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File No. 020892

March 7, 2003

**Via Facsimile: (416) 326-7531 and Via Courier**

Mr. Tim Parker, Registrar  
Ontario Labour Relations Board 505 University Avenue  
2nd Floor  
Toronto, ON M5G 2P1

Dear Sir:

**Re: Application on behalf of the International Brotherhood of Teamsters for Consent to Continue the Trusteeship over Teamsters Canada Local Union 938 pursuant to s.89(2) of the Labour Relations Act OLRB File No. 1494-02-T**

We act for the International Brotherhood of Teamsters in the above-noted matter. The International Brotherhood of Teamsters hereby requests the consent of the Board to continue the current Trusteeship over Teamsters Canada Local Union 938 until January 1, 2004.

The duration of the Trusteeship is the subject of the Application in Board File No. 3489-02U in which the Applicant seeks a declaration that the Trusteeship terminates on May 16, 2003. As such, we request that the Board address this Application with expedition.

## **Position of the Applicant**

A temporary Emergency Trusteeship was implemented on or about May 17, 2002 after an investigation was conducted on behalf of the International by International Brotherhood of Teamsters International Representative Larry McDonald, and Teamsters Canada International Representative Ed Hawrysh and after a request from the Local 938 Executive Board to the International Brotherhood of Teamsters to implement a Trusteeship.

A hearing with respect to the Emergency Trusteeship took place on June 10 and 11, 2002 and a decision was forwarded to the General President (James Hoffa) on July 30, 2002. On August 1, the General President accepted the Recommendation of the Hearing Panel and issued a decision to continue the Trusteeship.

As set out below, during the period of the Trusteeship, substantial steps have been undertaken to address the problems which gave rise to the Trusteeship. It is the position of the International Brotherhood of Teamsters that it is appropriate for the Trusteeship to be continued for a further period (i.e. to January 1, 2004) for the following reasons:

1. The need for the continuing involvement of the Trustee/Assistant Trustee in ongoing or about to commence collective bargaining with respect to various large bargaining units;
2. The recent acts of intimidation and coercion by members of Local 938 employed by Allied Systems intended to interfere with the lawful activities of the Assistant Trustee and two Local 938 Business Agents;
3. The need to continue the mentoring and education process for business agents so as to increase the likelihood they will be able to function effectively and achieve the trust of the membership after the Trusteeship;
4. The need to complete the audit process with respect to identified deficiencies in certain pension, health and welfare trust funds and to develop a plan of action in connection with such deficiencies;

## **The Trusteeship Process**

Local 938 is a chartered local of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The principal office of Local 938 is located in Mississauga, Ontario. The Local was originally chartered in 1945. Local 938 currently holds bargaining rights for approximately 105 bargaining units. These units are in both the provincial and federal jurisdictions. The Local has approximately 10,500 members located primarily in southern Ontario. Local 938 is party to collective agreements in a number of

sectors including in the airline industry; food and beverage; industrial manufacturing; warehousing; transport, freight and small package delivery.

In 1998, Ray Bartolotti, formerly a Local 938 Business Agent, was elected as President of Local 938. In the period from 1998 to 2002, there was significant turmoil within the Local and member complaints to the International were numerous. Various arguments between the full-time officers, dysfunctional Board meetings, unruly membership meetings and staff turnover (hirings and firings) marked this period.

As a consequence, in 2002, at the request of General President James Hoffa, Larry McDonald, (International Brotherhood of Teamsters International Representative) and Ed Hawrysh (Teamsters Canada International Representative), conducted an investigation of Local Union 938. Their Report dated May 6, 2002 (Exhibit 1) included the following recommendation:

The anti-democratic practices, breakdowns in representation and financial malpractice revealed by the investigation are generally known to the membership, employers and others. Mandatory mailings outlining various transgressions, two election campaigns with officer misconduct as their focal point, and daily internet postings by disaffected members have ensured that this is so. All of this has eroded the members' faith in their union, weakened the local's ability to negotiate good collective agreements and poisoned the electoral climate in the local. In order to remedy these serious problems it is imperative that stability be restored and membership confidence rebuilt as quickly as possible. To this end, we recommend that the General President immediately place Local 938 under trusteeship.

On or about May 9, Ray Bartolotti, vacated his position of Local 938 President and went on sick leave. Local 938 Vice-President Rick Fyvie assumed the Principal Officer position. At a Local 938 special Executive Board meeting on May 15, the following Motion requesting an immediate Trusteeship was unanimously passed:

AND WHEREAS the Executive Board of Local 938 is requesting the International Union and the General President to place the Local Union into trusteeship as quickly as possible in order to preserve and protect the interests of the Local Union's Members.

AND WHEREAS the Local Union Executive Board and business agents have been faced with constant turmoil and unrest in performing their duties and this has been a detriment in representation of the membership.

AND WHEREAS President Ray Bartolotti has been the dominant force and the most experienced officer of the Local Union and

recently took an indefinite leave for medical reasons, the Local Union has been left without an experienced and capable principal officer. the absence of an experienced principal officer and the lack such experience among the remaining officers lead the Executive Board to request an immediate trusteeship so that the interests of the Membership will be protected and the affairs of the Local can continue to function.

Effective May 17, 2002, General President Hoffa, pursuant to Article VI Section 5 of the International Brotherhood of Teamsters Constitution, placed Local Union 938 in Temporary Emergency Trusteeship and appointed Larry McDonald as Temporary Trustee and Ed Hawrysh as Temporary Assistant Trustee.

A hearing under Article VI Section 5 of the International Constitution to consider whether Local Union 938 should continue in Trusteeship took place on June 11 and 12, 2002.

The Findings and Recommendations in the Report of the Hearing Panel dated July 30, 2002 (Exhibit 2) are as follows:

- ( I ) In summary, the panel was presented with credible evidence that the local was not being administered in accord with the International Constitution and Local Union ByLaws with regard to its financial practices and democratic procedures, and that this has adversely affected the quality of representation the local provides to the membership.
- (ii) In particular the panel makes the following findings:
  - (a) The Executive Board improperly delegated its authority in personnel matters to the Principal Officer, who in turn exercised this authority to a considerable degree.
  - (b) Monies were improperly disbursed by officers other than the Secretary-Treasurer.
  - (c) Costly and unnecessary staff appointments and terminations were made, coupled with an absence of financial accountability.
  - (d) Membership meetings were improperly adjourned, relocated and suspended by the Principal Officer and/or the Executive Board.
  - (e) Officers retaliated against members who filed disciplinary charges against them.

- (f) Staff morale is low as a result of personal and politically motivated personnel decisions made by the Principal Officer, and this in turn has eroded membership confidence in the quality of representation they receive from the local.
  - (g) A large membership unit was transferred to a sister Teamster local union to avoid a decertification due to lack of proper representation.
  - (h) With the departure of the local's most dominant and experienced officer due to illness the remaining officers lack the necessary experience to conduct the local's affairs. As well, the local lacks the necessary membership support to successfully negotiate good contracts for the members.
  - (i) The Trustees have taken a number of steps to remedy the problems confronting the local, including taking control of the finances, staff and contract negotiations, and making provision for increased member input into the local's affairs.
  - (j) The members have expressed unanimous support for the Trusteeship. While many indicated that they want to see the local restored to stability prior to holding an election for officers, the majority whose views were made known to the panel want to proceed with the election due to be held this fall.
- (iii) Based on these findings the panel recommends that the Trusteeship be extended to ensure that the local's finances are properly handled, democratic procedures are restored, that the membership receives proper representation, and that the affairs of the local union are conducted in accord with the International Constitution and Local Union ByLaws.

On August 1, 2002, General President James Hoffa adopted the Report and Recommendations of the Hearing Panel (Exhibit 3).

The objective of the Trusteeship was to deal with the ongoing deleterious impacts of the Bartolotti administration which included low staff morale, the erosion of membership confidence in the quality of Local representation, and an officer group which lacked the experience to handle the affairs of the Local.

Under the Trusteeship, various steps were taken to restore financial accountability and to ensure financial stability, to promote and foster democracy practices in the Local, to ensure compliance with the International Constitution and ByLaws and to promote and ensure appropriate representation. These steps have included:

- establishing expenditure procedures whereby all major expenditures are approved by the Trustee and brought to the membership for approval; day-to-day expenditures are controlled by the requirement of two signatures on each cheque
- directing an audit of all health and welfare and pension plans to determine shortfalls and/or other deficiencies
- establishing a newsletter to keep members informed
- establishing an elected ByLaw Committee to review the ByLaws and propose amendments
- the creating of a Local 938 Website to promote communication
- holding monthly membership meetings which are run in a democratic fashion and in accordance with the International Constitution and the Local ByLaws
- providing access to the Local for Local 938 retirees
- providing training opportunities for stewards and members
- providing ongoing mentoring and training for business agents including training with respect to grievance investigation and the duty of fair representation.

Article VI, Section 5(f) of the International Constitution requires a Trustee to report to the International President on the Trusteeship 6 months after the decision of the Hearing Panel. At the end of January 2003, Trustee Larry McDonald forwarded his Report to General President James Hoffa regarding the ongoing Trusteeship over Local 938 (Exhibit 4).

The Report reviewed the remedial activities initiated and undertaken by Trustee Larry McDonald and Assistant Trustee Ed Hawrysh during the period of the Trusteeship.

The Report also identified a number of elements which supported a request for a continuation of the Trusteeship. These included

- outstanding collective bargaining in respect of major bargaining units including Allied Systems, Purolator, Pepsi, which required the involvement of the Trustee or the Assistant Trustee
- the need to continue the education and mentoring process for the business agent group to ensure that there would be in place following the Trusteeship, a viable business agent group capable of making appropriate independent decisions
- the need to address deficiencies in the operation of various health and welfare trust funds which are the subject of an ongoing actuarial evaluation.

Trustee Larry McDonald's January 2003 Report included the following Recommendation:

## **V. RECOMMENDATION**

59. It is my recommendation that the Trusteeship over Local 938 be continued. The circumstances leading to Trusteeship included low staff morale, the erosion of membership confidence in the quality of Local representation and an officer group which lack the experience to handle the Local's affairs.
60. As noted above, substantial steps have been initiated to address the issues facing the Local. That being said, substantial challenges remain which clearly justify the continuation of the Trusteeship. On the collective bargaining front, it is clear that the Local presently does not have the appropriate personnel to take over the bargaining of key collective agreements. At this time, the Car Haul situation remains unresolved. Ed Hawrysh is presently working full out to achieve an agreement with Allied Systems, the largest of the employers. The bargaining has been marked by substantial divisions in the bargaining team. It is Ed Hawrysh's view that even if an agreement is reached without a strike, that there will be important work to be done in healing the relationship between the Union and the workers and the Union and the Company.
61. I will be responsible for the Purolator bargaining which will begin in the late Spring. There are over 3000 members at Purolator and this round of bargaining will be significant. Ed Hawrysh will be responsible for the negotiations at Pepsi which we predict to be difficult as we intend to remedy some of the deficiencies in the last collective agreement.
62. One of the main objectives of the Trusteeship has been to improve the quality of representation and thereby increase membership confidence and staff morale. As Trustee, I have attempted with the assistance of Ed Hawrysh, to mentor and supervise the business agents and to provide appropriate training opportunities. Given the inexperience of a number of the business agents and a history of control and interference by the former President, it is my assessment that a further period of trusteeship will be necessary for the achievement of these objectives.
63. Finally, elements of democracy within the Local have been revived. Membership meetings occur regularly, debate occurs and decisions are taken. However, meetings are not well attended and it is my view that the confidence of the membership will benefit from a further period of regular and effective functioning under the Trusteeship.

64. Under the Trusteeship, the functioning of Local 938 has improved. That being said, the objectives have not yet been met and it is appropriate that the process should be permitted to continue. At this point, I would foresee elections taking place next fall with a new Executive Board assuming office in January 2004.

In Mid-February, the International advised Trustee Larry McDonald that his Report had been accepted and the General President had approved the continuation of the Trusteeship. This was confirmed in a correspondence dated March 5, 2003 (Exhibit 5).

### **Consent of the Board**

The International Brotherhood of Teamsters requests that the Board consent to the continuation of the Trusteeship over Local 938 until January 1, 2004. Having regard to the origins and the purposes of the Trusteeship, it is submitted that the following facts justify the extension of the Trusteeship.

#### **(i) Ongoing/Future Collective Bargaining Involving Major Bargaining Units**

Assistant Trustee Ed Hawrysh is currently chairing the rank and file bargaining team in the Allied Systems (car haul) negotiations. Allied systems has approximately 900 employees, 645 of which are members of Local 938. Allied Systems is the largest car haul employer in Eastern Canada.

This round of bargaining has been extremely difficult. For a number of years the four car haul employers negotiated together. In 2002, the joint bargaining structure was rejected by Allied Systems and the Company currently faces significant economic difficulties.

A final offer vote is currently taking place by mail-in ballot. At this time, the result is uncertain and a strike is a real possibility. Should the offer be accepted, it will be the blue print for negotiations in the spring for the other three car haul companies. Clearly, there is no business agent capable of stepping in and replacing Mr. Hawrysh at this time and continuity dictates that no changes be made.

Trustee Larry McDonald will be directly involved in the upcoming Purolator negotiations. Local 938 is the Local with the largest number of members affected by the negotiations. The Pepsi-Cola negotiations are scheduled to take place this spring and the membership will be seeking to make up for losses suffered in the prior round of bargaining. In respect of Purolator and Pepsi, it is appropriate for the Local team to be directed by very experienced and knowledgeable officers. The introduction of less experienced officers/business agents could damage the interests of the Local and is not viewed by the International as appropriate.



Teamsters Canada also represents over 900 flight attendants at JAZZ, of which approximately 200 are Local 938 members. Air Canada is currently seeking major concessions and threatening major layoffs. The Local 938 Business Agent responsible for JAZZ is newly hired and it is expected that Larry McDonald will have to be involved as the JAZZ unit has previously been a source of complaints regarding poor representation.

**(ii) Recent Acts of Intimidation and Coercion in Connection with the Allied Systems Negotiations and the Final Offer Vote**

Trustee Larry McDonald and Assistant Trustee Ed Hawrysh determined that there would be a mail-in ballot in connection with any final offer submitted by Allied Systems. Apparently, in October, Assistant Trustee Ed Hawrysh had indicated to the bargaining team that ratification would be by a secret mail-in ballot. It is to be noted that Allied Systems operates 6 terminals in Ontario (Windsor, Lambeth, Bramalea, Concord, Agincourt and Gananoque). Employees as a matter of course, are on the road throughout Ontario and Quebec. The International Brotherhood of Teamsters typically utilizes a mail-in ballot in respect of national collective agreements and agreements in the trucking industry where the workers are on the road.

On or about January 22, 2003, Trustee Larry McDonald met with the rank and file Bargaining Committee for Allied Systems. At this time, the Committee expressed the view that there should not be a mail-in ballot. Members of the Committee objected. When questioned as to why they opposed a secret ballot mail-in vote, the reasons given were cost, spousal influence and that it had never been done before. In response to a concern regarding the administration of the mail-in ballot vote, Larry McDonald indicated that the Committee could select the accounting firm.

Having regard to the antipathy toward a mail-in ballot, Larry McDonald advised the Committee that he would provide a final decision after consultation with the International. Mr. McDonald then proceeded to consult with Pat Szymanski, International Brotherhood of Teamsters General Counsel and Robert Bouvier, Teamsters Canada President.

On the basis of these consultations; Trustee Larry McDonald concluded that the decision on a mail-in ballot was within his authority as Trustee and that a mail-in ballot was widely utilized by the International. Trustee Larry McDonald noted that a mail-in ballot was required by the U.S. Department of Justice for the election of Local Union delegates to the 2001 International Brotherhood of Teamsters International Convention. On this basis, Trustee Larry McDonald confirmed that the final offer vote would be by secret mail-in ballot. Trustee Larry McDonald indicated that the Committee could choose any reputable accounting firm. The Baratz Judelman firm selected which administered the election of Local delegates to the 2001 International Brotherhood of Teamsters International Convention was identified and no objection was registered.

Negotiations with Allied Systems concluded on January 25, 2003. Because the Bargaining Committee rejected the Company offer, the Company withdrew its offer. On or about February 6, 2003, the Company tabled a "final offer" through the Federal conciliator. As negotiations were at a standstill, Ed Hawrysh had previously scheduled a series of information meetings for the Allied Systems membership. Meetings were scheduled to take place in Windsor and other locations on February 8, 2003.

The meeting in Windsor took place at Place Promenade at 9:00 a.m. There were 81 members in attendance. Also in attendance was Ed Hawrysh and Business Agents Art Furtado and Ray Hill. At this time, Assistant Trustee Ed Hawrysh outlined the progress of the negotiations. He advised that the Union was obligated by law to present the final offer to the membership even though it was essentially the offer that had been rejected by the Bargaining Committee.

At this point, a number of members including members of the Committee, asserted that they would not look at the offer until the decision on a mail-in ballot was rescinded. When Ed Hawrysh said he had no authority to rescind the decision on a mail-in ballot, several members demanded that he immediately call Larry McDonald on his cell phone. Ed Hawrysh maintained the position that he was going to conduct the meeting and those in London and Toronto.

At this point, it became apparent that a meeting to discuss the final offer was not a possibility. There was abundant aggressive yelling, profanity and insults. Ed Hawrysh then tried to leave the meeting room. At this point, a number of members blocked the door and prevented Ed Hawrysh and the Business Agents from leaving. Business Agent, Ray Hill then called the police on his cell phone. The police arrived and escorted Ed Hawrysh and the Business Agents from the room. As he was departing, Ed Hawrysh was spat upon and kicked in the back.

These brazen efforts to intimidate and coerce reflect an unwillingness to accept lawful authority of the Trusteeship and a rejection of democracy and civility. As a result of these events, Ed Hawrysh has initiated charges against Rick Mazak and 20 other members of Local 938. (See Exhibit 6).

A significant purpose of the Trusteeship was to promote communication and to foster democracy within the Local. The events of February 8th in Windsor demonstrate that there remains an element in the Local that is not prepared to abide by the Constitution and is prepared to use any means to achieve their political ends. This recent resort to intimidation and coercion by members to achieve political ends supports this request for an extension of the Trusteeship.

### **(iii) Mentoring and Education of Business Agents**

At the time of Trusteeship, there were 8 business agents. In August, 2002, Trustee Larry McDonald dismissed Business Agent Wayne Maslen for just cause. Mr. Maslen had failed to provide appropriate service to his units. Of the remaining 7 business agents, 3 were relatively inexperienced (2 had less than four years of experience and one had approximately one year of service). According to Trustee Larry McDonald, five years service is generally required to produce an experienced business agent.

Under Ray Bartolotti, the Local 938 business agents functioned in an atmosphere of intimidation and control by the President and political interference. Business agents operated in fear of dismissal for arbitrary and capricious reasons. During the Bartolotti administration, there was constant turnover in the business agent group. Under Local President Bartolotti, nine business agents were terminated (some of these were reinstated). The rapid turnover led the business agents to refer to their area in the union hall as the "departure lounge". In this circumstance, the quality of representation for the membership was damaged. Individual business agents did not develop appropriate decision making skills. There was a tendency to overuse legal counsel. Uncertainty produced a lack of confidence in the membership and a lack of effectiveness and confidence in the business agent group. As well, there was often an insufficient number of business agents to service the members.

Since the imposition of the Trusteeship, steps have been taken to remedy representation problems. Training for business agents has been provided regarding grievance investigation and the duty of fair representation. Two business agents attended the Teamsters Leadership Academy in Washington. Others will attend the program in 2003. Four new business agents were hired in the fall of 2002. However, three of these individuals had no business agent experience and require substantial training. All business agents are regularly mentored both by Larry McDonald and Ed Hawrysh and positive supervision and support are regularly provided. Business agents are required to provide weekly reports which are reviewed and discussed where appropriate. Formal monthly meetings are held at which activities are reviewed and input is sought regarding Local Union affairs. The objective is to develop a self-sufficient business agent group capable of making independent decisions and able to function with the confidence and effectiveness to achieve the respect of the membership and the various employers.

One of the important objectives of the Trusteeship has been to improve the quality of representation and thereby increase membership confidence and staff morale. Trustee Larry McDonald, with the assistance of Ed Hawrysh, has mentored and supervised the business agents and provided appropriate training opportunities. Given the inexperience of a number of the business agents and a history of control and interference by the former President, it is submitted that a further period of Trusteeship will contribute to the achievement of these objectives.

**(iv) The Ongoing Audit Process in Respect of the Health and Welfare Trusts and Various Pension Plans**

At the outset of the Trusteeship, Trustee Larry McDonald made inquiries with the Plan Administrator to determine the financial circumstances of each Plan covering Local 938 Members. There were delays in obtaining the information which was requested early in the Trusteeship.

In the fall of 2002, Trustee Larry McDonald became aware that the freight members' health and welfare policies losing \$46.00 per month per member and that the surplus in the Plan was being drained. He also discovered that the Car Haul Plan was losing \$60.00 per month per member. The problem with the Freight fund has now been resolved by an agreement with the employers. The Car Haul problem was to be addressed in the current bargaining. All health and welfare trust funds are now, however, the subject of an ongoing actuarial evaluation.

Further, in March 2003, Trustee Larry McDonald requested the Plan Administrator to provide information regarding the Eastern Canada Car Carriers Health and Welfare Trust Fund; the Teamsters Local 938 Welfare Plan Trust Fund (experience reports, reserve fund policy; investment policy regarding the reserve fund); Transport Industrial Relations Board of Ontario Pension Plan (investment decisions, investment performance); Ontario Short Haul Carriers Pension Plan (selection of Maritime Life as Plan Investment Manager, asset/liability work in connection with current investment policy, rate of return data, charges to members); Eastern Canada Car Carriers Pension Plan (actuarial valuations, asset liability analysis in support of current investment policy, estimate of financial position, risk to Local 938 members) (See Exhibit 7).

A significant purpose of the Trusteeship was to restore financial accountability and stability. At this time, Trustee Larry McDonald is not in a position to assess the circumstances of the various funds and further work is required.

**Conclusion**

It is submitted that the continuation of the Trusteeship is required. Local 938 is a very large Local facing serious challenges. Having regard to the purposes of the Trusteeship, it is clear that the objectives have not yet been met, notwithstanding the efforts of the Trustee and Assistant Trustee.

Maintaining the involvement of the Trustee and Assistant Trustee in major collective bargaining and negotiating is clearly justifiable. In the face of the acts of coercion and intimidation pertaining to the Allied Systems negotiations, it is evident that a culture of legality and democracy is not firmly rooted. The continuation of the mentoring and education process

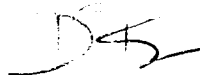
for business agents will increase the likelihood that business agents will be able to function effectively when a newly elected administration is installed. Finally, the completion of ongoing investigation regarding the health and welfare trust funds and pension plans is required to satisfy the purposes of the Trusteeship.

In assessing this request for an extension of the Trusteeship, we request that the Board have regard to the following considerations:

- the Emergency Trusteeship was invited by the Executive Board of the Local the size of
- the Local and the scope and complexity of its activities
- the length of the extension requested, i.e. 7 months
- the fact that the President Bartolotti's team would have expired at the end of 2003 and pursuant to this proposal, a new administration would be in place 12 months after that date
- the clear expression of intent on the part of the International to restore democracy and the steps taken during the term of the Trusteeship to put the Local on a firm footing in this regard.

As noted, a s. 96 application has been filed (Board File No. 3849-02-U) regarding the issue of the termination/continuation of the Trusteeship. We would request, in all the circumstances, that the Board process this Application with the utmost expedition.

Yours very truly,  
CAVALLUZZO HAYES SHILTON McINTYRE & CORNISH



David I. Bloom DIB:sn

Encls.

c: A. Dale

L. McDonald, Trustee Local 938

E. Hawrysh, Assistant Trustee Local 938

G. Witlen, Director (Legal Dept.) International Brotherhood of Teamsters R. Bouvier,  
President, Teamsters Canada

# TEAMSTERS LOCAL UNION 938

LARRY M. MCDONALD  
INTERNATIONAL TRUSTEE

ED HAWRYSH  
ASSITANT INTERNATIONAL TRUSTEE



March 3, 2003

Mr. J. Jaseliunas  
Vice President  
Benefit Plan Administrators Ltd.  
P.O. Box 6020, Station "B"  
Etobicoke, Ontario M9W 7A3

Dear Mr. Jaseliunas:

**Re: Information Requested with Respect to Pension and Health & Welfare Plans covering Local 938 Members**

Thank you for the documents and information you sent to me with respect to the above Plans under cover of your letter dated December 10, 2002.:

I have now been able to complete a preliminary review of this material and find that I still do not have everything that was requested and I have a few questions about what was provided. I have detailed these questions and missing information below.

**I. Eastern Canada Car Carriers Health & Welfare Trust Fund**

- i) It does not appear that I received any information about this Plan. Could you provide me all of the information I requested earlier, including complete and detailed experience reports from each insurer or carrier involved with the Plan. These experience reports should cover at least the last three years and preferably should cover the last five years.

**II. Teamsters Local 938 Welfare Plan Trust Fund**

- i) Please provide complete and detailed experience reports from each carrier or insurer involved with the Plan. As above, these reports should cover the last five years;

ii) In the Plan booklet there is reference to a Plan document. Please provide me a copy of the Plan document;

iii) Consistent with our recent discussions, I believe it is desirable, if not essential, to develop a written policy statement relating to the "reserve" being held under the Plan and Trust. This written statement needs to address such matter as:

- a) purpose of the reserve;
- b) desirable size of the reserve with supporting reasons (actuarial and financial);
- c) how the reserve will be applied when it reached its optimal or maximum size; and
- d) an appropriate investment policy and strategy applicable to the reserve which is acceptable under the term of the Trust Agreement.

I would ask that you forward to me at an early date a first draft of such a policy document.

iv) A report on the rate of return achieved on the reserve funds each calendar year over the last five years.

### **III. Transport Industrial Relations Board of Ontario Pension Plan**

I note with some concern that the Trustees recently authorized an investment of some of the assets of the Plan into the equity market. Would you kindly provide the following in this regard:

- i) On whose recommendation or advice was this decision based?
- ii) What has been the performance of this investment to date and what impact has the performance has on the Plans excess of assets over liabilities for accrued benefits which was about \$18 million?
- iii) A copy of the asset / liability analysis made to appraise the Trustees of the potential financial impact of this decision.
- iv) Whether the decision of the Trustees had the consent and approval of OSFI as I understand a commitment has been made to OSFI to advise them in advance of any significant change in the Plan's investment policy.

#### **IV. Ontario Short Haul Carriers Pension Plan**

- i) On what basis was Maritime Life selected as the Plan's investment manager?
- ii) What asset/liability work has been done to support the current investment policy? I am particularly concerned that the written policy that was provided is not consistent with the actual investment of Plan's assets.
- iii) What firm prepared the Statement of Investment Policies?
- iv) Has Maritime Life paid any firm or organization a commission on finder's fee with respect to the Plan? If so, please identify the recipient.
- v) Please provide for at least the last 10 and preferably the last 15 years, a report giving the rate of return earned each year on the assets of the Fund. These rates of return should be calculated on a market value basis gross of expenses, net of investment expenses and net of all Plan expenses.
- vi) Please explain how members are:
  - a) charged with Administrator expenses (exclusive of investment related);
  - b) charged with investment expenses;
  - c) credited with investment income.
- vii) How are member accounts handled when members retire? Are these allowed to purchase annuities? If so, from whom?

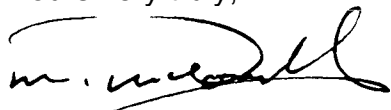
#### **V. Eastern Canada Car Carriers Pension Plan**

- i) I note actuarial valuations were carried out December 31, 1999 and December 31, 2000. Is there a report at December 31, 2001? Would you kindly send me a copy? If a report was not prepared at December 31, 2001, please explain. Has an asset / liability analysis been carried out in support of the current investment policy? If so, please provide me a copy of this analysis.
- iii) Have the Trustee obtained an estimate of the Plan's financial position at December 31, 2002 based on an appropriate interest rate assumption and reflecting actual investment performance since December 31, 2000. If so, please provide me a copy of whatever has been prepared.
- iv) I am concerned that our members covered by the Plan are at significant risk of having their benefits reduced. What can you provide to reassure me that this will not happen?



Please call me if you do not understand any of this material and information I have requested.  
I would appreciate receipt of this at the earliest possible date.

Yours very truly,

A handwritten signature in black ink, appearing to read "Larry M. McDonald". The signature is fluid and cursive, with a prominent loop at the end.A handwritten signature in black ink, appearing to read "Larry". The signature is cursive and stylized.

Larry M. McDonald International Trustee rM-L~'opm 343