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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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February 25, 2024

VIA ELECTRONIC TRANSMISSION

Thomas C. Nyhan
Executive Director
Central States Pension Fund
445 12th Street, NW
Washington, D.C. 20554

Dear Mr. Nyhan:

On March 6, 2021, at President Biden's urging, Democrats in the Senate passed the American Rescue Plan Act of 2021, which authorized the Pension Benefit Guaranty Corporation (PBGC) to provide billions of dollars in bailout funding to long-mismanaged union pension plans.¹ Since then, PBGC has accepted applications for and approved upwards of \$90 billion in Special Financial Assistance (SFA) bailouts, with over one-third of that allocated money going exclusively to the Central States Pension Fund (Central States).²

On December 5, 2021, PBGC approved Central States' application for \$35.8 billion of SFA bailout funding, which was not cross-checked against the Social Security Administration's Death Master File (DMF) for accuracy.³ Instead, PBGC relied entirely on Central States' certification that the information provided in its bailout application was true and correct. As a result, PBGC did not notice the 3,479 dead participants Central States included in its SFA bailout application, and approved Central States' application in its entirety.⁴ PBGC's reliance resulted in Central States receiving \$127 million in overpaid funding for nearly 3,500 applicants who were dead at the time of its application.⁵

On November 1, 2023, PBGC's Office of Inspector General (OIG) issued a report to PBGC Director Gordon Hartogensis detailing the inaccurate information Central States provided in support of its SFA bailout application and the \$127 million overpayment it received.⁶ In response,

¹ American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (2021).

² Greg Iacurci, *Covid Relief Bill Gives \$86 Billion Bailout to Failing Union Pension Plans*, CNBC (Mar. 8, 2021), <https://www.cnbc.com/2021/03/08/covid-relief-bill-gives-86-billion-bailout-to-failing-union-pension-plans.html>.

³ PENSIONS BENEFIT GUARANTY CORPORATION OFFICE OF INSPECTOR GENERAL, REPORT NO. EVAL-2024-01, *Management Alert: Deceased Participants in The Central States' Special Financial Assistance Calculation*, at 2 (Nov. 1, 2023), <https://oig.pbgc.gov/pdfs/EVAL-2024-01.pdf>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Central States wrote to PBGC to deny any allegation of wrongdoing on its own behalf, claiming that its application was based on “actuarial calculations . . . based on **census data**, asset values, and other information known as of the measurement date.”⁷ Notwithstanding its belief that its census data was correct at the time it filed its application, Central States acknowledged that the “additional SFA amount” paid to it was exclusively on account of the nearly 3,500 dead participants included in its application, and that those funds would constitute a “Fund asset.”⁸ In other words, the extra \$127 million Central States received as a result of its own failure to provide accurate census information was a windfall to Central States to which it was not otherwise entitled.

During the Committee’s November 14, 2023 hearing, I asked Sean O’Brien, President of the International Brotherhood of Teamsters, to commit to returning the overpaid funds sent to Central States. Mr. O’Brien responded, “I assume it would [refund the overpaid money to the American people] . . . I will go on record as saying that if someone was given something they weren’t entitled to they should refund it.”⁹ Since that time, however, Central States’ attorneys have refused my staff’s requests to return the overpaid SFA bailout funding to the American taxpayers. In fact, Central States’ implied to PBGC and outright stated to HELP minority staff that if it has to give back this windfall payout—which constitutes roughly one-third of one percent of its total bailout—it will lack sufficient funds to cover all of its liabilities, notwithstanding the exorbitant amount of bailout funding it received.¹⁰

Despite a history of mismanagement and corruption throughout union pension plans that has repeatedly placed their viability in jeopardy, the federal government took action to prevent plan participants from having to suffer the consequences of their plans’ financial missteps. This was not, however, a license for plans to apply for and receive money in excess of their provable needs, or an opportunity for continued windfalls. Accordingly, to best understand Central States’ positions on voluntarily repaying the \$127 overpayment it received through the SFA bailout program, as well as the overall stability of the plan after receiving this bailout, I ask that you answer the following questions on a question-by-question basis, **by close of business on March 11, 2024:**

1. Will Central States commit to repay the \$127 million overpayment it received from American taxpayers following its SFA bailout application in 2021? If so, for convenience, I have included the link with instructions on how to make this repayment to the United States Treasury, which will help reduce the public debt: <https://www.pay.gov/public/form/start/23779454>.
2. If Central States refuses to return the \$127 million of taxpayer money paid to it on account of dead participants included on its census, explain in detail why it does not believe these funds should be repaid to the federal government.
3. In light of your implication to PBGC and statements to HELP minority staff, detail how Central States will fail to have a fully funded pension plan if it must pay back roughly one-

⁷ *Id.* at 17 (emphasis added).

⁸ *Id.* at 18.

⁹ Hearing on Standing Up Against Corporate Greed: How Unions are Improving the Lives of Working Families, 118th Cong. (Nov. 14, 2023).

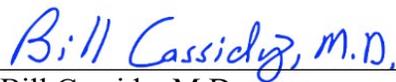
¹⁰ *Id.* at 23.

third of one percent of the nearly \$36 billion it received in bailout funding from American taxpayers for pension plan participants who were dead at the time Central States submitted its application.

4. What death match program did Central States use when compiling its census of plan participants to attach to its SFA bailout application? Please describe in detail.
5. Was the death match program used in Central States' SFA bailout application the same death match program it uses in other circumstances (i.e., ensuring plan participants are alive before paying out benefits to those participants)?
 - a. If not, identify all other death match files Central States uses, the purposes for which it uses each death match program, and the reason it uses different death match programs for different purposes.

Thank you for your prompt attention to this very important matter.

Sincerely,



Bill Cassidy, M.D.

Ranking Member

U.S. Senate Committee on Health,
Education, Labor, and Pensions