy Williams, Robert Holmes, Donald Peters, Joseph W. Morgan, Frank H. Ranney, Walter W. Teague, Jackie Presser, Albert D. Matheson, Thomas J. Duffey, John Spickerman, Herman A. Lueking, Jack A. Sheetz, William J. Kennedy, Bernard S. Goldfarb, Andrew G. Massa and William Presser. The two former officials are Alvin Baron and Daniel Shannon; however, Mr. Shannon was later dropped from the complaint.

that losses incurred will be identified during the litigation and that Labor will not make a firm estimate of the losses until the suit is scheduled for trial.

Labor's suit listed 15 loan transactions as examples of the alleged fiduciary violations. The 15 transactions consisted of 12 real estate mortgage and collateral loans and 3 other financial transactions to individuals. Labor has no definite estimate of losses to be recovered by the suit.

The suit is still in the discovery phase and is not expected to be adjudicated in the near future. The case proceedings were temporarily delayed because the presiding judge resigned in April 1979. As of that date, three motions had not been decided: (1) to add the Fund as a party to the action, (2) to review a discovery order, and (3) to consolidate this action with several other related actions. On June 25, 1979, a new presiding judge was appointed; as of May 1980, he was still considering the motions.

CONCLUSIONS

The fact that Labor and IRS resumed a second investigation at the Fund's headquarters, in our view, indicates that problems remain to be resolved and raises questions as to whether the agreements for the reforms to the Fund's operations will be lasting.

We question whether the reforms and changes that Labor and IRS required the trustees to make in the Fund's operations were the best the Government could have achieved and the most advantageous for the Fund and its plan participants. Labor's and IRS' findings and strong evidence of mismanagement and abuse by the former trustees and IRS' action of removing the Fund's tax-exempt status in our view, gave the Government strong bargaining position in its dealings with Fund officials. However, Labor and IRS failed to use their advantage in the final negotiations with the trustees to gain lasting reforms and improvements to the Fund's operations and remove the influence and control exercised by the former trustees.

We believe that both Labor and IRS need to take heed of the coordination problems and shortcomings in negotiations with the Fund in the original investigation to assure that these mistakes are not repeated in their current investigations and in future dealings with the trustees. In our opinion, Labor and IRS need to more closely cooperate to prevent (1) coordination problems, (2) duplication and overlap between their investigations, and (3) giving the Fund an excuse not to cooperate because the Government's house is not in order. In addition, Labor should assure that the current investigation includes all areas not reviewed in its initial investigation.

We believe also that Labor and IRS need to take action, above and beyond the conditions required by the April 26, 1977, agreement, to remove the trustees' control over and the influence on all the moneys the Fund receives. Labor and IRS should, based on its current evidence and further evidence to be developed under its new investigation, consider proposing a reorganization of the way the Fund handles and controls the employers' contributions and other income to remove the trustees' control over any of these funds.

Also, in view of the comments by the actuaries regarding the Fund's financial soundness, we believe that IRS should determine whether the Fund is being funded in accordance with ERISA's requirement and, if not, take action to assure that the Fund meets ERISA's requirements.

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Mr. Chairman, this completes my statement. We would be happy to respond to any questions you or members of the Subcommittee may have.

LIST OF FUND TRUSTEES
AS OF OCTOBER 29, 1976

	<u>Employer trustees</u>	<u>Tenure</u>	<u>Affiliations</u>
1.	Albert D. Matheson	a/-10/76	National Automobile Transporters Labor Council
b/ 2.	Thomas J. Duffey	6/62-10/76	Motor Carriers Employers Conference Central States
b/ 3.	John F. Spickerman, Sr.	2/62-4/77	Southeastern Area Motor Carriers Labor Relations Association
4.	Herman A. Lueking, Jr.	12/66-10/76	Cartage Employers Management Association
5.	William J. Kennedy	7/69-10/76	a/
b/ 6.	Jack A. Sheetz	4/67-10/76	Southwest Operators Association
7.	Bernard S. Goldfarb	12/72-10/76	Cleveland Draymen Association, Inc., and Northern Ohio Motor Truck Association, Inc.
b/ 8.	Andrew G. Massa	1/74-4/77	Motor Carriers Employers Conference-Central States
	<u>Union trustees</u>	<u>Tenure</u>	<u>Affiliations</u>
b/ 1.	Frank E. Fitzsimmons	2/62-4/77	General President, International Brotherhood of Teamsters (IBT)
b/ 2.	Roy L. Williams	a/-4/77	Central Conference of Teamsters, Central States Drivers Council, and IBT Local Union No. 41

APPENDIX I

APPENDIX I

	<u>Union trustees</u>	<u>Tenure</u>	<u>Affiliations</u>
3.	William Presser	a/-2/75 2/76-10/76	IBT Local Union No. 410
4.	Robert Holmes	4/67-10/74	IBT Local Union No. 337
5.	Donald Peters	10/67-10/76	IBT Local Union No. 743
b/ 6.	Joseph W. Morgan	4/68-10/76	Southern Conference of Teamsters
7.	Frank H. Ranney	4/68-10/76	(Retired IBT official)
8.	Walter W. Teague	9/24-10/76	Georgia-Florida Conference of Teamsters
b/ 9.	Jackie Presser	2/75-2/76	IBT Local Union No. 507

Source: Department of Labor records

a/Information not available from Labor records.

b/Also a trustee of the Teamsters' Health and Welfare Fund.

LIST OF FUND TRUSTEES
OCTOBER 29, 1976 TO APRIL 30, 1977

	<u>Employer trustees</u>	<u>Tenure</u>	<u>Affiliations</u>
b/ 1.	John F. Spickerman, Sr.	2/62-4/77	Southeastern Area Motor Carriers Labor Relations Association
2.	Leroy L. Wade	10/76-4/78	National Automobile Transporters Labor Council
3.	Howard McDougall	10/76-Present	Cleveland Draymen Association, Northern Ohio Motor Truck Association, Inc. and Cartage Employees Management Association
b/ 4.	Andrew G. Massa	1/74-4/77	Motor Carriers Employers Conference-Central States
b/ 5.	Robert J. Baker	10/76-Present	Motor Carriers Employers Conference - Central States
<u>Union trustees</u>			
b/ 1.	Frank E. Fitzsimmons	2/62-4/77	General President, IBT
b/ 2.	Hubert L. Payne	10/76-7/78	Secretary Treasurer, IBT Local Number 519
b/ 3.	Loran W. Robbins	10/76-Present	President, Indiana Conference, Joint Council 69, and IBT Local Number 135
b/ 4.	Robert E. Schlieve	10/76-7/79	Secretary-Treasurer, IBT Local Number 563
b/ 5.	Roy L. Williams	a/-4/77	Central Conference of Teamsters Central States Drivers Council

a/Information not available from Labor records.

b/Also a trustee of the Teamsters' Health and Welfare Fund.

LIST OF FUND TRUSTEES
APRIL 30, 1977 TO APRIL 15, 1980

<u>Employer trustees</u>	<u>Tenure</u>	<u>Affiliations</u>
1. Leroy L. Wade	<u>c/</u> 10/76-4/78	National Automobile Transporters Labor Council
2. Howard McDougall	10/76-Present	Cleveland Draymen Association Northern Ohio Motor Truck Association, Inc., and Cartage Employers Management Association
<u>b/</u> 3. Robert J. Baker	10/76-Present	Motor Carriers Employers Conference-Central States
<u>b/</u> 4. Thomas F. O'Malley	4/77-Present	Motor Carrier Employers Conference-Central States
<u>b/</u> 5. Earl N. Hoekenga	4/77-2/78	Southeastern Area Motor Carriers Labor Relations Association and Southwest Operators Association
<u>b/</u> 6. Rudy J. Pullians, Sr.	2/78-Present	Southeastern Area Motor Carriers Labor Relations Association and Southwest Operators Association
<u>Employee or union trustees</u>		
<u>b/</u> 1. Hubert L. Payne	<u>c/</u> 10/76-7/78	Secretary-Treasurer, IBT Local No. 519
<u>b/</u> 2. Loran W. Robbins	10/76-Present	President, Indiana Conference, Joint Council 69, and IBT Local No. 135
<u>b/</u> 3. Robert E. Schlieve	<u>c/</u> 10/76-7/79	Secretary-Treasurer, IBT Local No. 563
4. Harold J. Yates	4/77-Present	President, IBT Local No. 120
5. Marion M. Winstead	4/77-Present	President, IBT Local No. 89
<u>b/</u> 6. Earl L. Jennings, Jr.	10/78-Present	Southern Conference of Teamsters

a/Information not available from Labor records.

b/Also a trustee of the Teamsters' Health and Welfare Fund.

c/Deceased.

KEY EVENTS OF GOVERNMENT INVESTIGATION OF TEAMSTERS PENSION FUND 1978 TO PRESENT

MONTH	EVENTS	DESCRIPTION	STATUS	DATE	REFERENCE	STATUS	DATE	REFERENCE	STATUS	DATE	REFERENCE	STATUS	DATE	REFERENCE	STATUS	DATE	REFERENCE	STATUS	DATE	REFERENCE					
JANUARY	ENRCA EFFECTIVE																								
FEBRUARY																									
MARCH																									
APRIL																									
MAY																									
JUNE																									
JULY																									
AUGUST																									
SEPTEMBER																									
OCTOBER																									
NOVEMBER																									
DECEMBER																									

PRINCIPAL OFFICIALS INVOLVED
IN THE GOVERNMENT'S INVESTIGATION
OF THE FUND

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<u>DEPARTMENT OF LABOR</u>		
SECRETARY OF LABOR:		
Ray Marshall	Jan. 1977	Present
William J. Usery, Jr.	Feb. 1976	Jan. 1977
CONSULTANT TO SECRETARY:		
Eamon M. Kelly	Feb. 1977	June 1977
<u>SOLICITORS OFFICE</u>		
SOLICITOR OF LABOR:		
Carin A. Clauss	Mar. 1977	Present
Alfred Albert (acting)	Jan. 1977	Mar. 1977
William J. Kilberg	Apr. 1973	Jan. 1977
ASSOCIATE SOLICITOR, DIVISION OF PLAN BENEFITS SECURITY:		
Monica Gallagher	Nov. 1977	Present
Steven J. Sacher	Feb. 1975	Aug. 1977
COUNSEL FOR SPECIAL INVESTIGATIVE SERVICE:		
Robert Gallagher	Oct. 1977	Present
Richard Carr	June 1978	Present
<u>LABOR-MANAGEMENT SERVICES</u> <u>ADMINISTRATION</u>		
ASSISTANT SECRETARY FOR LABOR- MANAGEMENT RELATIONS:		
William Hobgood	July 1979	Present
Vacant	Jan. 1979	June 1979
Francis X. Burkhardt	Mar. 1977	Jan. 1979
Bernard E. DeLury	Apr. 1976	Feb. 1977
DEPUTY ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS:		
Rocco DeMarco	April 1979	Present
ADMINISTRATOR, PENSION AND WELFARE BENEFIT PROGRAMS (note a):		
Ian David Lanoff (note b)	May 1977	Present
J. Vernon Ballard (acting)	Jan. 1977	May 1977
William J. Chadwick	Oct. 1976	Jan. 1977
James D. Hutchinson (note c)	June 1975	Oct. 1976

DEPUTY ADMINISTRATOR, PENSION AND
WELFARE BENEFIT PROGRAMS:

Morton Klevan	Mar. 1980	Present
J. Vernon Ballard	Dec. 1974	Dec. 1979

SPECIAL INVESTIGATIVE STAFF (d)

DIRECTOR, SIS:

Norman E. Perkins (acting)	Oct. 1977	May 1980
Lawrence Lippe	Dec. 1975	Oct. 1977
Principal staff		
Lester Seidel, Counsel	Jan. 1976	Sept. 1977
Sal Barbatorn, Attorney	e/	June 1977
Loyd F. Ryans, Jr., Attorney, Asst. to Director	Apr. 1977	May 1980
Bernard Freil, Chief Investigator	July 1976	Dec. 1977
Edward Shevlin, Investigator	Sept. 1976	Mar. 1980
Robert Baker, Investigator	Sept. 1976	Mar. 1980
Norman Perkins, Chief Auditor	June 1976	Oct. 1977
James Benages, Asst. Chief Auditor	July 1976	Feb. 1978

CENTRAL STATES PENSION FUND
INVESTIGATION--CHICAGO:

James M. Benages, Admin. Area Office	Apr. 1980	Present
Rhonda T. Davis, Track Super.	Apr. 1980	Present

DEPARTMENT OF JUSTICE

ATTORNEY GENERAL OF THE UNITED STATES:

Benjamin R. Civiletti	Aug. 1979	Present
Griffin Bell	Jan. 1977	Aug. 1979
Edward H. Levi	Feb. 1975	Jan. 1977

ASSISTANT ATTORNEY GENERAL,
CRIMINAL DIVISION:

Benjamin R. Civiletti	e/	Aug. 1979
Richard L. Thornburgh	July 1975	Mar. 1977
John C. Keeney (acting)	Jan. 1975	July 1975

CHIEF, ORGANIZED CRIME AND
RACKETEERING SECTION:

David Margolis	May 1979	Present
Kurt W. Muellenberg	May 1977	April 1979
William S. Lynch	Aug. 1969	May 1979

LIAISON, JUSTICE-LABOR:

Jerald Toner	Dec. 1979	Present
Hamilton B. Fox	June 1979	Dec. 1979
David Slattery	Dec. 1975	June 1979

DEPARTMENT OF THE TREASURY

SECRETARY OF THE TREASURY:

G. William Miller	May 1979	Present
W. Michael Blumenthal	Jan. 1977	May 1979

COMMISSIONER OF INTERNAL REVENUE:

Jerome Kurtz	May 1977	Present
William E. Williams (acting)	Feb. 1977	May 1977
Donald C. Alexander	May 1973	Feb. 1977

REGIONAL COMMISSIONER--MIDWEST REGION:

Charles F. Miriani (acting)	Dec. 1979	Present
Edwin P. Trainor	Oct. 1971	Dec. 1979

DISTRICT DIRECTOR--CHICAGO:

Donald E. Bergherm	Dec. 1979	Present
Charles F. Miriani	July 1979	Dec. 1979

a/The Office of Employee Benefits Security was established on December 16, 1974, to administer the Department of Labor's responsibility under ERISA. The activities of the Office were originally directed by the Director, Office of Employee Benefits Security. In April 1975, the position of Administrator, Pension and Welfare Benefit Programs, was established to direct the activities of the Office. In May 1976, the title of the Office of Employee Benefit Security was officially changed to the Pension and Welfare Benefit Programs.

b/Mr. Lanoff disassociated himself from the Teamster Fund investigation, and Mr. Ballard acted in his place.

c/First Administrator of Pension and Welfare Benefit Programs.

d/The Special Investigative Staff was abolished on May 5, 1980 and its personnel transferred to the Solicitor's Office and other units in LMSA.

e/Information not available.

CLASSIFICATION OF FUND ASSETS

The schedule below shows the Fund's investments at October 3, 1977--when Equitable took over--and at the end of calendar year 1979.

Classi- fication	As of 10/3/77		As of 12/31/79		Increase or (decrease) from 10-77
	Amount	Percent of total funds (amounts in millions)	Amount	Percent of total funds	
Mortgage loans	\$ 818.9	51.4	\$ 549.2	24.8	(\$269.7)
Real estate	147.1	9.2	121.2	5.5	(25.9)
Sub total	<u>966.0</u>	<u>60.6</u>	<u>670.4</u>	<u>30.3</u>	<u>(295.6)</u>
Common stock	\$ 117.9	7.4	\$ 657.1	29.7	\$539.2
Publicly traded bonds	402.4	25.3	645.9	29.1	243.5
Short term obligations	51.4	3.2	154.5	7.0	103.1
Sub total	<u>571.7</u>	<u>35.9</u>	<u>1,457.5</u>	<u>65.8</u>	<u>885.8</u>
Horizon Communi- cation Corp.	\$ 29.7	1.9	36.0	1.6	6.3
Interest Guarantee con- tracts	20.0	1.3	32.1	1.5	12.1
Cash & short- term (new funds)	4.8	0.3	17.8	.8	13.0
Total	<u>\$1,592.2</u>	<u>100.0</u>	<u>\$2,213.8</u>	<u>100.0</u>	<u>\$621.6</u>

Source: Monthly reports by Equitable submitted to the Department of Labor and the Fund.

SCHEDULE OF CONTRIBUTIONS RECEIVED AND
BENEFITS PAID BY THE FUND
JANUARY 1, 1979 THROUGH DECEMBER 31, 1979

<u>1979</u>	<u>Benefits & Administration Account balance (last day of month) (note a)</u>	<u>Contri- butions</u>	<u>Benefits</u>	<u>Transfers to Equitable</u>
----- (000 omitted) -----				
Jan.	\$ 85,662	\$ 47,061	\$ 25,721	\$ 19,000
Feb.	91,052	42,168	26,263	10,000
Mar.	91,400	37,876	26,745	10,000
April	100,155	46,762	26,555	10,000
May	95,782	40,535	26,678	15,000
June	95,532	44,001	26,326	15,000
July	110,312	57,990	26,758	15,000
Aug.	122,862	56,048	27,373	15,000
Sept.	126,537	48,792	27,320	17,000
Oct.	139,387	61,358	27,765	20,000
Nov.	143,897	53,866	27,840	20,000
Dec.	142,137	<u>49,105</u>	<u>28,005</u>	<u>20,000</u>
Total		\$ 585,562 -----	\$323,349 -----	\$186,000 -----

a/Amounts reflected represent balances on the last day of each month. Benefit payments and transfers to Equitable are transacted during the first week of each month. Therefore, the balances reflected in the Benefits & Administration Account are immediately reduced by the amount of such transfers and payments.

Source: Report by Assistant Executive Director, Teamsters Pension Fund, dated April 1980, supplied to GAO by the Senate Permanent Subcommittee on Investigations.

