FRANK J. McGARR, Esq.
Arbitration and Mediation

June 1, 2009

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, Chao v. Estate of Frank E. Fitzsimmons, et al., No. 78 C 342 (N.D. Ill., E.D.); Chao v. Robbins, et al., No. 78 C 4075 (N.D. Ill., E.D.); and Chao 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 first quarter of 2009 as Independent Special Counsel appointed pursuant to the Fitzimmons (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.

Central Trustee Selection Board/Kansas Member

The Central Trustee Selection Board ("CTSB") is one of the regional bodies which, pursuant to authorized procedures, is responsible for the selection of the Funds' Employee Trustees. William A. Moore (Teamster Local 696, Topeka, Kansas) had been serving a 2007-2011 term as the Kansas member of the CTSB. However, following Mr. Moore's agreement to a 12 month suspension as an officer of Local 696, a vacancy was created in the CTSB Kansas member position.

The elected principal executive officers of the two Kansas local unions authorized to fill that vacancy (Locals 696 and 795) both voted in early 2009, and on February 6 their completed ballots for the Kansas CTSB member were opened and counted. The result of that voting by the two Kansas voters was that Jesse Castillo, the President of Local Union No. 795 (Wichita), received a plurality of all votes actually cast and returned, and became the prevailing candidate under the approved procedure. At the March 24, 2009 meeting of the Board of Trustees, the Employee Trustees confirmed the election of Jesse Castillo as the Kansas CTSB member effective immediately for a term that will continue through December 31, 2010.

Audit

The Funds' internal audit group reported to the Trustees in January concerning the audit of the Funds' Investment Asset Monitoring activities. In March the internal audit group reported to the Trustees concerning the audit of the general ledger processing by the Financial Accounting Group. The overall conclusion of the audits was that the Investment Asset Monitoring activities and general ledger processing are operating in accordance with the Funds' policies and procedures, and provide a basis for reliance on the propriety of transactions processed.

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 needs 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.

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. 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 will require 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 March 2009, 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 March 2009, only 5 bargaining units, comprising a total of 40 active participants, have agreed to adopt the rehabilitation plan's Default Schedule (4% annual increases and elimination of PPA adjustable benefits). As of March 2009, approximately 23 bargaining units, comprising approximately 290 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 as of March 2009, the contributing employers of approximately 8,100 active members were incurring PPA surcharge obligations due to the failure of these employers and the corresponding bargaining units to agree to one of the Fund's rehabilitation plan Schedules. The vast majority of these "non-compliant" employers are paying the PPA surcharges, and the remainder are being pursued under the Fund's delinquent account collection procedures, including litigation where necessary. (It should be noted the non-compliant employers 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 23 bargaining units, comprising approximately 290 participants, have so far incurred the Default Schedule through this PPA-mandated process.)

At the January 13 and March 24, 2009 Board of Trustees Meetings, 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).

Although it thus 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 also makes clear that the Fund has suffered serious investment losses in the general stock market and economic downturn that occurred during 2008 and the first quarter of 2009. It is likely that, for plan year 2008, the Pension Fund will be 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, p. 2). Staff has also reported, with the concurrence of the Trustees, that the Pension Fund has filed an application with the IRS requesting a waiver of the funding ratio targets for 2008, in view of the unexpected economic decline that has occurred. 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.

Financial Information - Investment Returns

The Pension Fund's investment return for the first quarter 2009 was (6.79)%. (Equity markets across the world staged dramatic recoveries during April and May of this year, but full data showing the anticipated positive impact of those recoveries on the Pension Fund were not available for inclusion in this first quarter report.)

The Fund's financial group prepared for the Trustees a comparison of the Pension Fund's performance to the TUCS[1] universe results published for the fourth quarter of 2008. This comparison (showing percent returns on investment) is summarized in the following tables:

Pension Fund's Composite Return

	4th Quarter Ended Dec. 31, 2008	One Year Period Ending Dec. 31, 2008	Three Year Period Ending Dec. 31, 2008
TUCS 1st Quartile	(11.74)	(21.48)	(0.11)
TUCS Median	(13.24)	(25.90)	(2.42)
TUCS 3rd Quartile	(14.68)	(27.32)	(3.33)
Fund's Composite Return	(16.01)	(29.81)	(5.13)

Pension Fund's Total Equity Return

	4th Quarter Ended Dec. 31, 2008	One Year Period Ending Dec. 31, 2008	Three Year Period Ending Dec. 31, 2008
TUCS 1st Quartile	(21.19)	(37.02)	(7.53)
TUCS Median	(21.76)	(39.21)	(8.06)
TUCS 3rd Quartile	(22.34)	(40.46)	(8.51)
Fund's Total Equity Return	(21.99)	(40.03)	(8.88)

[1] "TUCS" is the Trust Universe Comparison Service. Its Custom Large Funds Universe is composed of plans with assets exceeding $3 billion.

Pension Fund's Fixed Income Return

	4th Quarter Ended Dec. 31, 2008	One Year Period Ending Dec. 31, 2008	Three Year Period Ending Dec. 31, 2008
TUCS 1st Quartile	5.99	3.34	5.49
TUCS Median	2.40	0.68	4.36
TUCS 3rd Quartile	(0.72)	(3.51)	2.57
Fund's Fixed Income Return	2.40	2.22	4.74

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

Goldman Sachs Asset Management

	Year Ended Dec. 31, 2008	1st Quarter 2009	Jan. 2009	Feb. 2009	Mar. 2009
Goldman-Sach's Composite Return	(36.99)	(8.32)	(6.16)	(7.70)	5.85
Benchmark Composite Return	(33.44)	(9.44)	(6.88)	(8.40)	6.17
Goldman Sach's Total Fixed Income Return	(5.32)	2.33	1.70	(1.03)	1.67
Benchmark Fixed Income Return	(4.53)	1.97	1.32	(1.06)	1.72

Goldman Sach's first quarter 2009 composite return included a (9.28)% return on U.S. equities ((5.69)% large cap and (11.78)% on small cap U.S. equities), (8.78)% on international equities and (35.87)% on real estate.

Northern Trust Global Advisors, Inc.

	Year Ended Dec. 31, 2008	1st Quarter 2009	Jan. 2009	Feb. 2009	Mar. 2009
Northern Trust's Composite Return	(38.02)	(7.71)	(6.10)	(8.27)	7.14
Benchmark Composite Return	(35.32)	(9.03)	(7.15)	(8.94)	7.61
Northern Trust's Total Fixed Income Return	(16.49)	1.21	2.05	(0.85)	0.03

Northern Trust's first quarter 2009 composite return included a (8.59)% return on U.S. equities ((8.85)% large cap and (10.36)% on small cap U.S. equities), (11.11)% on international equities and (30.08)% on real estate.

The Fund's financial group reported asset allocation of the Pension Fund as whole as of March 31, 2009 as follows: 68% equity, 28% fixed income, 2% other and 2% cash. The financial group also reported that for the first quarter of 2009 the return on the indexed fixed income account was 0.35%. For the first quarter of 2009 the passive equity account had a return of (10.91)%.

Financial Information - Net Assets
(Dollars shown in thousands and do not include final year end adjustments.)

The financial report prepared by Fund staff for the three months ending March 31, 2009 shows net assets as of that date of $15,664,384, compared to $17,358,652 at December 31, 2008, a decrease of $1,694,268 compared to a decrease of $2,239,865 for the same period last year. The $545,597 difference is due to $571,177 more investment income offset by ($25,580) more net operating loss.

The Fund's staff report further notes that for the three months ended March 31, 2009, the Fund's net asset decrease from operations (before investment income) was $490,894 compared to a decrease of $465,314 for the same period in 2008, or a $25,580 unfavorable change. This change in net assets from operations (before investment income) was attributable to:

a) ($18,123) less contributions,

b) ($8,527) more benefits paid, and

c) $1,070 less general and administrative expenses.

During the three months ended March 31, 2009 and 2008, the Fund withdrew $506,572 and $404,899, respectively, from investment assets to fund the cash operating deficit.

Financial Information - Participant Population

The March 31, 2009 report prepared by Fund staff further notes that the two-month average number of Full-Time Equivalent (FTE) memberships decreased 11.9% from February 2008 to February 2009 (going from 92,076 to 81,146). During that period, the average number of retirees decreased by 0.1% (from 212,437 to 212,131).

Named Fiduciaries

Officers of the Named Fiduciaries, Goldman Sachs Asset Management and 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 March 24, 2009 meeting on investment expenses incurred through the fourth quarter of 2008. These investment expenses (fiduciary, custodial and investment management fees) totaled $70,917,076 through the fourth quarter of 2008 compared to $78,191,164 for the same period in 2007, a 9.3% decrease.

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 $68.5 million has been collected to date from Consolidated Freightways companies.

YRC

YRC, a trucking subsidiary of YRC Worldwide and the product of a merger between Yellow Transportation and Roadway, is the single largest contributing employer to both the Pension Fund and the Health and Welfare Fund. The Funds’ Executive Director informed the Trustees at their March 2009 Meeting that YRC has reported cash flow issues caused by the current decline in the general economy. As a result, YRC has proposed an arrangement under which all or part of its payment obligations to the Funds would be deferred for several months, and the Funds would be given liens or mortgages to secure the deferred obligations. The Funds' Staff is currently studying this proposal, and discussing it with YRC.

Health and Welfare Fund
Financial Information
(Dollars in thousands and do not include final year end adjustments.)

The Health and Welfare Fund's financial summary for the first quarter of 2009 is compared below with interim financial information for the same periods of 2008:

	1st Quarter Ended Mar. 31, 2009	2008
Contributions	$ 283,137	287,777
Benefits	243,227	251,478
TeamCare administrative expenses	7,389	7,460
General and administrative expenses	8,455	9,593
Net operating income (loss)	24,066	19,246
Investment income (loss)	(34,326)	(5,198)
Increase (Decrease) in net assets	(10,260)	14,048
Net assets, end of period	1,084,693	1,097,607

Two-month average participants (FTEs)	89,592	95,197

For the three months ended March 31, 2009, the Health and Welfare Fund's net asset increase from operations (before investment income) was as follows:

(a) ($4,640) less contributions,

(b) $8,251 less benefits,

(c) $71 less TeamCare administrative fees, and

(d) $1,138 less general and administrative expenses.

Net investment income for the three months ended March 31, 2009 was $29,128 less than for the same period last year. This decrease resulted primarily from $28,137 unfavorable change in realized/unrealized gain (loss) combined with $1,005 less interest and dividend income.

During the three months ended March 31, 2009 and 2008, the Fund transferred $18,338 and $26,407, respectively, to investments (Mellon Bank) 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 March 31, 2009 shows the investment asset allocation as 74% fixed income and 26% equity.

This report also notes that the two month average number of Full-Time Equivalents (FTE) memberships decreased 5.9% from February 2008 to February 2009 (going from 95,197 to 89,592). During that period, the average number of retirees covered by the Health and Welfare Fund decreased by 11.2% (from 14,884 to 13,216).

<u>Article V (H)</u>

As required by Article V(H) of the Health and Welfare Fund Consent Decree, the Health and Welfare Fund has paid during the first quarter of 2009 the following for professional services and expenses for the Independent Special Counsel:

January	$0
February	$0
March	$0

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

FRANK J. MCGARR,

Enclosure

cc: Ms. Carol A. De Deo (w/encl.) **Via UPS Next Day**
Mr. Michael A. Schloss (w/encl.) **Via UPS Next Day**
Mr. Thomas C. Nyhan