DAVID H. COAR, ESQ.
Arbitration and Mediation

March 17, 2019

Via UPS Next Day

The Honorable Thomas Durkin
United States District Judge
United States District Court
Northern District of Illinois
Eastern Division
219 South Dearborn Street
Chicago, Illinois 60604

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

Dear Judge Durkin:

This letter comprises my report on activities at the Central States Funds during the Fourth Quarter of 2018. I have attended meetings of the full Board of Trustees of the Central States Funds, as well as certain Trustee Subcommittee meetings during the period covered by this report.

Trustee Selection Boards

Pursuant to the Central States Funds' Statement of Procedures for Selection of Monitoring of Employee Trustees, the four-year terms of all the current members of the Central Trustee Selection Board ("CTSB") and the Southern Trustee Selection Board ("STSB") were set to expire on December 31, 2018. Accordingly, as directed by the Employee Trustees, ballots and related correspondence were sent to each eligible Local Teamster Union in the 11 state Central Region and in the 9 state Southern Region. After the November 12, 2018 date set for return of ballots, Staff retrieved all the ballots that had been returned to the designated P.O. Box, opened the ballot envelopes and counted the ballots. The vote count indicated that the following individuals achieved a plurality of the votes returned by the eligible Local Unions in each state listed below:

Central Trustee Selection Board

CTSB STATE	Name and Local Union of Person Achieving Plurality of Votes
1. Illinois	Keith Gleason Local Union 627 Peoria
2. Kansas	Jesse Castillo Local Union 795 Wichita
3. Nebraska	Daniel W. Avelyn Local Union 554 Omaha
4. Minnesota	Trevor Lawrence Local Union 638 Minneapolis
5. Iowa	Claudia Pettit Local Union 90 Des Moines
6. Missouri	Larry Tinker, Jr. Local Union 600 Maryland Heights
7. Wisconsin	Thomas Bennett Local Union 200 Milwaukee
8. Michigan	Greg Nowak Local Union 1038 Detroit
9. Ohio	Patrick Darrow Local Union 348 Akron
10. Kentucky	Fred E. Zuckerman Local Union 89 Louisville
11. Indiana	Robert R. Warnock III Local Union 364 South Bend

Southern Trustee Selection Board

STSB STATE	Name and Local Union of Person Achieving Plurality of Votes
1. Florida	James Shurling Local Union 512 Jacksonville
2. Louisiana	David Negrotto Local Union 270 New Orleans
3. Tennessee	Lendon Grisham Local Union 480 Nashville
4. Oklahoma	Kelly Swon Local Union 516 Muskogee
5. Georgia	Randal Brown Local Union 728 Atlanta
6. Alabama	Donnie West Local Union 612 Birmingham
7. Texas	Brent Taylor Local Union 745 Dallas
8. Arkansas	Timothy G. Nichols Local Union 878 Little Rock
9. Mississippi	W.C. (Willie) Smith Local Union 891 Jackson

The Funds' Procedures for the Selection and Monitoring of Employee Trustees specify that the individual receiving the plurality of votes for each state shall be that state's CTSB or STSB member, subject to confirmation on the vote count by the Employee Trustees. During the Funds' December 11, 2018 Subcommittee Meeting at which a quorum of the Trustees were present, the Board voted to confirm the individuals listed above as the members of the CTSB and STSB for four-year terms commencing on January 1, 2019 and ending December 31, 2022.

Internal Audit Report on Withdrawal Liability Processing Audit

At the November 2018 Board Meeting the Internal Audit Department presented a report on its audit of the Funds' withdrawal liability processing. The overall audit conclusion was that the administrative and internal accounting controls surrounding withdrawal liability processing are operating in accordance with the Funds' policies and procedures and provide a basis for reliance on the proper and timely identification, processing and collection of withdrawal liability assessments.

Office Space

As explained in my prior reports, the Funds' Staff has reported that the Funds' existing lease at their office at 9377 West Higgins Road in Rosemont, Illinois will expire at the end of 2019. The Funds have approximately 670 full-time employees at their offices near the Chicago O'Hare Airport in Rosemont, and the Funds occupy approximately 175,000 square feet of office space at that location.

In anticipation of the expiration of the lease, the Funds' Staff has, over the course of the last three years, been consulting with Jones Lang LaSalle, a Chicago-based real estate broker and consultant, and with the Whitney Architects firm. At the March and May 2017 Board of Trustees Meetings Jones Lang LaSalle reviewed all potential options in the Chicago O'Hare Airport submarket with respect to the Funds' future office space requirements, including a lease renewal at the Funds' current address, the negotiation of a lease at another location, and the purchase and / or development (for either purchase or lease) of an office building. The Trustees then authorized Staff to execute a letter of intent and related documents with Glenstar, a commercial real estate developer, for the construction and purchase by the Health and Welfare Fund of a new "Class B" office building located at 8647 West Higgins Road not far from the Funds' existing offices and in proximity to the Chicago O'Hare International Airport. The Trustees concluded, on the basis of the advice received from their expert consultants, that this arrangement is the most economical and efficient solution to the Funds' office space requirements in comparison to other possible options, including a renewal of the lease on the building at the 9377 West Higgins building currently occupied by the Funds. Nearly all the employees of the Health and Welfare Fund are also employed by the Pension Fund, and under the plan approved by the Trustees, the Health and Welfare Fund will lease space in the new building to the Pension Fund, with the terms of the lease between the two Funds to be established by independent fiduciaries representing each Fund.

In addition, at the May 2017 Board Meeting the Trustees received and considered written opinions and oral presentations from representatives of the Groom Law Group. The Groom lawyers concluded that the contemplated real estate transactions would be in compliance with all applicable ERISA requirements, including the ERISA obligations to act prudently with respect to the assets of the Fund, to minimize administrative expenses as much as reasonably possible and to avoid non-exempt prohibited transactions.

On October 17, 2017 the Health and Welfare Fund closed on the purchase of the property located at 8647 West Higgins Road, and construction of the new building began on November 8, 2017. Over the course of the last 19 months the Department of Labor has requested, and the Central States Funds have provided, various documents relating to these real estate transactions and the Health and Welfare Fund's decision to pursue the 8647 W. Higgins Road option. On October 13, 2017 I also attended a meeting between the Department of Labor and representatives of the Central States Funds held at Labor's offices in Washington, D.C. to review the status of the real estate / office space issues.

Since the October 13, 2017 meeting, the Funds' Staff reports that the Department of Labor made a request for certain additional documents relating to work performed by the real estate counsel who have assisted the Health and Welfare Fund with the transactions described above. These documents were provided to the Department of Labor in early November 2017. On February 28, 2018, Labor made a supplemental request for documents relating to the office space / real estate issue, including documents relating to the Fund's retention and monitoring of real estate brokers and other contractors. On April 23, 2018, the Funds' Staff submitted materials in response to Labor's February 28th document request. On July 12, 2018 the Department of Labor posed some follow-up questions concerning the documents produced on April 23, 2018. On July 19, 2018 the Funds responded to those follow-up questions, and the Funds' Staff reports that to date they have received no further inquiries from the Labor Department on this subject.

Staff has reported to the Trustees that construction of the new building is on schedule and within budget, and that it is anticipated that the building will be ready for occupancy by July 2019. With this in mind, and consistent with the decision of the Trustees at their March and May 2017 Board Meetings, and after consultation with the Groom Law Group, the Funds' Staff sent Requests for Proposals ("RFPs") to three entities who were deemed qualified to serve as independent fiduciaries of each Fund for the purpose of negotiating lease terms with respect to the new building. During the Funds' December 11, 2018 Subcommittee Meeting at which a quorum of the Trustees were present, the Board approved the retention of Newport Group ("Newport") and Gallagher Fiduciary Advisors, LLC ("Gallagher") as fiduciaries for the Pension Fund and Health and Welfare Fund, respectively, with respect to this specific issue. On January 17, 2019 I attended a meeting at the Funds' offices with both Newport and Gallagher during which this engagement was discussed in detail. It is anticipated that a lease between the Funds will be negotiated and executed prior to the anticipated move in date for the new building.

Pension Fund

PPA-Related Issues

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; the actuary has made the same certification with respect to subsequent plan years, except that beginning in March 2015 the actuary certified the Fund to be in the new category denominated "critical and declining" created by the Multiemployer Pension Reform Act of 2014 ("MPRA"). As a result of the initial critical status certification, the Trustees adopted a "rehabilitation plan" as the PPA requires for critical status plans. 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"; the Fund's Rehabilitation Plan mandates 4% annual contribution rate increases with respect to the Default Schedule. ("Adjustable benefits" under

the PPA generally include all benefits other than a contribution-based retirement benefits payable at age 65.) 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' labor agreement that was in effect when the rehabilitation plan was adopted, the Default Schedule will be imposed as a matter of law. MPRA added a provision dealing with the expiration of a collective bargaining agreement that was *not* in effect at the time of adoption of a rehabilitation plan. In that case a failure to adopt a schedule compliant with the rehabilitation plan within 180 days after the collective bargaining agreement has expired results in the implementation of the schedule that controlled under the most recently expired agreement. In addition, the Rehabilitation Plan adopted by the Trustees in 2008 provides that that the members of bargaining units who agree to a withdrawal from the Pension Fund, or otherwise acquiesce or participate in a withdrawal -- an event termed a "Rehabilitation Plan Withdrawal" -- also incur a loss of their adjustable benefits.

As also explained in my prior reports, the PPA and MPRA require the Trustees to consider annual updates to the Rehabilitation Plan. During the 2018 Rehabilitation Plan update process (conducted in November 2018), the Trustees concluded that any further or additional modifications in the existing Rehabilitation Plan Schedules (*i.e.*, beyond the Schedules described in prior reports and those benefit modifications and contribution rate requirements that the Trustees previously approved) would entail too great a risk of irreparable harm to a large number of contributing employers, or would otherwise risk prompting an undue and harmful number of withdrawals from the Fund and declines in active participation.

However, as previously reported, in the 2018 Rehabilitation Plan update process, the Trustees approved continued implementation of all prior provisions and modifications of the Rehabilitation Plans including, (i) the Distressed Employer Schedule (which the Trustees believe accommodates the special circumstances presented by YRC, Inc. in a manner that is actuarially favorable to the Fund; *see* p. 15-16 below), (ii) the hybrid withdrawal liability method (pp. 14 – 15 below), and (iii) the benefit modifications, contribution rate increases and other features of the Rehabilitation Plan that have been previously adopted (*e.g.*, effective as of June 1, 2011, the Trustees raised the minimum retirement age to 57, in November 2016 they added a schedule designed to encourage the continued participation of "hybrid" method / New Employers and in March 2017 they added a schedule designed to encourage the continued participation of certain bargaining units that have experienced wage freezes due to the Rehabilitation Plan requirements for pension contribution increases).

Although it appears the Pension Fund has reported some progress in securing increased employer contributions and in adjusting benefits as required of "critical and declining" plans under the PPA and MPRA, the Fund suffered serious investment losses in the general stock market and economic downturn that commenced in 2008 (and before that, in the 2002 -- 2003 market decline). In more recent years, the Fund has enjoyed significant investment gains. For example, the Fund enjoyed a composite rate of return of 12.7% for calendar year 2017 although it showed a negative return of (.76)% for 2018. The asset level as of December 31, 2018 of $13.2 billion is approximately $14 billion below the value of assets held by the Fund shortly before the commencement of the world-wide stock market collapse in 2008. The Fund's Staff reports that the continuing downward pressure on the Fund's assets is

largely due to the Fund's current annual operating deficit of more than $2 billion per year -- meaning that in recent years the Fund has paid over $2 billion per year *more* in benefits than it has collected in contributions from employers.

Funding Issues Confronting Multiemployer Plans

As I have previously reported, according to the Pension Benefit Guaranty Corporation's ("PBGC") most recent fiscal year 2017 Projections Report (published on May 31, 2018 and reaffirmed in the PBGC's Annual Report dated November 15, 2018), there is a likelihood of over 90% that the PBGC multiemployer guarantee program will run out of money by the end of 2025. This means that the PBGC will have no financial resources to pay benefits to the Pension Fund's participants if, as projected, the Central States Pension Fund also becomes insolvent at approximately the same time as the PBGC. This same Projections Report indicates that, like the Central States Pension Fund, about 130 other multiemployer plans that the PBGC insures will also be unable to raise contributions sufficiently to avoid insolvency over the next 20 years.

In his May 17, 2018 testimony before the congressional Joint Select Committee on Solvency of Multiemployer Pension Plans (discussed below), Thomas Reeder, Executive Director of the PBGC, explained that the PBGC's Multiemployer Guarantee Program has liabilities of $67.3 billion and assets of only $2.3 billion, resulting in a $65 billion deficit.

And according to an August 2016 report issued by the Congressional Budget Office ("CBO"), multiemployer pension plans in the United States have in the aggregate approximately $850 billion in pension obligations, but have only about $400 billion in assets. *See* U.S. Congressional Budget Office, *Options to Improve the Financial Condition of the PBGC's Multiemployer Program* (August 2016). This CBO report also estimates that the present value of the combined projected claims of all multiemployer plans for financial assistance from the PBGC during the 2017-2036 period totals $101 billion. But the CBO also reports that since the PBGC is projected to become insolvent in 2025, that agency will only be able to satisfy a small portion of these claims.

Staff has also noted that including the Central States Pension Fund, four of the five largest Teamster multiemployer plans are currently in "critical and declining" status under the Multiemployer Pension Reform Act of 2014 ("MPRA") and are projected to become insolvent.

Current Legislative Proposals and Efforts

The Pension Fund's Staff has briefed the Board of Trustees on recent legislative proposals intended to avoid the projected insolvency facing the Pension Fund and other multiemployer plans. Not all these proposals have been "dropped" as formal bills in the legislative process but various Senators, Congresspersons and their staffs have received briefings concerning them.

1. *UPS Proposal.* Because of certain pension guarantees and promises of indemnity that UPS has provided to its Teamster workforce, the company has an interest in pension

legislation that will permit the Central States Pension Fund, as well as other multiemployer plans, to avoid insolvency. UPS has proposed federal legislation involving low interest government loans for troubled multiemployer plans, along with 20% reductions in pension benefits for all multiemployer plan participants and beneficiaries in those plans; the UPS proposal also calls for the creation of a risk reserve pool funded by unions, employers and participants to ensure repayment of the loans. The Pension Fund's actuary has modeled the UPS proposal and determined that it would likely allow the Fund to avoid its currently projected insolvency.

2. *S.2147 / H.R. 4444 -- Butch Lewis Act of 2017.* The proposal originally advanced by Senator Sherrod Brown (Dem., Ohio) and has been introduced in the Senate as S.2147 and in the House of Representatives as H.R.4444 and entitled The Butch Lewis Act of 2017. This proposal involves federally guaranteed loans and federal subsidies to troubled multiemployer plans to allow the plans to pay the pensions of current retirees, with no requirement for pension reductions. Based on modeling of this proposed legislation prepared to date by the Pension Fund's actuaries, the proposed Butch Lewis Act would require federal loans to the Fund in the range of $11 billion to $15 billion to be repaid at the end of a thirty-year period. But the models indicate that the Fund would be unable to repay the loans and would require the federal subsidies ranging from $20 billion to $25 billion in order to repay the loans and to avoid insolvency. Under the proposed Butch Lewis Act these federal subsidies would be administered to the Pension Fund by the PBGC and the Fund would not be required to repay these subsidies.

   The Congressional Budget Office ("CBO") preliminarily estimated that the total cost of the Butch Lewis Act -- *i.e.*, to provide relief to *all* the troubled multiemployer plans targeted by that proposed legislation -- would be $101 billion. It appears that modifications (or alternative interpretations) of the Butch Lewis Act are being contemplated and the Pension Fund's Staff has been advised by certain Congressional Staff members that the CBO estimate of the total cost of the Butch Lewis Act could be reduced to $34 billion if the changes are adopted. An October 18, 2018 letter to Congressman Jim Renacci (R-Ohio) from the CBO in pertinent part states:

   > [S]everal key aspects of the [Butch Lewis Act] as introduced are broadly described, so it is difficult to project how the proposal would be implemented. Under some interpretations of the bill language, few plans would qualify for loans and assistance, resulting in federal costs that would be substantially less than $100 billion.

3. *Joint Committee.* On February 8, 2018, as part of a package of federal budget legislation, Congress established a Joint Select Committee on Solvency Multiemployer Pension Plans (the "Joint Committee"). The Joint Committee's goal is to develop a bipartisan legislative solution for distressed multiemployer pension funds like the Central States Pension Fund. The Joint Committee, which consists of eight members from the House and eight from the Senate, split evenly between Republicans and Democrats, has been tasked with the responsibility to produce a proposed legislative fix no later

than November 30, 2018. The Pension Fund believes that the establishment of the Joint Committee is a crucial step towards a legislative solution for the nationwide multiemployer pension plan funding problem. Staff advises that there are more than 200 pension plans covering 1.5 million Americans that are projected to fail, many -- like the Central States Pension Fund -- within the next 10 years. Staff advises that because of the importance of this Joint Committee and the urgent need for a legislative solution, the Fund has instituted a "Congressional Outreach Campaign" that will encourage the Pension Fund's participants, Local Unions and Employers to contact Congress and the White House on this crucial issue. The Fund has sent mailings to all its participants advising them of the importance of this issue, and the Fund has held meetings and electronic town halls (accessible online or by dial-in) on this topic with participants, Local Unions and employers.

On November 29, 2018 The Joint Committee announced that it was unable to meet the November 30, 2018 deadline for the issuance of a bipartisan report and thus, no vote was taken by either the House or Senate. The co-chairs of the Committee indicated that while they had made significant progress and they believe that a bipartisan solution is attainable, more time is needed. Accordingly, they indicated that the Committee will continue its efforts to solve the multiemployer pension crisis past November 30, 2018.

Asset Allocation

As indicated in my previous reports, during the December 2016 Pension Fund Trustee Subcommittee Meeting, the Fund's Named Fiduciary, Northern Trust Investment, Inc. ("Northern Trust")[1], discussed an asset allocation plan which is designed to address the Fund's projected insolvency in the year 2025. Northern Trust indicated that the intent of its allocation plan is to forestall the projected insolvency to the extent reasonably possible, with an emphasis on additional measures designed to protect the Fund's assets from market downturns. Northern Trust noted that asset protection has become especially important because under current projections there is a substantial risk that the Fund's assets would not have sufficient time to recover from any sharp market downturn prior to the Fund's projected insolvency. Therefore, Northern Trust's plan entails a gradually increased allocation of the Fund's assets to fixed income investments. Although this is largely an investment matter that the Consent Decree has placed under the exclusive control of the Named Fiduciary, the Pension Fund's Trustees and their financial advisor have indicated that they concur with Northern Trust's asset allocation plan. However, as the Court is aware, implementation of certain aspects of the allocation plan required review by the Department of Labor and approval by this Court. As a result, the Fund and Northern Trust engaged in consultations with the Department of Labor concerning the asset reallocation plan and filed motions with the Court requesting approval of the features of the plan for which Court approval is required; on June 5, 2017 the Court granted those motions. The most recent landmark in the Court-approved asset reallocation plan was the completion of "Stage 2" of the asset reallocation plan, which targeted an

[1] Formerly known as Northern Trust Company of Connecticut, which was in turn formerly known as Northern Trust Global Advisors, Inc.

allocation on or before March 31, 2018 of 66.5% of the Fund's assets to intermediate fixed income securities, 33.5% to return-seeking assets, and the remaining 1% to cash or cash equivalents. The Fund's Staff reports that the Stage 2 allocation target has been met.

Campbell Litigation

On April 25, 2016 Doris Campbell and several other participants in the Pension Fund filed an action alleging breach of fiduciary duty against the Fund and its Trustees. *Campbell v. Whobrey*, No. 16-CV-04631 (U.S. Dist. N.D. Ill.) (originally assigned to Judge James Zagel). The *Campbell* plaintiffs are all present or former employees of The Kroger Co. ("Kroger"), a significant contributing employer to the Fund. The *Campbell* complaint alleges that the Pension Fund defendants acted imprudently in considering (or failing to consider) a proposal that Kroger had made to the Pension Fund concerning the timing of Kroger's planned withdrawal from the Pension Fund and the resolution of the company's resulting withdrawal liability.

On May 13, 2016, the *Campbell* plaintiffs filed a motion for a preliminary injunction requesting, along with other relief, the appointment of an independent fiduciary to consider the Kroger proposal relating to that company's planned withdrawal from the Pension Fund, and presumably to negotiate with Kroger on behalf of the Fund concerning the terms of Kroger's planned withdrawal. That motion was briefed and argued before Judge Zagel, who denied the motion on June 30, 2016 on the grounds that (1) the plaintiffs had not shown a probability of success on the merits (2) they had requested a form of final, irrevocable relief in their preliminary injunction motion, and (3) they had failed to show irreparable harm.

The Pension Fund contends that the allegations in *Campbell* are baseless. The Pension Fund's Staff also reports that the action is (or was) controlled and funded by Kroger pursuant to an agreement with the International Brotherhood of Teamsters (or its affiliates) in an effort to gain leverage in negotiations with the Fund. In any event, the Fund's Staff reports that it has provided the actuarial data requested by Kroger in order to permit the company to analyze various settlement alternatives. In addition, Staff reports that it presented a counter - proposal to Kroger on July 15, 2016 and met with Kroger representatives on July 18, 2016 to discuss that proposal. Staff also reports that Kroger rejected the Fund's proposal at the July 18th meeting, and did not offer a counter-proposal at the time of the meeting. However, Staff reports that on October 21, 2016 Kroger did submit a counter-offer to the Fund's July 15, 2016 proposal, and that on November 4, 2016 the Fund submitted a further revised offer to Kroger. Kroger made no response to this proposal.

On October 27, 2016 the *Campbell* case was reassigned from Judge Zagel to Judge Edmond Chang. On June 30, 2017 Judge Chang granted in substantial part the Pension Fund's motion for a protective order that sought to limit discovery to the administrative record that was before the Trustees when they made their decisions concerning Kroger's withdrawal liability settlement proposals. Judge Chang also held in his June 30 ruling that the Trustees' decisions concerning the Kroger proposals should be reviewed by the Court under the deferential "arbitrary and capricious" standard.

On October 16, 2017 the *Campbell* plaintiffs filed a motion for leave to file an amended

complaint alleging that the Pension Fund's Trustees have committed fiduciary breaches not only with regard to their responses to the Kroger proposals that occurred prior to the filing of the original complaint in April 2016, but also with regard to the handling of the more recent negotiations with Kroger. The Pension Fund defendants opposed the filing of the amended complaint, or in the alternative sought dismissal of that pleading.

However, in December 2017 Kroger and one of its contractors, Southstar LLC ("Southstar"), incurred complete withdrawals from the Pension Fund. Soon thereafter, Kroger's legal counsel approached the Pension Fund's Staff and expressed an interest in settling the withdrawal liability of both Kroger and Southstar by means of a lump sum payment. Kroger's counsel explained that it was important to close a lump sum deal by February 2, 2018 in order for Kroger to claim a tax write-off of the settlement payment in its then current fiscal year.

The Fund's Staff reports that negotiations with Kroger then ensued throughout most of January 2018, and culminated in a special telephonic Board Meeting on January 31, 2018. During that Board Meeting the Trustees approved a settlement that netted $467 million in cash for the Pension Fund. This payment resolved the liability of Kroger and Southstar for their complete withdrawals from the Pension Fund, as well as the Fund's claims for certain additional amounts of pension contributions (totaling approximately $1.4 million) that the Fund believed were due as a result of recent audits performed on the operations of these employers. In addition, Staff advises that $1 million of the settlement payment to the Fund was attributable to the Fund's claim that Kroger should be liable for the attorney fees the Fund has expended to date in the *Campbell* case because Kroger provided the funding for the prosecution of that case -- litigation which the Fund asserts is frivolous and meant to harass the Fund's Trustees and to gain an unwarranted tactical advantage for Kroger in its negotiations with the Fund. In addition, as part of the settlement Kroger has agreed to stop funding the *Campbell* case after its current commitment to provide an additional $255,000 to defray costs and attorney fees incurred by the plaintiffs in that case is exhausted.

The face amount of the Kroger withdrawal liability assessment was approximately $1.03 billion, and the face amount of the Southstar assessment was approximately $113 million. However, the Fund's Staff reports that both of these assessments are subject to the twenty-year statutory cap on withdrawal payment schedules (*see* ERISA § 4219). Staff also reports that one of the principal issues in the negotiations with Kroger concerned the discount rate to be applied in determining the present value of the twenty-year payment schedules. Staff has indicated that this issue is highly dependent on the specific facts of each case, including the credit worthiness of the employer (and thus the employer's practical ability to secure financing on favorable terms that will permit it to pay the Pension Fund in a lump sum amount), the absolute amount of the lump sum being offered by the employer, and the Fund's own assumed rate of return on investments.

Staff reports that Kroger also raised issues relating to the calculation of the withdrawal liability installment payment amounts, and that these are unresolved legal questions for which there is no legal authority or guidance. Staff also indicates that it conceded for purposes of the settlement with Kroger that the Fund faced litigation risk on these issues but noted that even if the Fund were to ultimately prevail on these issues, the Fund's recovery would likely be

increased by less than 10% of the total amount in dispute. Further, the Fund's Staff has indicated that if it were to be assumed for settlement purposes that the Fund has no chance of prevailing on the installment payment calculation issues raised by Kroger, the settlement amount of $467 million (less approximately $2.4 million attributable to the audit and attorney fee issues) represents the application of a present value discount rate of 4.31% per year to the Kroger and Southstar withdrawal liability payment schedules. Staff advises this is a present value discount rate that (1) approximates the interest rate that Kroger is presently paying on its long-term debt, (2) is well below the 5.5% assumed rate of return applicable to the amortization of the Fund's 2017 withdrawal liability assessments, and (3) adequately compensates the Fund for concessions made to Kroger during the negotiations on the installment payment amount issue.

It should also be noted that during the January 2018 negotiations the Pension Fund initially proposed that Kroger secure a dismissal with prejudice of the *Campbell* case as part of the withdrawal liability settlement. The Pension Fund proposed that this be accomplished by means of an offer from Kroger to the *Campbell* plaintiffs and the entire class of affected Kroger participants of complete or partial protection against any future loss or reduction in their Central States Pension Fund benefits. However, Staff advises that Kroger refused to negotiate with the *Campbell* plaintiffs on this point, and offered only the attorney fee payment of $1 million and the limitation on Kroger's future financial support of the *Campbell* case discussed above.

For these reasons, the Fund's Staff recommended that the Trustees approve the Kroger/Southstar settlement proposal as a packaged, integrated deal in which all the terms discussed above had to be accepted by all parties. At the January 31, 2018 Meeting the Trustees adopted Staff's recommendation.

In light of the Kroger/Southstar settlement, on February 16, 2018, Judge Chang ruled in the course of a status conference that the *Campbell* plaintiffs' motion filed on October 16, 2017 for leave to file their First Amended Complaint is now moot and that motion is deemed terminated. However, on March 9, 2018, the *Campbell* plaintiffs filed a motion for leave to file a new proposed Amended Complaint. The new Amended Complaint again alleges that the Trustees breached their fiduciary duties by failing to consider Kroger's prior liability transfer proposal, or to enter negotiations with Kroger concerning that proposal. The Pension Fund defendants did not oppose the filing of the new Amended Complaint, but they moved to dismiss the count in that Complaint brought under ERISA §510, 29 U.S.C. § 1140 (alleging interference with Plaintiffs' ERISA rights). On January 14, 2019 Judge Chang granted the Pension Fund's Motion to Dismiss this Count of the Amended Complaint. At a status conference held on February 26, 2019, the Court established a briefing schedule for cross-motions for summary judgment that are intended to resolve the remaining issues in this case. Under this schedule the briefing will be completed on May 31, 2019, and the Court will convene another status conference on June 20, 2019.

Government Accounting Office ("GAO") Review

As indicated in my report for the first quarter of 2018, on June 4, 2018, the GAO issued its reports concerning the investigations it commenced in 2016 of (1) the Pension Fund's investment activities, and (2) the activities of the Department of Labor in overseeing the Fund pursuant to the 1982 consent decree entered in Case No. 78 C 342. The key findings and conclusions of these GAO reports can be summarized as follows:

- The Pension Fund has suffered from severe funding issues at least since the initial entry of the Consent Decree in 1982.
- Over the course of the next two decades, the Pension Fund made some progress in moving towards fuller funding, but never achieved a funded ratio of more than 75%.
- The achievement of fuller funding has been hindered by trucking deregulation (which forced many unionized trucking companies out of business) and difficulties in organizing new employers that were willing to contribute to the Pension Fund.
- This has eroded the Fund's contribution base due to sharp declines in the number of active Participants in comparison to retired Participants. The Pension Fund lost 30% of its active Participants when UPS withdrew from the Fund in 2007.
- The resulting operating deficits of more than $2 billion per year, in conjunction with the market declines of the early 2000s and in 2008, launched the Fund on the path towards insolvency, which is now projected to occur in 2025.
- The Fund undertook efforts to increase employer contributions, but that effort was limited by the practical ability of the remaining employers in the Fund to absorb continuous and compounding contribution rate increases.
- The Pension Fund's investment returns and investment expenses are in line with those of comparable pension plans. (4.9 % average annual investment return for the Pension Fund from 2000 – 2014; 4.8% average return over the same period for comparable pension plans. And the Pension Fund's average investment expense fee ratio was 9% lower than comparable pension plans during the 2000 – 2014 period.)
- The Pension Fund's administrative expenses have generally been about 16% lower than comparable pension plans since 2014.
- The Department of Labor's oversight of the Pension Fund under the consent decree has been appropriate. In the time since the Consent Decree was established (1982), DOL has not found Central States in violation of the Consent Decree or the Employee Retirement Income Security Act (ERISA).
- The GAO has no recommendations concerning either its review of the Pension Fund's investment activities or of the GAO's oversight of the Pension Fund. The GAO provided drafts of its reports to the Department of Labor, Treasury and the PBGC, and those agencies had no substantive comments.

Financial Information - Investment Returns

The Pension Fund's investment return for the fourth quarter of 2018 was (2.67)%.

Shown below is a comparison of the Pension Fund's performance to a Composite Benchmark consisting of a composite of representative and weighted index returns for each

asset class held by the Fund. That is, the Composite Benchmark is formed from the cumulative index returns for each distinct class of assets held by the Fund on a dollar-weighted basis.[2]

Pension Fund's Composite (Percent) Return / 4th Quarter Ended December 31, 2018

Fund's Return (All asset classes)	(2.67)
Benchmark Composite Return (All asset classes)	(2.76)

Pension Fund's Total Equity (Percent) Return / 4th Quarter Ended December 31, 2018

Fund's Return (Total equity)	(13.45)
Benchmark Composite Return (Total equity)	(13.25)

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[2] For example, the Fund currently has 14% of its assets invested in a passive account that closely tracks the S&P 500 Index. The S&P 500 Index showed a return of (13.52)% during the fourth quarter of 2018; therefore, the portion of the Composite Benchmark that is applicable to and accounts for the Fund's investment in the Passive S&P 500 Index Account is (1.89)% (*i.e.*, 14% of assets x (13.52)% return for the fourth quarter = (1.89)%. Similar calculations are made for each asset class held by the Fund, and the cumulative result is the Composite Benchmark for the Fund's total assets. Composite Benchmarks for subclasses of the Fund's assets (*e.g.*, for total assets under the control of the Named Fiduciary) are derived using the same methodology.

The Fund formerly used the Trust Universe Comparison Service ("TUCS") to compare its performance to other pension plans. The TUCS Custom Large Funds Universe is composed of plans with assets exceeding $3 billion. However, in light of the Pension Fund's projected insolvency and the specialized asset allocation plan proposed by the Named Fiduciary in light of that projection (as approved by the Court in its June 5, 2017 Order), TUCS seemed to provide a less suitable point of comparison for the Fund's performance; therefore the Composite Benchmark method of comparison will be used in the future.

Pension Fund's Total Fixed Income (Percent) Return/4th Quarter Ended December 31, 2018

Fund's Return (Total Fixed Income)	1.38
Benchmark Composite Return (Total Fixed Income)	1.38

The Fund's Named Fiduciary, Northern Trust, which has been allocated 50% of the Fund's investment assets, submits monthly investment reports to the Trustees. These reports are summarized below (showing percent returns on investments):

Northern Trust's (Percent) Returns / 4th Quarter Ended December 31, 2018

	Quarter-to-Date as of December 31, 2018	Oct. 2018	Nov. 2018	Dec. 2018
Northern Trust's Return (All asset classes)	(2.05)	(1.87)	0.55	(0.73)
Northern Trust's Benchmark Composite Return (All asset classes)	(1.97)	(1.95)	0.58	(0.60)
Northern Trust's Return (Total Fixed Income)	0.92	(0.33)	0.26	1.00
Northern Trust's Benchmark Composite Return (Total Fixed Income)	1.14	(0.28)	0.32	1.09

Northern Trust's fourth quarter 2018 composite return included a (14.11)% return on U.S. equities, a (11.61)% return on international equities, and a (2.31)% return on global listed infrastructure.

The Fund's financial group reported the following asset allocation of the Pension Fund as a whole as of December 31, 2018 as follows: 24% equity, 74% fixed income, 1% other and 1% cash.

The financial group also reported that for the fourth quarter of 2018 the returns on the Fund's passive indexed accounts were as follows (showing percent returns on investments):[3]

	Fund's Rate of Return for 4th Quarter 2018	Benchmark for Account 4th Quarter 2018
Passive Indexed Equity (S&P 500) (14% of investment assets)	(13.51)	(13.52)
Passive Indexed Fixed Income (33% of investment assets)	1.97	1.66
Passive EAFE Indexed (3% of investment assets)	(12.50)	(12.54)

Financial Information - Net Assets

(Dollars shown in thousands and do not include year-end adjustments.)

The financial reports prepared by Pension Fund Staff for the twelve months ended December 31, 2018 (enclosed) show net assets as of that date of $13,168,236 compared to $15,011,652 at December 31, 2017, a decrease of $1,843,416 compared to a decrease of $255,881 for the same period in 2017. The $1,587,535 difference is due to $1,905,987 less net investment income offset by $318,452 less net operating loss.

The enclosed Fund's Staff report further notes that for the twelve months ended December 31, 2018, the Fund's net operating loss was $1,731,554 compared to a loss of $2,050,006 for the same period in 2017, or a $318,452 favorable change. This change in net assets from operations (before investment income) was attributable to:

a) $332,770 more contributions, primarily due to an increase in withdrawal liability income (The Kroger Co.),

b) ($16,614) more benefits and

c) $2,296 less general and administrative expenses.

[3] The Fund's return for each of the passive index accounts is presented net of all investment expenses and transaction costs. Of course, the Benchmarks (indices) to which the passive accounts are compared do *not* reflect any deductions for investment expenses.

During the twelve months ended December 2018 and 2017, the Fund withdrew $1,720,266 and $2,052,620, respectively, from investment assets to fund the cash operating deficits.

Financial Information - Participant Population

The enclosed December 31, 2018 report prepared by Fund Staff further notes that the eleven-months average number of Full-Time Equivalent ("FTE") memberships decreased by (6.68)% from November 2017 to November 2018 (from 58,150 to 54,268). During that period, the average number of retirees decreased by (0.69)% (from 202,449 to 201,045).

Named Fiduciary

During the fourth quarter officers of the Named Fiduciary, Northern Trust, met with the Board of Trustees to discuss portfolio matters including asset allocation.

Hybrid Withdrawal Liability Method

As indicated in my prior reports, in July 2011 the Trustees adopted -- subject to approval by the Pension Benefit Guaranty Corporation ("PBGC") -- an alternative withdrawal liability method.[4] Under this method, new employers joining the Pension Fund will have their withdrawal liability measured based upon the "direct attribution" method; employers who already participate in the Fund can also be treated as new employers for withdrawal liability purposes on a prospective basis (and become eligible for the "direct attribution" method) by satisfying their existing withdrawal liability under the method historically employed by the Pension Fund (*i.e.*, the "modified presumptive method"), and then agreeing to continue to contribute to the Fund. This recently formula is referred to as a "hybrid" withdrawal liability method.

Staff reports that it believes the hybrid method offers a means for employers who are concerned about the potential for future growth in their exposure to withdrawal liability to cap their liability at its present level while continuing to participate in the Fund with little or no risk of withdrawal liability in the future.

Further, as explained in my prior reports, in November 2012, the Trustees restructured the Primary Schedule of the Rehabilitation Plan so that employers who satisfy their withdrawal liability qualify as New Employers under the hybrid method and continue to contribute to the Pension Fund will not be subject to the rate increase rate requirements to which other Primary Schedule Employers are subject. The Trustees have also approved an amendment intended to help ensure that New Employers who satisfy their existing withdrawal liability and continue to

[4] The Pension Fund's Staff advises that on October 14, 2011, the PBGC approved the Pension Fund's use of the hybrid method.

contribute to the Fund under the hybrid method will not face increased risks in the event of a mass withdrawal, as compared to employers who have simply withdrawn from the Fund and completely discontinued pension contributions.

Staff reports that to date approximately 94 old employers have satisfied their existing liability and qualified as new employees under the hybrid plan or have made commitments in principle to do so. This has resulted in the payment of (or commitments to pay, subject to the execution of formal settlement documents) of approximately $291 million in withdrawal liability to the Pension Fund while the employers in question also continue to contribute to the Fund pursuant to their collective bargaining agreements at guaranteed participation levels. Staff estimates that contributions paid to date under these participation guarantees, plus future contributions required to satisfy the guarantees, will total approximately $100 million.

Bankruptcies and Litigation

The Fund's Staff also reports that Allied Systems Holdings, Inc. and its affiliates ("Allied") -- an automobile transporter with several hundred participants in the Funds -- filed for Chapter 11 bankruptcy protection in mid-2012. However, Allied continued to operate in bankruptcy and to pay contributions to the Funds on behalf of its drivers. Staff reports that in December 2013 Jack Cooper, Inc., another unionized automobile transporter, purchased the assets of Allied in the bankruptcy and will continue to contribute to the Funds with respect to the purchased assets and operations, but without an assumption or Jack Coopers' withdrawal liability. Allied's withdrawal liability (in the amount of $976 million) was triggered by the sale and Staff advises that the Allied bankrupt estate is not likely to have assets sufficient to satisfy this assessment. However, as noted, Jack Cooper has to date been able to continue the income stream to the Funds represented by the contributions historically paid by Allied. In addition, Jack Cooper is itself experiencing financial difficulties and is two months delinquent in the payment of its obligations to the Central States Pension Fund. An Independent review of Jack Cooper's financial situation is currently being conducted by Stout Risius Ross, LLC at the request of the Fund and Staff is closely monitoring the situation.

YRC

As also previously reported, in May 2009 the Funds entered a Contribution Deferral Agreement ("CDA" or "Deferral Agreement") with YRC, Inc. and its affiliates ("YRC") -- one of the largest contributing employers to the Fund. Under the Deferral Agreement, the Pension Fund ultimately agreed to defer approximately $109 million in pension contributions. 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 66% of the contributions deferred under the Agreement.

At the March 9, 2011, following a temporary termination of YRC's pension contribution obligations Board Meeting, the Fund's Trustees also determined, in light of the company's continuing financial distress, that it was appropriate to accept contributions at the new contribution rate proposed under the YRC/TNFNC September 24, 2010 Restructuring Agreement (25% of the rate required prior to the July 2009 termination).

At the same time, the Trustees decided that the YRC employee unit should receive reduced benefits equivalent in most respects to the Default Schedule under the Fund's Rehabilitation Plan. (This is termed the "Distressed Employer" schedule of benefits.)

In January 2014, after consultation with financial, actuarial and legal advisors, the Trustees voted to approve a revised CDA extending the balloon payment under the CDA from 2015 to December 31, 2019. The other Teamster Pension Funds who participated in the CDA also agreed to these terms and an amended CDA was executed on January 31, 2014.

Staff also reports that since July 2011, YRC has remained current in its pension contribution payments ($3-$4 million per month), and in the monthly interest payments (beginning in August 2011) of approximately $500,000 (now reduced to approximately $330,000 per month due to payments of deferred interest and principal received). In addition, on November 12, 2013 the interest rate under the CDA escalated from 7.5% per year to 7.75%. Staff has also reported that to date the Pension Fund has received approximately $50.8 million as its share of the net proceeds from sales of collateralized assets that were applicable to principal owed under the CDA.

Staff reports that in mid-2017 the YRC companies approached the Pension Fund with a request for an extension of the December 31, 2019 maturity and final lump sum payment date. Staff then engaged an outside financial consultant (Stout, Risius and Ross) to analyze the ability of the YRC companies to make the 2019 balloon payment; the consultant concluded that it is not reasonable to expect the YRC companies to make that payment. The Pension Fund then entered into negotiations with the YRC companies concerning an amendment to the CDA that would extend the 2019 maturity date. After further financial analysis and negotiations, the Pension Fund and the YRC companies agreed to an amendment to the CDA on the following terms: (1) a $25 million payment to the pension funds on or before the effective date of the amendment to the CDA, (2) payments of 2% of the outstanding Deferred Pension Payments owed to the funds on December 31 of each year from 2018 through 2021, (3) an extension of the CDA maturity date so that a final payment of all Deferred Pension Payments and Deferred Interest will be due on December 31, 2022 and (4) a reaffirmation of all other terms of the existing CDA, including the requirements for monthly payments of current interest at 7.75% and monthly payments to the Pension Fund of the YRC group's pension contribution obligations attributable to its ongoing operations.

For a number of reasons, YRC wanted to make the $25 million down payment

described above prior to year-end 2017 even though the required approvals of the amendment / extension from 100% of the pension funds participating in the CDA had not yet been received. The Pension Fund's Staff further reports that on December 28, 2017 YRC then made the $25 million payment under an agreement with the Central States Pension Fund that effectively treats that payment as an optional or voluntary payment under the existing CDA if approvals of the amendment / extension of the CDA would not ultimately be received from 100% of the participating pension funds.

The Pension Fund's Staff reports that by January 30, 2018, all the 19 pension funds[5] that participate in the CDA had executed the amendment / extension of the CDA described above, and on that date the amendment / extension became effective.

Staff reports that after accounting for all principal and interest payments made to date, including the Pension Fund's share of the $25 million down payment described above (approximately $16.8 million), the unpaid balance owed to the Pension Fund under the CDA by YRC is approximately $49.9 million.

Health and Welfare Fund

Department of Labor Review

As indicated in my prior reports, on February 2, 2016 the Chicago office of the U.S. Department of Labor (the "Department") commenced an onsite review of various Health and Welfare Fund documents that the Department requested pursuant to its general authority under ERISA § 504, 29 U.S.C. §1134. The Health and Welfare Fund's Staff advises that this is a standard review and has apparently not been prompted by any specific concerns by the Department of Labor about the Fund's compliance with ERISA and other legal requirements.

The Department of Labor's review has focused on the operations of the Active Health and Welfare Plan, and the documents requested by the Department include Trust Agreements, Plan Documents, Summary Plan Descriptions, Evidence of Coverage, Enrollment Packages, Summaries of Benefits and Coverage, contracts with service providers and Form 5500 Annual Reports.

Following their onsite inspection of documents at the Fund's offices during the week of February 2, 2016, the Department of Labor personnel involved in this review asked the Fund to provide various data and files relating to claims processing. The Fund's Staff reports that all requested files and data requested by the Department of Labor in 2016 were promptly produced.

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[5] Six of the original 25 funds that participated in the CDA refused to accept the reduced YRC contributions and applied the amounts designated as pension contributions under the collective bargaining agreement to reduce the amount owed under the CDA. These funds have as a result eliminated the YRC's contribution delinquencies and are not owed any amounts under the CDA.

Staff also reports that on November 15, 2018 the Department of Labor made a supplemental request for some additional records relating to claims processing. Staff has indicated that they responded to that most recent document request on February 6, 2019.

Financial Information

(Dollars shown in thousands and 2018 does not include year-end adjustments.)

The Health and Welfare Fund's financial summary for the twelve months ended December 31, 2018 is compared below with financial information for the same period of 2017:

	Twelve Months Ended December 31, 2018	2017
Contributions	$3,560,000	3,356,485
Recognized portion of UPS lump sum	27,517	73,512
Benefits	3,030,080	2,728,529
TeamCare administrative expenses	82,460	77,252
General and administrative expenses	83,634	77,265
Operating gain (loss)	391,343	546,951
Investment income (loss)	(37,076)	329,888
Change in net assets	354,267	876,839
Net assets, end of period	$6,281,332	5,927,065
Eleven-month average Participants (FTEs)	193,011	190,014

For the twelve months ended December 2018, the Health and Welfare Fund's net operating gain was $391,343 compared to a gain of $546,951 for the same period in 2017, or a $155,608 unfavorable change:

(a) $157,520 more contributions, primarily due to increases in rates,

(b) ($301,551) more benefits,

(c) ($5,208) more TeamCare administrative fees and

(d) ($6,369) more general and administrative expenses.

During the twelve months ended December 2018 and 2017, the Fund transferred $314,293 and $536,390, respectively, to investments as the operations generated positive cash flows for those periods.

The enclosed December 31, 2018 report also notes that the eleven-months average number of Full-Time Equivalent (FTE) memberships increased by 1.58% from November 2017 to November 2018 (from 190,014 to 193,011). During that period, the average number of retirees covered by the Health and Welfare Fund increased by 14.51% (from 6,948 to 7,956).

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 fourth quarter of 2018 the following for professional services and expenses for the Independent Special Counsel:

October	$8,195.08
November	$0.00
December	$0.00

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,

David H. Coar

Enclosure

cc: Ms. Kate O'Scannlain, Solicitor of Labor (w/encl.) **Via UPS Next Day**
Mr. Wayne Berry (w/encl.) **Via UPS Next Day**
Mr. Thomas C. Nyhan