

**FRANK J. McGARR, Esq.**  
**Arbitration and Mediation**

November 24, 2010

The Honorable Milton I. Shadur  
United States District Judge  
United States District Court  
Northern District of Illinois  
Eastern Division  
219 South Dearborn Street  
Chicago, Illinois 60604

**Via UPS Next Day**

Re: Quarterly Report of Independent Special Counsel, Solis v. Estate of Frank E. Fitzsimmons, et al., No. 78 C 342 (N.D. Ill., E.D.); Solis v. Robbins, et al., No. 78 C 4075 (N.D. Ill., E.D.); and Solis v. Dorfman, et al., No. 82 C 7951 (N.D. Ill., E.D.)

Dear Judge Shadur:

This is to report on my activities during the third quarter of 2010 as Independent Special Counsel appointed pursuant to the Fitzsimmons (Pension Fund) and Robbins and Dorfman (Health and Welfare Fund) consent decrees.

I have attended full Board of Trustees meetings, now held every other month (with additional meetings as noted in my reports), and consulted regularly with Fund executives.

Trustee Selection / Board Composition

Mr. Charles Whobrey's present term as an Employee Trustee is set to expire on March 31, 2012. On October 8, 2010, I attended a ballot counting procedure at the Funds' offices to select an individual to fill the Employee Trustee position and term set to begin on April 1, 2012 and running through March 31, 2017. The ballots returned by the Central Trustee Selection Board, pursuant to the Funds' Statement of Procedures for Selection and Monitoring of Employee Trustees ("Procedures"), indicated that Mr. Whobrey has been re-elected to serve the five year term following the expiration of his present term on March 31, 2012. As Mr. Whobrey has already been approved by the Court overseeing the consent decrees, no further approvals by the court are required. These balloting results were reviewed and approved by the Employee Trustees at the October 12, 2010 Board Meeting pursuant to the Funds' Procedures.

### Audit

At the August 10, 2010 Meeting of the Board of Trustees, the Funds' Internal Audit Department presented a report concerning its audit of the Funds. The overall conclusion of the audit is that the administrative and internal accounting controls surrounding cash receipts processing are operating in accordance with Funds' policies and procedures and provide a basis for reliance on the propriety of transactions processed.

The 2009 Forms 5500 (Annual Reports) for both Funds were reviewed in draft form at the Board of Trustees' October 12, 2010 meeting and subsequently filed by the October 15 filing date.

### Pension Fund

#### Funding and PPA-Related Issues

As previously reported, in July 2005 the Internal Revenue Service approved the Fund's request for a 10-year extension for amortizing unfunded liabilities. This extension is believed likely to defer for the near term a statutory funding deficiency. The IRS granted the request subject to certain conditions. In general terms, these IRS conditions require the Pension Fund to maintain its existing ratio of assets to liabilities through 2011, and in subsequent years to show moderate annual improvements in that funding ratio.

To meet these IRS imposed conditions, the Board of Trustees determined based on actuarial and legal advice that the Pension Fund needed increased employer contributions. At their November 8, 2005 meeting, the Board accordingly amended the Pension Plan to require such increased contributions (at a rate the Board sets) in collective bargaining agreement renewals as a condition of continued participation, and approved specific rates reflecting 7% annual increases for contracts renewing by December 31, 2006. The Fund so notified all locals and employers participating in the Fund by special bulletin dated November 28, 2005 and held extensive meetings explaining the changes to local unions and employers.

At their November 8, 2006 meeting, again as recommended by the Pension Fund's actuaries to enable the Fund to comply with the funding ratio conditions imposed by the IRS, the Board of Trustees approved 8% per year as the required contribution rate increase for all collective bargaining agreements expiring in 2007. Local unions and participating employers were notified of this rate increase in December 2006.

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The Pension Fund's Board of Trustees also asked the negotiators of the United Parcel Service, National Master Freight Agreement and Carhaul agreements to allocate to the Pension Fund fringe benefit contribution increases which were scheduled for 2006. The negotiators agreed to that allocation. Allocations of increased fringe benefit contributions to the Pension Fund were also made in 2007.

As explained in previous reports, the multiemployer plan funding rules of the Pension Protection Act of 2006 ("PPA") became effective on January 1, 2008. On March 24, 2008, the Fund's actuary certified the Fund to be in "critical status" under the PPA for the 2008 plan year; on March 31, 2009, the actuary certified that the Fund remains in critical status for the 2009 plan year, and on March 31, 2010 the actuary made the same certification with respect to the 2010 plan year. As a result of the initial critical status certification, the Trustees adopted a "rehabilitation plan" as the PPA requires for critical status plans. The plan approved by the Trustees attempts to build upon and incorporate the funding improvement program instituted prior to the January 1, 2008 effective date of the PPA, and designed to ensure compliance with the conditions imposed by the pre-PPA amortization extension. In broad outline, the Rehabilitation Plan approved by the Trustees contains a "Primary Schedule," which requires each contributing employer to agree to five years of 8% annual contribution increases (7% if the increases began in 2006) in order to maintain current benefit levels for the affected bargaining unit. The PPA also requires that a rehabilitation plan contain a "Default Schedule," which must provide for the reduction in what the PPA terms "adjustable benefits." ("Adjustable benefits" under the PPA generally include all benefits other than a contribution based retirement benefit payable at age 65.) Accordingly, the Pension Fund's Rehabilitation Plan includes a Default Schedule providing for 4% annual contribution rate increases and for the loss or reduction of adjustable benefits for bargaining units electing that Schedule. The PPA also provides that if the bargaining parties have not chosen any of the schedules established by a rehabilitation plan (*i.e.*, the Primary or Default Schedule) within 180 days following the expiration of the parties' last labor agreement, the Default Schedule will be imposed as a matter of law.

Staff has reported to the Trustees that as of August 2010, a vast majority of the Fund's active members were covered by collective bargaining agreements that have come into compliance with the Fund's rehabilitation plan. Almost all of the compliant employers and bargaining units have agreed to adopt the rehabilitation plan's Primary Schedule (generally requiring 7-8% annual contribution increases for five years and maintaining current benefit levels). As of the Trustees' August 10, 2010 Meeting, only 12 bargaining units, comprising a total of 255 active participants, have agreed to adopt

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the rehabilitation plan's Default Schedule (4% annual increases and elimination of PPA adjustable benefits). As of August 2010, approximately 14 bargaining units, comprising approximately 92 participants, have had the Default Schedule imposed on them by operation of law under the PPA, due to their failure to agree to be bound by either Primary Schedule or the Default Schedule within 180 days of the expiration of the units' last collective bargaining agreement.

Contributing employers who have not agreed to be bound by one of the Schedules created by the Rehabilitation Plan are required under the PPA to pay a non-benefit bearing surcharge to the Fund on their contractual pension contribution obligation. Under the PPA, the surcharge was 5% of the pension contribution obligation during 2008, and was increased to 10% as of January 1, 2009. Staff has reported that (1) as noted, most employers are in compliance with the Rehabilitation Plan and are *not* incurring surcharges, and (2) as of August 2010, most of the employers who are incurring the surcharges are also voluntarily paying them; those few who have refused to pay the surcharges are being pursued under the Fund's delinquent account collection procedures, including litigation where necessary. (It should be noted that surcharged employers - *i.e.*, those not compliant with the Rehabilitation Plan - are not necessarily subject to the Default Schedule under which the affected participants incur a loss of PPA adjustable benefits. Under the PPA, the Default Schedule is imposed on the bargaining parties only after the lapse of 180 days from the expiration of a non-compliant collective bargaining agreement. As reported above, only approximately 14 bargaining units, comprising approximately 92 participants, have so far incurred the Default Schedule through this PPA-mandated process.)

At the August 10, 2010 Board of Trustees Meeting, Staff also presented reports concerning certain employers and bargaining units who may have triggered "Rehabilitation Plan Withdrawals" from the Pension Fund. Under the Pension Fund's Rehabilitation Plan adopted pursuant to the PPA, a Rehabilitation Plan Withdrawal ("RPW") generally occurs where an employer ceases to have an obligation to contribute to the Fund at one or more of its locations or facilities, but continues to do the same type of work for which contributions were previously required. The consequence for a bargaining unit incurring an RPW is the loss of PPA adjustable benefits (*i.e.*, the loss of all benefits other than a contribution-based benefit payable at age 65).

The PPA also contemplates that multiemployer plans in the critical zone will annually "update" their rehabilitation plans, which presumably includes annual consideration of changes to the rehabilitation plan schedules of contributions and benefits. The

Pension Fund was not required to undergo such an update process during 2009 because the Fund elected, pursuant to the Worker Retiree and Employer Recovery Act of 2008 (WRERA), to opt-out of the 2009 update requirement. The WRERA opt-out is not applicable for the 2010 plan year, and so the Trustees have received reports concerning the update process at several recent Board meetings and they will adopt an updated rehabilitation plan later this year.

Although it appears the Pension Fund has reported progress in securing increased employer contributions and controlling benefits as required of "critical status" plans under the PPA, the financial information presented below makes clear that the Fund suffered serious investment losses in the general stock market and economic downturn that commenced in 2008. During 2009 and 2010 to date the Pension Fund has enjoyed a significant (but by no means complete) recovery of its 2008 investment losses. In addition, Staff has reported that, for plan year 2008, the Pension Fund was unable to satisfy the funding ratio targets that are a condition of the amortization extension granted to the Fund by the IRS in 2005 (described above, pp. 2-3). Staff has also reported, with the concurrence of the Trustees, that the Pension Fund filed an application with the IRS requesting a waiver of the funding ratio targets established under the amortization extension, in view of the unexpected economic decline that has occurred; that application is still pending.

The Trustees have also directed Staff to continue to monitor and pursue additional regulatory or legislative initiatives that may assist the Pension Fund in addressing the funding problems created by recent conditions in the general economy and stock markets.

#### Reallocation of Assets Pursuant to the Court's Recent Orders.

As the Court is aware, on June 25, 2010 the Court approved the transfer of all the Pension Fund assets presently controlled by Goldman Sachs Asset Management LLP (as named fiduciary, "Goldman Sachs") to Northern Trust Global Advisors, Inc. (as named fiduciary, "Northern Trust"). The Court approved this asset transfer as part of the Fund's transition to a single named fiduciary in light of Goldman Sachs' decision to resign from its named fiduciary position. Pursuant to the Court's June 25 Order, on August 2, 2010 all assets under the control of Goldman Sachs - comprising approximately \$5.54 billion in value - were transferred to Northern Trust.

As also contemplated under the Court's June 25, 2010 Order, this transfer of funds from Goldman to Northern Trust was a transitional step in the achievement of the following Court-approved asset allocation:

<u>Percent of Total Assets</u>	<u>Named Fiduciary or Passive Index Account</u>
50%	Northern Trust
25%	Passive Equity Index Account
20%	Passive Fixed-Income Index Account
5%	Passive EAFE Index Account

In furtherance of this Court-approved asset allocation, on September 21, 2010, the Court authorized the transfer on or before October 1, 2010 of (1) \$715,784,150.93 from Northern Trust to the Passive Equity Index Account and (2) \$926,222,845.85 from Northern Trust to the Passive EAFE Index Account. The Pension Fund's Staff has confirmed that on September 24, 2010 the amounts referenced above were transferred by Northern Trust to the appropriate Passive Index Accounts.

Financial Information - Investment Returns

The Pension Fund's investment return for the third quarter 2010 was 9.56%.

The Fund's financial group prepared for the Trustees a comparison of the Pension Fund's performance to the TUCS<sup>1</sup> universe results published for the third quarter of 2010. This comparison (showing percent returns on investment) is summarized in the following tables:

Pension Fund's Composite Return

	<u>3rd Quarter Ended</u> <u>Sept. 30, 2010</u>	<u>One Year Period Ending</u> <u>Sept. 30, 2010</u>	<u>Three Year Period Ending</u> <u>Sept. 30, 2010</u>
TUCS 1 <sup>st</sup> Quartile	9.52	11.78	(0.83)
TUCS Median	8.72	10.80	(2.16)
TUCS 3 <sup>rd</sup> Quartile	7.75	9.72	(3.02)
Fund's Composite Return	9.56	11.53	(2.11)

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<sup>1</sup>"TUCS" is the Trust Universe Comparison Service. Its Custom Large Funds Universe is composed of plans with assets exceeding \$3 billion.

**Pension Fund's Total Equity Return**

	<u>3rd Quarter Ended</u> <u>Sept. 30, 2010</u>	<u>One Year Period Ending</u> <u>Sept. 30, 2010</u>	<u>Three Year Period Ending</u> <u>Sept. 30, 2010</u>
TUCS 1 <sup>st</sup> Quartile	13.69	12.65	(5.58)
TUCS Median	13.03	11.19	(6.71)
TUCS 3 <sup>rd</sup> Quartile	12.19	10.45	(6.88)
Fund's Total Equity Return	11.86	11.27	(7.19)

**Pension Fund's Fixed Income Return**

	<u>3rd Quarter Ended</u> <u>Sept. 30, 2010</u>	<u>One Year Period Ending</u> <u>Sept. 30, 2010</u>	<u>Three Year Period Ending</u> <u>Sept. 30, 2010</u>
TUCS 1 <sup>st</sup> Quartile	5.52	13.69	10.16
TUCS Median	4.08	11.87	8.63
TUCS 3 <sup>rd</sup> Quartile	3.24	10.36	7.39
Fund's Fixed Income Return	2.85	9.69	8.21

The Fund's named fiduciaries (Goldman Sachs Asset Management (recently resigned and now terminated) and Northern Trust Global Advisors, Inc.) submit monthly investment reports to the Trustees, summarized below (showing percent returns on investment):

**Goldman Sachs Asset Management (Resigned and Now Terminated)**

	<u>Year-to-Date as of</u> <u>July 30, 2010</u>	<u>July</u> <u>2010</u>
Goldman-Sach's Composite Return	2.32	6.11
Benchmark Composite Return	1.86	6.17
Goldman Sach's Total Fixed Income Return	7.29	1.85
Benchmark Fixed Income Return	6.98	1.78

Goldman Sach's July 2010 composite return included a 6.36% return on U.S. equities (6.49% large cap and 6.25% on small cap U.S. equities), 5.50% on international equities and 10.24% on real estate. Legacy Goldman Sachs investment manager performance for the months of August and September, 2010 is included in the Pension Fund's composite returns.

**Northern Trust Global Advisors, Inc.**

	<u>Year-to-Date as of</u> <u>Sept. 30, 2010</u>	<u>3rd Quarter</u> <u>2010</u>	<u>July</u> <u>2010</u>	<u>Aug.</u> <u>2010</u>	<u>Sept.</u> <u>2010</u>
Northern Trust's Composite Return	6.65	6.68	6.14	(3.40)	8.12
Benchmark Composite Return	5.25	6.93	6.57	(3.51)	8.12
Northern Trust's Total Fixed Income Return	9.52	5.16	2.05	1.15	1.31
Benchmark Fixed Income Return	7.33	4.57	1.53	0.59	1.31

Northern Trust's third quarter 2010 composite return included a 5.49% return on U.S. equities (5.58% large cap and 3.97% on small cap U.S. equities), 13.86% on international equities and 3.53% on real estate.

The Fund's financial group reported asset allocation of the Pension Fund as a whole as of September 30, 2010 as follows: 68% equity, 27% fixed income, 3% other and 2% cash. The financial group also reported that for the third quarter of 2010 the return on the



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indexed fixed income account was 7.73%. For the third quarter of 2010 the passive equity account had a return of 4.15%.

#### Financial Information - Net Assets

(Dollars shown in thousands)

The financial report prepared by Fund staff for the nine months ending September 30, 2010 (enclosed) shows net assets as of that date of \$19,106,181, compared to \$19,542,042 at December 31, 2009, a decrease of \$435,861 compared to an increase of \$1,937,221 for the same period last year. The \$2,373,082 difference is due to \$2,240,530 less investment income combined with \$132,552 more net operating loss.

The enclosed Fund's staff report further notes that for the nine months ended September 30, 2010, the Fund's net asset decrease from operations (before investment income) was \$1,651,590 compared to a decrease of \$1,519,038 for the same period in 2009, or a \$132,552 unfavorable change. This change in net assets from operations (before investment income) was attributable to:

- a) (\$78,705) less contribution revenue due to YRC termination and a decrease in FTEs offset by increases in W/L and contribution rates,
- b) (\$55,395) more benefits paid, and
- c) \$1,548 less general and administrative expenses.

During the nine months ended September 30, 2010 and 2009, the Fund withdrew \$1,672,107 and \$1,603,390, respectively, from investment assets to fund the cash operating deficit.

#### Financial Information - Participant Population

The enclosed September 30, 2010 report prepared by Fund staff further notes that the eight-month average number of Full-Time Equivalent (FTE) memberships decreased 25.01% from August 2009 to August 2010 (going from 76,838 to 57,623). During that period, the average number of retirees increased 0.97% (from 212,247 to 214,305).

#### Named Fiduciaries

Officers of the Named Fiduciary, Northern Trust Global Advisors, Inc. met with the Board of Trustees during this quarter to discuss portfolio matters including asset allocation.

The Fund's financial group reported to the Board of Trustees at their August 10, 2010 meeting on investment expenses incurred through the second quarter of 2010. These investment expenses (fiduciary, custodial and investment management fees) totaled \$29,861,981 through the second quarter of 2010 compared to \$25,667,280 for the same period in 2009, a 16.3% increase. Third quarter investment expenses will be reported on at the upcoming December meeting.

### **Bankruptcies and Litigation**

The Funds' Executive Director continued to report to the Trustees on employer bankruptcies, including interim recoveries collected in the Funds' ongoing pursuit of claims for contributions and withdrawal liability against Consolidated Freightways Corporation and related entities. Approximately \$86.9 million has been collected to date from Consolidated Freightways companies.

### **YRC**

As previously reported, in recent years, YRC, Inc. and its affiliates ("YRC") have been among the largest contributing employers to both the Pension Fund and the Health and Welfare Fund.

As also previously reported, in May 2009 the Funds entered a Contribution Deferral Agreement ("Deferral Agreement") with YRC. Under the Deferral Agreement, the Pension Fund agreed to defer payment of YRC's pension contribution obligations accrued during January, March, April and May of 2009 (the "Deferral Period," representing a deferral of contributions totaling approximately \$83 million). The Fund's financial consultant indicated that absent deferral of these contribution obligations, YRC would be in default of loan covenants with its banks; Staff reported that such a default would risk triggering an insolvency and liquidation of YRC, which would destroy any chance of rehabilitating the employer as a healthy contributor to the Funds.

Some 25 other multiemployer pension plans in which YRC participates joined in the Deferral Agreement, but the Pension Fund is owed approximately 64% of the contributions deferred under the Agreement.

Repayment of the Deferral Period contributions was secured under the Deferral Agreement by first lien collateral on approximately 150 real estate parcels owned by YRC, plus additional second lien collateral.

The Deferral Agreement originally required repayment of the deferred contributions in 36 monthly installments commencing in

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January 2010. YRC was also scheduled under this Agreement to pay interest on the deferred contributions on a current basis commencing on July 15, 2009 and continuing on the 15<sup>th</sup> of each month thereafter.

However, the Pension Fund's Staff and financial consultants reported that YRC was both unable and unwilling to meet its on-going pension contribution payment obligations beyond the Deferral Period, *i.e.*, contribution obligations accrued *after* May of 2009. As a result, at the Trustees' July 16, 2009 Meeting, the Board formalized action to *terminate* YRC's participation in the Pension Fund.

The Pension Fund's Staff also reported that in early July 2009, representatives of YRC and the Teamsters National Freight Negotiating Committee ("TNFNC") reached an agreement to amend YRC's then current labor agreement to eliminate the company's pension contribution obligation for the next 18 months, and to resume making those contributions in January 2011. In light of YRC's intention to return to the Pension Fund as a participating employer at a later date, and upon a recommendation from Staff, the Trustees decided at their July 16, 2009 Meeting that YRC's termination of participation in the Pension Fund should not at this time (and subject to certain conditions) be treated as a complete and permanent cessation of its obligation to contribute to the Pension Fund that would trigger withdrawal liability.

At the September 16, 2009 Board Meeting, the Trustees also approved treating YRC's delinquent contributions for the post-Deferral Period (*i.e.*, the contribution obligations accrued during June and July 2009, prior to the July 2009 termination of YRC's Pension Fund participation - approximately \$26 million) as additional deferrals subject to repayment under the Deferral Agreement.

The Pension Fund's Staff also reported that in mid-October 2009, YRC approached the Fund and requested the ability to postpone for at least one year the principal and interest payments that were scheduled to fall due under the Deferral Agreement commencing on January 15, 2010. YRC based this request upon its continuing cash flow difficulties, and the willingness of YRC's banks and other creditors to make comparable concessions and debt restructuring, including significant deferrals of interest and fees owed to the banks. As a result, in a phone conference held on October 26, 2009, the Trustees approved the requested postponement of the principal and interest payments previously scheduled to commence in January 2010 under the Deferral Agreement (contingent upon YRC's achievement of the planned debt restructuring), because the Trustees viewed a liquidation of YRC at this time as contrary to the interests of the Fund.

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YRC reported that at year-end 2009, it substantially achieved the planned debt restructuring with its banks and many of its bondholders.

In late July 2010, YRC asked that the Pension Fund and the other Teamster plans participating in the Deferral Agreement consent (1) to YRC's sale of one of its affiliates, YRC Logistics, Inc., and (2) to an arrangement with YRC's banks which permitted YRC to retain a significantly larger percentage of the proceeds from the sales of some of the company's real estate, in exchange for the banks' ability to reduce their commitments to loan additional funds to YRC in the future. At a special telephonic Board Meeting held on August 3, 2010, the Fund's Trustees approved this request. None of these asset sales involved collateral pledged to the Fund, and the sales promised to provide much needed cash to YRC.

On September 24, 2010, TNFNC and YRC executed an Agreement for the restructuring of the YRC Worldwide, Inc. Operating Companies ("Restructuring Agreement"). Under this Agreement YRC would resume contributions to the Pension Fund in June 2011 at a rate constituting a 75% reduction from its pre-termination (pre-July 2009) rate. The Fund's Staff advises that the Restructuring Agreement has now been ratified by the YRC bargaining unit. The Trustees reviewed this Agreement at their October 12, 2010 meeting. The Fund's Staff is now attempting to determine whether acceptance of the Restructuring Agreement is justified and in the Fund's best interest, and if so, what level of pension benefits should be associated with the proposed reduction in the pension contribution rate.

The Pension Fund's Staff has reported that YRC made timely interest payments to the Fund of approximately \$2.2 million through December 15, 2009. In addition, Staff has reported that to date the Pension Fund has received approximately \$25 million as its share of the net proceeds from sales of collateralized assets as a pre-payment under the Deferral Agreement. The Fund's Staff also reports that the outstanding principal and interest balance currently owed by YRC under the Deferral Agreement is approximately \$92 million.

#### **Health and Welfare Fund**

#### **Patient Protection Act and Affordable Care Act (PPACA)**

As the Court is aware, in March of this year, President Obama signed into law both the PPACA and the Health Care and Education Affordability Reconciliation Act of 2010 (which amended the PPACA). During the August 10, 2010 and October 12, 2010 Board Meetings, Staff presented the Trustees with information concerning the impact of the PPACA on the Health and Welfare Fund. Staff indicated that, effective on January 1, 2011, the PPACA will or may require

operational changes or plan amendments in certain areas, including the scope of adult child coverage and the content and timing of communications to Plan participants. Staff has also indicated that it is continuing with its plans for compliance with the PPACA, and that additional guidance from various federal agencies concerning the PPACA may be forthcoming.

**Health and Welfare Fund**  
**Financial Information**  
(Dollars in thousands)

The Health and Welfare Fund's financial summary for the third quarter of 2010 is compared below with interim financial information for the same period of 2009:

	<u>3rd Quarter Ended Sept. 30,</u> <u>2010</u>	<u>2009</u>
<b>Contributions</b>	\$290,786	287,486
<b>Benefits</b>	246,510	251,401
<b>TeamCare administrative expenses</b>	7,383	7,083
<b>General and administrative expenses</b>	<u>8,921</u>	<u>8,898</u>
<b>Net operating income</b>	27,972	20,104
<b>Investment income (loss)</b>	<u>57,662</u>	<u>63,907</u>
<b>Increase (Decrease) in net assets</b>	85,634	84,011
<b>Net assets, end of period</b>	1,410,614	1,231,447
<b>Eight-month average participants (FTEs)</b>	82,592	88,214

For the nine months ended September 30, 2010, the Health and Welfare Fund's net asset increase from operations (before investment

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income) was \$56,759 compared to an increase of \$51,797 for the same period in 2009, or a \$4,962 favorable change:

- (a) (\$13,258) less contributions,
- (b) \$17,562 less benefits,
- (c) (\$132) more TeamCare administrative fees, and
- (d) \$790 less general and administrative expenses.

Net investment income for the nine months ended September 30, 2010 was \$12,362 less than for the same period last year. The decrease resulted primarily from a \$9,726 unfavorable change in realized/unrealized gain (loss) combined with \$2,564 less interest and dividend income.

During the nine months ended September 30, 2010 and 2009, the Fund transferred \$65,434 and \$66,953, respectively, to investments (BNY Mellon) as the operations generated positive cash flows for those periods.

The enclosed report entitled "Central States Funds Financial and Analytical Information" prepared by the Fund's financial group as of September 30, 2010 shows the investment asset allocation as 75% fixed income and 25% equity.

This report also notes that the eight-month average number of Full-Time Equivalent (FTE) memberships decreased by 6.37% from August 2009 to August 2010 (going from 88,214 to 82,592). During that period, the average number of retirees covered by the Health and Welfare Fund decreased by 4.52% (from 12,895 to 12,312).

Article V (H)

As required by Article V(H) of the Health and Welfare Fund Consent Decree, the Health and Welfare Fund has paid during the third quarter of 2010 the following for professional services and expenses for the Independent Special Counsel:

July	\$0
August	\$0
September	\$0

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I will be glad to provide additional details regarding any aspect of my activities as Independent Special Counsel. Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

  
\_\_\_\_\_  
FRANK J. MCGARR,

Enclosure

F:348339

cc: Ms. M. Patricia Smith (w/encl.) **Via UPS Next Day**  
Mr. Michael A. Schloss (w/encl.) **Via UPS Next Day**  
Mr. Thomas C. Nyhan