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**FRAUD AND ABUSE IN BOARDING HOMES**

**HEARING**  
BEFORE THE  
**SELECT COMMITTEE ON AGING**  
**HOUSE OF REPRESENTATIVES**  
NINETY-SEVENTH CONGRESS  
FIRST SESSION

JUNE 25, 1981

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## FRAUD AND ABUSE IN BOARDING HOMES

THURSDAY, JUNE 25, 1981

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON AGING,  
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 1334, Longworth House Office Building, Hon. Claude Pepper (chairman of the committee) presiding.

Members present: Representatives Pepper of Florida, Rinaldo of New Jersey, Biaggi of New York, Florio of New Jersey, Hughes of New Jersey, Ferraro of New York, Ratchford of Connecticut, Vento of Minnesota, Shamansky of Ohio, Boner of Tennessee, Fenwick of New Jersey, Daub of Nebraska, Hendon of North Carolina, and Carman of New York.

Staff present: Charles H. Edwards III, chief of staff; Val J. Halamandaris, senior counsel, Kathleen Gardner, professional staff member, Nancy Smythe, investigative researcher, Geraldine McDonough, intern, Cindy Jones, intern, Nan Kalthoff, intern, and Walter Guntharp, minority staff director.

### OPENING STATEMENT OF CHAIRMAN CLAUDE PEPPER

The CHAIRMAN. I will call the committee together and will read my opening statement. We will wait until the other members return before hearing our witnesses.

We would like very much to welcome all of you here this morning to have discussions about the problems of fraud and abuse in the boarding home industry, the newest and now the largest class of institutional occupancy in the United States. We estimate there are about 100,000 boarding homes in the United States, a larger number than there are of nursing homes.

As you know, the States have been under great financial pressure. In order to save money, most of the States have been shifting thousands of their mental patients, the retarded, the handicapped and the elderly, out of State mental hospitals and placing them in boarding homes. We are today releasing the latest figures which show that the States have reduced their mental patient population by an average of 61 percent between 1969 and 1980. Moreover, they have reduced their elderly mental patient population by 73 percent during the same period of time. Our figures also show that the cost of keeping an individual in a State mental hospital in the United States has increased from \$5,626 in 1969 to \$32,809 in 1980. So you can see what a saving it is to a State in terms of dollars to get a mental patient out of a State mental hospital.

As you can see, there is tremendous incentive for the States to move people out of mental institutions of the State and place them

in boarding homes where the cost can be shifted to the Federal supplementary security income program, that is, the SSI. The enactment of SSI by the Congress, therefore, unexpectedly gave birth to a new for-profit boarding home industry in this country. As you know, under SSI they can receive up to \$238 a month.

Boarding homes are generally old hotels or structures which once were used as nursing homes but were not able to be used for that purpose because they didn't meet the safety standards. In 1978 the Congress required the States to license such facilities, but standards for the most part are minimal and enforcement is extremely lax among most of the States.

If our estimates are correct, there are now five times as many boarding homes in the United States as nursing homes. We estimate there are at least 100,000 boarding homes in use in the United States which house at least, we estimate, a million people, with total revenues of \$12-\$20 billion a year.

We have seen graphic problems created by the sudden infusion of billions of Federal dollars into the ghettos of America. We have created a new kind of institutional robber baron who deals in some cases in slum property and has brought new meaning to the phrase "Bring me your tired, your poor."

One operator who was candid with our staff said that an investment in mental patients was far better than orange groves or oil wells. He advised us to invest in this growth industry. Some operators have not been content to wait for each new crop to arrive from the State hospital. They employ a new kind of bounty hunter who combs the countryside for derelicts, cripples, the sick, the old, and the homeless. With promises of care and concern, they lure them into facilities, sometimes of unspeakable squalor, and begin to collect their bounty from the Federal Government through SSI.

We have seen the results of this bankrupt policy. For example, our committee has conducted hearings into the cause of half-a-dozen boarding home fires which claimed the lives of 130 old and disabled individuals over the past 2 years. These fires occurred in Michigan, New Jersey, Pennsylvania, Missouri, and the District of Columbia.

Also, our hearings have documented poor care and abuse in many cases. For example, 3 years ago a 98-year-old New Jersey woman developed gangrene in a boarding home. The owners were ordered to transfer the lady, but refused. Four months later, she died.

Another case. In the District of Columbia, a 64-year-old man died for want of insulin he needed to treat his diabetic condition. He was found living in filthy conditions suffering from dehydration and malnutrition.

Another case. In California, a modern-day bounty hunter was convicted of paying bribes to mental hospital social workers of \$125 per head for every patient they would release to him from the hospital.

Another case. A few days ago, a grand jury in Brooklyn began looking into charges by former employees that a boarding home owner in New York indiscriminately tranquilized residents to keep them quiet, turning them into human zombies.

Another case. In Arizona, a woman of 88 was overtranquilized while the boarding home operator went about forging her name and otherwise forcing her to turn over stocks and bonds and \$2,300 in checks.

Another case from my own State of Florida. There was an 88-year-old resident of a Lakeland, Fla., boarding home who was beaten to death a few weeks ago, and the Miami Herald reported a few days ago that a boarding home operator locked a 101-year-old woman in a closet and sent two older people out to the park on a cold, rainy night so that the city inspector would not discover the operator violating the law by having too many people in the boarding home.

In our efforts to document the kind of frequency of such abuses in boarding homes, we enlisted the assistance of the U.S. General Accounting Office which provided us with an excellent report in April 1979. That report also raised serious questions about possible fraud in boarding homes.

As a result of these and other disclosures, we asked GAO in July of 1979 to conduct the first full-scale financial audit of boarding homes ever undertaken. Ten homes were chosen from the District of Columbia, Illinois, Missouri, New Jersey, and Pennsylvania. In May of 1980, GAO reported back to us that they were having difficulty getting access to the books and records they needed in their review.

Accordingly, our committee unanimously voted subpoenas requiring the 10 homes to turn over their records to the committee. Not all of the homes complied fully with our subpoena. Nevertheless, GAO received enough records to convince us that we are dealing with massive fraud.

I want to confer with my colleagues, of course, and hear the witnesses today, but I am disposed to believe that we are required by law and duty to turn over 7 of the 10 homes' cases to the Justice Department and the Internal Revenue Service.

GAO will tell us this morning that they found little in the way of accountability for Government funds which made up more than 90 percent of boarding home revenues. They will tell us that they found widespread abuse of patients funds; that some operators continued to collect SSI checks long after residents had died or moved from the facility. They will tell us that operators opened residents' mail and converted the residents' energy assistance checks to their own use without asking.

Of even more concern, they will tell us that most of the boarding home owners underreported their income, and in one case did not report their income at all.

GAO will tell us that many of the expenses which boarding home operators said were related to operating a boarding home on their taxes could not be verified. In the case of one home, fully 88 percent of the claimed expenses could not be backed up with receipts.

GAO will tell us about one home which took out life insurance policies on 94 of its residents, claiming they were employees and deducting premiums paid on their tax returns.

Finally, several homes appear to have complicity to medicaid fraud. The doctors and the pharmacists who provide medical care



to boarding home residents and who are paid by medicaid in many instances appear to be using the boarding home residents as a captive population in order to perpetuate fraud. It is my understanding that subsequent to the beginning of our investigation, the State of Illinois found massive evidence of medicaid fraud and is trying to collect \$178,000 from a physician who served one of the homes that we examined.

We have also learned that the Inspector General of HHS has given little or no attention to boarding homes, despite the rapid growth of the industry. The last four Inspector General's reports do not even mention the words boarding homes as far as we could find. Moreover, we could not find one case of boarding home related fraud among the cases which were referred to the Justice Department for prosecution. We plan to ask the FBI to add boarding homes to its list of health care providers for investigation. We also want to suggest to the Internal Revenue Service that boarding homes appear to be an area that they also should examine.

We plan to introduce legislation requiring boarding home operators to file CPA financial statements, telling us how much they are using Government funds. The bill that I intend to introduce would make falsification of such a cost report a Federal offense punishable by 5 years in jail or a \$25,000 fine or both. It seems to me that we also need Federal minimum fire safety standards, particularly in this kind of home. So we are hopeful that we can make some contributions to clearing up what is I think, in many, many cases, a very pitiful condition, of people who are confined as patients in the so-called boarding homes of the country, so that we can raise the standards of care, standards of safety in those institutions and the standards of rectitude and propriety on the part of those who operate those institutions.

Of course, we are not charging that all are bad, but so many are bad that it's a discredit to the industry as a whole and we hope we can clean up the bad instances that we can find.

Mr. Rinaldo, would you care to make a statement?

#### STATEMENT OF REPRESENTATIVE MATTHEW J. RINALDO

Mr. RINALDO. Yes. Thank you very much, Mr. Chairman.

First of all, I certainly want to commend you for convening this hearing and for requesting the GAO investigation which we are about to examine.

I have had the opportunity to review the GAO report, and I believe that there is no time to be lost in getting action on the issues of boarding home safety and boarding home accountability.

In the past, congressional attention has been primarily focused on nursing homes. That attention was deserved, it was needed, and I think improvements can still be made in that sector.

But the class of facility that we are examining today must be distinguished from nursing homes. Unlike nursing homes, boarding homes do not provide medical attention, and the standards that they must meet are far less strict.

During our committee hearings last March in New Jersey, my home State, I was shocked particularly at the easy accessibility of drugs in the boarding homes we visited. In most cases, the residents were former mental patients. Recreational activities were

nonexistent, or meager at best. On the whole, Mr. Chairman, those conditions reminded me of something out of a Charles Dickens novel.

The GAO report that we have before us goes a step further. They have looked at 10 boarding homes indepth and they have provided us with a firm foundation for Federal responsibility. Nearly all the residents of boarding homes are dependent on some form of Federal assistance, whether it's social security, SSI, veterans pensions, or some other form of Federal aid. We have an obligation—and I'm sure you concur with me when I say we also have a responsibility to these individuals.

At my request, the Department of Health and Human Services earlier this year undertook a review of its authority under the Keys amendment. I am hopeful that that ongoing effort and these hearings will result in stronger regulations and protections for boarding home residents.

Mr. Chairman, again let me express my deep support for your outstanding efforts in this field.

The CHAIRMAN. Thank you very much, Mr. Rinaldo.

Mr. Ratchford.

#### STATEMENT OF REPRESENTATIVE WILLIAM R. RATCHFORD

Mr. RATCHFORD. Mr. Chairman and members of the committee, first of all, as a person who chaired a nursing home investigation in the State of Connecticut, and as a former Commissioner on Aging, let me applaud you for your efforts in this area.

In both capacities, it soon became apparent to me that regrettably, while we were developing standards for nursing homes, for skilled facilities, and for intermediate care facilities, and the forgotten elderly in America are those residing in boarding homes. What we do this morning is focus on that problem and acknowledge that we, as Members of Congress, have an obligation to do something about it.

As you know, we are talking not about a small population, but a population of 1.5 million people. Frequently we're talking of the frailest of the frail. Frequently we're talking people without friends or relatives. Frequently we're talking people who live by the very thread that stems from the Federal Government SSI check to the recipient.

Sadly, as we will see this morning, that check doesn't always go to the recipient. Far too often, because of the lack of standards, and rules, the check goes into the pocket of the manipulator, the unscrupulous, or a person who runs a home which he/she calls a boarding home. This home may be a fire trap, a facility without adequate safety standards, and probably is a facility with poor food. Obviously we are contributing to perpetuating the worst of the worst in America.

So if we do nothing else this morning—and I hope we can do more—we will focus on this problem, and say to America: "A committee of Congress, under your able leadership cares." We will have said to those 1,500,000 Americans somebody out there cares for you and will attempt to improve your living conditions.

I applaud your efforts. I look forward to the GAO report. It does point specifically to fraud, abuse, and neglect. Collectively, Mr.

Chairman, let's make a pledge to those forgotten Americans that they won't be forgotten in the Halls of Congress.

[The prepared statement of Representative William R. Ratchford follows:]

PREPARED STATEMENT OF REPRESENTATIVE WILLIAM R. RATCHFORD

Mr. Chairman, I, too, will applaud you and your fine staff for efforts over the last two years to draw national focus to one of the most horrifying and deplorable problems confronting many of our elderly and mentally impaired citizens today—the provision of often inadequate care in such room and board facilities by scurrilous proprietors all too anxious to abuse their residents and defraud the Government for substantial sums.

For those 1.5 million elderly, handicapped, and mentally impaired people that have found their way into these facilities, it is often their preference to remain in a more institutional setting or to be cared for at home by loving family members. There are today 61.6 percent fewer in-patients of all ages residing in State mental hospitals than there were in 1969. Many of these 239,470 people have been released at a frenetic pace by States eager to board the "deinstitutionalization bandwagon" in order to save money. Some have been accepted back by their families for the most humane form of care that can only be provided in the home, yet many others shunned by their own family who either can't afford or are unwilling to render such care are forced into the streets.

While some States have handled the deinstitutionalization process intelligently, many others have not. As a result, State mental hospital patients have been discharged at alarming rates for communities ill-equipped to meet their special problems. If these States have any mechanism for assessment and referral of patients to proper care settings, they are often understaffed or incapable of finding appropriate placement in the community. The spacity of community mental health centers and the limited funds with which they operate certainly detract from their effectiveness in dealing with this unique population on an ongoing basis.

These circumstances have created a problem of alarming dimensions right beneath our noses, and until now we have done little to address it. In dramatically reducing its State hospital in-patient population over the last 11 years, the States have indeed succeeded in saving substantial sums of money. Unfortunately, however, these savings were not applied to the development of humane, community-based care facilities. Either by referral or for lack of any other alternative, these 1.5 million people have landed in the Nation's 300,000 boarding homes and most on the supplemental security income rolls.

This burgeoning new boarding home industry has gone virtually unchecked by local, State, and Federal authorities. As past hearings of this committee have identified, they have in most instances been excused from meeting strict fire and safety codes, and the tragic result has been over 130 deaths by fires in these homes over the last 2 years. This new class of proprietary facilities has been allowed to prosper at the taxpayer's expense. I have had an opportunity to review the financial audits prepared by the General Accounting Office at the request of this committee. Their findings are shocking, indeed! In virtually all of these 10 representative homes selected for review, the GAO has been able to document countless cases of fraudulent practices and financial mismanagement by home proprietors.

For example, I find it incomprehensible that millions of Federal dollars flow into these homes each year in the form of SSI, OASI, food stamp, veterans, and other payments yet most have either a woefully inadequate or no financial accounting system at all. One such home in Pennsylvania received 85 percent of its income from Federal sources over a 2-year period, but incredibly had never established a management and financial records system to adequately reflect the operations of the boarding home. Mr. Henig will reveal to the committee today the GAO's findings to date. Instances of gross tax fraud, medicare/medicaid fraud, poor financial accountability, fire and safety code violations, and general unacceptable resident care run rampant through these and countless other homes throughout the country.

No longer can the States or the Federal Government ignore these festering problems. The boarding home industry has grown so rapidly, that there are now probably 10 times the number of boarding homes as there are nursing homes and hospitals combined. Yet we have sat idly by while unscrupulous proprietors have film-flamed the Government for unconscionable sums of money, and have in many cases provided care for residents not even befitting an animal!

Mr. Chairman, as one who headed a Governor's blue ribbon committee to investigate the nursing home industry several years ago, I know that much remains to be

done to develop a system of humane and cost-effective long-term care. Indeed, we must be ever vigilant in our efforts to provide the highest standard of nursing home care for those that truly need it, and we must continue to explore and develop appropriate forms of alternative care for those that don't. At the same time, however, we must direct our attention to that new class of care facilities—the boarding home.

These hearings today represent an important expansion of our committee's activity in this area. Assisted by the States and the appropriate agencies of the U.S. Government, we can get a handle on this new industry and put a quick end to fraud and abuse in boarding homes. Several of the cases I have reviewed, Mr. Chairman, reflect sufficient documentation to warrant an immediate and full investigation by the Justice Department. Other of the cases might best be referred to the U.S. Postal Service, the FBI, and the Inspector Generals of other Federal agencies for proper followthrough. The efforts over the last year and the presentation today of the GAO of its remarkable findings are commendable. It is now the task of this committee to refer these findings to the appropriate Federal authorities for additional investigation and criminal prosecution where necessary.

I, for one, Mr. Chairman, am anxious to determine to what extent these cases represent a broader national problem. Further study and further hearings will, of course, be necessary. But it is our responsibility to utilize today's hearings to send a very clear message to the boarding home operators of this Nation that will prey upon his residents and defraud the Government that we will take every action necessary to uncover their scurrilous schemes and cease their operations. I personally prepared, Mr. Chairman, to accompany you and members of the committee staff on personal visits to some of these boarding homes suspected of such activity. The time to act is now!

Again, I commend the Chairman for convening this important hearing today and certainly look forward to the presentation of testimony by our witnesses. They can be sure that our questions here today and in the days ahead will be very direct and serve to advance our study of this terrible problem.

The CHAIRMAN. Thank you very much.

I want to record the excellent job that you and Mr. Rinaldo and Mr. Florio did in New Jersey a little bit ago in conducting a hearing on the fires which took place in the boarding homes of that State.

Next is Mrs. Fenwick.

STATEMENT OF REPRESENTATIVE MILLICENT FENWICK

Mrs. FENWICK. I think we have heard the outline of the problem that faces us, the tragedy that this represents and the suffering, the indignity, the difficulties and the dangers to which these elderly in our boarding homes are subjected.

But, Mr. Chairman, I hope very much that we will go a little deeper here. I hope we will reconsider one of the reasons for the enormity of the problem, which as I understand it was the refusal of the Supreme Court to review a lower court decision which said that unless somebody was homicidal or suicidal, a danger to themselves or others, they had to be released.

Since our meeting in New Jersey, and following a newsletter that I sent out after that meeting, I have received correspondence from people who are concerned—organizations and directors of organizations. The problem is summed up in one letter so well.

The hospitals must discharge patients who are not homicidal or suicidal. This does not measure capacity to be self-sustaining in a community, and I think we are going to have to reexamine the base, the cause.

We had over 22,000 people in our mental hospitals in New Jersey, with a budget of \$68 million. This was reduced to something under 4,000, I think it was 3,700, with a budget now of \$196 million, oddly enough. SSI is what these people depend on, and in

New Jersey \$40 must be given to the patient, to the elderly, and the rest goes to the boarding home.

But one of our witnesses testified, a mentally retarded person, that "sometimes they're so nice; last Tuesday they gave me \$10". We have pitiful situations like that. But we must address ourselves to the basic question.

Can we, in good conscience, release from a mental institution a person who is unstable mentally, who needs drugs and medication in order to function at all? A friend of mine, a woman I have known for many, many years, was killed at the Newark railroad station not long ago by a man with a pair of scissors—and it took quite some time. He had been recently released from a mental institution. Another case has just turned up on the front page of the papers.

What are we going to do? A desperate mother whose son, 26 years old, was forced out of a mental institution, wrote me, "I couldn't keep him in. I knew he ought to stay in, and now he's in jail." What's going to happen to his victim; what's going to happen to him? We are going to have to reexamine the reason for all these tragedies and see what our recommendations and responsibilities might be.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. I know the gentle lady also conducted very excellent hearings in New Jersey some while ago involving this subject.

Mrs. FENWICK. Terrible deaths by fire.

The CHAIRMAN. Thank you.

Mrs. Ferraro.

#### STATEMENT OF REPRESENTATIVE GERALDINE A. FERRARO

Ms. FERRARO. Thank you, Mr. Chairman.

I first of all want to commend you for holding these important hearings on fraud and abuse in boarding homes. As you know, in the golden days, prior to my election to Congress, I was an assistant district attorney in Queens County and I was chief of what was called the special victims bureau. Some of our special victims were senior citizens who were the victims of abuse, and the abuse took very many forms. I am delighted to see that one of the witnesses today is Carl Falcone, an assistant D.A. in Westchester, and who will describe some of the instances of abuse, many of which are the same type of cases we had in our bureau.

The interesting thing about it is that very, very frequently when you have victims of this nature, you are not able to proceed in a criminal prosecution because you are not able to use them as witnesses because of advanced age and senility in some cases, and in addition, you are not able to prove, because of that, the facts of the case. So there is a certain amount of frustration that attaches itself to dealing on a criminal level with these particular instances of abuse.

But I am really delighted that you are having these hearings in order to show the participation of Congress and the concerns, that perhaps we can proceed where the criminal justice system is unable to do it because of the rules with reference to testimony.

Since these homes are existing because of public funds, I believe it is imperative that they be held accountable for the lives of the people who are living there. In case after case, we find that these boarding homes have violations of health, housing and fire codes, and in all too many cases these violations are not corrected. These people are the ones who are least able to complain on their own; they are the least able to carry on their own fight; so I am delighted that we as a committee are moving ahead to do so and I congratulate you, Mr. Chairman, on having these hearings.

The CHAIRMAN. Thank you very much, Mrs. Ferraro.  
Mr. Shamansky.

#### STATEMENT OF REPRESENTATIVE BOB SHAMANSKY

Mr. SHAMANSKY. Thank you, Mr. Chairman.

I also am grateful that we have a forum like this to look into this terribly important question. I found in your remarks a striking figure, namely, that the cost of keeping an individual in a State mental hospital in the United States has increased from \$5,626 in 1969 to \$32,809 in 1980. The significance of that is that there was a popular cause among the people who work in this area called deinstitutionalization. The cry became to move people out of institutions and into the neighborhoods. The difficulty is, of course, they're not capable of maintaining themselves in neighborhoods. It isn't just a question of the elderly. So I think this should be the forum in which we bring some light into this terribly important area, not just for the benefit of the elderly—although that is why we are here ostensibly—but that it will benefit everyone who has been taken out of institutions and simply thrown out into the community where they are simply victims.

I agree with Mrs. Fenwick's observations, and the situation in Ohio, I fear, is very similar to that in New Jersey and in other parts of the country.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Shamansky.

Mr. Biaggi.

#### STATEMENT OF REPRESENTATIVE MARIO BIAGGI

Mr. BIAGGI. Thank you, Mr. Chairman.

It seems that some of our worst fears are being confirmed. As a result of the initial hearing, certainly some revelations warranting further hearings were justified, and with the GAO report which goes into more detail, obviously it begs for Federal response. I think, as a result of this hearing today, that's exactly what we should be doing.

But it is even more timely, Mr. Chairman, because the House is in the process of deliberating over the reconciliation bill. Now, if that reconciliation bill places a cap on medicaid, we're going to lose some \$200 million in New York alone which will result, of necessity, in the closing of nursing homes. The consequence of that action will be to dump even more individuals into the street, into the community, and ultimately into boarding homes. It should be a reverse procedure and now we're exacerbating an already difficult if not intolerable situation.

I stated once before when we had a hearing that what we are creating is a federally subsidized inferno for the elderly. We have seen illustration after illustration, where there hasn't been any measures, or a minimal amount of measures taken for safety. What this country is doing is dumping those that really need assistance, but who can't find it and can't find refuge simply because the dollars aren't available for entrepreneurs to profit from.

Now, I'm not going to talk about the corruption and the manipulation of the funding because I think that will be clearly enunciated in today's hearing. As the GAO report indicates the possibilities of substantial wrongdoing in that area does exist. It is a condition that should be addressed. I think, frankly, we've had enough conversation about the matter. I trust this is the last hearing we will have and proceed with some substantial action.

Again, what infuriates me is we're in the process of developing this movement on the one hand, and on the other hand we find ourselves in a position where we will be cutting off or capping medicaid. I mean, there's a square conflict here and I just don't know which side the administration will come on or the Congress will come on. But if conscience and merit is to prevail, certainly no cap should be placed on medicaid.

Thank you, Mr. Chairman.

The CHAIRMAN. What all of you have said suggests the possibility that if we cannot change the Supreme Court decision as to whether or not a person can be kept in a State hospital, it would seem that the States, perhaps with Federal assistance, might provide some other kind of place. If we can't keep them in a place where the cost is \$32,000 a year per patient, perhaps we should try to find another suitable alternative—

Mrs. FENWICK. Mr. Chairman, there's an excellent series of articles, two articles, one after the other, in the Star Ledger in New Jersey. A clear differentiation can be made. One type of program—an excellent one—is run together with the Muhlenburg Hospital in New Jersey. There are different classifications, and what is perfectly appropriate for some kindly person, not mentally deranged, not dependent on drugs, is totally improper for somebody who—whether the psychiatrist can recognize it or not—is homicidal or suicidal. Indeed the first article starts off with the suicide of a recently released patient in East Orange.

Apparently psychiatry is an art rather than a science, and there are these different grades of people who need different kinds of help.

The CHAIRMAN. Thank you.

Mr. Daub.

Mr. DAUB. Thank you, Mr. Chairman. I have nothing at this point.

The CHAIRMAN. Thank you.

Mr. Florio, I know you have had a deep interest in this subject, and I mentioned a bit ago that you were one of those who participated in an excellent hearing in your State along with Mr. Biaggi, Mr. Rinaldo and Mrs. Fenwick. We are very glad to have you comment on the matter.

#### STATEMENT OF REPRESENTATIVE JAMES J. FLORIO

Mr. FLORIO. Thank you very much, Mr. Chairman.

I would just like to share with you very briefly some observations of the hearing that we held in Keansburg as well. That, of course, was prompted by a series of fires in boarding homes in New Jersey. There were four fires—one in Keansburg—that resulted in 64 individuals dying.

The committee, prior to the actual hearing, went out and inspected on a quick basis two boarding home sites in New Jersey. We came to the conclusion that living conditions were clearly inadequate and that there were obviously safety standards that were not being met.

Ironically enough, the New Jersey legislation has enacted probably the most comprehensive licensing law for boarding homes in the Nation. However, in the period of transition State officials have experienced difficulties in implementing the new regulatory scheme and it has been represented to me that people are concerned that if they fully enforce the provisions of this very good law, the economics are such that they effectively will be closing many of the boarding homes, leaving people with no place to go. So there is a mixed feeling as to the enforcement of the good law resulting in the closing of facilities, or the nonenforcement allowing unsatisfactory conditions to exist.

Another observation the committee made, was that there are insufficient numbers of field inspectors charged with the initial licensing and inspection responsibilities.

Then, of course, we found the irony that the State legislation preempted the field such that local fire inspectors were not able to perform their responsibilities. So we have the State system preempting the field, but with inadequate resources so that the State was not able to perform what it was supposed to be doing, and at the same time precluding the ability of local people, who have the capability of contributing, from going into the area.

Those are the major points that I wanted to emphasize, except that our conclusion also was that there should be more incentives provided and, conversely, disincentives removed, for greater private sector involvement in trying to improve boarding home conditions.

One of the clear examples of that was the policy of water companies to charge facilities for fire prevention sprinkler systems, for water use, whether the facility ever uses the system or not. It seems to me we should be providing some incentives for the more effective use of sprinkler systems.

Another conclusion, the last conclusion I will emphasize, is that the Federal Government clearly has to assume a prominent role in improving safety and living conditions in these boarding homes, and the tax policies are perhaps the most obvious way that we can provide incentives for entrepreneurs to do the appropriate thing in terms of making conditions safer. Therefore, I am somewhat distressed that the administration has made no request for fiscal year 1982 funding to continue the work of the National Bureau of Standards. That work is currently underway in developing a fire safety evaluation system for boarding homes. The system being developed by the National Bureau of Standards would permit State or local officials to easily identify the need for upgraded fire protec-



tion on a building-by-building basis. Further funding of this work is required if the National Bureau of Standards is to develop second generation fire evaluation systems for boarding homes, which will allow communities to select the best possible fire prevention strategy among several options which may very well be available.

Termination of the program would prevent the education and training of those local officials, who I indicated are willing and anxious to play a greater role in providing fire protection.

I am today circulating a letter—and I will make it available to all of the members of the committee—which urges Chairman Natcher of the Appropriations Committee to consider fiscal year 1982 funding for the important work being carried out by the National Bureau of Standards in the whole area of fire research. I am hopeful the members will sign the letter and we will convey it to Chairman Natcher as rapidly as possible.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Florio.

Mr. Vento.

#### STATEMENT OF REPRESENTATIVE BRUCE F. VENTO

Mr. VENTO. Thank you, Mr. Chairman.

Mr. Chairman, I want to commend you, first of all, for calling the hearing on this particular topic. I think it is, indeed, going to be an acute problem, with the efforts to deinstitutionalize and with the changes that have occurred, for instance, with title 19, where we find more and more individuals engaging in the utilization of SSI funds to live independently. And as such, the monitoring of these programs, whether it's food stamps, energy assistance or the basic SSI program, is something where the infrastructure is not in place.

So often we hear concerns expressed about the duplicitous inspections, but I think the facts of the matter are going to point out that we don't do the job that we should in terms of the accountability of these Federal funds for protecting consumers. I think we share a challenge with those professionals working in this area, providing this type of housing, and I want to point out, Mr. Chairman, that there are many contractors and individuals that look at this as a responsibility and are doing an excellent job in communities throughout this country. I think we have to look at ways to permit them on a self-help basis, and encourage them with the utilization of the assistance program that this Congress has jurisdiction over, to ferret out problems and streamline the administrative structure.

I think the end result should be better housing for those that have special types of disabilities in this society, and the elimination of those people that would take advantage of programs and cause abuse and really don't deserve our support.

So we command a great deal of resource in this Congress to focus on these problems. It's absolutely essential that we're certain that these resources are spent in an efficient, effective, and humane way in terms of providing services that people justly deserve for those dollars spent. So I hope this hearing—and I know it will be under your leadership, Mr. Chairman and that of our distinguished

minority leader, Mr. Rinaldo—a good effort toward that particular purpose in this Congress.

Thank you, Mr. Chairman.

The CHAIRMAN. Mrs. Ferraro.

Ms. FERRARO. Mr. Chairman, I just wanted to make a comment on the comments of my colleague from New Jersey.

After those Keansburg fires and after the incident at the Grand Hotel in Nevada, I have submitted legislation which will give a tax incentive to owners of that type of home. It is H.R. 1958 and I would appreciate any help that this committee might be able to give me with that particular bill. But it does precisely the type of thing that you're talking about. It gives incentives to cure conditions that could be fire hazards for people.

The CHAIRMAN. Thank you, Ms. Ferraro.

I have the prepared statements of two members of the Aging Committee who were unable to attend today's hearing, and if there are no objections, I will submit them for the record at this time. Hearing no objections, so ordered.

[The prepared statements of Representatives Edward R. Roybal and John Paul Hammerschmidt follow:]

#### PREPARED STATEMENT OF REPRESENTATIVE EDWARD R. ROYBAL

Mr. Chairman, I would like to commend you for holding this important hearing to examine a problem which regrettably seems to be growing in both severity and scope. Recent witnesses testifying before this committee have related instances of abuse and lack of care for residents of boarding homes. As chairman of the Subcommittee on Housing and Consumer Interests, I have been having more and more reports regarding the misuse of boarding homes as substitutes for proper nursing home care. The preliminary indication from the GAO investigation is that the magnitude of this unpardonable situation is even worse than our original impressions and fears warranted.

It is particularly important that we get a better understanding of the incidence of fraud and abuse in boarding homes given the severe shortage of adequate housing for our older citizens. Boarding homes offer one potential alternative for addressing this housing shortage. However, we must make sure that such living arrangements are being adequately monitored and regulated.

As you know, in the decades to come, we will be experiencing rapid increases in the number of older people in this country. At the same time, during the past decade, the growth of nursing home beds has been somewhat curtailed, running at a modest rate of increase of about 2 to 3 percent per year. What concerns me is that with the already tremendous strain on our nursing home system, combined with inadequate regulations for the boarding home alternative, the potential for the types of abuses we've been hearing about will be even greater. If the present regulations are inadequate, we need to have a clear understanding of the scope and substance of the problems, so that we can put a halt to this very distressing situation. I hope today's hearing will provide us with the necessary forum for addressing boarding home abuse both now and in the future.

#### PREPARED STATEMENT OF REPRESENTATIVE JOHN PAUL HAMMERSCHMIDT

Mr. Chairman, I have reviewed the summary of the GAO's audit of various boarding homes and must admit that I am shocked by what I read—example after example of sloppy recordkeeping, underreporting of income, possible extortion, and otherwise gross mismanagement of operating funds. Previous hearings by this committee have investigated the physical and psychological abuse of elderly and handicapped residents. Altogether, the situation that is described paints a rather unflattering picture of our national board and care policy for older Americans.

While I am convinced that these circumstances do not exist in the majority of boarding homes, I am, nonetheless, anxious to examine any ill treatment and exploitation of the old and disabled and hear from our witnesses ways in which we can ameliorate these problems.

The CHAIRMAN. I believe we have no other statements to be made.

Now, we already have at the table here the four witnesses who will make up our first panel. Mr. Mort Henig, Senior Associate Director, Human Resources Division, from the General Accounting Office, accompanied by Mr. Anthony Pinto, Assistant Regional Manager, Philadelphia, Pa., and also by Mr. John Elliott, Project Leader, Philadelphia, Pa., and Mr. Ralph Lotkin, senior attorney, Office of the General Counsel of the General Accounting Office in Washington, D.C.

We are very grateful to all of you gentlemen for being with us this morning. Mr. Henig, we welcome your making the first statement.

As you know, it is customary for us in this committee to offer to the witnesses an opportunity, if they wish to do so, to put their statement in the record—it will be carried in full in the printed record of the hearing—and to summarize their testimony, or to read their statement, whatever course they would prefer. What would be your pleasure, Mr. Henig?

Mr. HENIG. Thank you, Mr. Chairman.

I have a prepared statement which has been provided to the committee. I will try to summarize it.

The CHAIRMAN. Very good. We would be glad to have you present it. Thank you very much for coming.

**STATEMENT OF MORTON E. HENIG, SENIOR ASSOCIATE DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY ANTHONY PINTO, ASSISTANT REGIONAL MANAGER, PHILADELPHIA; JOHN ELLIOTT, PROJECT LEADER, PHILADELPHIA; AND RALPH LOTKIN, SENIOR ATTORNEY, OFFICE OF THE GENERAL COUNSEL, GAO**

Mr. HENIG. Mr. Chairman and members of the committee, we are pleased to appear today to report the results of work you requested concerning selected boarding homes. In your request, you stated that questions had been raised during earlier committee hearings which indicated abuse of boarding home residents and a lack of accountability by boarding home operators for the welfare of the residents.

Although the specific responsibilities of a boarding home operator will vary depending on State or local licensing requirements, they generally are required to provide room and board, some type of personal-care assistance as needed, help with medication, and overall surveillance or supervision of daily living activities. Some of the State licensing requirements are fairly new and we noted that changes were being made during our review. For example, Pennsylvania's final regulations for personal care boarding homes were published in the Pennsylvania Register on April 26, 1980, and became effective on June 19 of that year.

You asked us to examine records available at the boarding homes and other Federal, State, and local agencies in order to determine the sources and amounts of Federal and all other funds received by the residents and operators of the boarding homes for a 2-year period, and determine to what extent the funds were used to benefit the residents.

We were to compare the information obtained with the boarding homes' tax returns and with any other reports which may have been required by Federal and State law.

You asked that we determine the amount of energy assistance funds received by the residents and those funds received by the facility.

You asked that we determine the amount of food stamps received by the residents and determine whether the stamps were used by the residents or turned over to the boarding home operators.

And last, you asked that we determine the amount of medical assistance provided to the residents and identify instances of significant uses of medical services, drugs, and so forth, where such information was reasonably accessible.

In order for us to comply with your request, the committee selected and subpoenaed certain financial and operating records for the years 1978 and 1979 for 10 boarding homes located in the District of Columbia and five States—Illinois, Maryland, Missouri, New Jersey, and Pennsylvania.

The homes we looked at are located in a mixture of large and small cities and rural areas. They are in inner-city commercial areas, deteriorating neighborhoods, and neighborhoods undergoing revitalization. The homes are multistory frame and brick row homes, large, old, single-family homes, and former apartment buildings or hotels. Only one had facilities which were built especially for boarding home purposes.

The selected boarding homes had a licensed capacity of as few as 8 residents to as many as 168 residents, and over the 2-year period of our review, the actual occupancy rate generally ranged from about 80 percent to close to or slightly over 100 percent. Of particular significance with respect to the 8 licensed homes is that 5 of them have been continually cited, particularly at the time of license renewal, for sanitation, fire safety, and resident care violations and deficiencies. One has been cited for numerous violations since 1974, but State efforts to revoke its license have been appealed through the State courts and the home remains open.

A total of 1,230 persons resided in the 10 boarding homes during the 2 years covered by our review. We were able to obtain social security data for only 1,121 of those residents. The data showed that 78 percent of them were receiving benefits for the disabled under either the supplemental security income program or the title II disability insurance program. The remaining 22 percent were receiving benefits from those programs because of their age. Available records showed that nearly 90 percent of those receiving disability benefits were classified as disabled for mental reasons.

Although you subpoenaed the same types of records for each of the 10 homes, the actual records received varied considerably. In most cases, the financial and operating information was not complete, and much of the supporting documentation was either not maintained or was not furnished to us by the operators. Consequently, the testimony we are presenting today is based on the information provided by them and our analysis of that data.

I would now like to address each of the questions you raised in your request and provide data and our analysis of the problems identified during the review. As you know, we did provide summa-

ries of that data and the details of our findings to each of the homes examined to the committee staff. In this connection, we note that the committee staff in turn prepared abbreviated summaries based upon our work. These materials have been provided to the committee members and have, I understand, been made available to the public prior to today's hearing. Thus, our testimony today relates to information publicly disclosed by the committee.

First, the analysis of the residents' and operators' income:

We were unable to determine the total income received by each home because not all the necessary financial records were available. They were either not maintained or were not furnished. However, from the records that were available, we determined that the residents in the 10 homes received about \$4.7 million in income during the 2 years covered by our study. We also found that about 96 percent of the income came from public funds.

Federal benefits amounted to over \$3 million, or about two-thirds of that total amount. Almost all of the Federal benefits were paid through Social Security's supplemental security income or title II disability programs. State benefits amounted to about \$1.5 million, or the remaining third of the total resident's income, and these benefits consisted primarily of State supplementation benefits under the SSI program and general welfare.

With regard to your question as to whether the income is used to benefit the residents, we were able to determine from the records available that about 91 percent of the resident income went to the operators to pay for room and board. The residents were able to retain about 9 percent of their total income for personal needs.

The personal spending allowance policies and practices varied widely among the 10 homes.

The CHAIRMAN. Excuse me. Did you state about what the average payment by patient to the boarding home is? About how much do they pay on an average for their care there?

Mr. HENIG. It would vary. The Social Security Administration has given us information which indicates that the average SSI recipient receives about \$238 a month. That is the Federal SSI payment and the State supplementation.

The CHAIRMAN. Do the patients pay all of their SSI funds into the boarding home?

Mr. HENIG. Generally they give the boarding home operator the check and the boarding home operator will then give them a spending allowance.

The CHAIRMAN. Thank you.

Mr. HENIG. That is what I am going to deal with now.

Generally, the amount of the spending allowance provided to the individual residents was predicated on the amounts of income received. Generally, no spending money allowance was provided to residents if their income was only sufficient to meet their room and board charges. There were exceptions to this policy in States where a minimum personal spending allowance was mandated. For the boarding homes we reviewed, the amount of spending money provided to the residents ranged from zero to a maximum of \$50 per month, but when provided it was generally in a range of \$25 to \$30 a month.

Only five homes maintained personal spending allowance records, and we did not consider the records of one of those adequate for accounting purposes. However, given the mental disability and questionable competency of most of the residents, we have reservations as to whether any recordkeeping system, by itself, could insure that residents actually received a stipulated amount of spending money. This opinion is based on interviews with randomly selected residents who were generally unaware of the amount of income they received. We do not believe that the residents are sufficiently knowledgeable or aware that they are actually receiving the amount of personal spending money for which they acknowledge receipt. Frequently, they just sign their initials on a ledger sheet.

We did identify that a total of 349 residents for whom Social Security had designated someone to act as a representative payee; that is, a person designated to receive and disburse social security payments on behalf of the beneficiaries. The boarding home operators were the designated representative payees for 187, or more than half of the beneficiaries. It works out to about 15 percent of the people in our sample where the boarding home operator was the representative payee.

The designation of operators as representative payees for residents, among other things, could inhibit the freedom of movement of residents by making them financially dependent on the boarding home operators. As you know, we are currently conducting a more thorough review of Social Security's representative payee programs at the request of your committee.

As you requested, we compared the income reported on 1978 and 1979 tax returns with the room and board charges paid by the residents. For the 2-year period, seven homes made tax returns available to us. Only two homes provided us returns for both years. We computed income based on resident account cards, resident registers, rates charged to individual residents, and other available records. We believe the amounts we computed are conservative—that is, they are probably on the low side because we did not always have resident income information or boarding home records for all the persons known to have resided in the homes.

Most of these homes—three in 1978 and four in 1979—reported smaller incomes for tax purposes than we were able to compute. The potential underreported income from operators by these homes ranged from a low of \$170 to as much as \$124,000.

We also looked at expenses claimed by the homes and specifically examined food costs. I would like to give a couple of examples showing the difference between food costs claimed as business expenses by the operators and the cost we calculated, using their records.

For example, one operator claimed food costs of \$95,849 in 1978 and \$117,417 in 1979 that were not supported by receipts or invoices. Canceled checks in the amount of \$27,315 for 1978 and \$33,525 for 1979 were furnished as evidence of food purchases. The operator claimed the unsupported balances were cash purchases.

In this case, the operator's accountant told us that no record was maintained of cash purchases and the amounts claimed on the tax returns were estimated and included the application of an inflation



factor. We noted in going through the records, however, that many checks of low dollar value were written for small food purchases and, therefore, we question that large food purchases would be paid for in cash.

In another home, we had the feeling that a lot of the food costs claimed on the tax return were for personal food costs of the operators, which are not deductible on individual returns. It is our opinion that it is probable that the food costs claimed on the tax returns of those two operators are probably overstated. Again, our analysis was limited by the adequacy of the records furnished to us by the boarding homes.

You asked about the special energy assistance checks. As you know, during the early part of 1980, Social Security issued special energy assistance checks to beneficiaries of the supplemental security income program. The amount of the checks for the beneficiaries included in our review varied from \$97 to \$185, depending on the State.

Our review disclosed that in six homes, the boarding home operators appropriated the total amounts of the checks received by residents of the homes, presumably to compensate for increased energy costs. With respect to one of these homes in the District of Columbia, the welfare agency suggested to both the operator and the SSI recipients that because the recipients did not have to directly pay for energy costs, they should turn the checks over to the operators. At a seventh home in New Jersey, the State welfare agency suggested that only a portion of the amount received by the recipient be turned over to the operator to compensate the home for increased energy costs.

We reviewed the energy costs incurred by the boarding homes. We compared the costs in 1979 and 1978 when such information was available, and found that the amount of increased cost was substantially below the total amount of energy checks received by the operators. As a result, individual operators realized windfall profits ranging from \$471 to as much as \$17,400. We could not determine if the operators reported the money received from the energy checks as income on their tax returns because they would have been filed in a period subsequent to our review.

You asked us to look into the food stamp situation and determine if food stamps were received by the boarding home residents, and, if so, were they then turned over the boarding home operators. In essence, it was no to both questions. The residents did not receive food stamps.

You asked us about medical assistance payments made on behalf of boarding home residents. We attempted to determine the amount of medical assistance or medicaid payments made on behalf of the residents in all 10 boarding homes. However, automated medicaid management information systems were available in only four of the States that we reviewed.

For the 2 years we reviewed, total medicaid payments on behalf of the residents of the four homes in those four States amounted to about \$827,000. The payments made on behalf of residents of an individual home ranged from \$36,834 for 1,422 claims to as much as \$389,743 representing 22,900 claims.

We identified the major providers of health services for residents of the four boarding homes through the management information system and then requested the State agency officials or other fiscal intermediaries to provide us with any information they might have regarding the involvement of these major providers in potential or actual medicaid fraud or abuse. They told us that a number of health service providers involved in the case of two of the four homes either have been or were being investigated by State agencies for medicaid fraud and abuse. In the case of one home, three major providers have been cited for kickbacks, overcharges and duplicate payments. In the case of the other home, two providers are under investigation for providing unnecessary medical services.

Specific information related to these charges is included in the case studies previously furnished to your committee.

You recently expressed concern as to whether the States are continuing to discharge mental patients, the aged, the retarded, and those with developmental diseases out of State institutions into boarding homes. As you know, several years ago we issued a report entitled "Returning the Mentally Disabled to the Community: Government Needs To Do More." We concluded in that report that, among other things, many mentally disabled persons have been released from institutions before sufficient community facilities and services were available, and without adequate planning and followup. We have just started a followup review in this area to determine what progress has been made and what problems still need to be addressed.

Mr. Chairman, I know you are going to have a number of questions to ask us, and before you get to that I would like to share some observations that we have as a result of this review. Recognizing that the review was limited to only 10 homes and it may not be representative of all 100,000 boarding homes, we do have some thoughts that we would like to share with you.

First, it is obvious that there needs to be much better accountability by the boarding home operators, particularly of the residents' funds. When a resident turns his or her check over to the boarding home operator, there would seem to be a fiduciary responsibility on the part of the operator to insure that the funds are used to benefit the resident. As a minimum, there has to be some type of accounting, an account card or a ledger set up for each resident showing how much was received, what was disbursed for room and board, how much was given to the resident for a spending allowance or for other items that the funds may have been used for.

Second, although it was not an issue related to the financial aspects of our review, we did note that in many cases the delivery of social and mental health services to residents by governmental entities was minimal. We believe there should be much closer ties by State and local social service, health, and mental health facilities to the homes and their residents. It would improve the quality of life for the residents, there would be better case management of the individual resident's situation, and with respect to health services it would probably limit the opportunities for medicaid fraud or abuse.

From what we observed, most of the residents are not able to make rational decisions as to who should be their physician or whether they need psychiatric or psychological help or other types of services that may not be provided by the homes; thus, they tend to get what the home provides and, as we have noted, there have been abuses by the health providers in this kind of environment.

Third, to the extent that State regulations governing the licensing of boarding homes—which result from the Keys amendment to the Social Security Act—are developed and are aimed at insuring safe, humane, comfortable, and supportive residential settings for the type of persons that reside in these homes, and adequate inspections are made by the States to see that boarding homes comply with these regulations, we believe the quality of life of the residents should improve.

I mentioned earlier that Pennsylvania's regulations for boarding homes became effective in June 1980. One of the homes reviewed had been inspected by the city licensing agencies prior to our review, and we reviewed those inspection reports. They generally showed that the home was doing a fairly decent job of complying with the existing regulations. The home was cited for a few minor things. When the State came in and inspected the home in January 1981, the State inspector cited the home for 26 violations of the new regulations. Only 67 percent of what was required to be done by the home was actually being accomplished and the home was therefore given a provisional license. So I think in that kind of a situation you will probably, over the long run, as the States develop better regulations, get some improvement.

That concludes my statement, Mr. Chairman. My associates and I will be happy to respond to any questions you or other members of the committee may have. Thank you.

The CHAIRMAN. Mr. Henig, you have your associates here. If they would like to add anything to what you have said, we would be glad to hear them.

Do any of you gentlemen wish to add anything to the statement made by Mr. Henig?

#### STATEMENT OF ANTHONY PINTO

Mr. PINTO. I am Anthony Pinto, from Philadelphia.

The only thing I would like to add is that when we did receive the records, as you said in your opening statement, it does appear that there should be some sort of an accounting, maybe by a CPA firm. The records we received were, in most cases, a mess. In two or three situations we were able to figure out what we had and start our work. In the other cases, the information we received was in a mixed-up mess, and looked like a crossword puzzle with pieces missing, so it was very hard to put together the story that we were able to present to you today because the records were in such poor condition.

The CHAIRMAN. Thank you very much. Do any of you other gentlemen wish to add anything?

Mr. Henig, will you just summarize what your findings were in respect to these boarding homes? Just give us what would be about a paragraph, as it were, of what kind of food did the people get, what kind of security did they have from fire, what sort of care did

they get in respect to their medical needs, how were they treated with respect to their own property rights and their individual dignity, and in what general manner were the proprietors of these institutions operating? Just make it a summary.

Mr. HENIG. Well, Mr. Chairman, it would be difficult to summarize that in one paragraph. I tried in my prepared testimony to give you a flavor for what we did find, and what I tried to do in my general observation is to give you some thoughts on that.

I personally visited two of the homes. One didn't look too bad. At the other I was shocked. The facility was run down, the residents were sitting around and looking at an old TV set, and there was nothing else in the way of recreational facilities. As to the food, we observed them preparing lunch for the residents that day and they knew we were coming, so I don't know whether that was a special lunch or not.

The food costs are not particularly high for most of the homes we reviewed. They run somewhere around \$1.20 to \$1.50 a day, something around that nature, and I don't know whether you can really provide three adequate meals for that kind of money.

The CHAIRMAN. Do you know how much was allowed for meals per day per patient?

Mr. HENIG. There was no allowance for food.

The CHAIRMAN. I mean how much they spent.

Mr. HENIG. They spent roughly about \$1.50 a day. We have some figures here we can provide for the committee.

I should say that you did have a different situation depending on which home you went to. Some of the homes did provide better food. We did interview some of the residents and a lot of the residents felt that the food was OK. They didn't complain about it. Again, I am not too sure whether we got really responsive replies in all cases.

I have a schedule here which shows costs for the tax return and what we computed as the cost based on our look at the available records. In one home the cost per tax return—this is what the operator claimed—was only \$1.42 a day for 1978, and \$1.64 per day in 1979. We computed \$1.30 a day for that home for 1978 and we didn't find any discrepancy with their 1979 figures.

At another home it was \$1.15 a day and \$1.28 a day for 1978 and 1979. We had no discrepancy with those figures.

At another home we had to compute the food costs, and it was \$1.50 a day.

The CHAIRMAN. You mean for three meals?

Mr. HENIG. For three meals, sir.

The CHAIRMAN. \$1.50 a day.

Mr. HENIG. Yes, sir.

The CHAIRMAN. Had you finished your statement?

Mr. HENIG. Yes, sir.

The CHAIRMAN. Did the States supplement the income of the people in the boarding homes that you visited?

Mr. HENIG. In most cases; not in all cases. In most cases there was State supplementation; yes, sir.

The CHAIRMAN. What did you say?

Mr. HENIG. In most cases there was a State supplementation. The State also provided money to the residents of the boarding homes.

The CHAIRMAN. What I was trying to get at, would you make a comparison between the income per patient which the boarding home proprietor received compared to the average nursing home proprietor, what it receives from the nursing home patient.

Mr. HENIG. Mr. Chairman, I am not familiar with what the latest average cost for a medicaid recipient in a nursing home is. The payments to the boarding home operators are running around \$300 a month. I don't believe you can go into a nursing home for that low a figure today.

The CHAIRMAN. Your observation was that the proprietor of the boarding home received somewhere around \$300 a month per patient?

Mr. HENIG. Per month, per resident; yes, sir.

The CHAIRMAN. I see. Mr. Henig, your report says that the facilities' compliance with our subpoena was limited to providing income tax returns and related documents. Is it your opinion that the additional financial records requested in our subpoena do not exist, even though the home had the service of an accountant?

Mr. HENIG. Mr. Chairman, which home would you be referring to? I should point out that in some places we got all the records we asked for and in other places we did not.

The CHAIRMAN. With respect to the Madanat Boarding Home at 571 East Chestnut Street, Coatesville, Pa. That is the one we are talking about.

Mr. HENIG. OK. If I understand your question, you asked if we thought that there were any additional financial records requested in our subpoena, whether they existed or not. We do not believe that that boarding home operator had any other financial records. What he turned over to us we think was all he had.

The CHAIRMAN. The next question, still about the same boarding home, you state the absence of records made independent verification of income impossible, but on the basis of certain of the home's records which you said may have been prepared because of our subpoena, income was understated by at least \$452 and probably more; is that correct?

Mr. HENIG. Yes, sir; that is a correct statement.

The CHAIRMAN. Your report concludes that 59 percent, or \$19,072 of the \$32,395 which the operators claimed on their taxes as expenses in operating the boarding home were unjustified. Is that correct?

Mr. HENIG. Mr. Chairman, I would say some of those figures are unjustified and some were probably questionable.

The CHAIRMAN. Next, the same boarding home, you conclude that \$14,959 in building and repair costs was substantially overstated. Can you tell us about this?

Mr. HENIG. Mr. Chairman, the summary prepared by the committee did not include all the information on that matter, therefore it has not yet been released. I think rather than possibly violating 18 U.S.C., since the committee has all the information in our report, if they would read that into the record—I think it is a

rather interesting case—I would be glad to testify as to its accuracy.

Mr. RATCHFORD. Mr. Chairman, would you like me to read that into the record?

The CHAIRMAN. Yes, I would.

Mr. RATCHFORD. Relating to the situation about which you have been questioned, I am reading from a statement in a report presented to the committee on that issue, and the particular subsection is entitled "Building Repairs." Let me read it into the record and then I am sure the chairman will have questions for you.

An amount of \$14,959 was reported on the tax returns for building repairs expenses. That total was compiled by the tax accountant using amounts derived from various sources that actually totaled \$15,728. However, the accountant reduced his total \$14,959 for tax reporting purposes. No explanation of the reduction was provided. Based on our review of the source documents from which the accountant compiled the deduction for building repairs, we believe the amount claimed was substantially overstated and contributed significantly to the net loss incurred in the boarding home operations. The basis for our conclusions are illustrated by the examples presented below.

Number 1. An amount of \$10,380 was claimed for roofing repairs. This amount was developed by adding 3 separate cost estimates by the same contractor which totaled \$13,930. The accountant then subtracted cancelled checks totaling \$3,550 which identified the contractor as the payee. The balance of \$10,380 not supported by cancelled checks was claimed as part of the building repairs deduction. There was no explanation as to what happened to the \$3,500 cash payments for deduction purposes. Additionally, 2 of the 3 estimates totaling \$11,430 referred to above were estimates for 573 East Chestnut Street, and not for the boarding home which is located at 571 East Chestnut Street.

Second, an amount of \$1,650 was claimed for the installation of a new parking lot. The accountant expensed this item completely, instead of capitalizing the expenditure and depreciating it over its estimated useful life.

I yield back, Mr. Chairman.

The CHAIRMAN. Have you any further comment to make in view of that statement, Mr. Henig?

Mr. HENIG. No, sir. I think the statement as read by Mr. Ratchford speaks for itself.

The CHAIRMAN. It is pretty obvious that our impression that the expenses had been overstated is correct, isn't it?

Mr. HENIG. Yes, sir. That was overstated.

The CHAIRMAN. Now, then, about the same boarding home, your audit shows that the home claimed \$1,554 on their taxes for allegedly buying a van when, in fact, they bought a Chevrolet sedan. The owners also claimed \$639 in repairs, of which only \$199 related to the repair of a van which the facility had purchased in prior years. In other words, it appears the operators were claiming costs which were related to their personal automobile use and repair. Is that your conclusion?

Mr. HENIG. Yes, sir. We were told the van was supposedly used to transport residents. What we found is that the expenses for several cars were included in the tax return as being applicable to the operation of the boarding home.

The CHAIRMAN. Thank you. About the same boarding home, your records show that included with interest expenses on their tax return was \$1,789 in mortgage interest moneys on the adjoining 573 East Chestnut Street property which was not a boarding home operation, as was pointed out by Mr. Ratchford in the statement that he read. Is that correct?

Mr. HENIG. Yes, sir.

The CHAIRMAN. Next, about the same boarding home, you note that food costs are inordinately high at \$4.14 per resident per day. You note that receipts could be found for only \$4,311 of the \$5,344 in claimed expenses. Moreover, you found that nonfood items such as paint and lumber, sporting goods and cigarettes were included in this amount. You concluded, "We suspect that personal food costs which would not be deductible on individual tax returns have been charged against the boarding home operation." Is that correct?

Mr. HENIG. Yes, sir.

Mr. VENTO. Would the chairman yield?

The CHAIRMAN. Yes.

Mr. VENTO. The point is, I guess, we pointed out that there may not be enough accountability with regard to some of the social security programs, SSI as an example. Maybe the real problem is the IRS not doing their job, in terms of this particular issue. I understand the chairman's thrust here, but I mean, at the same time, I think it goes with very little grace that we are talking about reducing the number of IRS audits that go on. I guess it gets back to the point that the chairman asked, a question on his cover sheet this morning, and I think probably if the chairman would direct that question to the GAO folks, we might get an answer, and that is: Is it true that the Justice Department and the Internal Revenue Service have not prosecuted a single boarding house homeowner for fraud or really have not diligently pursued the matter of income tax evasion?

I guess that is the question that really, I think, needs to be asked at this point with regard to the abuses that the GAO has identified, Mr. Chairman. Maybe if we could direct the witnesses to respond.

The CHAIRMAN. Would one of you gentleman from the GAO respond to Mr. Vento's comment and question?

Mr. HENIG. I am not in a position to respond, Mr. Vento. I have no information as to whether the Justice Department or IRS has specifically looked at boarding home operators.

Mr. VENTO. Well, Mr. Chairman, if you would continue to yield, and I appreciate your doing so to a junior member of the committee, I just think it is absolutely paramount that if we are going to have any type of discipline in terms of what is occurring here with regard to these types of expenditures that we do review or do gain some understanding or insight into the nature, either in closed hearing or otherwise, with regard to whether the IRS is actually competently doing its job in this particular area, how can we hope to have any type of discipline in this area if, in fact, these types of expenditures can be written off when we find these certainly not supported by any type of factual data?

I think you have uncovered something of very great import besides just the poor service being rendered to these consumers that are utilizing this service, and I hope that we can pursue that, Mr. Chairman.

Thank you for yielding.

The CHAIRMAN. Thank you, Mr. Vento.

Mr. BIAGGI. Will the chairman yield?

The CHAIRMAN. Yes. Mr. Biaggi.

Mr. BIAGGI. Thank you for yielding, Mr. Chairman.

We appreciate the number of discrepancies, but I would like one question responded to, if you can. Notwithstanding the discrepancies, how would you characterize the nature of the service, the food and the facilities?

Mr. HENIG. At this particular boarding home?

Mr. BIAGGI. Yes.

Mr. HENIG. Let me consult with my cohorts here.

In this particular home, Mr. Biaggi, we were unable to get into the home other than to serve the subpena. We did interview several of the residents of this home, but we had to do so at a sheltered workshop where they worked, so we really didn't get a chance to see what the services were like or what the home looked like, or anything else.

Mr. BIAGGI. Then, Mr. Chairman, given the lack of cooperation and the number of discrepancies, I suggest that at least this one matter be referred to Justice and IRS, and have it carefully audited and pursued. It is one thing playing with the numbers. I don't think they are very impressive or very dramatic, but they do state a pattern of conduct. If they were able to do this, if they were able to function in this fashion and still provide service and good facilities, I wouldn't be terribly excited about it, but if it is the kind of pattern that is developing where they are siphoning off moneys and denying the services and denying the proper facilities, to me that is absolutely unacceptable.

Mr. HENIG. For the record, Mr. Biaggi, this is one of the smallest boarding homes we looked at. I think there are only about five residents at this place.

The CHAIRMAN. Mr. Biaggi, if I may defer the consideration of that by the committee a little bit, I am advised by the staff that the proprietor of the boarding home with respect to which those figures were given is in the audience and we expect to call him as a witness and he will be given an opportunity to comment on these figures.

I would like to go back just a minute, Mr. Henig. You testified a while ago, I thought, that the food cost on an average was about \$1.50 a day per patient.

Mr. HENIG. Yes, sir; that's right.

The CHAIRMAN. Yet in this item you said the food cost which was charged off to expenses was \$4.14 a resident per day.

Mr. HENIG. That is what we found; yes, sir.

The CHAIRMAN. In other words, they were charging more, as you found, giving themselves credit for more expenditures on their tax returns for food per day than they were actually providing to the people who lived there.

Mr. HENIG. We couldn't determine what they were actually incurring in the way of food costs for the residents of the home. As we indicated, we could only support about 80 percent of the actual expenses that they claimed. We found that a lot of those expenditures were for nonfood items and, as you indicated, we found, or at least we believe, that a lot of the costs that were claimed were for personal food, which is not a deductible item. So I don't know what the actual cost of the food that they gave the residents would be.

The CHAIRMAN. I have just 3 or 4 more items about the same boarding home.



You have found that the owners claimed expenses on their taxes which they said were related to the boarding home operation which were in reality the repair of personal items such as a \$19 repair of a sewing machine, \$57 for repair of a television set. Is that correct?

Mr. HENIG. That is what we found; yes, sir.

The CHAIRMAN. Another instance about the same boarding home, the home, as we are advised, improperly included at least \$382 in energy costs which related to the operation of the adjoining 573 East Chestnut Street property as part of the \$1,168 energy cost of the boarding home. Is that also your finding?

Mr. HENIG. Yes, sir.

The CHAIRMAN. Three more about the same boarding home. About one-fourth of the insurance expenses related to the operation of the adjoining property. Most of the finance charges claimed also related to the adjoining property. Is that true?

Mr. HENIG. That is correct; yes, sir.

The CHAIRMAN. About the same boarding home, you found that the operation claimed deductions for personal calls to North Carolina and international calls to Korea and Jordan in their expenses as related to the operation of the boarding home; is that correct?

Mr. HENIG. Yes, sir. Based on our review of the telephone bills, that was our belief.

The CHAIRMAN. And the last, about the same boarding home, is it true that 2 of the owners, the mother and the father, were claimed as 5 tax exemptions instead of only 2?

Mr. HENIG. That is correct. That is what we found, and it was based on our observing the mother and father as exemptions on three different tax returns.

The CHAIRMAN. Mr. Rinaldo.

Mr. RINALDO. Thank you very much, Mr. Chairman.

First of all I want to thank the witnesses for being here.

The L. & S. Rest Home in Atco, N.J., appears, from reading the report, to compare favorably with most of the other boarding homes investigated. I would like to ask, however, is there any basis, in your opinion, for legal action due to the fact that the owner-operator realized a profit of over \$6,000 by requiring the residents to contribute \$70 from their energy assistance benefit checks to him?

Mr. HENIG. In that particular case, Mr. Rinaldo, the State welfare agency suggested to both the operator and the residents, when they got their checks, that they should turn over \$70 to the operator for increased energy costs, so I don't know whether you could take any legal action against him or not.

Mr. RINALDO. Well, do you consider that an acceptable procedure yourself?

Mr. HENIG. That was done in a number of States and localities with the 1980 special energy assistance checks. We reported separately on that to Congress last year, and Congress has changed the law for this year to exclude boarding home residents from receiving special energy assistance. So you won't have the same problem this year.

Mr. RINALDO. When you consider the low outlay for food costs, do you feel that the people in the L. & S. Rest Home were adequately fed from a nutritional point of view?

Mr. HENIG. We interviewed a number of residents in the L. & S. home and, for the most part, they said the food was pretty good, they liked it, so I couldn't attest to whether it was adequate or not. We were concerned about the low food cost and thought that talking to the residents would give us some idea as to adequacy.

Mr. RINALDO. In your report, you also state that there were—

Mr. RATCHFORD. Would the gentleman yield?

Mr. RINALDO. Yes, I would be pleased to yield.

Mr. RATCHFORD. Don't you think when authorities are around that the residents of a facility like that are going to tell you that the conditions are good for fear of what might happen to them? I say this as a former Commissioner on the Aging in the State. The worst place to interview a resident is in the presence of authorities, especially from that home.

Mr. HENIG. I would agree with you. Mr. Elliott, did we interview in the presence of the owners?

Mr. ELLIOTT. Mr. Ratchford, there was nobody present when these people were interviewed. We feel that we did get—

Mr. RATCHFORD. I think what my colleague is suggesting is that being interviewed or questioned in the facility itself breeds a certain type of intimidation, so you don't get a truthful response. In answering my question, you said they were adequately fed simply on the basis of what they told you, but was there any further investigation? Was it a nutritionally sound and acceptable diet, in your view?

Mr. ELLIOTT. We would have no basis to render an opinion on it.

Mr. RATCHFORD. In other words, what you are saying is you really didn't look into that.

Mr. HENIG. That was not one of the things we were asked to take a look at. We attempted to get some information by the interviews with the residents. For whatever it is worth, this is what they said.

Mr. ELLIOTT. Mr. Rinaldo, the State had several food complaints about the facility but they were never able to substantiate any basis for the complaints.

Ms. FERRARO. Will the gentleman yield?

Mr. RINALDO. Yes, I would be pleased to yield.

Ms. FERRARO. Could you tell us the approximate age of the people that you interviewed at that boarding home?

Mr. ELLIOTT. They were about 35 to 80 years of age.

Ms. FERRARO. And how many people did you interview?

Mr. ELLIOTT. Thirty.

Ms. FERRARO. Thirty of the 35 to 80. Would you describe their physical characteristics as robust, frail? How would you describe them?

Mr. HENIG. Ms. Ferraro, you had a mixed bag at the L. & S., as you did in most of the boarding homes that had a lot of people. Some were aged and mentally disabled; some were fairly young and mentally retarded.

Ms. FERRARO. They had one common factor, though; they were mentally disabled.

Mr. HENIG. Most, not all. Some were just aged.

Ms. FERRARO. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Would the gentleman yield?

Mr. RINALDO. Yes, I would be pleased to yield.

The CHAIRMAN. It seems to me that even the claim of the proprietor that he spent \$4.14 a day for food were accurate it would seem to me that this is inadequate to afford a nutritious diet. How can anybody enjoy 3 meals a day on \$4.14, \$1.33 roughly a meal these days? Your report said that you found the average dietary food cost was about \$1.50.

Mr. RINALDO. I just want to comment on what the chairman said. I completely agree with him. That is exactly the point, and the cost there was even lower than the other nursing homes that you investigated. I would have thought under those conditions this would have been an area that you would have wanted to look into in much greater depth.

Wouldn't you agree with that, Mr. Chairman? This was an area where I think the investigators neglected to followup on something that was certainly very important.

Mr. ELLIOTT. Mr. Rinaldo, we did make a comparison. We got the estimated food costs at the Veterans Memorial Home in Vineland, which is slightly double in size. There was a difference in 1979 of about 60 cents a day—well, it was about 60 cents a day in each year.

Mr. HENIG. In other words, we attempted to get as much information as we could which was readily available on that. We recognize that \$1.50 seemed low, too, Mr. Rinaldo, and we did look at what we considered to be a comparable facility and the costs were about 60-cents-a-day higher, running around \$2.10 a day.

Mr. RINALDO. Well, I don't know whether or not that is a comparable facility. I don't know how they purchase food in the Veterans Home, whether they get any type of governmental discount or whether there is a larger quantity purchased, so I do I think there could be factors that would cause the final price to be materially different. So I don't know whether or not that really is a valid comparison.

I know there are a lot of people in the United States who would like to know how someone could get a nutritious diet spending only that very meager sum per day.

Mr. HENIG. I can't agree with you more. Our review was strictly a financial audit. I would like now to have looked into that further, but we didn't, and the only information we have is what we have presented.

Mr. RINALDO. I want to bring up one other area, Mr. Chairman, that I think is important, in the same nursing home.

In your report, you stated, and I will quote, "The amount of the drugs prescribed, the strength and the frequency of use appeared questionable in at least eight cases. The effects of the drugs prescribed could possibly affect the responsiveness of 12 residents in the event of an emergency situation, that is, fire in the home."

When our committee examined two boarding homes in New Jersey, what I saw there shocked me. In one home, just to describe the situation, a woman was answering our questions behind a little cubicle, answering the phone. At the same time, she was sort of running the place in an administrative manner, handling the patients or the residents and guiding them in for their meal, and at the same time dispensing drugs, including some very, very strong drugs. Dispensing them meant opening a cabinet in which there

were vials of all types of drugs and allowing people to just go in there and take almost whatever they wanted, either from their own little jars of pills or from someone else's jars.

Here is an area that I certainly think you should have looked into further; to determine if there were oversedation, if there were proper safeguards, and to insure that the residents received only the prescribed amount of drugs. Now, did you look into it any further? What recommendations have you come with? What do you think should be done about the situation of just dispensing drugs willy-nilly and paying no attention whatsoever to the resident of the home? This is a serious situation. People died in New Jersey in those fires. Many of them probably were oversedated and it appeared to me, at least upon our visual inspection, that the operators don't really care how many drugs or what kind the residents get as long as they are quiet and don't give them too many problems.

Mr. HENIG. Mr. Rinaldo, in this particular case we were concerned about the large amount of medicaid costs for drugs. We accumulated as much information as we could on the drug usage at the home and gave it to the State Bureau of Pharmacy and asked them to take a look at the drugs that were presented to these patients. The information you have referred to is from their report to us; they came to the conclusion that 12 of the residents would probably be unable to respond properly in case of a fire.

I believe you were out earlier when I did mention in my testimony that we are making another review of the deinstitutionalization program. We are going to see if there are still the same kinds of problems we identified when we made an earlier review in 1976 and whether there is still a need for improvement. That review has just started and we hope it will come up with some answers to the kinds of questions you raised, sir.

Mr. RINALDO. Well, it goes without saying that there is a dramatic need for improvement. From what I personally observed, and other members of this committee saw in the 2 homes we visited in New Jersey, it appears that the drugs prescribed are not dispensed anywhere near properly. I tend to think that the inadequacies you mention in your report are only the tip of the iceberg. The situation, in my view, is completely shocking and something that should be stopped as quickly as possible.

I have no further questions, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Rinaldo. Mr. Biaggi?

Mr. BIAGGI. I have no questions, but I have an observation, Mr. Chairman.

It is my belief that, frankly, both Government and the private sector have come to regard these individuals that we find in the boarding homes as a burden they would rather disregard, very much like the attitude that prevailed in the darker days in civilization.

Mr. Rinaldo made reference to the home that I visited with him, and the dispensation of the drugs. The fact of the matter is, most of those residents were in a semi-sedated state of mind, and I believe that it was the policy to make certain that they were not troublesome; as long as they were quiet, no matter what drugs were dispensed, it was perfectly all right.

I share the same criticism that Mr. Rinaldo made in the manner in which they were dispensed. There just wasn't any method, totally unacceptable in every area. The overriding concern is, what is society's attitude toward these individuals and what should the policy be? Should we be hypocritical and continue in the fashion in which we are? I believe that is the policy. It is one of hypocrisy. We talk about our concerns and then permit the conditions to exist. Or should we, in fact, respond to the need, and society better understand that if we, in fact, respond to the need, it will be a costly situation.

The CHAIRMAN. Thank you. Mr. Ratchford?

Mr. RATCHFORD. Well, Mr. Chairman, a comment, and then some questions directed specifically toward a particular home, knowing that we are going to call upon the owner-operator of that home.

First of all, I would commend the gentlemen. I would remind the members of the panel that you were asked to look at the financial aspects of the problem, so that is one aspect of it. Obviously concern about food, utilization of drugs, and quality of care, are of concern to us but in no way do they reflect upon the depth of your report.

Obviously, conditions are pitiful. Is there someone in this room who feels that they can live on food that costs \$1 or \$1.40 a day? Let that stand out there. What we are talking about are people who are preying on the human frailty of forgotten people. The sad thing is, the Government is feeding this system. Your report shows that 91 percent of the SSI money is going to the operator; and only 9 percent to the tenant. So we are talking about a system. We are criticizing a system. We are raising questions about a system that the American tax dollar is perpetuating.

Whether the problem is in the current law, or lack of enforcement, or both, certainly something needs to be done about it.

You were asked to look at a specific home in Illinois. In connection with getting that information for the record—for the members of the panel, it is case No. 5—I have been asked by the chairman to direct some questions to your panel so that all this information can be a matter of record, and then I understand the chairman intends to call the owner of that home and the owner of one of the other homes.

In particular, we are talking about a facility in Chicago, Gracell Manor, in Chicago, Ill. The questions I have been asked to direct include:

The report states that contrary to his promise to the committee, the owner has not complied with our subpoenas and, as a result you were unable to complete your analysis. However, on the basis of the records you received, you concluded that the home lacks accountability in its financial records. Is this correct?

Mr. HENIG. Yes, sir; that is a correct statement.

Mr. RATCHFORD. Your report further states that you found an unreported income of \$35,473 which, when added to the 1979 return, results in the home's \$14,214 loss converting to a \$23,285 profit. Is that correct?

Mr. HENIG. Yes, sir.

Mr. RATCHFORD. You state further that of the \$63,174 reported costs, \$55,864, or 88 percent, were unsupported by invoices and receipts. Is this correct?

Mr. HENIG. That is what we found.

Mr. RATCHFORD. Now, with regard to the details of these unsupported charges, let me walk you through a number of items in the report, if I may.

The boarding home paid \$8,400 in rent to another of the owner's enterprises and no formal lease agreement exists. Is that correct?

Mr. HENIG. Yes, sir.

Mr. RATCHFORD. Further, with respect to \$6,162 in officers' medical expenses to 11 providers and 4 hospitals, 2 payments covered treatments received by the wife of the owner, even though her husband is the sole owner and officer of the corporation. Is that correct?

Mr. HENIG. That is correct, sir.

Mr. RATCHFORD. Further, of the \$3,360 claim for professional services, \$2,526 were paid for accounting services. GAO claims that there were invoices to support only 3 of the 19 payments totaling \$801. Of the \$801, the home was charged at least \$726 for the preparation of personal and other corporate tax returns. Is that correct?

Mr. HENIG. Yes, sir.

Mr. RATCHFORD. Further, \$5,500 of the \$8,400 in the patient care expense account was paid to 31 regular employees and 19 nonregular employees, but none of these payments show up on the payroll register. You state that the owner is in violation of State and Federal law for failing to withhold social security, Federal and State taxes, and to pay for the employer's share of such taxes. Is that correct?

Mr. HENIG. That was our conclusion.

Mr. RATCHFORD. Further, only \$4,429 of \$8,924 reported repair costs were properly supported and at least \$1,300 represented repairs made to properties other than the boarding home in question. Is that correct?

Mr. HENIG. Yes, sir.

Mr. RATCHFORD. Finally, under this subitem \$15,753 was charged to painting and decorating, there were only 6 invoices totaling \$937 for the 71 charges. Also, a single individual not listed on the payroll register received 47 payments of \$9,807 and there was no evidence that the person was an independent contractor. Is that correct?

Mr. HENIG. Yes, sir.

Mr. RATCHFORD. Three final questions.

GAO states that the owner realized a windfall profit of \$17,373 by converting the entire amount of residents' energy assistance allowances for the facility's use, even though the checks were to be used at the discretion of the recipients. Is this true?

Mr. HENIG. Yes, sir.

Mr. RATCHFORD. Total medicaid payments on behalf of Gracell Manor residents total \$262,011. Your analysis of these records indicates that about 62 percent went to 6 major providers. Three of these were recently found to have engaged in possible medicaid fraud. Is that correct?



Mr. HENIG. Yes, sir.

Mr. RATCHFORD. And finally, the report states that partial compliance with the subpoena prevented an adequate evaluation of the management and financial record system, and implies that there may be additional discrepancies. For example, there may be a similar unreported income found in the 1980 return, which the operator failed to turn over. Is this true?

Mr. HENIG. Yes, sir. We couldn't adequately evaluate the financial records because of partial compliance with the subpoena. On the basis of the questions we raised on the 1979 return, it would be reasonable to assume that similar questions could be raised on the next year's return where we didn't have records.

Mr. RATCHFORD. Certainly the record speaks for itself, and I, for one, look forward to the testimony of the owner, if he chooses to testify.

I yield back.

The CHAIRMAN. Thank you very much, Mr. Ratchford.

Ms. Ferraro.

Ms. FERRARO. Thank you, Mr. Chairman.

I want to commend you on your report. I know that we have gotten caught up again in the drugs and the food situation. I am one of those people who shops for a family, and I just don't know how anybody can feed anyone on \$1.50 or \$2 or \$3 a day. It is just an incredible amount of money.

I have been struck by your whole report, reading through the various cases, one after another of these boarding homes. It seems to me it is quite a lucrative business if you really don't care about the people whom you are servicing, the people who are being taken care of or people who really don't know enough to complain in most instances. The people whom you questioned, really, having dealt with elderly in many instances and attempted at times to get them to testify as witnesses, I found that in many instances they just can't grasp the magnitude of the situation in which they are caught and really can't grasp the details, and especially if they are in a situation as you have described them, as being mentally retarded.

I was looking at case No. 4, in particular, the Alcazar Home for the Aged, Inc., in St. Louis, Mo. There was one part of that investigation that you did that struck me as absolutely ghoulish, and that was the taking out of insurance policies on the residents of the home by the homeowner. Has that been done in any of the others that you investigated?

Mr. HENIG. That was the only home where we found that situation to have occurred.

Ms. FERRARO. How many residents were there in the home?

Mr. HENIG. It had a capacity of 145. We found that there were policies taken out on 94 of the residents.

Ms. FERRARO. And of those 94, who was the beneficiary? Do you have any idea? Did you see any of those policies?

Mr. HENIG. I think it was the owner of the boarding home, but let me check that further.

Ms. FERRARO. How did he allege that he had an insurable interest?

Mr. HENIG. Excuse me, Ms. Ferraro. We are not sure who the beneficiary was in all cases.

Ms. FERRARO. Did you examine any of the policies?

Mr. HENIG. Let me turn that over to Mr. Elliott.

Mr. ELLIOTT. No; we didn't. We realized we would have an access problem with the insurance companies and we immediately turned it over to Mr. Halamandaris. We only had the billings for the insurance premiums for the two companies. There was one employee included among the 94 people, and she was one of the 11 that died during that 2-year period.

Ms. FERRARO. With the type of policy, when you are talking about the one employee who was involved and who was covered by the policy, was it an employee policy?

Mr. ELLIOTT. No.

Ms. FERRARO. No.

Mr. ELLIOTT. She could have possibly been, but everybody else was a resident. But the billings indicated that it was for employees.

Ms. FERRARO. All right. So the 94 people who were residents were included as being employees of the home. Is that how they were covered by the life insurance?

Mr. ELLIOTT. That is correct.

Ms. FERRARO. Did you notify the insurance company who these people were?

Mr. ELLIOTT. No; we didn't do anything with it. We turned it over to Mr. Halamandaris. We realize, like I said before, that we would have an access problem and we didn't know just what our authority was or whether we should go ahead and pursue it.

Ms. FERRARO. I was just speaking to Mr. Halamandaris about this. Do you know what the owner did with the insurance premiums as far as his taxes were concerned?

Mr. ELLIOTT. No; we don't. But we do know that he deducted the premiums as an insurance expense, which should never have been, even if he had an insurable interest.

Ms. FERRARO. It just absolutely amazes me.

I wanted to go through a few of the findings that you came up with in your report. One of the things that you concluded, I believe, is that the income from the facility appeared to have been grossly understated. You did an examination for 1979, for 1980, and the amount misstated or understated for 1979 was \$59,000 and \$124,000 in fiscal year 1980. Is that correct?

Mr. HENIG. Yes.

Ms. FERRARO. You had indicated in this particular instance that you had problems getting the cooperation of both the owner and the lawyer and the accountant. As you know, your difficulties were not unusual because we did as well. Your report says that the facility was not in compliance with our subpoena and you report some extremely strange circumstances about getting the records. Could you give those to us for the record today?

Mr. HENIG. The owner told us that some of the records required to be turned over were sent but were lost in the mail. Then the attorney told us that he could not furnish additional records because they were lost in a burglary at the home on February 19 and promised to send us a police report. He made the same statement to us in a letter dated March 5, 1981. The police report for Febru-

ary 19 showed that liquor and other items were lost, but not financial records. A supplementary police report was filed on April 7, 1981, in which the owner said that he had lost numerous income tax records. The owner gave the police no reason as to why there was a delay in reporting this loss and why he reported this loss in a supplementary police report. So there were some strange circumstances surrounding this burglary.

Ms. FERRARO. Yes. I would concur. Then I believe you were also told at some point along the line that there were no balances and financial statements prepared by the home and, thus, they couldn't comply. Did you find that to be an inaccurate statement?

Mr. HENIG. Well, it was inaccurate because we did find that he had to file financial statements with the State of Missouri as part of his licensing renewal. Further, we found a bill from the accountant in which he charged the home for preparation of financial statements and for all the other work that goes into preparing financial statements, so he obviously would have prepared trial balances in order to prepare financial statements.

Ms. FERRARO. Did you speak to anybody besides the owner? You spoke to the lawyer. Did you speak to the accountant?

Mr. HENIG. Yes; we did.

Ms. FERRARO. And he did not provide you with any material?

Mr. HENIG. No. We got that from the State of Missouri.

Ms. FERRARO. Did you confront him with those after you received them from the State of Missouri?

Mr. HENIG. No. We withheld any further communication with that boarding home at the request of the committee staff.

Ms. FERRARO. The other thing that I just would like to get into the record is your analysis of the expenses that were claimed by the owner and his, and give us a bit of comparison between the two. You computed food expenses at one amount and he at another. Could you tell us about the food expenses?

Mr. HENIG. They were about 13 percent lower. We computed 13 percent lower than what he had claimed.

Ms. FERRARO. What was your computation based on?

Mr. HENIG. An analysis of his records.

Ms. FERRARO. In the repair costs, how much of that \$32,258 was substantiated?

Mr. HENIG. Only about 68 percent of it was substantiated by canceled checks and receipts.

Ms. FERRARO. Did he indicate where the balance of those canceled checks and receipts were?

Mr. HENIG. No.

Ms. FERRARO. Medical expenses, did you discuss that, the medical costs as he gave them to you and as they were computed by you?

Mr. HENIG. The medical costs he reported were \$12,000, and included \$3,600 to a medical supply house, a portion of which appears to have been for furniture that should have been capitalized.

Additional expenditures in this account were vague as to who the services were provided for.

Ms. FERRARO. You concluded there is an undetermined amount of personal expenses being included as business expenses. When

you say undetermined, how undetermined is that? Can you give us any sort of a dollar figure?

Mr. HENIG. No, we couldn't come up with a figure which we could report—

Ms. FERRARO. How did you know there were personal expenses being included in the business expenses?

Mr. HENIG. They related to automobile expenses and telephone costs.

Ms. FERRARO. OK. So where they were substantiated as being actual telephone costs, you assumed they were personal expenses?

Mr. HENIG. We couldn't tell from the available records whether the telephone costs were a part of the business expense or personal calls. We couldn't tell from the lack of information on the charges for automobile expenses whether they were for the personal use of the operator or necessary for the operation of the boarding home.

Ms. FERRARO. Given all of the facts that we have been presented as a result of your investigation, would you suggest that this matter be turned over to the State authorities in Missouri for prosecution?

Mr. HENIG. I think that is a matter which the committee will have to decide on. I understand that the committee may propose to turn some of the information we turned over to them over to the proper authorities for further investigation.

Ms. FERRARO. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Are there other questions by members?

Mr. Henig, Mr. Pinto, Mr. Elliott, and Mr. Lotkin, we thank you very, very much for the work you have done on this important matter and the statements that you have given us here today. We appreciate it. It's a valuable public service.

Mr. HENIG. You're quite welcome, Mr. Chairman. Thank you.

The CHAIRMAN. The next panel we have involves two of the proprietors of homes that have been referred to in the testimony. We have invited several boarding home owners to the hearing today to hear the testimony given by the General Accounting Office and to respond, if they care to do so. Mr. Edwin Cook, of the St. Louis, Mo. home has declined to appear.

[The telegrams of invitation and declination from Mr. Cook's attorney follow:]

JUNE 19, 1981.

Mr. EDWIN COOK,  
10 Castle Acres,  
Festus, Mo.

On May 15, 1980, the House Select Committee on Aging authorized a subpoena compelling your appearance before the committee along with your books and records relating to the operation of your board and care facility. The U.S. General Accounting Office has completed its analysis of your books and records and the committee has now scheduled hearings for Thursday, June 25, 1981, beginning at 10 a.m. in room 1334, of the Longworth House Office Building. You are requested to appear at this hearing in Washington, D.C. If you have any questions, call Senior Counsel Val J. Halamandaris with our committee at (202) 225-0451.

CLAUDE PEPPER,  
Chairman.

[MAILGRAM]

ST. LOUIS, Mo.,  
June 23, 1981.

Re Congressional probe concerning Alcazar Home for the Aged.

HON. CLAUDE D. PEPPER,  
Select Committee on Aging,  
House of Representatives, Room 2212, Rayburn Building, Washington, D.C.

DEAR MR. PEPPER: Please be advised that I have discussed the matters delineated in your telegram with Senior Counsel Val Halamandaris. Mr. Cook declines your invitation to appear before the subcommittee. However, Mr. Cook reaffirms his prior assurances that any information needed by the committee will be provided, an appearance by Mr. Cook after discussing the matter with Mr. Halamandaris I think would not provide any useful information to the committee, again, should the committee feel that more information is needed or that some information has not been provided, my client stands ready to provide same. Thank you for your cooperation,

TED F. FRAPOLLI.

[TELEGRAM]

JUNE 19, 1981.

ADEL MADANAT,  
520 Cedar Street,  
Coatesville, Pa.

On May 15, 1980, the House Select Committee on Aging authorized a subpoena compelling your appearance before the committee along with your books and records relating to the operation of your board and care facility. The U.S. General Accounting Office has completed its analysis of your books and records and the committee has now scheduled hearings for Thursday, June 25, 1981, beginning at 10 a.m. in room 1334, of the Longworth House Office Building. You are requested to appear at this hearing in Washington, D.C. If you have any questions call Senior Counsel Val J. Halamandaris with our committee at (202) 225-0451.

CLAUDE PEPPER,  
Chairman.

[TELEGRAM]

JUNE 19, 1981.

IRWIN AND MOLLY SWEET,  
8813 North Kenneth Avenue,  
Skokie, Ill.

On May 15, 1980, the House Select Committee on Aging authorized a subpoena compelling your appearance before the committee along with your books and records relating to the operation of your board and care facility. The U.S. General Accounting Office has completed its analysis of your books and records and the committee has now scheduled hearings for Thursday, June 25, 1981, beginning at 10 a.m. in room 1334, of the Longworth House Office Building. You are requested to appear at this hearing in Washington, D.C. If you have any questions call Senior Counsel Val J. Halamandaris with our committee at (202) 225-0451.

CLAUDE PEPPER,  
Chairman.

The CHAIRMAN. We now would like to call Mr. Adel Madanat, one of the owner/operators of the Madanat Boarding Home in Coatesville, Pa., to which reference has been made in the testimony, and Mr. Irwin Sweet, who has been an owner/operator of Gracell Manor, in Chicago, Ill., to testify. All of the other boarding home owners will be furnished with a copy of GAO's findings in order that they may respond in writing to the committee if they choose to do so.

We will now ask Mr. Madanat and Mr. Sweet to come to the panel here, if you will, please. Is Mr. Sweet in the room? If he is here, would you please identify yourself, sir?

Now, Mr. Madanat is here, and Mr. Sweet is the gentleman on my right. I will ask that you two gentlemen stand and raise your right hand so I may administer you the oath.

Do each of you gentlemen, Mr. Madanat and Mr. Sweet, solemnly swear that all of the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SWEET. Yes, sir.

Mr. MADANAT. Yes.

The CHAIRMAN. Is your answer in the affirmative? OK, thank you very much.

A PANEL, CONSISTING OF: ADEL MADANAT, MADANAT BOARDING HOME, COATESVILLE, PA., ACCOMPANIED BY COUNSEL STEPHEN L. HUMPHREY, ESQ.; AND IRWIN SWEET, OWNER / OPERATOR, GRACELL MANOR, CHICAGO, ILL., ACCOMPANIED BY COUNSEL DAVID ROSENSTEIN, ESQ.

#### STATEMENT OF ADEL MADANAT

The CHAIRMAN. Mr. Madanat, you have heard the testimony that has been given here this morning by the General Accounting Office, and the questions that I asked about your boarding home at 571 East Chestnut Street, Coatesville, Pa.? Have you heard that?

Mr. MADANAT. Yes.

The CHAIRMAN. Well, I will ask you the same questions, Mr. Madanat, if I may, that I asked the General Accounting Office.

Is it true that even though you had an accountant, you were unable to provide the committee with all of the financial records requested in our subpoena?

Mr. MADANAT. No. I never refused to give them what they want, as far as information about our boarding home. I gave them just about every record I got over there for the year we opened the boarding home, 1979.

The CHAIRMAN. The question was, were you able—did you provide to the Committee—

Mr. MADANAT. Yes, we did.

The CHAIRMAN [continuing]. The financial records requested by the subpoena that we directed to you?

Mr. MADANAT. Yes, we did.

The CHAIRMAN. Did you hear the General Accounting Office representative say that you did not furnish them the records that the subpoena required you to furnish?

Mr. MADANAT. Well, all the records I got in 1979, I just brought it with me last year to Washington. That's what I got now.

Ms. FERRARO. Mr. Chairman, I apologize for interrupting, but could we please have the identity of the people who are sitting at the table with the witnesses?

The CHAIRMAN. Yes. There is a gentleman sitting on my left next to Mr. Madanat. What is your name, sir?

Mr. HUMPHREY. Mr. Chairman, my name is Stephen Humphrey. I am counsel for Mr. Madanat, H-u-m-p-h-r-e-y.

The CHAIRMAN. And what is your profession?

Mr. HUMPHREY. I'm an attorney for Mr. Madanat.

The CHAIRMAN. Are you an attorney here today desiring to represent Mr. Madanat?

Mr. HUMPHREY. Yes, sir.

The CHAIRMAN. Are you a member of the bar, if so, where?

Mr. HUMPHREY. I am a member of the bar of Washington, D.C., Virginia, and Maryland.

The CHAIRMAN. And who is the other gentleman on my right next to Mr. Sweet?

Mr. ROSENSTEIN. My name is David Rosenstein. I am an attorney in Chicago, Ill. I am representing Mr. Sweet today. I'm a member of the Illinois bar.

The CHAIRMAN. You are here for the purpose of representing Mr. Sweet?

Mr. ROSENSTEIN. Yes.

The CHAIRMAN. Each of you are here at the request of your respective clients?

Mr. ROSENSTEIN. Yes.

The CHAIRMAN. Well, gentlemen, the record will note that you are here and what your profession is. The role that you will play in the proceeding, of course, will have to be determined by the committee. The primary purpose of this hearing is to get information and we are therefore seeking from the respective boarding house proprietors the information that we have requested.

Well, I will ask you the second question, Mr. Madanat.

Is it true that you may have understated your income in the past?

Mr. MADANAT. I cannot understand.

The CHAIRMAN. What was your answer, Mr. Madanat?

The question was, is it true that you may have understated your income in the past, the income derived from your boarding home that was described here?

Mr. MADANAT. I cannot understand the question.

Ms. FERRARO. Will the chairman yield?

The CHAIRMAN. Yes.

Ms. FERRARO. Thank you.

Mr. Humphrey, it might make it a little bit easier for us in the course of examining Mr. Madanat today if you would explain the questions to him, so that we could get a direct answer. Obviously, on the first question, he did not understand the question on that one, either. When the Chairman asked "Is it true that you are unable to provide all the financial records requested in the subpoena", he said "I brought records with me, I gave some." Evidently he doesn't understand what the question means.

Could you explain it to him so that we can get full and complete answers to the questions for the record?

Mr. HUMPHREY. Yes, ma'am, I will attempt to explain each question that he doesn't understand. But with respect to the first question, I believe his answer was responsive, that he turned over all the records that he had.

Ms. FERRARO. Well, the question was not all the records that he had; it was all of the financial records requested in the subpoena, which might be two different things, and which obviously are two different things. He turned over all the records he had, but was

still unable to furnish all the records requested in the subpoena; is that correct?

Mr. HUMPHREY. Is your question directed to me?

Ms. FERRARO. Well, yes, because obviously he doesn't understand what I'm saying, so I assume that you do.

Mr. HUMPHREY. I would prefer not to testify on his behalf.

Ms. FERRARO. Have you seen the subpoena?

Mr. HUMPHREY. No, ma'am.

Ms. FERRARO. Thank you for yielding, Mr. Chairman.

Mr. RATCHFORD. Mr. Chairman, may I inquire of Attorney Humphrey as to whether or not he has advised his client of his rights as they relate to these proceedings and proceedings that may arise out of these proceedings?

Mr. HUMPHREY. Yes, sir, he has been advised, and we have talked at length with Mr. Halamandaris about this. It was at his invitation that Mr. Madanat is appearing today voluntarily to answer your questions as best he can.

Mr. RATCHFORD. And he is aware that he is proceeding under oath and that a transcript of these proceedings may be turned over to Federal and/or State authorities?

Mr. HUMPHREY. Yes, sir.

The CHAIRMAN. Mr. Attorney, what was the answer of your client as to the first question? Is it true that though you had an accountant, you were unable to provide the committee with all the financial records requested in our subpoena? What is his answer?

Mr. HUMPHREY. Maybe he could try to answer the question again, Mr. Chairman.

The CHAIRMAN. He what?

Mr. HUMPHREY. Maybe he could attempt to answer the question again.

The CHAIRMAN. All right, we'll give you that permission. Go ahead.

Mr. MADANAT. I did give them everything they need when I got subpoena. I brought all the records and I gave it to them. But I didn't have any record left or hidden anywhere. Everything I got for income tax and everything, receipt and everything, I brought to them.

The CHAIRMAN. Now, the second question, is it true that you may have understated your income, that is, income from the boarding home that we have described in the past to the Government of the United States?

What is your answer?

Ms. FERRARO. What was your answer?

Mr. MADANAT. No.

The CHAIRMAN. The answer is "No"?

Mr. BIAGGI. Mr. Chairman, if the chairman will yield, just to go back to the first question for a while.

If I understand you correctly, you stated you provided all of the records that you had in your possession in response to the subpoena, is that correct?

Mr. MADANAT. Right.

Mr. BIAGGI. So it's possible that some of the records that were requested you didn't have, in fact, or never maintained?

Mr. MADANAT. I didn't have any record.



Mr. BIAGGI. I didn't get your response.

Mr. MADANAT. I said I didn't have any record. Of everything I got, I brought it with me.

Mr. BIAGGI. Well, for those records that were requested and you didn't respond to, was it possible that you didn't maintain those records?

Mr. MADANAT. As far as the record they ask for, we didn't have the record. We didn't—

Mr. BIAGGI. You didn't keep them?

Mr. MADANAT. No, it wasn't the question we didn't keep them. The question wasn't—before it wasn't under the regulation of us to do this kind or record for them, and the regulation didn't pass until June 1980, when we got inspected by the person in the home and we got inspected by the State department and they came down for the first interview which we started to put the record and everything back together. Since then, we didn't have no record for the people in our place except for what I already gave them.

Mr. BIAGGI. Thank you, Mr. Chairman.

The CHAIRMAN. Let me get back again to the second question. The question is, is it true that you may have understated your income in the past from the boarding home that we have described here?

Mr. MADANAT. Well, as far as [pause]—well, as far as the tax situation and everything, everything I get from the boarder and every receive we do, as far as fixing everything in the house and everything, I do have the lady, she do my accounting, tax and everything. As far as taxes go, I'm not qualified about doing taxes or anything. I don't know too much about taxes-wise. I don't know—

Mr. RATCHFORD. Mr. Chairman—

Mr. BIAGGI. Mr. Chairman—

Mr. RATCHFORD. Mr. Chairman, can I ask the gentleman's attorney again whether or not he has been advised of his rights, because he's being asked a question now that could result in prosecution, depending upon the answer. I want to know, as a member of the bar for many years, whether this gentleman has been advised of his rights.

Mr. HUMPHREY. Yes, he has.

Mr. BIAGGI. Mr. Chairman?

Mr. RATCHFORD. Then would you advise him to answer the question?

Mr. HUMPHREY. Yes, sir.

The CHAIRMAN. Did you wish to say something, Mr. Biaggi?

Ms. FERRARO. Mr. Chairman—

Mr. BIAGGI. I'm waiting for a response. We're awaiting a response, Mr. Chairman.

Ms. FERRARO. After this question is responded to, might I suggest we move on to the witness, Mr. Sweet, for a few questions, and then proceed back to this witness?

The CHAIRMAN. All right.

Mr. BIAGGI. I would like, Mr. Chairman—go ahead.

Mr. HUMPHREY. Mr. Ratchford, if I might just say, I think that Mr. Madanat is attempting in good faith here to understand and answer your questions. It is my understanding from talking with him this morning that he personally does not prepare these tax returns and that may be why he is having trouble with the question about "understated" income. But—

Mr. RATCHFORD. My concern is more a question—

The CHAIRMAN. Excuse me just a minute.

Mr. Madanat, do you understand the English language you think sufficiently to enable you to answer the questions?

Mr. MADANAT. I could if I could understand them right.

The CHAIRMAN. What is your basic language, your natural language?

Mr. MADANAT. Jordanian.

The CHAIRMAN. If you wish it translated, we have a translator here from the State Department that can act as a translator for you when we come back to you, if you would like us to do so.

Mr. BIAGGI. Mr. Chairman, I would like to ask one question. How many residents do you have in your home?

Mr. MADANAT. Right now we have seven.

Mr. BIAGGI. Seven. That's very large, a very large home. He has seven residents in his home, Mr. Chairman. Let's move to the next witness.

The CHAIRMAN. All right. Mr. Sweet.

#### STATEMENT OF IRWIN SWEET

Mr. ROSENSTEIN. If the Chair please, I would like to make a statement. My name is David Rosenstein, and I am an attorney for Mr. Sweet.

We advised the GAO that Mr. Sweet was no longer the owner or connected with the ownership of the Gracell Manor in November. Our surprise—

The CHAIRMAN. Would you speak a little nearer to the microphone? You advised him what?

Mr. ROSENSTEIN. Mr. Sweet is in poor health and is no longer connected in any way with the Gracell Manor. He is no longer affiliated with the corporation that owns that facility.

He is here today because a telegram was delivered to his home on the 19th of June. I spoke with the counsel to the committee and reported the fact that Mr. Sweet was no longer active in the home and had—

The CHAIRMAN. You mean he's no longer active—Has he sold out his interest in the home?

Mr. ROSENSTEIN. He has no interest whatsoever in the—

The CHAIRMAN. Pardon?

Mr. ROSENSTEIN. Yes, he is no longer—

The CHAIRMAN. When did he sell out?

Mr. ROSENSTEIN. I believe as of January 1.

The CHAIRMAN. January 1 of this year?

Mr. ROSENSTEIN. Yes.

The CHAIRMAN. He sold out entirely his total interest in the home—

Mr. ROSENSTEIN. Yes.

The CHAIRMAN [continuing]. As of January 1 of this year.

To whom did you sell, did he sell the home?

Mr. ROSENSTEIN. A corporation called Gracell Terrace, Inc.

The CHAIRMAN. Does he have any interest in the corporation?

Mr. ROSENSTEIN. No.

The CHAIRMAN. Does any of his family have any interest in the corporation?

Mr. ROSENSTEIN. No.

The CHAIRMAN. Was it an arm's length sale?

Mr. ROSENSTEIN. Yes.

The CHAIRMAN. How much did he get for his nursing home—I mean for the boarding home?

Mr. ROSENSTEIN. I really don't recall the figure, but it was not a—

The CHAIRMAN. Ask your client how much he got for it.

Mr. ROSENSTEIN. Well, I am just trying to explain why we are here, because your statement says that it's ironic that he failed to respond to a letter of May 5.

Now, the letter was returned to the committee unopened because Mr. Sweet was not there. He never received the letter, so he did not know about this hearing before the 19th of June. And he has had no chance whatsoever to reply to what I think are erroneous conclusions reached by the GAO.

Our efforts—and we have tried to comply with the subpoena request in full. We met and delivered boxes of materials to the GAO's representative in Chicago. They had numerous requests for additional items and returned items to us. I think that we applaud the committee's legislative purpose in seeking to find a basis to legislate for the welfare of the country. But with all due deference to Mr. Sweet, I would say that if three GAO accountants examined any business, any small business in this country, with the thorough and efficient manner that they did, that there would be discrepancies, I submit, in almost anybody's business.

Ms. FERRARO. Mr. Rosenstein, if I may just interrupt you for just a minute, in view of the time limitations that we do have for this hearing, in that we are in the process of trying to debate reconciliation. Let me just ask you: Was Mr. Sweet the proprietary of that boarding home in the period of time that GAO did do a study, from 1979 and 1980?

Mr. ROSENSTEIN. Yes, he was.

Ms. FERRARO. So that he can testify as to those matters and that's what he is here for today; is that correct?

Mr. ROSENSTEIN. In view of the conclusions reached by the GAO, including a specific conclusion that they believe he has violated the law, I would not permit Mr. Sweet to testify because of his fifth amendment rights.

Ms. FERRARO. So then you are at this time advising Mr. Sweet not to testify before this committee?

Mr. ROSENSTEIN. Yes.

Ms. FERRARO. Thank you.

Mr. RATCHFORD. Is your client prepared to assert that himself for the record?

Mr. ROSENSTEIN. Yes.

Mr. RATCHFORD. I think the Chairman should ask that question.

The CHAIRMAN. Do I understand the attorney for Mr. Sweet to say in open hearing before this committee that his client declines to appear and testify as a witness before this committee today?

Mr. ROSENSTEIN. The GAO, Congressman, has stated on the record that they believe that Mr. Sweet has violated the law. We dispute that, but in view of that, we certainly would not permit Mr. Sweet to incriminate himself.

The CHAIRMAN. Mr. Sweet, I am advised that the period of inquiry of the GAO and the committee in respect to this hearing is prior to January 1 of this year. So your attorney has told us that you disposed of all of your interest in this boarding home on January 1 of this year at an arm's length sale. So we are asking at this hearing today about matters pertaining to this boarding home prior to the time you sold it, and we presume, since you sold it on the 1st of January, that you owned it prior to that time, during the time of the investigation; is that correct?

Mr. SWEET. Yes.

The CHAIRMAN. It is correct.

Mr. ROSENSTEIN. Well, there was a corporate ownership.

The CHAIRMAN. I'll ask you this question, Mr. Sweet. Is it true that the boarding home paid rent of \$8,400 to another of your enterprises and that no formal lease agreement existed for that payment?

Mr. SWEET. I decline to answer on the grounds of the fifth amendment.

The CHAIRMAN. I'll ask you another question.

Is it true that of the \$64,174 reported costs, \$55,864, or 88 percent, were unsupported by invoices and receipts?

Mr. SWEET. I decline to answer on the fifth amendment.

The CHAIRMAN. Are you refusing to testify before this committee today, under oath, in furtherance of your claim under the fifth amendment?

Mr. SWEET. Yes, sir.

The CHAIRMAN. You claim that the answer might incriminate you?

Mr. SWEET. Yes.

The CHAIRMAN. I will say to you and your client both, that many of these questions, it seems to me, on their face do not relate to criminality but simply relate to the manner in which you operated the boarding home, the profit you made—there was no illegality in making a certain profit, but it might be a very shocking abuse of the privilege of exercising a boarding home if you made profit like that and paid so little in food for the people that were patients there.

Mr. Rosenstein, does he claim exemption of the right, of the duty to testify on the questions that are clearly not related to incrimination or criminal offense?

Mr. ROSENSTEIN. Congressman, with all due deference to the committee, we are taken aback by the suddenness of this. Mr. Sweet has never been in any trouble with legal authorities. We were notified of this hearing by telegram just a few days ago. We have had no chance before today to even know what these allegations were. We have had no chance to study what the GAO says we have done wrong. But I feel that in fairness to Mr. Sweet—if you wish him to come back at a later date, perhaps he would. But as of today, I would ask that he not be required to answer questions because we can't really sort out—

The CHAIRMAN. Are you asking for a postponement? You're asking a postponement of Mr. Sweet's testimony—

Mr. ROSENSTEIN. There may be—

The CHAIRMAN. Wait a minute. Are you asking a postponement of Mr. Sweet's testimony on the ground that he was not fully apprised of the evidence that would be presented here today by the GAO and he wants an opportunity to examine it?

Mr. ROSENSTEIN. I certainly would like an opportunity to examine it in depth, and I would, either by letter to the committee or conference with the staff, put in something into the record which would stand as Mr. Sweet's reply to some of these allegations.

[See appendix, p. 114 for letter subsequently received from Mr. Rosenstein.]

The CHAIRMAN. Let me ask Mr. Sweet this question.

Mr. Sweet, how much did you receive as compensation for the sale of your boarding home when you sold it in January?

Mr. SWEET. I refuse to reply based on the fifth amendment of incrimination.

The CHAIRMAN. Do you think there's anything criminal in the amount that you got for your boarding home?

Mr. ROSENSTEIN. The amount is the subject of a contract. I'll be glad—

Ms. FERRARO. Excuse me, counsel, but you're not under oath. Would you please allow the witness to answer the question, if he's going to answer it at all?

The CHAIRMAN. The question was to Mr. Sweet.

Is there anything criminal about the amount you derived for the sale of your boarding home?

Mr. SWEET. I refuse to answer that question based on the fifth amendment.

Mr. RATCHFORD. Mr. Chairman, it's obvious to me, in spite of the GAO report, that the witness is not going to testify. I see nothing further to be gained by pursuing it, given the fact that he has asserted his rights under the fifth amendment.

The CHAIRMAN. Mr. Attorney, you asked for a continuance or a postponement. Do you wish to specify the date when you would be willing to testify again?

Mr. ROSENSTEIN. I will take that up with counsel for the committee, if it's necessary.

The CHAIRMAN. All right. I guess that concludes it. As far as you're concerned, Mr. Sweet, you took the fifth amendment. You're excused. Thank you both.

Mr. Madanat, do you take the fifth amendment on any questions?

Mr. HUMPHREY. Mr. Chairman, Mr. Madanat has asked me if I would ask you if you could provide the interpreter for him, if that would be possible.

Mr. EDWARDS. Would the State Department interpreter please come forward.

The CHAIRMAN. What is the name of the interpreter?

Mr. ASLAN. Zaki Aslan.

The CHAIRMAN. Are you a native of Jordan?

Mr. ASLAN. No, sir.

The CHAIRMAN. Are you proficient in the language of that country?

Mr. ASLAN. The Arabic language, sir.

The CHAIRMAN. In the Arabic language.

Mr. ASLAN. Yes, sir.

The CHAIRMAN. Will you speak to Mr. Madanat there beside you at the table and see if you and he understand each other?

Mr. ASLAN. I already have, sir.

The CHAIRMAN. And you find that Mr. Madanat understands you?

Mr. Madanat, do you understand the gentleman, the interpreter there with you?

Mr. MADANAT. Yes.

The CHAIRMAN. Do you understand the Arabic language as he interprets it to you?

Mr. MADANAT. Yes.

The CHAIRMAN. Are you willing to have him as your interpreter in the inquiry of this matter?

Mr. MADANAT. Yes.

The CHAIRMAN. Mr. Interpreter, will you raise your right hand, please, and be sworn in.

[The interpreter was duly sworn as follows:]

The CHAIRMAN. Do you solemnly swear that all the testimony that you are to translate shall be translated faithfully and capably and honestly before this committee, so help you God?

Mr. ASLAN. I do.

The CHAIRMAN. Now let me just ask you a few questions of Mr. Madanat.

Ms. FERRARO. Mr. Chairman, I really dislike interrupting again, but I am a bit concerned about this witness. If I might, with the interpreter present—it's a bit of an unusual procedure, I'm sure, but might I advise again for the record this individual of his rights before this committee?

The CHAIRMAN. There won't be any question about that.

Mr. Interpreter, will you explain to Mr. Madanat that he is being sworn, he has been sworn under oath to testify the truth and the whole truth before this committee, that there may be certain questions which might possibly incriminate him into a criminal prosecution if the answers given by him are false. He has a right, under the Constitution of this country, to claim exemption from testifying under the authority of the fifth amendment on the grounds that the answer to the question might tend to incriminate him. We want him to fully understand that, and if he wishes to claim his rights not to testify with respect to any question asked, he has a perfect right to do so and his claim of right will be fully respected and protected by this committee.

Will you explain that to him?

[Interpreter complying.]

Mr. MADANAT [via interpreter]. Yes.

The CHAIRMAN. The attorney for Mr. Madanat, I am sure you will be on the alert as his attorney to advise him if any question would tend to incriminate him of his right; will you do that?

Mr. HUMPHREY. Yes, sir.

The CHAIRMAN. Thank you. Well, let's start again and see how we get along with this.

Mr. Madanat, is it true that even though you had an accountant, you were unable to provide the committee with all the financial



records requested by our subpoena? Do you understand, Mr. Interpreter?

Mr. MADANAT [via interpreter]. I have given all the records concerning my financial records to my CPA, a lady by the name of Thelma Shalley.

The CHAIRMAN. And this is a question he may decline to answer. Is it true that you may have understated your income in the past from your boarding home that has been identified in this case?

The INTERPRETER. I must explain the word underestimated, or "understate" to him. I'm saying that let's assume that you made \$1,000 but you reported \$400 in order to make it easier for him to understand.

The CHAIRMAN. OK.

Mr. MADANAT [via interpreter]. No, it's not true.

The CHAIRMAN. Your answer is "No, sir, it's not true?"

Mr. MADANAT [via interpreter]. It's not true.

The CHAIRMAN. The third question. GAO findings indicate that 59 percent, \$19,072 of the \$32,395, which you claimed on your taxes as expenses in operating the boarding home, was unjustified.

Would you care to comment on that?

Mr. MADANAT [via interpreter]. I have given my CPA all the records, all the receipts that I have and everything relating to the operation of the home.

The CHAIRMAN. And he says it was the responsibility of the accountant to make the proper reporting?

Mr. MADANAT [via interpreter]. I don't know how to go about doing my income tax, but she has all my records and all the papers to do a proper income tax filing.

The CHAIRMAN. I have to go to the floor on account of the rule that's up now, and I'm a member of the Rules Committee. I'll ask Ms. Ferraro to continue these hearings.

Ms. FERRARO [presiding]. Mr. Madanat, you claimed \$1,554 on your taxes for allegedly buying a van when, in fact, you bought a Chevrolet sedan. You also claimed \$639 in repairs, of which only \$199 related to the repair of a van which the facility had purchased in prior years.

Is it true that you were claiming costs which appear to be related to your personal automobile use and repair and accrediting them to the business?

Mr. MADANAT [via interpreter]. I do not own a Chevy car.

The INTERPRETER. Let me finish the question for him.

Mr. MADANAT [via interpreter]. This is not true at all. I don't own a Chevrolet, and if such figures appear as repairs, I have no knowledge about them.

Mr. RATCHFORD. Would the chairperson yield?

Ms. FERRARO. I would be happy to yield.

Mr. RATCHFORD. It appears to me—and I can't say this, obviously, because I can't think ahead—that the witness is going to deny everything that the GAO said before this committee this morning. If so, I think the committee ought to know that. I know we will walk through these questions, but thus far, everything that has been said by the GAO, Mr. Madanat, you have denied.

I wonder if we're going to get a total denial of everything that GAO testified to this morning.

Mr. MADANAT [via interpreter]. I understand what you said, sir, and if I have done anything wrong, I am going to tell you I have done something wrong. But if I have not done something wrong, I'm not going to say that I have done something wrong when I haven't.

Ms. FERRARO. Well, picking up on that, you had your accountant submit worksheets which indicated that the figures that I have given, \$1,554, was claimed on your taxes for the purchase of a van, and also expenses of \$639 for repair to the van, and the van was supposedly used to transport residents of the boarding house.

Do you have a van of that nature?

Mr. MADANAT [via interpreter]. This is not true.

Ms. FERRARO. Does he own a van?

Mr. MADANAT [via interpreter]. Yes, he has a—

Ms. FERRARO. Did he spend \$1,554 for the purchase of a van?

The INTERPRETER. What was the figure again?

Ms. FERRARO. \$1,554.

Mr. MADANAT [via interpreter]. I bought the van in 1973, before I started the boarding home business. I never claimed it as part of that business.

Ms. FERRARO. The receipts that we are talking about are receipts that were submitted for tax returns in 1979 by Mr. Madanat's accountant, and those are the receipts that were examined, not 1973, 1979.

Mr. MADANAT [via interpreter]. I have never claimed the amount of \$1,554 in order to buy a car or a van, but if the CPA has done that, I have no knowledge of it. And I have—

Ms. FERRARO. You know, in addition to advising him of his rights, could you please tell the witness that he is under oath which then subjects him to a prosecution for perjury if, in fact, he lies. Could you please advise him of that.

Does he understand that?

The INTERPRETER. Yes, he does.

Mr. MADANAT [via interpreter]. But you are saying I bought a Chevrolet—You are saying I claimed \$1,554 in order to buy a Chevy car. I never—

Ms. FERRARO. To buy the van.

Mr. MADANAT [via interpreter]. If the receipt, if that receipt that indicates that figure, instead of being money spent on a car, instead of being submitted as a receipt for the income tax purpose, that's not my mistake. That should have been the mistake of my CPA. Probably the receipt should not have been where she submitted it.

Mr. BIAGGI. Would the Chair yield?

I think it should be made clear to Mr. Madanat that he signed the return. He is presumed to have read what was in the return and, hence, he is liable.

I would go further and ask the counsel, Mr. Humphrey—Mr. Humphrey, I don't like the turn of events. I like to deal with practical application, with human beings. I, for one, had my return prepared for me by a management firm that deals with my entire financing. The head of that firm was a personal dear friend of mine. I really never read the return, frankly, and I signed it. But I know I was liable. But I learned otherwise. Now I look at it.

I'm not so sure that Mr. Madanat isn't going through the same experience, and I just think that Mr. Madanat is heading for a lot of trouble, trouble that could be avoided.

Mr. HUMPHREY. Mr. Congressman, in light of, I think, some of the confusion that Mr. Madanat has indicated in trying to respond to these questions, I would like an opportunity to speak with him for just a minute to reconsider the possibility of the fifth amendment claim.

I think that in coming down here, as we discussed this morning, he is not familiar with the financial aspect, with the returns and so forth. It is handled by an accountant. And he was here more, as we understood it, to discuss the conditions of the home, how the people are cared for, how they are fed, the kind of transportation he provides to the hospital, the medicine and so forth. But the financial questions—

Mr. BIAGGI. I think you should.

Ms. FERRARO. Mr. Humphrey, would you like a few minutes to discuss this with your client?

Mr. HUMPHREY. Yes, ma'am, I would appreciate that.

Ms. FERRARO. All right.

[Recess.]

Mr. HUMPHREY. Mr. Madanat has said that in light of his inability to understand some of these questions, and the confusion that seems to have come up, that he would now want to plead the fifth amendment in response to any further questions about the GAO report and his finances.

Ms. FERRARO. You do understand, counselor, that he is unable to plead it through you; he will have to respond to each of the questions in that manner.

Mr. HUMPHREY. Yes, ma'am.

Ms. FERRARO. All right. I will present each of the questions for him and he can respond if he wishes.

You claimed \$1,554 on your taxes for allegedly buying a van when, in fact, you bought a Chevrolet sedan. You also claimed \$639 for repairs, of which only \$199 related to the repair of the van which the facility had purchased in prior years.

Is it true that you are claiming costs which appear to be related to your personal automobile use and repair as business expenses?

Mr. MADANAT [via interpreter]. I refuse to answer that question on the basis of the Constitution.

Ms. FERRARO. Is it true that included with interest expenses on your tax return were \$1,789 in mortgage interest moneys on 573 East Chestnut Street as compared to 571 East Chestnut Street, that property at 573 which was not a part of the boarding home operation?

Mr. HUGHES. Madam Chairman, while the witness is attempting to respond, I have looked at a number of the statements containing the GAO's findings, and many of those would indicate insufficient records. This witness would have appeared to have come here today expecting to respond to other areas dealing with perhaps care and other things.

I wouldn't want to see us foreclose the witness from submitting additional material that he might find does not come within the fifth amendment prohibitions, and I would hope we can leave the

record open so that the witness perhaps can supplement what he has testified to today, because it is not our intent to embarrass the witness. We are trying to find out a little bit more about this operation. And if additional evidence is forthcoming, it might shed some light on some of the conclusions of the General Accounting Office, and that's what we're interested in.

I hope that perhaps the interpreter can convey that to the witness. I'm sure his attorney has already understood what I have said—because we are clearly interested in getting the information. It may very well be that much of the information that we seek is available and I would hope we will leave the door open so that information can be submitted.

Ms. FERRARO. The Chair would have no objection to that at all, Congressman. As a matter of fact, what we were trying to do was just go through the list of questions pertaining to the GAO report and then we anticipated we might get off into other questions that the witness might be able to give us some information on the conditions of the nursing home which are not covered by the financial inquiries that were made by the GAO.

Mr. HUGHES. Yes. I think the witness understands my suggestion now. Perhaps he didn't before. We are serious about securing some of this information, and if he doesn't have it with him today but, it is available, that information can be submitted to the committee at a later date. I wouldn't want to see us foreclose that right.

Mr. HUMPHREY. If I might respond, sir, I appreciate that. That is the spirit in which Mr. Madanat came here today, in response to the invitation from Mr. Halamandaris. He said he would prefer to come down and answer the committee's questions about his nursing home. It is only because of the confusion that I think he has encountered in trying to deal with these financial questions that I have advised him now to plead the fifth amendment.

Ms. FERRARO. All right.

Mr. Humphrey, would it be a fair statement to say that with reference to the questions that arise on the financial matters presented by the GAO report, that the witness will be pleading the fifth amendment, but that he would be willing to testify to other conditions with reference to the boarding home, and then we can proceed. If that's so, then we can proceed to the other questions and consider his pleading to the fifth amendment to these GAO questions.

Mr. HUMPHREY. I have advised him and he has indicated that he will plead the fifth amendment to further questions about the financial aspects of the boarding home. He will—

Ms. FERRARO. Would you have him assert that for the record, and then we can proceed.

Mr. HUMPHREY. Yes, ma'am.

The INTERPETER. He refuses to answer on the basis of the fifth amendment.

Ms. FERRARO. With reference to the GAO study; is that correct? All right. Mr. Madanat, I have just a few questions about the operation of the home.

How many people besides you ran the nursing home?

Mr. MADANAT [via interpreter]. Two more people, my mother and brother.

Ms. FERRARO. Do your mother and brother speak English?

Mr. MADANAT [via interpreter]. My mother, father and brother. My parents don't speak English, but my brother speaks some.

Ms. FERRARO. And those are three people besides you who run that boarding home?

Mr. MADANAT [via interpreter]. Yes.

Ms. FERRARO. How many boarders do you have at the boarding home?

Mr. MADANAT [via interpreter]. Seven people.

Ms. FERRARO. What is their average age?

Mr. MADANAT [via interpreter]. From 28 to 64, 65.

Ms. FERRARO. Do they speak the same language that you do?

Mr. MADANAT [via interpreter]. No, they are all Americans. They speak English.

Ms. FERRARO. And you are able to communicate with them?

Mr. MADANAT [via interpreter]. Yes.

Ms. FERRARO. What about your parents, when your parents speak no English? Are they able to communicate with them?

Mr. MADANAT [via interpreter]. My mother speaks some English, not much. But she is able to communicate with them.

Ms. FERRARO. So that if a resident of the nursing home is in need of immediate medical attention, your mother would be able to communicate with that person and provide the medical attention that she needs?

Mr. MADANAT [via interpreter]. Yes.

Ms. FERRARO. I am going to yield to my colleague from New Jersey for any questions that he might have for the witness.

Mr. HUGHES. I have only one question just for my own enlightenment. Has your witness taken the fifth amendment because he doesn't have the records with him or because he feels that the answers to the questions would tend to incriminate him?

In other words, what I am trying to find out is if, in fact, you do have records that would shed some light on some of the questions to which the committee sought answers. I just hope that you will come forward and not use the fifth amendment as a way, at this point, of responding to those questions that would not tend to incriminate the defendant. The record, as I understand it, is going to be left open so you can do that.

Mr. HUMPHREY. Thank you. As I understand it, GAO still has all of Mr. Madanat's records for the period in which—

Mr. HUGHES. They have never been returned to him?

Mr. HUMPHREY. That's correct.

Mr. HUGHES. Are there any other records besides those that were turned over to the General Accounting Office?

Mr. MADANAT [via interpreter]. Everything I have I gave it to them.

Mr. HUGHES. I see.

Mr. HUMPHREY. If I might just say, Mr. Congressman, what he is explaining is that he turned over his records for 1979 to GAO. They have not been returned. His accountant has his records for 1980.

Mr. HUGHES. And for 1980 and for 1981 to date, have there been some changes in the method by which those records are kept?

Mr. MADANAT [via interpreter]. I don't know because she does everything. I have no idea.

Mr. HUGHES. The accountant keeps all the records. Who handles the cash transactions, the accountant?

Mr. MADANAT [via interpreter]. All the—I have no cash, but all the checks, I receive all the checks. And I issue receipts for every check I receive.

Mr. HUGHES. Who orders the work to be done, the repairs to be done? Who orders the purchases to be made?

Mr. MADANAT [via interpreter]. I am, I do.

Mr. HUGHES. And you communicate that information to your accountant?

Mr. MADANAT [via interpreter]. Whenever the State housing inspectors, I guess—is that what they are called—whenever they have ordered us to do any improvements, we have done it. For example, when I started the business, they asked me to fix the windows, to put iron bars on the windows. I have done that. They asked us—the State came and the inspectors came and asked me to put fire escapes behind the building. We did that. They wanted us to fix the basement and put iron bars on the windows. I have done that. Whatever they have told me, I have done it. I took the receipts or whatever money I spent and took the receipts and gave it to the—to my CPA.

Mr. HUGHES. Thank you.

Ms. FERRARO. Thank you.

I want to thank the witnesses for appearing, and thank our interpreter from the State Department. Thank you, Mr. Humphrey.

Mr. HUMPHREY. Thank you.

[The proposed questions for witnesses asserting fifth amendment rights follow:]

QUESTIONS FOR OWNERS OF THE MADANAT BOARDING HOME, 571 EAST CHESTNUT STREET, COATESVILLE, PA.

1. Is it true that even though you had an accountant, you were unable to provide the Committee with all the financial records requested in our subpoena?
2. Is it true that you may have understated your income in the past?
3. GAO findings indicate that 59 percent or \$19,072 of the \$32,395 which you claimed on your taxes as expenses in operating the boarding home were unjustified. Would you care to comment?
4. GAO concluded that \$14,959 in building and repair costs were "substantially overstated." Would you care to comment? What repairs were made at the boarding home amounting to \$14,959?
5. You claimed \$1,554 on your taxes for allegedly buying a van when in fact you bought a Chevrolet sedan. You also claimed \$639 in repairs of which only \$199 related to the repair of a van which the facility had purchased in prior years. In other words, is it true that you were claiming costs which appear to be related to your personal automobile use and repair?
6. Is it true that included with interest expenses on your tax return were \$1,789 in mortgage interest monies on the adjoining 573 East Chestnut Street property which was not a boarding home operation?
7. GAO found that food costs were inordinately high at \$4.14 per resident per day. GAO also found that receipts could be found for only \$4,311 of the \$5,344 in claimed expenses. Moreover, they found that non-food items such as paint and lumber, sporting goods, and cigarettes were included in this amount. GAO concluded that they "suspect that personal food costs which would not be deductible on individual tax returns, have been charged against the boarding home operation." Would you care to comment?

8. Is it true that you claimed expenses on your taxes which you said were related to the boarding home operation which were in reality the repair of personal items such as \$19 for a sewing machine and \$57 for a television set?

9. Is it true that you included at least \$382 in energy costs which related to the operation of the adjoining 573 East Chestnut Street property as part of the \$1,168 energy costs of the boarding home?

10. Is it true that about one-fourth of the insurance expenses related to the operation of adjoining property? Is it also true that the finance charges claimed also related to the adjoining property?

11. Did you claim deductions for personal calls to Ohio, North Carolina and international calls to Korea and Jordan in your expenses as related to the operation of the boarding home?

12. Is it true that you claimed 5 tax deductions instead of only 2?

QUESTIONS FOR OWNERS OF GRACELL MANOR, CHICAGO, ILL.

1. You were unable to comply with our subpoena, and the GAO has concluded, on the basis of the records they did receive that your home lacks accountability in its financial records. Would you care to comment?

2. GAO found that an unreported income of \$35,473 which when added to the 1979 return, results in your home's \$14,214 loss converting to \$23,285 profit. Is this true?

3. Is it true that of the \$63,174 reported costs, \$55,864, or 88 percent, were unsupported by invoices and receipts?

4. Is it true that the boarding home paid rent of \$8,400 to another of your enterprises and that no formal lease agreement exists?

5. Is it true that of the \$6,162 in officers' medical expenses to 11 providers and 4 hospitals, two payments covered treatments received by your wife, Mr. Sweet—even though you are the sole owner and officer of the corporation?

6. Of the \$3,360 claimed for professional services, \$2,526 paid for accounting services, GAO claimed that there were invoices to support only three of the 19 payments totaling \$801. Of the \$801, the home was charged for at least \$726 for the preparation of personal and other corporation tax returns. Is this true?

7. Is it true that \$5,500 of the \$8,400 in the patient care expense account was paid to 31 regular employees and 19 non-regular employees, but none of these payments were on the payroll register? Did you fail to withhold Social Security, federal and state taxes and to pay the employer's share for such taxes?

8. Is it true that at least \$1,300 of repair costs were made to properties other than the boarding home?

9. With respect to the \$15,753 charged to painting and decorating, GAO reported that there were only 6 invoices totaling \$937 for the 71 charges. Also, they found that a single individual not listed on the payroll register received 47 payments or \$9,807 and there was no evidence that the person was an independent contractor. Is this true?

10. Is it true that you converted \$17,373 of the residents energy assistance allowances for the facility's use even though the checks are to be used at the discretion of the recipient (resident)?

Ms. FERRARO. Our final panel is Kenneth Fletcher, Chief Postal Inspector of the United States, and Carl Falcone, Chief of the Rackets Bureau from the Westchester County D.A.'s office, White Plains. Would you both assume your seats?

I'm delighted to see you again, Mr. Fletcher. Your testimony before this committee in Manhattan several months ago was invaluable to us and I look forward to your testimony today.

PANEL 2, CONSISTING OF: KENNETH H. FLETCHER, CHIEF POSTAL INSPECTOR OF THE UNITED STATES; AND CARL A. FALCONE, ASSISTANT DISTRICT ATTORNEY, CHIEF OF THE RACKETS BUREAU, WESTCHESTER COUNTY, NEW YORK

STATEMENT OF KENNETH H. FLETCHER

Mr. FLETCHER. I have a very short statement, Madam Chairman, that I will submit for the record and just summarize it.

On June 8 the Chairman wrote me concerning allegations of possible mail fraud and an allegation of mail theft that arose out of the GAO review of the Alcazar Home for the Aged in St. Louis. We have reviewed the allegations and I have authorized an investigation into possible mail fraud, and an investigation into the allegations of mail theft.

It is too early at this point—we have just started the investigation—to report anything further to you. Of course, if we do have a criminal investigation going, there are restrictions on what I can report. But as soon as I can report something back to you, I will.

In my written statement I furnish a couple of instances of investigations that we have conducted recently regarding the interception of checks addressed to residents by owners of various boarding homes.

[The prepared statement of Mr. Fletcher follows:]

PREPARED STATEMENT OF KENNETH H. FLETCHER, CHIEF POSTAL INSPECTOR

Mr. Chairman, I am Kenneth Fletcher and I am the Chief Postal Inspector. I appear before you and your committee today in response to your letter of June 8, 1981. In that letter, you identified the committee's interest in boarding homes and the potential for fraud and abuse against their residents. Specifically, you cited several concerns with regard to the operation of the Alcazar Home for the Aged, Inc., 3127 Locust Street, St. Louis, Mo. 63103.

Mr. Chairman, you have asked that we examine these concerns and, if appropriate, undertake an investigation. We have completed a preliminary review of the information and documents provided us and I have directed our St. Louis Division to initiate an investigation into the operation of the Alcazar Home for the Aged. However, owing to the recency of the inquiry, I am unable to shed any light on this situation for you today. Also, I am sure you are aware, in any potential criminal investigation, there are restrictions concerning information that can be released prior to the conclusion of court action. This is particularly true when grand juries are utilized. Nevertheless, I can assure you that this matter will receive a most thorough investigation and I will provide you with what information I can at the earliest possible time.

Mr. Chairman, you may be interested in knowing that the Inspection Service is not a stranger to postal-related criminal problems at boarding homes and similar facilities where the elderly and/or handicapped could be at the mercy of unscrupulous operators. The occurrences of criminal activity brought to our attention are few; however, I might mention two of the more recent instances wherein postal laws were violated.

Not long ago, we completed an investigation involving four boarding homes in Jamaica, N.Y. The original report in that case came to us from Congressman William Green, who was formerly a member of this committee. We found that two individuals operated all four homes and that they were intercepting checks addressed for delivery to the home residents. The checks were then deposited into the personal accounts of the operators. Seventy checks, totaling approximately \$15,000, were identified and the proprietors were arrested and subsequently pled guilty.

About 1 month ago, we completed an investigation at a Clarksburg, W. Va., rest home which resulted in prison terms for the two operators. These individuals were responsible for cashing 46 social security checks addressed to deceased residents of their rest home. The checks had a total value of \$6,000.

I point out these two cases as examples of one type of mail abuse we have encountered in the past in boarding homes and rest homes. Obviously, the semi-dependent nature of boarding home residents often makes them susceptible to fraud promotions such as health products and insurance schemes which we investigate continually.

Thank you, Mr. Chairman, for the opportunity to appear before you and your committee today.

Ms. FERRARO. Will you also be looking into the insurance allegations that we had with reference to the Missouri house?

Mr. FLETCHER. Yes; that will be one of our mail fraud inquiries.



Ms. FERRARO. And that information will be transferred to this committee when you receive it; is that correct?

Mr. FLETCHER. When I can, yes.

Ms. FERRARO. Thank you very much, Mr. Fletcher.

Mr. Falcone, I am delighted to see you. I asked Mr. Fletcher to testify first so that you can see how speedy some of our Federal employees are. I was hoping that you might be able to summarize your testimony for us.

I do welcome a fellow assistant D.A. from New York. My heart is still there in many instances, I must tell you.

Welcome and proceed as you wish.

#### STATEMENT OF CARL A. FALCONE

Mr. FALCONE. Thank you. As an assistant to Westchester County District Attorney Carl A. Vergari I have been asked to give testimony today in connection with a report which was issued by the August 1978 Westchester County grand jury concerning the economic victimization of the elderly and to amplify on that report and perhaps update it with a view toward its implications toward adult boarding homes.

The subject of that grand jury report, who was identified as a "Mrs. X," in fact ran what is to be considered an adult boarding home. She had at that time, I would think, anywhere from 10 to 30 residents at that boarding home.

The grand jury in their report found that she was engaged in repeated and long-standing criminal activity designed to separate elderly people from their assets. In each of the instances that the grand jury examined, they found that the elderly person concerned suffered from various degrees of mental incapacity brought about by advanced age or mental illness.

In each instance, that person was intentionally isolated from friends and acquaintances either at the boarding home or at Mrs. X's private residence and drained of their assets either by direct withdrawals from bank accounts or the setting up of "Totten" trust accounts or by the purchase of substantial gifts by the elderly person for Mrs. X or her associates.

In one instance there was a will drawn to the benefit of Mrs. X by one of these people, and in another instance cited in the report, a 90-year-old woman was caused to marry a 40-year-old man strictly for the purpose of he becoming the sole surviving spouse.

It was this type of conduct which the grand jury found, after very careful analysis, defied effective prosecution. In each instance the grand jury was faced with an elderly person, who was by then deceased, who, medical testimony showed, was either debilitated by illness or, frankly, senile, and was purely and simply requested by the targets of the investigation to turn over their assets.

There was no other evidence of any criminal conduct which could be prosecuted but for this taking from a person who lacked the capacity to consent to it.

During the 3 years covered by the grand jury report, this one boarding home owner alone received approximately \$250,000 from the five victims we were able to document. The point must be made that these were the only victims of which the grand jury was

aware and, again, that the grand jury was only investigating this one boarding home owner.

I checked the record of our complaint office in the Westchester district attorney's office for complaints involving this kind of economic victimization. There have been several, although in absolute terms they appear to be few in number, given the population of Westchester County of 900,000, and the fact that it is really supposed to be a consumer complaint office, I think the number of complaints there is significant.

I have summarized in my written statement some of the complaints that were received. For example—and although these don't apply, strictly speaking, to boarding homes, I think they point up the vulnerability of the elderly and mentally ill individuals to this kind of victimization.

In one instance we received a complaint that a college student boarded with a 90-year-old widow, and during the 2 years he boarded with her she lent him from \$7-10,000 for tuition and bought him a car. The widow's son retained an attorney who got the young man, the student from abroad, to sign a promissory note to return these funds. Shortly after he signed the promissory note, the student took the widow for a ride to a New Jersey bank, ostensibly to have her passbooks updated. Immediately thereafter the passbook showed a \$13,000 withdrawal for which the widow was unable to account.

In another instance a woman complained to our office when she discovered that a nurse who had been hired to care for her 79-year-old mother had been charging her mother something amounting to \$900 a week for the service.

A final example is a complaint received from an attorney acting on behalf of a 95-year-old woman who was befriended by a person who had done household services for her. During one of the times that this individual visited the woman in the hospital, he caused her to sign a bank withdrawal slip and promptly went to the bank and withdrew her entire \$20,750.09 balance. Although the woman denies signing the slip, even her attorney concedes that the comparisons indicate that the signature may be hers.

None of these acts lead to a criminal prosecution by virtue of the fact that we cannot negate the apparent consent by the elderly person beyond a reasonable doubt.

I have cited also in my written statement a case reported by the New York State court of appeals which, in essence, described a woman who was in a nursing home and was described by physicians as, "not coherent, could not be understood, and was not capable herself of understanding, semicomatose, paralyzed, unresponsive and uncooperative."

Nevertheless, several days before she died, according to the nursing home owners, she made a gift to them of \$15,000 by placing her mark on a bank withdrawal slip which, of course, they used to make that withdrawal.

They also had her sign a second withdrawal slip which they filled out for \$14,000, but this turned out to be too much because it exceeded the woman's bank account. So shortly before she

died, they again secured her mark on an additional withdrawal slip for \$12,864.46, which closed the woman's account to the penny.

What is ironic about that is that her relatives could not bring a criminal prosecution for the reasons I have gone into, and also that the nursing home was able to fight the case in the courts for over 6 years before they were required by the court of appeals to return the money.

As for Mrs. X in the grand jury report, which as I say is already before this committee, after the release of the grand jury report she was fined for failing to file financial reports with the Department of Social Services in connection with the boarding home. The boarding home was ultimately closed.

In May of 1979 she was indicted for a 1975 forgery of a resident's social security checks amounting to \$2,300. She was convicted in April of 1980 and received a 60 day jail sentence—

Ms. FERRARO. I don't want to interrupt you, but it seems to me she's leading a rather charmed life for what she has done, getting 60 days and a fine.

Mr. FALCONE. Yes, 60 days and a fine, and this the only instance in which she's been criminally prosecuted.

However, in January of 1980 a surrogates court, a civil proceeding, a surrogates court jury rendered a verdict against her in a case reported in the grand jury report involving "Mrs. E". There Mrs. X was directed to return approximately \$79,000 which she had taken from Mrs. E's estate.

With respect to the report, the grand jury described the case of "Miss A" who drew a will in favor of Mrs. X, who was the boarding home owner. Another surrogates court jury found that will to be the product of fraud and undue influence and likewise ordered Mrs. X to return approximately \$80,000 to Mrs. A's estate.

Finally, in June of 1981, this month, Mrs. X was enjoined from operating a family-type home for adults, which in New York is a residential care facility for 2 to 4 adults unrelated to the operator, who require personal care and supervision, because she didn't have a permit from the Department of Social Services who wouldn't issue a permit, I presume, because of her criminal conviction. This was a result of an action commenced by the Department of Social Services when they found that she, despite the grand jury report, despite the criminal conviction, despite the lifting of her license to operate a boarding home, she still maintained two women, one 81 years of age, the other 82 years of age, this time in her private residence. Both these women had been former residents of the boarding home.

The grand jury concluded in their report that a veil of privacy shrouded these individuals' relationships with their elderly wards, and that in most instances the taking was discovered only by the representatives of the elderly person's estate and after that person's death and inability to testify about it.

Further, they found that these elderly persons suffered from degrees of mental and intellectual disability, and their value as witnesses, as you mentioned, would be completely diminished by virtue of their mental capabilities. The grand jury said:

We cannot help but presume that the perpetrators of these acts were well aware of their relative safety in being able, themselves, to articulately and cunningly explain these transactions, picturing themselves as altruistic and caring, and there-

fore deserving of the generosity of their elderly wards when pitted against the clouded, perhaps senile ramblings of their victims.

That's the end of the quote from the grand jury report.

It occurs to me that perhaps the boarding home is perhaps the most appropriate facility for this kind of economic abuse to occur. The residents there who are among those mentally or intellectually incapacitated to the degree of being susceptible to this kind of victimization are nevertheless often ambulatory, can sign their names and are at least superficially communicative, enough so to satisfy, for instance, a bank officer or stockbroker or social worker. Yet the boarding home owner, with his 24-hour-a-day contact with such residents, is able to generate a deep feeling of dependence and trust and is in a unique position, if he is so disposed, to appropriating the residents' assets by the means I have discussed earlier.

What can be done about it? I would suggest that this Committee, by instituting a clearinghouse where such instances of economic exploitation could be documented, cataloged and reported, the necessary impetus could be provided to force State governments to enact legislation to deter this kind of exploitive conduct against people who lack the capacity to consent to the taking of their assets.

I think also a partial solution to this problem lies in the way that might contribute to its prevention. We have seen that the victims of economic victimization are vulnerable because of their need to rely on others, some of whom, at best, have questionable motives for rendering assistance. We can hardly consider this search for reliance unreasonable, given the fact that some senior citizen's mental acuity begins to slow down while at the same time the complexity and pressures of our society rapidly increase. While their ability to seek out and secure the advice, support, services, and facilities diminishes, those items become more difficult and bureaucratically burdensome to obtain.

I suggest, therefore, in conjunction with any Federal and State programs for the aged, there be created a professional position of Senior Citizen Counselor. An individual serving in this capacity would be fully familiar with all the programs, services, and facilities available, whether through local, State or Federal government, effecting senior citizens—

Ms. FERRARO. Excuse me, Mr. Falcone.

Are you suggesting the creation of a new agency headed by a person called a Counselor?

Mr. FALCONE. A new agency, not necessarily. But perhaps in connection with the already active Federal agencies involved in medicare, the Social Security Administration, medicaid, Veterans' Affairs. It seems there is no place for an elderly person to go where he has to make one trip—

Ms. FERRARO. As a matter of fact, there are several in New York in particular, and most of our congressional offices are one-trip stops for individuals. Of course, we do not get to boarding homes and we do not do investigations or anything of that sort.

Are you talking about people who are ambulatory, people who are within the boarding home atmosphere?

Mr. FALCONE. As I mention later in my statement, it concerns relatives who might also make use of such a facility, a service, a

formalized, institutionalized service to provide that kind of assistance, direction, and liaison between all the agencies and the individual.

Ms. FERRARO. You can continue with your testimony. I'm sorry I interrupted you.

Mr. FALCONE. I think this would relieve to some degree the pressures on senior citizens to place their reliance on comparative strangers for assistance, with the results that we have seen.

Such Counselor, if he did no more than help a senior citizen decide where best to go for the desired result, and perhaps phone ahead to his liaison in that area and make an appointment and give the senior citizen the name of a person to see, rather than merely a street address of some office, it would give the senior citizen peace of mind of knowing someone is expecting him and knows at least something about his problem before he gets there. This would, in my opinion, deter not the thief this time but the victim from falling prey to those who he might otherwise turn to for help.

[The statement of Mr. Falcone follows:]

PREPARED STATEMENT OF CARL A. FALCONE, ASSISTANT DISTRICT ATTORNEY, CHIEF OF THE RACKETS BUREAU, WESTCHESTER COUNTY, N.Y.

I have been asked to give testimony today in connection with the Report of the August "B" 1978 Westchester County Grand Jury Concerning the Economic Victimization of the Elderly, to amplify that report and perhaps update it with a view toward its implications to Adult Boarding Homes.

The Grand Jury Report which I understand is already before this committee centered around the activities of a woman resident of the County of Westchester, who was identified in the Report as "Mrs. X", and whom the Grand Jury found was engaged in long-standing and repeated wrongful activity, involving the taking of assets from elderly and incompetent persons.

Mrs. X and her husband were the owners of a proprietary Home for Adults or Boarding Home located within the County of Westchester. Mrs. X resides, however, in a home located elsewhere within the County. From time to time over the several years preceding the issuance of the report, elderly persons residing at the Home for Adults, or taken in as paying guests at the residence of Mrs. X, have become victims of practices calculated to appropriate to the use and benefit of Mrs. X, all of their assets. Most of these elderly persons have few relatives and no immediate family, but substantial assets. The Grand Jury found that these elderly persons suffered from various degrees of mental incapacity brought about by advance age or illness. In each instance, that person was intentionally isolated from friends and acquaintances, either at the Boarding Home or at the owners private residence and systematically drained of all assets by Mrs. X, either by direct withdrawals of cash from savings, the setting up of so-called "Totten" bank accounts with Mrs. X, or her children as beneficiaries, the purchase of substantial "gifts" by the elderly person for Mrs. X, or the drawing of wills, with Mrs. X or her associates as beneficiaries.

It was this type of conduct which the Grand Jury, after careful analysis found, defied effective prosecution. In each instance the Grand Jury was faced with the following situation: An elderly person (by then deceased) who, medical testimony showed, was either debilitated by illness or frankly senile, was purely and simply requested by the targets of the investigation to turn over their assets. They did so. There is no evidence of force nor any trespass. There is no evidence of any trick perpetrated on these individuals, nor any embezzlement, nor any evidence of false pretenses having been made. The property could not be described as being lost or mislaid, nor is there evidence of any false promise made to these individuals. Likewise, no evidence of extortion could be shown.

It was clear from an analysis of the facts contained in the Report that, indeed, none of these devices need have been used to induce these incompetent persons to transfer their assets to the targets of the investigation. The victims in this situation acted in a manner which the New York State Penal Law simply did not contemplate, that is, acted with all the outward indicia of consent to these transactions when, in fact, these unfortunates lacked the capacity to understand the nature of the transaction or to knowingly and voluntarily consent to the takings.

In the three years covered by this investigation approximately \$250,000 found its way from the five victims discussed in the report, into the hands of Mrs. X. The point must be made that these were only the victims of which the Grand Jury was aware, in connection with their investigation of only one Boarding house owner.

I have checked the records of our complaint office for complaints involving this type of economic victimization of elders. I have found several such complaints for the period during and subsequent to the pendency of the Mrs. X investigation. Though in absolute terms few in number, these complaints to my mind represent a significant incidence of this kind of conduct. Westchester County has a population of approximately 900,000 and I suspect that only the more sophisticated complainant would recognize the possible criminal implications of such conduct so as to contact what is essentially a consumer complaint office. We have no data on complaints of this nature made to police departments, Social Service workers or Private Attorneys. Indeed, most of the complaints received by my office have been met with the suggestion that the complainants seek private attorneys to press their claims civilly, as most of the criminal legislation recommended by the report has to date not been enacted into law. (A proposal to amend the New York State Penal Law to include the taking of property from an owner who lacks capacity to consent to the taking has passed both houses of the legislature but was vetoed by the Governor.) Because of this failure to enact such legislation, prosecutors in New York continue, in my opinion, to lack the legal ability to deal with these situations, and can only refer complainants to the civil courts. A few representative samples of these complaints might be illustrative of the continuing problem.

An attorney called on behalf of the relatives of an elderly woman who was hospitalized in critical condition. Upon visiting her in the hospital the relatives learned from a nurse who had cared for the woman at home that she had been "befriended" by a man who had done interior decoration for the woman at one time and who had used the woman's credit cards for his own purchases and had her sign blank checks which he then cashed.

In another instance a college student from abroad, "boarded" with a 90-year-old widow. During the student's two-year stay the widow allegedly "lent" the student some \$7,000 to \$10,000 for tuition and bought him a car. Shortly after an attorney retained by the widow's son got the student to sign a promissory note for the so-called loans, the student took the widow for a ride to a New Jersey bank ostensibly to have her pass books updated. The books thereafter showed a \$13,000 withdrawal for which the widow was unable to account.

In another instance a woman complained to our office when she discovered that a nurse who had been hired to care for her 79-year-old mother had gotten payments from the mother amounting to \$900 a week. The woman described her mother as "becoming senile."

A final example is a complaint received from an attorney acting on behalf of a 95-year-old woman who was "befriended" by a man who periodically visited her at home and when the elder was hospitalized visited there as well. During one of these visits he apparently secured her signature on a bank withdrawal slip and promptly went to the bank and withdrew the entire balance of \$20,750.09. Although the woman denies signing the slip even the attorney concludes that "comparisons indicate that the signature may be hers."

None of these cases has led to a criminal prosecution, mainly because we cannot negate the apparent consent by the elder beyond a reasonable doubt.

A survey of civil court proceedings, I am sure would show many more such instances of economic victimization of the elderly. A particularly outrageous set of facts was reported by the New York State Court of Appeals in:

In the Matter of: Sam Gordon, as Administrator of the Estate of Ida Gorodetsky, deceased, *Respondent v. Bailystoker Center and Bikur Cholim, Inc.*, Appellant, 45 NY 2d 692.

In that case the decedent, then 85 years of age, was admitted to a nursing home after suffering a stroke. At the time of her admission she was described by a physician as confused, drowsy, and at times semicomatose, partially paralyzed, unresponsive and uncooperative. The Court quoted the doctor as saying that "she was not coherent, could not be understood, and was not capable herself of understanding." While she was in this condition, a nursing home employee "secured" Ida's mark on two withdrawal slips. One withdrawal slip authorized the issuance of a check payable to the home in the amount of \$15,000, and a second slip was made out for \$14,000. This second slip exceeded the decedent's bank balance and was not used. Days later, however, nursing home officials secured Ida's "mark" on a withdrawal slip for \$12,864.46 which closed Ida's account to the penny. Ida died less than a month later.



Her relatives sued for return of the funds to Ida's estate, less amounts applied to Ida's care and funeral expenses. The case was appealed to the State's highest Court, the nursing home maintaining them and the decedent "dealt on terms of equality; . . . the transfer of \$15,000 was free and voluntary and was a valid gift to defendant". The Court of Appeals held in favor of the relatives. Even in this extreme case however, the nursing home remained free from prosecution for its apparently unconscionable conduct and, in fact, fought off even civil attempts to compel return of money for over six years.

As for "Mrs. X", after the release of the Grand Jury Report in February of 1979 the Adult Home which she ran was fined for failing to file financial reports with the Department of Social Services and ultimately closed. In May of 1979, she was indicted for forging checks of one of the residents of her adult home in the amount of \$2,300.00 (this forgery occurred in 1975). She was convicted and in April 1980 was sentenced to a sixty day jail term and a fine. In January 1980 a Westchester County surrogate court jury rendered a verdict against "Mrs. X" in the case the Grand Jury Reported as involving "Mrs. E" and "Mrs. X" was directed to return approximately \$79,000 to Mrs. E's estate.

The will of the woman described as "Miss A" in the report and which left the bulk of her estate to "Mrs. X" was found by another Surrogates' jury to be the product of fraud and undue influence and "Mrs. X" was likewise ordered to return approximately \$80,000 to "Miss A's" estate.

Finally, in June of 1981, "Mrs. X" was enjoined from operating a "family type home for adults" (a residential care facility for two to four adults unrelated to the operator who require personal care and supervision); without the requisite Permit from the Department of Social Services.

This was a result of an action commenced when the Department of Social Services found that "Mrs. X" was maintaining two women, 81 and 82 years of age. Both were former residents of "Mrs. X's" boarding home before it was shut down.

What conclusions are to be drawn from this recital of what must be the proverbial "tip of the iceberg," and what are its implications in the Boarding Home situation; and of course, what role the Federal Government has to minimize these abuses.

The Grand Jury concluded that a "veil of privacy . . . shrouded these individuals' relationships with their elderly wards. . . . (In most instances the taking was discovered only by the representatives of the elderly person's estate and after that person's death and inability, thereby, to testify as to these elements. Further, because we find that these elderly persons suffered from varying degrees of mental and intellectual disability, their value as witnesses, even if alive, would be minimal, and we cannot help but presume that the perpetrators of these acts were well aware of their relative safety in being able, themselves, to articulately and cunningly explain these transactions, picturing themselves as altruistic and caring, and therefore deserving of the generosity of their wards when pitted against the clouded, perhaps senile ramblings, of their victims."

It occurs to me that perhaps the Boarding Home is the most appropriate facility for this kind of abuse to occur. The residents there who are among those mentally or intellectually incapacitated to the degree of being susceptible to victimization in this manner (by virtue of age, mental illness or other disability) are nevertheless often ambulatory, can sign their names and are at least superficially communicative, enough so to satisfy, for instance, a bank officer or stockbroker, or social worker. Yet the boarding home owner, with his twenty-four hour a day contact with residents, is able to generate a feeling of dependence and trust in themselves, is in a unique position, if he is so disposed, to appropriating the residents assets by the means we have demonstrated.

Should the Federal Government seek to regulate the Boarding Home industry directly by regulation, licensing requirements or penal legislation, or indirectly through requirements in connection with Social Security, Medicare, or Social Service funding arrangements?

I feel that licensing owners, although a meritorious concept would not necessarily provide control over employees of owners who have the same access to residents. The enforcement of regulations attached to funding arrangements would be difficult to enforce.

Perhaps, instead, by instituting a federally run "clearing house" where such instances of economic exploitation could be documented, cataloged and reported, the necessary impetus could be provided to cause state governments to enact laws to deter such exploitative conduct.

I believe also that a partial solution to this problem lies in a way that might contribute to its prevention.

We have seen that the victims of economic victimization are vulnerable because of their need to rely on others, some of whom have at best questionable motives for rendering assistance. We can hardly consider this search for reliance unreasonable, given the fact that some senior citizen's mental acuity begins to slow down while at the same time the complexity and pressures of our society rapidly increases. While their ability to seek out and secure the advice, support, services, and facilities they require, diminishes, those very items become more cumbersome, involved, and often bureaucratically difficult to obtain.

Therefore I respectfully advocate that in conjunction with Federal and State programs for the aging there be created the professional position of Senior Citizen Counselor. An individual serving in this capacity would be required to be fully familiar with all programs, services and facilities available, whether through local, State or Federal Government, affecting senior citizens, and have the appropriate liaison with the providers of each of these programs, services or facilities. Able to provide advice or referrals on problems dealing with such areas as health care, Social Security benefits, homemaking needs, veterans' affairs, psychological counseling, cultural and recreational facilities, legal services and whatever other needs a senior citizen has, the Senior Citizen Counsellor would be available to the senior citizen or a concerned relative or friend, not so much to solve the problems but instead to ease the elder's access to those who can, to cut to a minimum the "red tape", to relieve to some degree the pressures on senior citizens to place their reliance on comparative strangers for assistance, with the results we have seen; to do no more than help a senior citizen decide where best to go for a desired result, and perhaps to phone ahead to his liaison in that area and make an appointment and give the senior citizen a name of a person to see rather than merely a street address of some office, and give the senior citizen the peace of mind of knowing someone is expecting him and knows at least something about his problem.

This would in my opinion deter, not the thief, but instead the victim from falling prey to those to whom he might otherwise turn to for assistance.

Ms. FERRARO. I want to thank you, Mr. Falcone, for your testimony, because I think what you do is you deal with the people, and you deal with the frustrations that so many of us have felt when trying to proceed against those people who are causing these victims to suffer.

I was curious just about one other recommendation that you had here, or one other comment. Should the Federal Government seek to regulate the boarding home industry directly by regulation? You didn't answer that.

Mr. FALCONE. Directly by regulation, I think it would be difficult to say the least, with the number of boarding homes—and as we have seen in the hearings here today, they vary in size from seven or six, and in the case of Mrs. X two, all the way up to large facilities. I don't know if they can be regulated on a national basis, except for the most basic building code standards and so forth.

Ms. FERRARO. Do you have any idea of how many boarding homes there are in Westchester County alone?

Mr. FALCONE. No, I don't. I have no idea.

The licensing for these smaller boarding homes I believe just began in Westchester County, in the State of New York.

Ms. FERRARO. So that actually, when you're talking about cases and complaints, those are complaints that have come into your office and, as you indicate in your testimony, you may just be hitting the "tip of the iceberg."

Mr. FALCONE. Yes, correct.

Ms. FERRARO. I want to thank you both for your testimony. We have to go and vote.

I just want to add, Mr. Fletcher, that what we are doing here, in addition we have introduced legislation, of which I'm sure you're aware of, which would give your office subpoena powers. It's the same authority that all the inspector generals of all the other

government agencies have and I hope we can get this bill quickly through the Congress so that you can proceed in the really magnificent way that you have in going after the fraud and abuse and mail schemes that are being perpetrated against all individuals, but particularly against the elderly, which is particularly frightening.

Again, I want to thank you both. Welcome down to Washington from Westchester. Thank you.

The Chairman asked me to commend Trina Adler, director and president of Caldwell Homes here in the District of Columbia. While it's apparent that the GAO found a few problems with the home, they do not appear to suggest fraud. I would like to say that the two homes with which Mrs. Adler is associated were the best in our review from the point of view of financial accountability.

This hearing is adjourned.

[Whereupon, at 1:30 p.m., the committee was adjourned.]

## APPENDIX

### BRIEFING MEMORANDUM

JUNE 22, 1981.

To: Members, Select Committee on Aging.  
From: Claude Pepper, Chairman.

Re the June 25, 1981, Hearing on Fraud and Abuse in Boarding Homes.

1. Our Committee has held several hearings on boarding home problems over the past four years. Boarding homes are the newest class of institutional facilities; since 1978, an act of Congress required that they be licensed by the States. Boarding homes are receiving an increasing number of former mental patients, the aged, mentally retarded young people, those with developmental diseases as well as, in some States, drug addicts and even prisoners. In an effort to save State dollars, the States are placing these individuals in board and care facilities and enlisting them on the Federal Supplemental Security Income (SSI) rolls.

2. Previous hearings by the Committee have focused on fires and the quality of care in boarding homes. There have been some 130 fire deaths in such facilities over the past two years. The hearings have documented the wholesale dumping of large numbers of aged and disabled into boarding homes and the poor care and abuse which often follows. Our hearings have also documented that there are few States which have adequate regulation of this new and growing proprietary industry. Boarding homes have replaced nursing homes as the new warehouses for the unwanted. Undoubtedly, boarding home problems will only be exacerbated in the future as the effect of Medicaid budget cuts begins to channel more and more people to boarding homes who would ordinarily receive placement in a nursing home. For more details, see Committee hearing, "Fires in Boarding Homes: The Tip of the Iceberg," April 25, 1979.

3. The U.S. General Accounting Office has assisted the Committee in documenting boarding home abuses. Their testimony was presented at hearings before our Committee on April 25, 1979. GAO presented the results of their audit of several boarding homes in Maryland, Pennsylvania and New Jersey. The GAO investigation raised numerous allegations of possible fraud and abuse being perpetrated by boarding home owners and operators. Consequently, the Committee asked GAO to undertake a follow-up investigation of the financial records of a selected sample of boarding homes.

4. GAO selected 10 homes with the assistance of the Committee staff and began its audit. When boarding home operators refused to cooperate and provide records, GAO requested assistance in the form of Committee subpoenas. Subpoenas for 10 homes in the District of Columbia, Illinois, Maryland, Missouri, New Jersey and Pennsylvania were authorized unanimously by the Subcommittee on Health and Long-Term Care on May 15, 1980. The parties under subpoena were asked to appear at the Committee's subsequent June 25, 1980 hearing in Washington and produce their financial and tax records. Those operators who wished to waive personal appearance in Washington could do so by turning over all the records under subpoena to the Committee's agents, the GAO, on or before June 25, 1980. All operators waived appearance and agreed to cooperate; however, not all have kept their promise to provide the requested records.

5. While not all homes turned over all the promised records, GAO has had enough data to complete its review. GAO representatives will be present at the Thursday hearings to talk about their findings. In short, GAO will say that there is significant evidence of fraud and abuse (particularly possible tax fraud) being perpetrated by boarding home owners and there is a general lack of accountability. In addition to generalizations and recommendations for action by the Congress, GAO will also present the specific findings in response to questions from Members of the Committee. A summary of each of the lengthy GAO case histories is enclosed. Moreover, a list of suggested questions for GAO to place these facts on the record is attached.

6. Representatives from the Madanat Home in Coatesville, Pennsylvania, from the Gracell Manor in Chicago, Illinois, and from the Alcazar Home of St. Louis, Missouri were asked to appear before the Committee in answer to charges to be leveled by GAO. There are no assurances that any of the parties will appear.

We welcome your review of the enclosed material and your participation in the hearing. If you have any questions, please feel free to call the Committee's Senior Counsel, Val J. Halamandaris at 225-0451.

CASE 1

Subpena Duces Tecum (Hearing)

By Authority of the House of Representatives of the Congress of the United States of America

To Regina Madanat, 553 East Chestnut Street, Coatesville, PA 19320

You are hereby commanded to be and appear before the Select Committee on Aging, Subcommittee on Health & Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper is chairman, in Room 2212 of the Rayburn Building in the city of Washington, on June 25, 1980, at the hour of 10:00 a.m.

then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee. \*David Holton, Chief Investigator Bernard J. Trescavage U.S. General Accounting Office 3269 House Annex #2 434 Walnut Street, 11th Floor Washington, D.C. 20515 or Philadelphia, PA 19106

to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this

75 day of May 1980

Claude D. Pepper Chairman

Attest: Edmund L. Henshaw, Jr. Clerk

By: W. Raymond Colley W. Raymond Colley, Deputy Clerk

TO Regina Madanat  
Coatesville, PA

FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care

DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

For the facility(s) located at 553 East Chestnut Street, Coatesville, PA 19320, the following:

(All items listed in this schedule are to be provided for both calendar years 1978 and 1979 unless otherwise specified).

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

## CASE 1

SUMMARY OF GAO FINDINGS WITH RESPECT TO THE 553 EAST CHESTNUT STREET BOARDING HOME, COATESVILLE, PA.

1. *Owners/Operators:* Hermogenes and Regina (Madanat) Figuero

2. *About the Home:* It has six rooming units with 10 occupants at present. The home applied for a license to operate a boarding home in October 1978 saying it planned to house 8 "mental health-type" people. In June 1979, the Chester County Health Department told the facility it needed a food service license to continue to operate as a boarding home. In July of 1979, the City of Coatesville classified this facility as in violation of the City's housing standards. On May 19, 1980, the Coatesville Housing Code Administrator requested that this facility be inspected by the Department of Labor and Industry with respect to the States Fire and Panic regulation. The Department informed the city officials that the home had been inspected in April of 1979. Seven violations were found and the home was given 90 days to comply. A follow-up inspection in August showed that none of the violations had been corrected. On December 17, 1979, a show cause order was issued at the facility. A few days later, the owners notified the State that they were no longer operating as a boarding home and the show cause order was vacated.

The home presently operates as a rooming house which means that meals are not generally prepared for residents.

3. *Compliance with Subpoena:* The Committee's subpoena asked for detailed financial records during the time in which the facility operated as a boarding home. The only records turned over to the committee and its agents (GAO) were individual Federal tax returns for 1978 and 1979. They acknowledge employing an accountant (Paul J. Phillips) but they have informed the Committee that they do not have General Ledger, General Journals, Cash Disbursement books, cancelled checks and the like. The operators sent a single sheet of paper with responses to the Committee (enclosed).

4. *Significant GAO Findings:* The lack of records, e.g., names, social security numbers, and financial data precluded any review of the operations of this facility.

Since the home had no employees and the owners say they lived at a different address (578 Elm), GAO says supervision at the home was questionable. GAO says this was confirmed by the owner who told them he began to supervise the taking of medications only after a resident overdosed in an apparent suicide attempt and by complaints by the neighbors evidenced by police reports.

The income from the residents at this facility was not reported in the 1978 and 1979 tax returns of the owner/operators. This was admitted to GAO by the parties. GAO says the lack of any residency information precludes any estimate of the amount of unreported income. (The Committee staff notes that if the owners can be taken at their word, the income from 8 residents at \$200 a month may have reached \$20,000 a year or a total of \$40,000 in unreported income over the 2 year period.

QUESTIONS TO THE GAO RE: THE 553 EAST CHESTNUT STREET BOARDING HOME, COATESVILLE, PA.

1. Your report on this home shows that it had repeated violations of State and City standards. For example, Chester County told the facility it was in violation because it did not have a food service license in June of 1979. The State Department of Labor and Industry noted that it had conducted an inspection and found 7 violations, also in 1979. Isn't it true that a show cause order was issued against the home asking to give reason why they shouldn't be closed for health and safety violations? Isn't it true that the facility answered by saying that it would no longer provide food service, thus becoming a rooming house (to which standards do not apply) rather than a boarding home?

2. Your report notes that the facility currently operates as a rooming house with 10 occupants. Is this correct?

3. The facility did not comply with the Committee's subpoena, providing us with only a one page explanation that they have none of the records requested, along with a copy of the owners personal taxes. Is this true?

4. Is it your conclusion that the facility truly does not have such records even though they employed an accountant?

5. Is it your conclusion that there was a general lack of supervision at the home when it operated as a boarding home because there were no employees and the owners lived at a different address?

6. Is it your conclusion that the owners did not report the income from the boarding home on either their 1978 or 1979 taxes? Did they admit this to you?

By Authority of the House of Representatives of the Congress of the United States of America

To Rashid Abu El Afia, 561 East Chestnut Street, Coatesville, PA 19320

You are hereby commanded to be and appear before the Select Committee on Aging, Subcommittee on Health & Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper is chairman, in Room 2212 of the Rayburn Building in the city of Washington, on June 25, 1980, at the hour of 10:00 a.m.

then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee. \*David Holton, Chief Investigator Bernard J. Trescavage U.S. General Accounting Office 3269 House Annex #2 434 Walnut Street, 11th Floor To Washington, D.C. 20515 or Philadelphia, PA 19106

to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this 25th day of May 1980. Claude D. Pepper Chairman

Attest: Edmund L. Henschel Clerk. By: W. Raymond Colley W. Raymond Colley, Deputy Clerk

By Authority of the House of Representatives of the Congress of the United States of America

To Nasifeh Rashid Abu El Afia, 561 East Chestnut Street, Coatesville, PA 19320

You are hereby commanded to be and appear before the Select Committee on Aging, Subcommittee on Health & Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper is chairman, in Room 2212 of the Rayburn Building in the city of Washington, on June 25, 1980, at the hour of 10:00 a.m.

then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee. \*David Holton, Chief Investigator Bernard J. Trescavage U.S. General Accounting Office 3269 House Annex #2 434 Walnut Street, 11th Floor To Washington, D.C. 20515 or Philadelphia, PA 19106

to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this 25th day of May 1980. Claude D. Pepper Chairman

Attest: Edmund L. Henschel Clerk. By: W. Raymond Colley W. Raymond Colley, Deputy Clerk



TO Rashid Abu El Afia  
Coatesville, PA

FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care

DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

For the facility(s) located at 561 East Chestnut Street, and 525 East Lincoln Highway, Coatesville, PA 19320, the following:

(All items listed in this schedule are to be provided for both calendar years 1978 and 1979 unless otherwise specified).

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

## CASE 2

SUMMARY OF SIGNIFICANT GAO FINDINGS WITH RESPECT TO THE 561 EAST CHESTNUT STREET BOARDING HOME, COATESVILLE, PA.

1. *Owners/Operators:* Rashid and Nasifeh Abu El Afia
2. *About the Home:* The home has been operating since December 1978. It is a three story dwelling of wood frame construction. Until March 1981, the home did not have a State or local license and was operating in violation of city housing codes and State Fire and Panic regulations. In March, it obtained a provisional license to care for 9 persons. Most of the residents were mentally disabled. Specifically, in February 1979, the facility applied to the city for a license to operate a rooming house. The March 1979 City inspection disclosed violations of the local housing code. Subsequently, the owners were found guilty by a District Justice of nine citations and fined \$2,325 plus costs. In July 1979, the City listed the facility as still being in violation. In April 1979, the State inspected the facility and found 9 violations of State fire laws. A follow-up visit showed that only one had been corrected and a show cause order was issued against the facility to which the owners replied in January 1980. New regulations were promulgated by the State in the interim and the home was found in violation in April 1980 and given until January 1981 to be in compliance. In March 1981, the facility received its provisional (6 months) license.
3. *Compliance with Subpoenas:* Even though the Committee subpoena asked for an extensive list of financial records, the facility turned over two handwritten sheets of paper with explanations, the owner/operators tax returns for 1979 and documents related to the purchase of the boarding home property. (Copy of subpoena and reply attached). The home used Paul Phillips of Coatesville, the same accountant as the 553 East Chestnut Street boarding home.
4. *Income:* From Social Security Administration and State sources, GAO traced SSI and Social Security checks to the home. These payments constituted 88 percent of income. State benefits added another 11 percent and private sources added the remaining 1 percent. The owners reported an income of \$18,070. GAO says that actual income is higher, perhaps as high as \$22,000. This is based on the assumption that the owners kept a \$2,805.40 retroactive OASDI check, and upon evidence they continued to collect and cash \$952 on SSI checks for 6 months after a resident left their home. This means that in addition to the unlawful conversions, the owners may have underreported income by 20 percent.
5. *Distribution of Income:* GAO said it was unable to determine the use of the money because of the lack of records provided.
6. *Food Costs:* The owners reported \$8,400 for food costs in their 1979 return which the accountant says was based on verbal statements made by the owners. This works out to \$3.63 per resident per day which GAO says appears high. "Therefore, the reported food costs for the boarding home may include the owner/operators personal food costs which otherwise would not be deductible on the individual tax returns."
7. *Disposition of Special Energy Check Moneys:* GAO documented that energy checks were issued to at least 8 residents in the home in December 1979 at \$157 each, or a total of \$1,256. The home did not furnish data on the use of these checks received by the residents in the home. Energy costs in the home in 1979 totaled \$2,140. If, as it appears, the residents were required to turn these checks over to the home, the facility may have recouped 51 percent of its total energy expenses by means of this conversion.
8. *Handling of Residents Personal Funds:* GAO says the handling of these funds is inadequate. The owners did not provide records to show that they were safeguarding the personal funds of residents. GAO notes that the owners report giving about \$8 a week to residents, which would total \$32 a month and yet the facility was cited in March 1981 as not being in compliance with the State Welfare Department's requirement that a minimum of \$25 a month be given to residents.
9. *Analysis of billings to the Medicaid Program for medical assistance on behalf of boarding home residents:* GAO could make no determination in the absence of records.
10. *Principal GAO findings:*
  - (a) It could not review the financial operations of the boarding home because of the unavailability of records called for under the subpoena.
  - (b) That the home has not established a system which can adequately reflect the operations of the home.

(c) That the amount of income for tax purposes, including food costs, was estimated. Moreover, food costs may be inflated and include personal food costs and income could be underreported by a margin of 20 percent or more.

(d) State and Federal monies, largely SSI and OASDI, accounted for 99 percent of the income of the home, yet there is little in the way of accountability required with respect to this money.

(e) Most of the residents are elderly or mentally disabled individuals.

(f) The home may have kept and converted to its owners use a \$2,805 retroactive social security check belonging to a resident as well as 6 months worth of SSI payments accumulated after the resident had left the facility. GAO says that if energy check allotments are added in, "a total of \$1586.20 in SSI benefit payments may have been sent to a resident at his boarding home address after his departure."

(g) That if the above monies were reported, income would be greater than reported for tax purposes. The boarding home would have showed a profit instead of a loss and the owner would have owed additional tax instead of receiving a \$141 refund.

(h) GAO says local police reports indicate supervision of patients and treatment of residents is inadequate. No owner was present when the subpoena was served. A mentally disabled person indicated he was in charge in the owner's absence. No staff are employed to assist residents. Patients indicate medications were dispensed at the owner's convenience rather than as prescribed. Boarding home residents are required to perform manual labor on construction projects at the boarding home and two residents were housed overnight at the owner's home where they serve as personal valets.

QUESTIONS FOR GAO WITH RESPECT TO THE 561 EAST CHESTNUT STREET BOARDING HOME

1. Your report to our Committee notes that the facility did not comply with our request for financial data, sending only a two page letter of explanation and the owner/operators tax returns for 1979. Is it your conclusion that the requested financial records do not exist?

2. Your report notes that it is evident the home has not established a system to provide accountability for public funds it receives through its residents. Is this true?

3. The report notes the owners reported \$18,070 in income from the boarding home on their taxes in 1979. You concluded that income may have been underreported and may have been as high as \$22,000, isn't that correct?

4. This assumption of underreported income is based upon the fact that the owners may have kept and converted to their use a retroactive OASDI check in the amount of \$2,805 belonging to one of the residents, and that they may have continued to collect and convert six months worth of SSI check belonging to a resident who left the facility, isn't this true?

5. Your report notes that the operators claimed on their tax returns that they spent \$8,400 for food for the boarding home residents which works out to \$3.63 per resident per day. Your report says this appears high and, I quote: "Therefore, the reported food costs for the boarding home may include the owner/operators personal food costs which otherwise would not be deductible on the individual tax return." Is this correct?

6. Your report concludes that there were few safeguards with respect to the handling of residents funds. Your report also says the owners statement that they gave residents \$8 a week (\$32 a month) is contradicted by the March 1981 inspection report in which the State Welfare Department found that the residents were not receiving their \$25 personal spending allowance. Is this true?

7. Your report also says that local police reports show a lack of supervision of patients and that treatment of residents is inadequate. You say that there are no staff members to assist residents, that boarding home residents are required to perform manual labor on construction projects at the boarding home and that two residents of the home are housed overnight at the owner's home where they serve as personal valets. Is this a correct statement of the facts?

8. Your report also cites a lack of proper handling of medications and that medications are dispensed at the convenience of the owner rather than as prescribed. Is this your finding?

## CASE 3

Subpoena Duces Tecum (Hearing)

By Authority of the House of Representatives of the  
Congress of the United States of America

To Altalam A. Madanat, owner, 571 East Chestnut Street, Coatesville, PA 19320

You are hereby commanded to be and appear before the Select Committee on Aging, Subcommittee on Health & Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper is chairman, in Room 2212 of the Rayburn Building, in the city of Washington, on June 25, 1980, at the hour of 10:00 a.m.

then and there to produce the things identified on the attached schedule and to testify touching

matters of inquiry committed to said Committee; and you are not to depart without leave of said

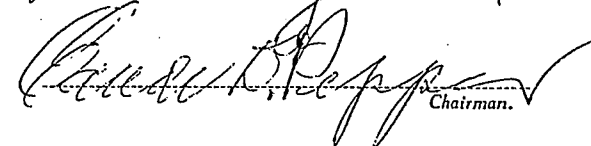
*David Holton, Chief Investigator	Bernard J. Trescavage
Select Committee on Aging	U.S. General Accounting Office
3269 House Annex #2	434 Walnut Street, 11th Floor
To <u>Washington, D.C. 20515</u> or <u>Philadelphia, PA 19106</u>	

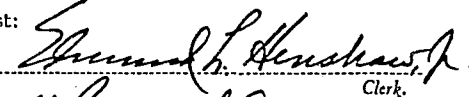
to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

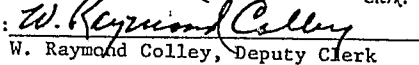
Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this

7th day of May, 1980

  
Chairman

Attest:   
Clerk

By:   
W. Raymond Colley, Deputy Clerk

TO Altalam A. Madanat, 571 East Chestnut Street, Coatesville, PA 19320  
FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care  
DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

(All items listed in this schedule are to be provided for both calendar years 1978 and 1979 unless otherwise specified).

(1) Records indicating the names and periods of occupancy for residents of the facility.

(2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.

(3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.

(4) Records of personal spending allowance accounts.

(5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.

(6) Medical, nursing, social service and activity records.

(7) Incident reports.

(8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.

(9) Roster and work schedules of all employees by function, title, duties and salaries.

(10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.

(11) Records of receipt of rents, leases or purchases by the facility(s).

(12) Records of payment of rents, leases, or purchases to the facility(s).

(13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).

(14) Bank statements, cancelled checks and stubs.

(15) Cash receipts and disbursements journals.

(16) General ledgers and general journals.

(17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

## CASE 3

SUMMARY OF GAO FINDINGS WITH RESPECT TO THE MADANAT BOARDING HOME,  
571 EAST CHESTNUT STREET, COATESVILLE, PA.

1. *Owners/Operators:* The Madanat Family: Attallah (father), Naifeh (mother), Adel and Faisal (two sons).

2. *About the Home:* A partnership provisionally licensed based on its compliance with 79 percent of the State regulations. It is a 3 story twin dwelling of frame construction with a capacity for 8 persons. A former city license permitted occupancy by nine persons. Lack of records precluded determinations of characteristics of residents and source of payment.

3. *Compliance with the Committee's Subpoena:* Limited to tax returns and related documents. Less than minimal compliance. The home utilized a professional accountant but did not maintain any accounting records.

4. *Income as established by GAO compared to income reported for purposes of Federal income tax:* The absence of records made independent verification almost impossible. Still, GAO determined that income was understated by \$452 and perhaps more. GAO noted that the owners records look like they were prepared because of the subpoena.

5. *GAO analysis of the distribution of income (expenses) as compared to what was reported for tax reasons:* GAO found that 59 percent or \$19,072 of the \$32,395 in claimed expenses was unjustified because they included (a) items of a capital nature which should have been capitalized, (b) costs not supported by invoices or receipts, (c) costs incurred prior to the purchase of the facility and its use as a boarding home, (d) costs not related to the boarding home, and (e) costs incurred under an installment purchase agreement but not paid during the year.

Examples found by GAO: About one-third of the claimed costs for telephone service involved personal calls which the operators made to North Carolina and Ohio as well as international calls to Korea and Jordan. Second, one fourth of the insurance costs claimed related to other property owned by the same partners. Most of the finance charges claimed related to this adjacent property which was not a boarding home operation. Some \$383 of the claimed \$1168 in energy costs related to the adjacent property. The owners claimed repairs to personal items, such as a sewing machine and a television set, as repairs to furnishings in the boarding home. GAO found that food costs claimed on the tax return were "inordinately high at \$4.14 per resident per day." Much of these costs were not verifiable or supported with receipts. GAO also found that the purchase of non-food items such as sporting goods, cigarettes, paint and lumber were included. GAO said it was evident that the owners were including food purchased for personal consumption along with these costs. Much of the interest expenses related to the aforementioned adjoining property. Automobile expenses, for what was described as the purchase of a van for the home, were really spent to buy a Chevrolet sedan. Only about one-sixth of the automobile expenses claimed were really for repairs to a van which had been purchased for the use of the home in prior years. GAO could verify only \$3,550 of claimed building and repair expenses. GAO suspects if additional expenses were made, they related to the 573 East Chestnut Street property.

6. *Disposition of Energy Check Moneys:* Social Security Administration records show that at least 4 residents in the home received \$157 energy assistance checks in December 1979 with a total value of \$628.00. The owners denied that these residents received the checks or that they required them to be turned over to the home. GAO found this contravened by the facts. One resident told GAO of receiving the check and endorsing it over to the operators as directed. Total energy costs in the home were \$710 in 1979. If all residents were required to turn over this money, as appears likely, then the owners may have recouped most of their energy costs without giving the residents a choice in how they wanted to use these funds.

QUESTIONS TO GAO WITH RESPECT TO THE MADANAT BOARDING HOME, 571 EAST  
CHESTNUT STREET, COATESVILLE, PA.

1. Your report says that the facility's compliance with our subpoena was limited to providing income tax returns and related documents. Is it your opinion that the additional financial records requested in our subpoena do not exist even though the home had the services of an accountant?

2. You state the absence of records made independent verification of income impossible but on the basis certain of the home's records, which you said may have been prepared because of our subpoena, income was understated by at least \$452 and probably more. Is this correct?

3. Your report concludes that 59 percent or \$19,072 of the \$32,395 which the operators claimed on their taxes as expenses in operating the boarding home were unjustified. Is this true?

4. You conclude that \$14,959 in building and repair costs was "substantially overstated." Can you tell us about this?

5. Your audit shows that the home claimed \$1,554 on their taxes for allegedly buying a van when in fact they bought a Chevrolet sedan. The owners also claimed \$639 in repairs of which only \$199 related to the repair of a van which the facility had purchased in prior years. In other words, it appears the operators were claiming costs which were related to their personal automobile use and repair. Is this your conclusion?

6. Your records show that included with interest expenses on their tax return were \$1,789 in mortgage interest monies on the adjoining 573 East Chestnut Street property which was not a boarding home operation. Correct?

7. You note that food costs are inordinately high at \$4.14 per resident per day. You note that receipts could be found for only \$4,311 of the \$5,344 in claimed expenses. Moreover, you found that non-food items such as paint and lumber, sporting goods, and cigarettes were included in this amount. You concluded: "We suspect that personal food costs which would not be deductible on individual tax returns, have been charged against the boarding home operation." Is this correct?

8. You have found that the owners claimed expenses on their taxes which they said were related to the boarding home operation which were in reality the repair of personal items such as a \$19 for repair of a sewing machine and \$57 for repair of a television set. Is this true?

9. The home improperly included at least \$382 in energy costs which related to the operation of their adjoining 573 East Chestnut Street property as part of the \$1,168 energy costs of the boarding home. Is this your finding?

10. About one-fourth of the insurance expenses related to the operation of adjoining property. Most of the finance charges claimed also related to the adjoining property. Is this true?

11. You found that the operators claimed deductions for personal calls to Ohio, North Carolina and international calls to Korea and Jordan in their expenses as related to the operation of the boarding home. Correct?

12. Is it true that two of the owners (the mother and father) were claimed as 5 tax exemptions instead of only 2?



## CASE 4

Subpoena Duces Tecum (Hearing)

By Authority of the House of Representatives of the  
Congress of the United States of America

To Edwin Wayne Cook, owner/administrator Alcazar Home for the Aged, Inc.  
3127 Locust Street  
St. Louis, MO 63103

You are hereby commanded to be and appear before the Select Committee on  
Aging, Subcommittee on Health and Long-term Care of the House of Representatives of  
the United States, of which the Hon. Claude D. Pepper is chairman, in  
Room 2212 of the Rayburn Building, in the  
city of Washington, on June 25, 1980, at the hour of 10:00 a.m.

then and there to produce the things identified on the attached schedule and to testify touching  
matters of inquiry committed to said Committee; and you are not to depart without leave of said  
\*David Holton, Chief Investigator John Ziombra  
Committee, Select Committee on Aging U.S. General Accounting Office  
3269 House Annex #2 Suite 225, Equitable Building  
To Washington, D.C. 20515 or 10 South Broadway  
St. Louis, MO 63102

to serve and make return. \*In lieu of personal appearance in Washington on the above  
date, the records noted on the attached schedule may be turned over to either  
of the Committee representatives designated above to serve this subpoena upon  
you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this

25th day of May, 1980

Claude D. Pepper  
Chairman.

Attest:

Edmund J. Henshaw  
Clerk.

By:

W. Raymond Colley  
W. Raymond Colley, Deputy Clerk

TO Edwin Cook, owner/administrator Alcazar Home for the Aged  
St. Louis, Missouri 63103  
FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care  
DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

(All items listed in this schedule are to be provided for both calendar  
years 1978 and 1979 unless otherwise specified):

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

## CASE 4

## SUMMARY OF GAO FINDINGS WITH RESPECT TO THE ALCAZAR HOME FOR THE AGED, INC., 3127 LOCUST STREET, ST. LOUIS, MO.

1. *Owner/Operator*: Edwin W. Cook

2. *About the Home*: The facility is a three story brick and frame house which was once a hotel in downtown St. Louis. It has been operated as a boarding home since 1973. It operates today under a temporary license with a legal capacity of 145 persons. Most of the residents are aged or disabled (usually mentally) or both. Some 64 of the residents were so incapacitated that the Social Security Administration has designated representative payees to receive and disburse SSI and OASDI checks on their behalf. The boarding home operator acts in this capacity for 27 of the 64 people. The Federal government is the prime source of funds, accounting for 61 percent of gross revenues through SSI and OASDI. The State contributes an additional 38 percent of revenues with 1 percent coming from private sources.

This facility has been operating under a temporary license since April 30, 1979. As GAO puts it: "The home has been plagued with past violations and deficiencies in the areas of sanitation, fire safety and patient care." In October 1978, an inspector stated that because of the numerous deficiencies which have continued at the Alcazar Home at least since 1974, he concluded that no matter what steps were taken regarding improvement, the facility would not qualify as a domiciliary care home. The inspector concluded that the residents' health and safety were in danger and requested that immediate action be taken. In spite of the inspector's request, the home's license was renewed in November 1978. In March of 1979, the State took action citing violations going back to 1977 and numerous non-compliances and took action to revoke the facility's license, effective April 30, 1979. However, a State Judge stopped the revocation action. Since that time, the home has been operating with a temporary license; temporary licenses do not have an expiration date. The most recent inspection took place in November 1980 and disclosed deficiencies in fire safety, sanitation and personal care which are required to be corrected before the home is licensed. State inspectors told GAO that the facility is still not in compliance with regulations and requirements today.

3. *Compliance with the Committee's Subpoena*: The facility has only partially complied with the Committee's subpoena, despite promises of full cooperation which excused its owner from appearing before the Committee on June 25, 1980. The home's attorney advised GAO that certain income tax and other records were sent to them in compliance with our subpoena but apparently were lost in the mail. Reportedly, the owner does not have receipts to verify this mailing. The attorney told GAO that a significant amount of the records could not be furnished because they had been lost in a February 19, 1981 burglary at the facility. The attorney reported this also to the Committee. He furnished a copy of a police report showing a burglary on February 19, 1981 which involved the theft of liquor and other items, but not records. The attorney reported this to the Committee in a March 5, 1981 letter and said he would furnish the police reports. A supplementary police report was filed, dated April 7, 1981 which indicated that additional items were stolen, including tax bills and records for 1977, 1978, 1979 and part of 1980. This report was not made to the police until almost 7 weeks following the burglary and 5 weeks after the GAO had been informed that some records may have been stolen. The supplementary police report stated that the owner could give no reason for the delay in reporting the theft of the records when asked by a police officer.

A complete list of items not furnished are contained in the Chairman's May 5, 1981 letter to the home's attorney, Ted Frapolli, which is appended along with a copy of the subpoena. It might be worth noting that the attorney assured GAO and the Committee in writing that no trial balances and financial statements existed for the home and thus they could not be turned over as required by the subpoena. However, GAO was able to secure copies of these documents from the State of Missouri. Moreover, GAO found a copy of an invoice in which the accountant was paid by the home for the preparation of these items which the attorney and his client have told the Committee do not exist.

4. *Income received by the home as calculated by GAO as compared with income reported on the owner/operator's tax returns*: GAO documented revenues of \$514,726 in fiscal year 1979 and \$588,546 in 1980. The facility reported \$454,993 and \$464,539 in income in these years respectively. GAO said that in its opinion, these differences "are significant—\$59,732 in fiscal 1979 and \$124,008 in fiscal year 1980." GAO says in its report: "The amount of income for fiscal years 1979 and 1980 was significantly understated when compared to our independent computation of gross income."

5. *Analysis of amount and appropriateness of expenses as computed by GAO and as contrasted with amounts claimed for tax purposes*: Even though it did not receive

the records that it needed for a complete review, GAO was able to make a number of determinations. GAO examined numerous accounts such as for food, automobile, telephone expenses and the like, by tracing receipts and found that they were unable to reconcile most of these accounts with underlying documentation. GAO found a significant number of expenses listed on the tax returns which were not supported by documentation. Examples:

*Food and Supply Costs*: The facility claimed \$112,031 in 1979 but GAO could document only 87 percent of this total, \$96,887 or daily food costs of \$1.49 per resident per day.

*Insurance Costs*: The facility claimed \$30,339 but GAO could document only \$20,993 in payments which break down as follows: \$9,011 to an insurance agent, \$5,813 to the employee health plan, and \$6,169 for an entry entitled life insurance on residents. As noted below, GAO not only found insurance costs overstated but questions the appropriateness of some insurance expenditures apparently made.

GAO said that \$2,173 in expenses to the insurance agent were not boarding home related expenditures. Moreover, the \$6,169 in premium payments to two life insurance companies to buy policies on residents "were improperly charged to the operations of the boarding home."

GAO said premiums were paid on 94 residents and one employee during the two year period July 1, 1978 to June 30, 1980. Two residents were insured by both companies. The value of the policies and the beneficiary of record was not determined. In addition to this being an improper business expense, GAO said it questioned three other aspects of these life insurance transactions:

"The premium notices specifically state that the persons listed as policyholders are employees of the home (not residents). The insurance companies may not have been aware that the insured are a high risk group, i.e., aged and disabled."

"There is an apparent lack of an insurable interest if, in fact the boarding home owner is the beneficiary of record on all policies."

"Ten of the residents and the single employee died during the two year period. The one employee may have been included with the 94 residents in anticipation of an early death."

*Repair Costs*: The home claimed repair costs of \$32,258 on the tax return. GAO's analysis is that only 68 percent of this total (\$22,059) "were substantiated by some type of support (checks, receipts, etc.)."

*Medical Costs*: Medical costs on the 1979 tax return were listed at \$12,109. GAO said that it identified \$3,600 of this amount in payments to a medical supply company, a portion of which appears to be for furniture. The \$4,766 listed for medical services was buttressed only by cash receipts and a few cancelled checks. GAO said it was unable to determine the nature of the services provided or on whose behalf they were rendered. An expense for \$2,200 paid to a pharmacy was equally vague.

*Automobile Expenses*: The 1979 return listed \$4,223 in automobile expenses. GAO was able to locate receipts verifying only \$2,590 of this amount (61 percent). Some \$400 related to personal expenses not related to the boarding home and GAO could not establish the relationship of an additional \$1,223 in supported costs to the operation of the boarding home. GAO said that it is evident that to some undetermined extent, personal automobile expenses are being charged to the boarding home.

*Telephone Expenses*: The 1979 return listed \$7,478 in expenses for which GAO found support in the form of receipts for \$7,257 or 87 percent of the total. Unfortunately, GAO also found evidence that half of this amount did not relate to the operation of the boarding home. Some \$1,842 of the expenses were identified by GAO as relating to personal telephone numbers located at the boarding home owner's personal residence. The remaining 27 percent (\$1,956) was supported only by cancelled checks and GAO could not determine whether they related to the boarding home or the administrator's residence. GAO said it was clear that "a significant amount of telephone expenses incurred are personal telephone services and not boarding home related costs."

6. *Disposition of Special Energy Assistance Checks*: GAO identified 72 residents of the Alcazar Home who each received a \$97 special energy assistance check from Social Security Administration in January 1980. The total of these checks was \$6,984. These checks were to be given to residents for their own use and only if they so desired need the checks be endorsed over to the boarding home owner. The owner in this case denied he had seen the checks. The Treasury Department investigated and told GAO that its records showed that 68 of the checks were still outstanding as of May 1, 1981. Treasury entered stop payment orders on the checks as of this date. The obvious question is: What happened to the checks? Chairman Pepper has asked the U.S. Postal Service to investigate.

7. *Handling of Residents Funds:* GAO says the home does not have procedures and policies to adequately safeguard resident funds and account for personal spending allowances. No individual ledger accounts are maintained. The owner stated he gave personal spending money to the residents but GAO was unable to support this for lack of records.

GAO also found the disturbing pattern of endorsement of resident income checks over to third parties which, it said, made it impossible to trace the use of these funds.

8. *Analysis of billings to the Medicaid program for medical care on behalf of boarding home residents:* GAO analyzed the records and learned that Medicaid had been billed \$138,781 in 1979 and 1980 by providers of medical services. GAO audited an 18 percent sample of residents and did not find any evidence of possible Medicaid fraud or abuse by providers.

9. *Primary GAO Findings:*

(a) The home does not maintain a management and financial records system which accurately reflects the operation of the home. The home, for example, does not maintain a cash receipts journal, general ledgers or subsidiary ledgers despite the fact that it maintains an accountant.

(b) The home does not maintain accountability of residents' personal funds.

(c) The boarding home owner and his attorney did not tell GAO and the Committee the truth when they said that financial statements were not prepared for the home, copies were obtained from the State of Missouri.

(d) There is significant underreporting of income by the home.

(e) Many expenses claimed for tax purposes cannot be verified.

QUESTIONS FOR GAO WITH RESPECT TO THE ALCAZAR HOME FOR THE AGED, INC.,  
3127 LOCUST STREET, ST. LOUIS, MO.

1. Your report says that the facility is not in compliance with our subpoena. You report strange circumstances. The owner said that some of the records required to be turned over were sent but were lost in the mail. Then the attorney told you that he could not furnish additional records because they were lost in a burglary at the home on February 19 and promised to send you a police report. The attorney made this same statement to us in his March 5, 1981 letter.

The police report for February 19 showed liquor and other items lost but not financial records. A supplementary police report was filed on April 7, 1981 in which the owner said that he had lost numerous income tax records. The owner gave the police no reason as to why the delay in reporting this loss in the supplementary police report. Is this account accurate?

2. The attorney told us in his most recent letter that there were no trial balances and financial statements prepared by the home and thus they could not be turned over as required by our subpoena. Isn't it true that you were able to secure copies of these documents from the State of Missouri? Moreover, didn't you retrieve a bill in which the accountant charged for and was paid by the home for the preparation of these items?

3. Your conclusion is that income for the facility appears to have been grossly understated by at least \$59,000 in fiscal year 1979 and by at least \$124,000 in fiscal 1980. Is that correct?

4. You found that the home had not established procedures to protect the personal funds of residents. Correct?

5. You analyzed expenses claimed by the owner as relating to the operation of the boarding home and found many items overstated or unsupported by invoices and receipts. I will list several areas and ask you if I have listed them correctly: Your computation of food expenses was 13 percent lower than that claimed by the home.

Only 68 percent of the \$32,258 in claimed repair costs were substantiated by cancelled checks and receipts.

Medical costs of \$12,109 included \$3,600 to a medical supply house, a portion of which appears to be for furniture. The additional expenditures in this account were vague as to who the services were provided.

You were only able to verify 61 percent of the \$4,223 in automobile expenses.

You concluded that an undetermined amount of personal expenses is being included with what were claimed as business expenses.

You found 97 percent of the telephone expenses were supported by receipts and only half of this could be related to boarding home operations. As to the portion supported by cancelled checks, you could not determine whether it related to the boarding home or administrator's residence.

Is all of this correct?

6. You also question about one-third of the expenses which the operators claimed was spent for insurance at this home. Of particular interest, you found that the home took out life insurance policies on 94 residents and one employee. You questioned this practice saying the claiming of premiums as a business expense was improper. In addition, you note that the insurance companies involved may have been deceived because the policyholders listed were described as employees (not residents) and the companies may not have known that the insured are a "high risk" group, i.e., aged and disabled. You said there was a lack of an insurable interest in these people, that 10 residents and the single employee had died during the 2 year period of your review. Finally, you note that the employee may have been included with the 94 residents "in anticipation of an early death." Is my account of your findings accurate?

Your overall conclusion is that the home does not maintain a management and financial records system which accurately reflects the operations of the home. Isn't it true that government funds make up 99 percent of the income received by this facility?

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON AGING,  
Washington, D.C. May 5, 1981.

TED F. FRAPOLLI, Esq.,  
Kroening, Mertz & McDaniel,  
1935 Park Avenue, St. Louis, Mo.

DEAR MR. FRAPOLLI: Your attention to a matter of some importance to our Committee and to your client, Edwin Cook, would be most appreciated.

The U.S. General Accounting Office (GAO) has shared with us copies of its correspondence with you and your client which suggests that your client has failed to provide the records called for under our subpoena. GAO has made the determination that your client has no intention of complying and has turned this matter over to us for whatever action the Committee cares to take.

The facts in this case are fairly straight forward. The Committee authorized a subpoena for your client's books and records in connection with the operation of the Alcazar Home for the Aged on May 15, 1980. The subpoena was germane and pertinent to a duly authorized inquiry with legitimate legislative purpose. The subpoena was both specific and comprehensive. It was duly served on your client who agreed to turn over the requested records in exchange for a waiver of his personal appearance before the Committee on June 25, 1980.

Our records show that some of the required records were turned over to our agents, GAO, on June 30, 1980, but subsequently were returned on July 23 pursuant to your client's request that they were necessary for the preparation of his fiscal 1980 tax returns, with the understanding that the records remained under subpoena and must be immediately returned to GAO.

During this interim, you and I had an exchange about the access of our auditors to certain medical records at the facility. I was impressed with your sincerity and your statement of your client's desire to cooperate with our inquiry. Since that time, the GAO has made numerous attempts, verbally and later in writing, to have the pertinent books and records turned over to us as required under the terms of our subpoena. Your response to GAO of March 5 contains the information that certain of the books and records which were not received were allegedly mailed to GAO and that the originals or some part of them were subsequently stolen in a burglary at the facility.

The purpose of this letter is to give your client one final opportunity to comply with our subpoena. Following is a list of items which are called for under the terms of our subpoena and which your client agreed to supply. These items are not in our possession.

BOOKS AND RECORDS REQUIRED BY THE GENERAL ACCOUNTING OFFICE

1. The 1979 (July 1, 1979-June 30, 1980) corporate Federal, State and City tax returns and related schedules.
2. Accountants worksheets used in preparing 1978 and 1979 corporate tax returns.
3. The 1978 and 1979 individual Federal, State and City tax returns and related schedules.
4. 1978 and 1979 tax year financial statements, including Balance Sheets and Profit and Loss Statements for Alcazar Home for the Aged.

5. General ledgers, general journal, and cash receipts journal for tax years 1978 and 1979.
6. Cash disbursements journal for January-June 1980.
7. Receipts covering cash payouts for July 1978 and January 1980 through June 1980.
8. Cancelled checks for period July 1, 1979 to June 30, 1980. Check stubs for July 1978 and January 1, 1980 to June 30, 1980.
9. Bank statements for period July 1, 1978 to June 30, 1980.
10. Receipts for January 1, 1980 to June 30, 1980.
11. Individual account ledger cards for residents during tax year 1978 and 1979.
12. Records of residents personal spending allowance accounts.
13. Work schedule, function, title, and duties of the following former employees:

Donna Franklin	Ora Mae Harris
George Woods	Jean Taylor
Mary Pate	Ruby Shannon
Mary Alice Clay	Dorothy Johnson
Gaineeta White	Nettie Wallace
Ruby Lancaster	Barbara Hampton
Carrie Franklin	Treavae Colman
Collette Johnson	

14. Utility receipts for payments made from July 1, 1978 to June 30, 1978 and January 1, 1980 to June 30, 1980 plus receipts covering the following utility payments made during the period July 1, 1978 to December 31, 1979:

	Check number	Amount
Union Electric:		
July 24, 1978.....	102	\$218.49
Aug. 23, 1978.....	164	202.21
Sept. 25, 1978.....	239	258.46
Oct. 25, 1978.....	302	191.52
Nov. 24, 1978.....	370	108.54
Dec. 22, 1978.....	435	141.09
Jan. 25, 1979.....	500	272.47
Feb. 26, 1979.....	568	194.56
Apr. 30, 1979.....	705	400.37
July 27, 1979.....	911	289.01
Aug. 28, 1979.....	984	210.70
Sept. 26, 1979.....	1,054	243.70
Oct. 29, 1979.....	1,134	195.35
Nov. 26, 1979.....	1,214	80.05
Dec. 27, 1979.....	1,287	163.85
Laclede Gas:		
Dec. 7, 1979.....	1,254	584.45

15. Record of energy assistance checks received in early 1980 and their disposition.
16. Resident savings or checking accounts where owner/operator or other employee is or has been designated representative payee.
17. Copies of any purchase or lease agreements pertaining to the building, equipment and services pertinent to the facility.
18. Breakout of monthly rental and/or mortgage payments for Alcazar Home identifying amount of rent or principal, and interest, property taxes, and insurance by type for the period July 1, 1978 to June 30, 1980.
19. Copies of master insurance policies with the Union Central Life Insurance Company, Cincinnati, Ohio and National Western Life Insurance Company, Austin, Texas.

Mr. Frapolli, one year has gone by since our subpoenas were authorized and the requested documents have yet to be received. We consider this a situation of the utmost gravity. If your client does not appear personally in the St. Louis Office of the U.S. General Accounting Office with all of the above listed records, our Committee will have little choice but to seek a citation for contempt of Congress. If your client's position continues to be that the records cannot be produced because of extenuating circumstances, we have little choice but to investigate these circumstances which may entail requiring your client to appear before the Committee and testifying under oath.

Please have your client produce the requested records as directed by the close of business on Thursday, May 21, 1981.  
Kindest regards, and believe me,  
Always sincerely,

CLAUDE PEPPER,  
Chairman.

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON AGING,  
Washington, D.C., June 10, 1981.

TED F. FRAPOLLI, Esq.,  
Kroening, Mertz and McDaniel,  
1935 Park Avenue, St. Louis, Mo.

DEAR MR. FRAPOLLI: Your recent letter notifying me that certain of the records called for under our subpoena were delivered to our agents, the U.S. General Accounting Office by the May 21, 1981 deadline has been received. I appreciate your courtesy and your assurance that your client is doing his best to cooperate with our Committee.

Your previous correspondence with GAO and with this Committee notes that your client mailed some of the required information to GAO which apparently was lost in the mails. You also note that there was a burglary at the Alcazar Home and other records called for under our subpoena were stolen. From our point of view, this means that we have not received almost half of the records called for under our subpoena.

I want to make it clear that we do not assume that your client has acted improperly in any way. We accept your assurances of good faith. However, significant questions have been raised by matters which appear to be beyond your client's control which must be investigated. I wanted to notify you that I have contacted the U.S. Postal Service and other Federal agencies to look into these issues on behalf of the Committee. We would appreciate your continued cooperation.

With kindest regards, and believe me,  
Always sincerely,

CLAUDE PEPPER,  
Chairman.



## CASE 5

Subpena Duces Tecum (Hearing)

By Authority of the House of Representatives of the  
Congress of the United States of America

To \_\_\_\_\_ Graceell Manor  
Irwin Sweet, Administrator, 6410 S. Kenwood Avenue  
Chicago, IL 60637

You are hereby commanded to be and appear before the Select Committee on  
Aging, Subcommittee on Health & Long-term Care of the House of Representatives of  
the United States, of which the Hon. Claude D. Pepper is chairman, in  
Room 2212 of the Rayburn Building, in the  
city of Washington, on June 25, 1980, at the hour of 10:00 a.m.,  
then and there to produce the things identified on the attached schedule and to testify touching

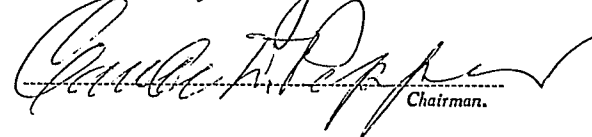
matters of inquiry committed to said Committee; and you are not to depart without leave of said  
Committee. David Holton, Chief Investigator Mark Yannello  
Select Committee on Aging U.S. General Accounting Office  
3269 House Annex #2 Federal Building-16th Fl. West  
To Washington, D.C. 20515 or 230 South Dearborn Street  
Chicago, IL 60604


to serve and make return.\*In lieu of personal appearance in Washington on the above  
date, the records noted on the attached schedule may be turned over to either  
of the Committee representatives designated above to serve this subpoena upon  
you, but not later than June 18, 1980.

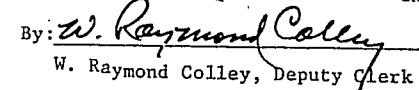
Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this

25th day of May, 1980

  
Chairman.

Attest:   
Clerk.

By:   
W. Raymond Colley, Deputy Clerk

TO Irwin Sweet, Administrator, Graceell Manor  
Chicago, Illinois

FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care

DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

(All items listed in this schedule are to be provided for both calendar  
years 1978 and 1979 unless otherwise specified).

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

## CASE 5

SUMMARY OF SIGNIFICANT GAO FINDINGS WITH RESPECT TO THE GRACELL MANOR,  
CHICAGO, ILL.

1. *Owners:* Irwin Street, 6410 S. Kenwood Corp. *Operator:* Irwin and Molly Sweet.  
2. *About the Home:* It is a 4 story building in urban Chicago. It is licensed as a shelter care home with a capacity of 150 people. The preponderance were mentally disabled, aged, or both. Some 81 people were so disabled as to require someone to manage their funds. The boarding home operator obliged in 67 cases. From 1978 through the present there have been over 20 inspections of the facility. Inspectors have found repeated violations associated with (1) medical, nursing and general staff (2) patient and employee records (3) medications (4) equipment and facilities (5) sanitation and (6) operating without a license. Following a hearing in 1978 the home was found out of compliance and its license renewal was denied for 1979.

In April 1979 the City filed suit against the home because traditional methods had not worked to improve the home. The City cited violations of (1) operating without a license (2) lacking sufficient licensed personnel (3) cruelty and indifference to the welfare of residents and (4) failure to follow prescribed rules and regulations. In June 1979 the facility was warned that if it did not qualify for a license by July 1, that its participation in the Medicaid program would be cut off. The City approved a license in July of 1979 and the court fined the owners \$300 plus \$300 in court costs in settlement of the city's suit. Violations were again discovered in early 1980 but they were corrected in a follow-up inspection so that the facility was recommended for license approval in 1980.

3. *Compliance with the Committee's Subpoenas:* The home is only partially in compliance. The operator's attorney appeared before the Committee on June 25, 1980 and agreed to turn over all the requested books and records. Cooperation soon faded, however. Chairman Pepper's letter of May 5, 1981 attached hereto indicates the extent of files and records which were not responsive to calls and letters from the Committee or its agents, GAO. Ironically, the operator refused and returned unopened the Chairman's May 5, 1981 letter. A copy of the original subpoena is also attached hereto.

4. *Income received by the Home as calculated by GAO as compared with income reported on the owner/operator's tax returns:* The Home reported \$460,821 in income in 1979. GAO computed it at \$496,294. The difference of \$35,472 GAO says is unreported income. Similar unreported income may be found in the fiscal year 1980 return which the operator failed to turn over. GAO contends that if unreported income is added to the 1979 return, the Home's \$14,214 loss is converted to a \$23,285 profit.

5. *Analysis of Expenses claimed on tax forms with expenses as computed by GAO:* GAO says 88 percent of the amounts shown on the General Ledger were not supported by invoices or receipts. Details of unsupported charges follow below:

Expense account	Cost reported	Unsupported cost amount	Percent
Insurance .....	\$17,566	\$17,566	100
Rent .....	8,400	8,400	100
Officers' med. expenses .....	6,162	6,082	99
Painting and decorating .....	15,753	14,815	94
Professional services .....	3,360	2,559	76
Automobile .....	3,009	1,947	65
Repairs .....	8,924	4,495	50
Total .....	63,174	55,864	88

## Further details follow:

The owner in effect paid a \$8,400 rent to himself which GAO says was probably not an arms-length transaction and therefore not allowable.

With respect to the \$6,162 in Officers' Medical Expenses to 11 providers and 4 different hospitals, two checks were found indicating payments were made to cover treatments received by the wife of the boarding home owner even though her husband is the sole owner and officer of the corporation. Such personal medical expenses "were improperly charged to the boarding home" says GAO. The net effect of charging these expenses to the home is to increase the amount of losses incurred in each of the tax years.

A total of \$3,360 was claimed on the tax returns as spent for professional services. GAO says, at a minimum, \$726 paid to the accountant to prepare personal tax returns was improperly charged to the boarding home. Some \$2,526 of the total in this account went for accounting services and yet there were invoices to support only 3 of the 19 payments made to the accounting firm.

GAO says the boarding home owner appears to be in violation of both state and Federal law for not withholding the appropriate FICA (and income taxes) from employees and not paying the employer's share of such taxes. GAO says \$5,500 of the \$8,400 in the patient care expense account was paid to 31 regular employees and 19 non-regular employees, but none of these payments show on the payroll register.

GAO said it found support for only 50 percent of the \$8,924 the facility claimed on its tax return were spent for repairs. Of the \$4,429 which could be documented, at least \$1,300 or 30 percent represented repairs made to properties other than the boarding home.

The sum of \$15,753 was charged to painting and decorating but only 6 of 71 charges (\$937) were supported by invoices. A single individual not listed on the payroll register received 47 payments of \$9,807. There was no evidence that Federal income tax, FICA, or unemployment compensation was paid or that form 1099-NEC was filed with the IRS or that the person was an independent contractor.

6. *Disposition of Energy check moneys:* The Social Security Administration paid 130 residents of Gracell \$170 with a total value of \$22,100. Even though such checks are to be used at the discretion of the recipient (resident) all checks were kept by the boarding home owner. GAO found that energy costs at the home had increased \$4,728 in 1979, to \$33,257 total. Consequently by keeping all the checks, the owners realized a windfall profit of \$17,372.

7. *Handling of Patients' Personal Funds:* GAO found the procedures employed to safeguard resident funds appear to be adequate.

8. *Analysis of billings to the Medicaid Program for medical assistance on behalf of boarding home residents:* GAO determined that six major providers received 62 percent of Medicaid payments for medical care received by the Gracell residents. A total of \$262,011 was charged to Medicaid in the two years 1979 and 1980. The six major providers and their total Medicaid payments, were:

	Fiscal year 1979	Fiscal year 1980	Total
Weber Automated Systems .....	\$250,879	\$331,756	\$582,635
Weber Pharmacy .....	97,040	119,362	216,402
1133 Pharmacy .....	78,116	225,579	303,695
D. P. Knapp, M.D. ....	111,367	130,364	241,731
Sutcliff Pharmacy .....	19,202	46,746	65,948
R. S. Glick, M.D. ....	20,644	24,811	45,455
R.B. Vemuri, M.D. ....	3,518	35,169	38,687
Total .....	580,766	913,787	1,494,553

Subsequent to the Committee's investigation of this facility through GAO, the Illinois Department of Public Aid audited the Medicaid billings of three of the home's major providers and found abuses such as kickbacks and overcharges and duplicate payments. The providers audited were 1133 Pharmacy, Dr. Knapp, and Sutcliff Pharmacy. More details follow taken from GAO's report to the Committee.

*Dr. David P. Knapp*

In June 1980, State auditors found that Dr. Knapp billed for services without maintaining patient records to substantiate that services were rendered. The State terminated his participation in Medicaid and took administrative action to recover about \$178,000 in overpayments.

In February 1981, a Note of Department Action and Right to a Hearing was sent to Dr. Knapp. The notification was returned as undeliverable because the doctor had moved and left no forwarding address. This case was referred to the State's Department of Law Enforcement. Currently, efforts are being made to locate Dr. Knapp.

*1133 Pharmacy*

The State audited 1133 Pharmacy in late 1976 and identified inventory shortages and acquisition cost overcharges. The pharmacy was also found to have engaged in kickbacks. The pharmacy was re-audited in early 1978 after additional records were produced. The State determined overpayments of about \$12,000 resulted from billing deficiencies.

**CONTINUED**

**1 OF 2**

The pharmacy was terminated from Medicaid participation in February 1979. The next month, the county circuit court enjoined the State department from enforcing the Medicaid termination. As a result, all bills before October 1978 and after February 1979 were released for payment. To date, the pharmacy will remain on active status until the court makes its final decision.

#### *Sutcliff Pharmacy*

A State audit in 1976 identified about \$36,000 in overpayments as a result of cost overcharges, inventory shortages, and duplicate payments. The State recouped the total amount.

In November, 1978, the State terminated the pharmacy's participation in Medicaid based on the detection of kick-back activities. The county circuit court reversed the termination in August 1979 because the Federal anti-kickback law was too vague. Sutcliff Pharmacy was reinstated and currently is an active participant.

9. *GAO's Principal Findings:* Because the Home failed to provide the records called for under the subpoena, GAO was not able to evaluate the adequacy of management and financial record systems. However, based on the limited data available, GAO found that:

(a) Income reported on tax returns was "substantially below" the total as calculated independently by GAO.

(b) Numerous costs were unsupported by invoices or receipts.

(c) Personal expenses were improperly charged to the boarding home business.

(d) The owner is in violation of State and Federal law for failing to withhold Federal income, Social Security, and unemployment compensation taxes on payments made to employees and others. In addition, the owner failed to pay the employer's share of such taxes.

(e) The boarding home improperly paid rent to another of the owner's enterprises; no formal lease agreement exists.

(f) While the Home claimed a \$14,214 loss for tax purposes, the inclusion of unreported income (to say nothing of the effect of eliminating improper deductions listed above) has the effect of showing the home making a profit of at least \$23,285 for the tax year ending June 30, 1979.

(g) The owner realized a windfall profit of \$17,373 by converting the entire amount of residents' energy assistance allowances for the facility's use.

(h) Of the top six providers who provided medical services to boarding home residents and were paid through the Medicaid program, three were recently found to have been engaged in possible Medicaid fraud.

#### QUESTIONS FOR GAO WITH RESPECT TO GRACELL MANOR, CHICAGO, ILL.

1. Your report states that contrary to his promise to the Committee, the owner has not complied with our subpoena and therefore you were unable to complete your analysis. However, on the basis of the records you received, you concluded that the home lacks accountability in its financial records. Is this correct?

2. Your report states that you found an unreported income of \$35,473 which when added to the 1979 return, results in the home's \$14,214 loss converting to \$23,285 profit. Is this correct?

3. You say that of the \$63,174 reported costs, \$55,864 or 88 percent were unsupported by invoices and receipts. Is this true?

4. As to the details of the unsupported charges, your report states that:

(a) the boarding home paid \$8,400 rent to another of the owner's enterprises and that no formal lease agreement exists. Is this true?

(b) with respect to \$6,162 in officers' medical expenses to 11 providers and 4 hospitals, two payments covered treatments received by the wife of the owner even though her husband is the sole owner and officer of the corporation. Correct?

(c) of the \$3,360 claimed for professional services, \$2,526 paid for accounting services. GAO claims that there were invoices to support only three of the 19 payments totalling \$801. Of the \$801, the home was charged for at least \$726 for the preparation of personal and other corporate tax returns. Correct?

(d) \$5,500 of the \$8,400 in the patient care expense account was paid to 31 regular employees and 19 non-regular employees, but none of these payments show on the payroll register. You state that the owner is in violation of both State and Federal law for failing to withhold Social Security, Federal and State taxes, and to pay for the employer's share for such taxes. Correct?

(e) only \$4,429 of the \$8,924 reported repair costs were properly supported and at least \$1,300 represented repairs made to properties other than the boarding home. Correct?

(f) with respect to the \$15,753 charged to painting and decorating, there were only 6 invoices totalling \$937 for the 71 charges. Also, a single individual not listed on

the payroll register received 47 payments or \$9,807 and there was no evidence that the person was an independent contractor. Correct?

5. GAO states that the owner realized a windfall profit of \$17,373 by converting the entire amount of residents' energy assistance allowances for the facility's use even though the checks are to be used at the discretion of the recipient (resident). Is this true?

6. Total Medicaid payments made on behalf of Gracell Manor residents totalled \$262,011. Your analysis of these records indicates that about 62 percent went to six major providers. Three of those were recently found to have engaged in possible Medicaid fraud. Correct?

7. The report states that the partial compliance with the subpoena presented an adequate evaluation of the management and financial record systems, and implies that there may be additional discrepancies. For example, there may be a similar unreported income found in fiscal year 1980 return which the operator failed to turn over. Is this true?

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE ON AGING,  
Washington, D.C., May 5, 1981.

MR. IRWIN SWEET, Administrator,  
Gracell Manor,  
6410 South Kenwood Avenue, Chicago, Ill.

DEAR MR. SWEET: Your attention to a matter of some importance to our Committee would be most appreciated.

On May 15, 1980, our Committee authorized a Congressional subpoena for certain books and records relating to the operation of your facility, Gracell Manor. The subpoena was duly served upon you and you agreed through your attorney, David Rosenstein, who appeared before our Committee on June 25, 1980, to make the records available immediately.

It has been called to my attention by the U.S. General Accounting Office that you have not complied with the terms of our subpoena, despite the assurances made to this Committee by your attorney. The GAO informs me that you have not replied to their letters of July 23, July 28, November 14, 1980 and February 26, 1981. Copies of these letters were also sent to your attorney, Mr. Rosenstein.

In its February 26, 1981 letter to you, GAO notes that the following items have not been turned over to them as required under the terms of our subpoena:

#### BOOKS AND RECORDS REQUIRED BY THE GENERAL ACCOUNTING OFFICE

1. The 1978 (July 1, 1978-June 30, 1979) tax returns and related schedules and statement attachments as follows: (a) Gracell Manor—Federal and State; and (b) 6410 South Kenwood Corp.—State.

2. The 1978 individual (Irwin and Molly Sweet) State tax return and associated statements and the statement attachments to the Federal tax return.

3. The 1979 (July 1, 1979-June 30, 1980) tax returns and related schedules and statement attachments as follows: (a) Gracell Manor—Federal and State; (b) 6410 South Kenwood Corp.—Federal and State; and (c) 6400 South Kenwood Building Corp.—Federal and State.

4. The 1978 and 1979 fiscal year financial statements, including Balance Sheets and Profit and Loss Statements, for the three companies identified in item #3.

5. The fiscal year 1978 general ledger balance sheet accounts and trial balance worksheets. (Note: only income and expense accounts previously furnished).

6. The fiscal year 1978 general journal including all adjusting and closing journal entries.

7. The fiscal year 1978 Cash Receipts Journal.

8. The fiscal year 1979 general ledger, general journal, cash receipts journal, cash disbursements journal, and trial balance worksheets.

9. Check stubs and cancelled checks for period January 1, 1980 to June 30, 1980.

10. Purchase receipts and invoices for period January 1, 1980 to June 30, 1980.

11. Payroll records for period January 1, 1979 to June 30, 1980.

12. The fiscal year 1978 and 1979 Trust Fund books.

13. All lease agreements for the three companies identified in item #3.

14. Individual account ledger cards for the following residents (calendar years): 1978: Bentley, Marjorie; Campbell, Alagria; Campbell, Odell; Houston, Martin; Jones, Artie; Mullins, Fred C.; Davidson, Forrest; Everett, Timothy; Hall, James; Hilliard, Luella; Kimball, Robert; Martin, Willie; McQuinn, William; Moore, Debra; and Sheppard, Rose.



1980: All in residence prior to end as of June 30, 1980.

The GAO personnel have shared their correspondence with this Committee, indicating the lack of cooperation which they have received. It seems clear to me that you have not acted in good faith and supplied the requested documents as required by law. A full year has gone by since our subpoenas were authorized and your promise of compliance made through your attorney has not been kept. You apparently leave us little choice in this matter other than to seek a citation against you for contempt of Congress. However, on the chance that there might be circumstances that have not been clear to me, I am giving you one final opportunity to comply fully with the terms of the subpoena by personally taking into the Chicago Office of the U.S. General Accounting Office each and all of the above records enumerated above and called for under the terms of our subpoena, no later than close of business on Thursday, May 21, 1981. No excuses will be accepted for non-compliance or partial compliance.

If you have any questions contact Senior Counsel Val J. Halamandaris or investigator Nancy Smythe with our office, at (202)225-0451.

Mr. Sweet, let me impress upon you the gravity of this situation and urge you to keep your word to cooperate and supply the documents required to be produced under our subpoena.

Kindest regards, and believe me,  
Always sincerely,

CLAUDE PEPPER,  
Chairman.

CASE 6

Subpoena Duces Tecum (Hearing)

By Authority of the House of Representatives of the  
Congress of the United States of America

To Trina Adler, Director, President & Secretary, Caldwell Homes, Inc., #2 18th Street, S.E., Washington, D.C. 20003

You are hereby commanded to be and appear before the Select Committee on Aging, Subcommittee on Health & Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper is chairman, in Room 2212 of the Rayburn Building, in the city of Washington, on June 25, 1980, at the hour of 10:00 a.m., then and there to produce the things identified on the attached schedule and to testify touching

matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee. David Holton, Chief Investigator Bernard J. Trescavage  
Select Committee on Aging U.S. General Accounting Office  
3269 House Annex #2 441 G Street, N.W., Rm. 6739  
To Washington, D.C. 20515 or Washington, D.C. 20548

to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this 25th day of May, 1980

Claude D. Pepper  
Chairman.

Attest: Edward H. Hinchard  
Clerk.

By: W. Raymond Colley  
W. Raymond Colley, Deputy Clerk

TO Trina Adler, President, Caldwell Homes, Inc.  
Washington, D.C. 20003

FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care

DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

(All items listed in this schedule are to be provided for both calendar years 1978 and 1979 unless otherwise specified).

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

SUMMARY OF GAO FINDINGS WITH RESPECT TO THE CALDWELL HOMES AND HOPE VILLAGE, WASHINGTON, D.C.

1. *Owner/Operator and About the Home:* Trina H. Adler is the owner of 100 percent of the stock of the Caldwell Homes, Inc. Corporation and its subsidiary, Hope Village. The Caldwell Home has a capacity of 104 persons and Hope Village accommodates 184 people in five buildings. Most residents are mentally disabled and aged.

2. *Compliance with the Committee's Subpoena:* Full compliance.

3. *Income as reported on tax returns and as computed by GAO:* The Federal government, through SSI and OASDI, is the primary source of income for both homes. When D.C. monies are added in, public sources account for over 95 percent of the total. Both homes had total incomes of \$350,206 in 1978 and \$506,823 in 1979. GAO found income to be accurate in the first year and \$13,000 overreported in the second. GAO said this overreporting may be a result of a few ledger cards being unavailable to them.

4. *Expenditures:* GAO found food expenditures were substantially correct but daily food costs were low at 77 cents per resident per day in 1978 and \$1.01 per resident per day in 1979. Energy costs were accurate as were supply and repair costs. No significant payroll irregularities were noticed. However, GAO found a high turnover among the staff. Only four of the combined total of 214 employees working at the home were employed for the entire 2-year period, 1978-1979.

5. *Disposition of Energy Checks:* Checks were issued to 92 residents living in the two facilities, totalling \$9,384. The D.C. Department of Human Services issued an order telling recipients to turn these checks over to the home. The Federal DHHS asked D.C. to rescind this order, saying energy checks by law should be deposited in the accounts of residents who have discretion about how the money is to be used. Only if the residents so wish should the money go toward helping the facility pay any increases in its fuel costs between 1978 and 1979. D.C. refused to rescind the order. The homes' increase in fuel costs between the two years amounted to \$5,600 which means the homes realized a windfall profit of about \$3,800.

6. *Handling of Residents Personal Funds:* GAO found most residents received their \$30.00 monthly spending allowance and the safeguards in this area were reasonable. GAO did say residents' funds in the past have been comingled but plans are now underway to keep residents monies in a separate account.

7. *Analysis of billings to the Medicaid program for medical assistance on behalf of boarding home residents:* GAO is in the process of investigating various aspects of the District of Columbia's Medicaid program and did not report on the specific providers who service Caldwell and Hope homes.

8. *Principal GAO Findings:*

- (a) The homes have established management and financial records systems which adequately reflect their operations.
- (b) The homes income as reported in tax returns was accurate.
- (c) Expenses were accurately stated.
- (d) Accountability is retained over residents' funds but the homes' plan to separate residents' funds from the homes' funds is not yet implemented.
- (e) Caldwell Homes exceeded its licensed capacity (104) in 19 of the 24 months examined by GAO. Inspections by the D.C. Department of Housing did not reveal this fact but instead its finding showed that the home was operating well under capacity.
- (f) The facilities are in a poor (but improving) financial condition evidenced by a high debt, low liquidity position. One loan was obtained to pay operating expenses at 50 percent interest. The homes showed a \$26,367 profit in 1978 and a \$150,969 loss in 1979.
- (g) Food costs were low at 77 cents and \$1.01 per resident per day in 1978 and 1979 respectively.
- (h) Numerous deficiencies have been found in inspection reports but acceptable corrective action has been taken as planned.
- (i) The homes evidenced a high turnover rate of employees.

QUESTIONS FOR GAO WITH RESPECT TO THE CALDWELL HOME AND HOPE VILLAGE, WASHINGTON, D.C.

1. The GAO report indicated that both homes had substantial employee turnover, in fact, only 4 of 214 employees remained for the two-year period, January 1978 through January 1980. Is this correct?

2. The D.C. Department of Human Services erroneously issued a regulation that all residents must turn their energy checks over to the boarding homes. Therefore, the homes had a windfall profit of about \$3,800 due to the difference between the actual home fuel cost and the residents' fuel assistance checks. Is this true?

3. It was found that the Caldwell home exceeded its licensed capacity of 104 persons in 19 of 24 months that were examined by GAO. Is this correct?

4. The facilities are in poor financial status now due to a high debt, low-liquidity position. The homes showed a \$26,367 profit in 1978 and a \$150,969 loss in 1979. Is this true?

5. Although deficiencies were found at the home by inspections, corrective action was taken. Is this correct?

6. GAO found that there was accountability for residents' funds but yet there was no separate resident accounts although this is now planned for implementation. Is this correct?

7. In sum, the Caldwell and Hope Village homes were found by GAO to have accurate management and financial records, indicating that they are one of the better run homes. Is this true?

CASE 7

Subpoena Duces Tecum (Hearing)

By Authority of the House of Representatives of the Congress of the United States of America

To Charles H. Gillespie, owner/administrator Park Avenue Home for the Aged 1615 Park Avenue Baltimore, MD 21217

You are hereby commanded to be and appear before the Select Committee on Aging, Subcommittee on Health and Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper is chairman, in Room 2212 of the Rayburn Building in the city of Washington, on June 25, 1980, at the hour of 10:00 a.m.

then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave or said Committee.

\*David Holton, Chief Investigator Bernard J. Trescavage U.S. General Accounting Office Room 2220 Annex Building 3269 House Annex #2 Washington, D.C. 20515 or 6401 Security Blvd Baltimore, MD 21235

to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this 25th day of May, 1980

Claude D. Pepper Chairman

Attest: Edmund L. Henderson Clerk

By: W. Raymond Colley W. Raymond Colley, Deputy Clerk

TO Charles Gillespie, owner/administrator Park Avenue Home for the Aged  
1615 Park Avenue, Baltimore, Md 21217

FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care

DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

(All items listed in this schedule are to be provided for both calendar years 1978 and 1979 unless otherwise specified).

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

## CASE 7

SUMMARY OF GAO FINDINGS WITH RESPECT TO THE PARK AVENUE HOME FOR THE AGED, 1615 PARK AVENUE, BALTIMORE, MD.

1. *Owner:* Charles H. Gillespie.
2. *About the Home:* It has been operated as a boarding home since 1969. It is licensed as a domiciliary care facility capable of taking care of 36 aged, disabled or incapacitated people. It is a three-story double width row house in the Bolton Hill section of Baltimore. State and Federal SSI funds are the largest component of revenues, followed by Social Security and Veterans' benefits. The room and board charge is currently \$331 a month.
3. *Compliance with the Committee's subpoena:* Full compliance.
4. *Income as reported for tax purposes and as calculated by GAO:* The facility reported tax income of \$102,530 in 1978 and \$129,482 in 1979. GAO calculated \$109,899 in 1978 and \$132,424 in 1979. In other words, GAO found income underreported by 7 percent in 1978 (\$7,369) and by 2 percent (\$2,942) in 1979. GAO says it does not find this greatly significant.
5. *Expenses claimed on tax returns compared with GAO calculations:* GAO says food costs of \$1.42 and \$1.64 per resident per day in 1978 and 1979 respectively were supported by invoices. Capital improvements, maintenance and repairs were supported by documentation, however, there were no cash receipts journal or general ledger or subsidiary ledger accounts.  
The home showed a net profit of \$12,019 and \$19,272 in 1978 and 1979 respectively. Profits consisted of 11.7 and 14.9 percent of gross income.
6. *Disposition of Energy Check Monies:* Some 23 residents received checks of \$140 each or a total of \$3,220. While the owner's energy costs increased only \$1,096, the owner kept the entire \$3,220 of residents' checks and thus received a windfall profit of \$2,124.
7. *Handling of Residents Personal Funds:* The procedures to account for personal spending allowances do not appear to be adequate. Detailed individual spending allowance accounts are not maintained. Excess residents funds are deposited and commingled in the regular boarding home account, however, the owner set up individual ledger sheets.
8. *Analysis of billings to the Medicaid program for medical assistance on behalf of boarding home residents:* A physician visits the home once a month. Those who want to see a doctor of their choice must make their own appointments and travel arrangements. Medicaid services totalled \$36,834 in 1978 and 1979. Four providers received this money. Maryland General Hospital received 54 percent of it. No improprieties or abuse of the Medicaid system was noted by GAO.
9. *Principal GAO Findings:*
  - (a) The Park Avenue Home for the Aged has established a minimum management and financial records system which does not always reflect the operations of the boarding homes.
  - (b) Income reported on taxes was estimated and underreported by 7 percent in 1978 and 2 percent in 1979. GAO says this is not greatly significant.
  - (c) Accurate and complete records with respect to residents' personal spending allowance are not maintained. Residents' funds are commingled with those of the boarding home although separate ledger sheets are maintained.
  - (d) The operator realized a windfall benefit of over \$2,100 by keeping the entire amount of the residents special energy assistance checks.
  - (e) The residents received no social services from the State or local agencies.
  - (f) The owner does not obtain mental health services for the residents. Officials at the nearby mental health center were not familiar with the home's residents.
  - (g) GAO says the home presently has met all licensing requirements . . . However, in the past, the home has been plagued by various violations and deficiencies. A pattern of repeated and uncorrected deficiencies had been noted over a four year span in such areas as dietary services and sanitation.

QUESTIONS FOR GAO WITH RESPECT TO THE PARK AVENUE HOME FOR THE AGED, 1615 PARK AVENUE, BALTIMORE, MD.

1. Your report says that the Baltimore home has a minimum management and financial records system which does not always reflect the operations of the boarding home. Why did you say this? Is it because the home does not have any cash receipts journal or general ledger or subsidiary ledger accounts?
2. Was it your finding that the owner kept the entire \$3,220 received by SSI residents in special energy checks which should have been deposited in their accounts, and that taking into consideration the fact that his energy costs increased



only \$1,096 from 1978 to 1979, he realized a windfall profit of at least \$2,124 at the expense of his residents?

3. You note that the facility underreported income by 7 percent (\$7,369) in 1978 and by 2 percent (\$2,942) in 1979. Would you say this is significant, and if not, why not?

4. Was it your finding that the home does not have a system in place which adequately safeguards residents' personal spending allowances? Are residents' personal funds commingled with the home's general operating account? If so, what problems does this present?

5. Is it your testimony that the residents received no social services from State or local agencies? What are the consequences of this?

6. Your report says the owner does not obtain mental health services for the residents and that nearby mental health center representatives were not familiar with the home's resident's. Correct?

CASE 8

Subpena Duces Tecum (Hearing)

By Authority of the House of Representatives of the Congress of the United States of America

To Joseph A. Maressa, Registered Agent - PTiner, Inc. L & S Rest Home  
& Leon & Sylvia Pliner, Inc. 401 Jackson Road  
Atco, NJ 08004

You are hereby commanded to be and appear before the Select Committee on Aging, Subcommittee on Health & Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper is chairman, in Room 2212 of the Rayburn Building, in the city of Washington, on June 25, 1980, at the hour of 10:00 a.m.

then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said \*David Holton, Chief Investigator Bernard J. Trescavage  
Committee. Select Committee on Aging U.S. General Accounting Office  
3269 House Annex #2 434 Walnut Street, 11th Floor  
To Washington, D.C. 20515 or Philadelphia, PA 19106

to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this 25th day of May, 1980

Claude D. Pepper  
Chairman

Attest: Elizabeth Henshaw, D.  
Clerk

By: W. Raymond Colley  
W. Raymond Colley, Deputy Clerk

TO Joseph A. Maressa, agent, Pliner, Inc.--L & S Rest Home  
Atco, New Jersey

FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care

DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

(All items listed in this schedule are to be provided for both calendar years 1978 and 1979 unless otherwise specified).

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

CASE 8

SUMMARY OF GAO FINDINGS WITH RESPECT TO THE L & S REST HOME, 401 JACKSON ROAD, ATCO, N.J.

1. *Owners/Operators:* Corporation owned by Sylvia and Leon Pliner, Victoria Pliner Kravitz, and Irene Pliner Armato. Realty is owned by Leon and Sylvia Pliner.
2. *About the Home:* An annual rental is paid of \$51,623 by Pliners to Pliners. The home is licensed as a boarding home for shelter care by the State of New Jersey; capacity of 168 persons. Most residents are aged, disabled and mentally impaired. No significant adverse problems in inspections.
3. *Compliance with the Committee's Subpoena:* Full Compliance
4. *Income by source as established by GAO from Social Security records compared to income reported for purposes of Federal income tax:* Federal and State benefits, SSI and OASDI, accounted for 93 percent (\$630,782) of total income of \$677,036 in 1979. GAO's calculated income was slightly less than reported in the tax forms.
5. *GAO analysis of the distribution of income as compared to what was reported for tax purposes:* Some 83 percent of income was spent on room and board charges, 11 percent was spent for personal spending allowances, 3 percent for miscellaneous expenses.

The L & S Rest Home Corporation showed profits of \$12,081 and \$25,469 in 1978 and 1979 respectively but the home itself showed losses of \$1,935 and \$6,950 respectively. The profit came from vending machine sales and the like. Profit was 2 percent of gross income in 1978 and 3.9 percent in 1979. Some 30 percent of gross income was received by the Pliner family per GAO chart. GAO said the family provided services and no "undue significance can be placed on the fact that almost 30 percent of gross income in each of 2 years accrued directly to the family."

Food costs were supported by documentation but were low compared to other facilities at \$1.15 and \$1.28 per resident per day in 1978 and 1979 respectively.

6. *Disposition of Energy Check Monies:* One hundred and thirty-three residents received energy checks of \$185 each, or a total of \$24,605. The New Jersey Commissioner of Human Services suggested that \$70 be contributed to the boarding home operator. The operator assessed all 133 residents \$70 even though his increase in energy costs between 1978 and 1979 was only \$3,222. He claimed a total of \$9,310 (133 x \$70) realizing a windfall benefit of \$6,088 above his \$3,222 increase. The operator, apparently without justification, assessed 7 residents a surcharge of \$70 even though they did not receive or were not eligible for energy assistance checks.

7. *Handling of Residents Personal Funds:* GAO found safeguards to be adequate. Residents on OASDI or on both OASDI and SSI received \$46 per month; those on SSI received \$26 per month.

8. *Analysis of billings to the Medicaid program for medical assistance on behalf of boarding home residents:* GAO says the owner may be "remiss in monitoring the quality and frequency of services by doctors and other providers." In essence, it appears residents at the home may have been exploited by health care providers providing services to residents. Some \$389,743 was paid to providers for care of L & S residents in 1978 and 1979. Major providers together with percent of their income coming from L & S residents is as follows:

Provider	Total Medicaid payments	Medicaid payments made on behalf of L & S residents	
		Amount	Percent
Atco Pharmacy.....			
Z. Bramnick, D.O.....	\$217,727	\$142,526	65
Archway Counseling & Therapy Service.....	33,816	22,302	65
G. Winograd, D.D.S.....	150,284	79,567	53
Mental Health Professionals.....	26,332	10,379	39
Camden County Mental Health Clinic.....	143,437	27,180	19
M. E. Doria, M.D.....	92,587	11,359	12
	12,395	1,211	10
Total.....	676,578	294,524	44

Mental Health Professionals, Inc. potential abuse of program is listed in Appendix II attached.

9. *Principal GAO Findings:*

- (a) L & S records reflect operations of the home.  
 (b) Income reported in tax returns were confirmed by GAO as reasonably consistent.  
 (c) Expenses, i.e., food costs, were verified, although they were low at \$1.15 and \$1.28 per patient per day in 1978 and 1979 respectively.  
 (d) Operators realized a windfall profit of almost \$6,088 by compelling residents to turn over \$70 of their special energy assistance checks.  
 (e) Residents received their spending allowances but there is evidence they put the money right back into vending machines owned or leased by the facility.  
 (f) Residents were generally neat and clean although community mental health facility involvement is virtually non-existent. The home has significant turnover problems in staff.  
 (g) The Pliner family pulled 30 percent of gross income out of the facility in profits, salaries, rental to themselves, etc. which is entirely legal.  
 (h) Home owner may be remiss in monitoring quality and frequency of care rendered by providers. Significant evidence of Medicaid fraud such as billing for services not rendered, "gang" visits, overbilling, and unnecessary utilization. Complicity of owner may be indicated by conveying notice to residents that they were required to see physicians.  
 (i) Drug amounts, strengths and frequency of dosage were found to be questionable in 8 of 21 sample cases. Effects of drugs may affect the response 12 of 31 residents in the event of fire.

MENTAL HEALTH PROFESSIONALS, INC.

Mental Health Professionals, Inc. (MHP) is a group practice consisting of at least three psychiatrists and six psychologists. The group members are identified below:

*Name and specialty*

Steven Wolfgang, M.D.,<sup>1</sup> psychiatry.  
 Robert Gibbon, Jr., M.D., psychiatry.  
 Perry H. Zand, M.D., psychiatry.  
 Lawrence N. Houston, Ed. D., psychology.  
 Elliott H. Schreiber, Ed. D. psychology.  
 J. Peluso, Ph.D., psychology.  
 Michael Wexler, Ph.D., psychology.  
 Lawrence B. Hamel, Ph.D., psychology.  
 Edward Epstein, M.Sc., psychology.

Nearly all of the services billed to Medicaid by MHP are for half sessions (30 minutes) of individual psychotherapy and such services are rendered almost exclusively to residents of eight New Jersey Sheltered Care Boarding Homes, including the L & S Rest Home.<sup>2</sup> The names and locations of the eight boarding homes are as follows:

*Name and location*

L & S Rest Home, Atco, N.J.  
 Lexington Rest Home, Lakewood, N.J.  
 Abjo Villa, Keansburg, N.J.  
 Evelyn's Acres, Tansboro, N.J.  
 The James House, Asbury Park, N.J.  
 Elizabeth House, Elizabeth, N.J.  
 Tom Lee Guest Home, Lindenwold, N.J.  
 B. J. Guest Home, Chesilhurst, N.J.

MHP's activities have come to the attention of New Jersey's Medicaid surveillance group on at least three occasions.

1. As early as 1975, a doctor, associated with the New Jersey Division of Medical Assistance and Health Services, Department of Institutions and Agencies (State Agency), warned Dr. Wolfgang against providing psychiatric services unrequested by the attending physician, patient, or patient's family in Long-Term Care facilities and Sheltered Care Boarding Homes.

2. In June 1976, Dr. Wolfgang was invited to appear before three doctors associated with the State agency. At that time, it was recognized that Dr. Wolfgang was continuing to provide unrequested services and the meeting was called to discuss:

The code of medical ethics and Dr. Wolfgang's apparent lack of sensitivity to what constitutes ethical medical practice.

<sup>1</sup> Head of the group.

<sup>2</sup> Our review of State Medicaid records indicated that MHP provider services were discontinued at the L & S Rest Home in January 1980.

Dr. Wolfgang's appalling ignorance of what solicitation of business meant.

The question of how the time parameters for a half session could possibly be met when one-half sessions for 19 patients in 8 hours were claimed for 1 day. New Jersey officials questioned whether time parameters were met and inappropriate payments were made and should be recouped.

New Jersey suspended Medicaid payments to MHP from June through July 1976.

3. In April 1978, a county social worker complained to the State's surveillance unit the MHP was possibly exploiting Medicaid patients at the L & S Home. In summary, the social worker was concerned about the attitude of group practitioners—the lack of consistent commitment to provide quality service and the conditions and procedures used to treat patients, e.g., (1) sessions were brief and not held in private—treatment was given in a crowded dining area, (2) duplication of services and extra billings, and (3) the need for the service was questionable.

Late in 1978, the State's surveillance unit started an investigation as a result of this complaint. The State investigators found that:

All Medicaid patients were boarding home residents, and only Medicaid recipients were treated at the boarding homes.

Treatment of half-hour sessions were given to 15 to 20 residents by one MHP member within a 1-day period.

Interviews with recipients indicated that the provider spent less than the 25 minutes required to be paid the \$19 half-session rate.

MHP stayed within the \$300 yearly limit so that prior authorizations were not required from the State.

Dr. Wolfgang's replies to investigators' questions were vague and contradictory.

State investigators also noted that (1) MHP initiated all visits and some recipients though that they were *required* to see the provider, (2) at L & S, recipients were treated in a large recreation room while other boarders watched television, (3) 98 of the 160 recipients (or 63 percent) were diagnosed as senile and presenile dementia, and (4) patients 65 and over exceeded the norm by a 7.7 standard deviation.

In September 1980, the surveillance unit completed its investigation and referred the case to the State's Attorney General for criminal action of possible Medicaid fraud. To date, the case is still open.

As part of our review of health services provided to residents of the L & S Rest Home, we identified MHP as one of the principal providers of health services. Using provider payment information obtained from the State Medicaid intermediary, we found that MHP received Medicaid payments of \$143,437 for the 2-year period 1978 and 1979. Payments made on behalf of the residents of L & S Rest Home accounted for 19 percent of the total amount of Medicaid payments made to MHP for the 2-year period. The following table shows (1) the total number of persons treated by MHP practitioners, the total number of Medicaid payment claims submitted by MHP, and total amount of Medicaid payments made to MHP for the 2-year period, (2) the same type information for services provided to residents of the L & S Rest Home, and (3) the percentage relationship of L & S residents to the total services rendered by MHP.

	1978	1979	1978 and 1979
Number of Medicaid patients:			
Total.....	502	481	607
L & S residents.....	86	107	120
Percent—L & S.....	17	22	20
Number of Medicaid payment claims:			
Total.....	4,672	4,155	8,827
L & S residents.....	691	823	1,514
Percent—L & S.....	15	20	17
Amount of Medicaid payments:			
Total.....	\$76,420	\$67,017	\$143,437
L & S residents.....	\$12,202	\$14,977	\$27,179
Percent—L & S.....	16	22	19

From the above, it can readily be seen that the psychological services rendered to L & S residents, and the claims resulting therefrom, accounted for about 20 percent or one-fifth of the total Medicaid payments made to MHP. Also, even though the total number of claims and payments decreased in 1979, the number of claims and payments made on behalf of L & S residents actually increased.

Our review of the Medicaid profiles of the L & S residents confirmed the findings of the State surveillance unit, namely:

Only Medicaid residents were treated at the boarding home. No attempt was made to treat Medicare or private pay residents.

Two MHP psychologists, Schreiber and Houston, each submitted 17 claims (half-hour sessions) for services rendered on April 7, 1978. This means that if the State mandated 30 minutes were applied to each session, both psychologists would have to have spent at least 8-½ hours at the L & S Home that day.

These same two psychologists submitted 26 claims—16 by Schreiber and 10 by Houston—for services rendered on February 9, 1979. This would have required Schreiber to spend at least 8 hours, and Houston 5 hours, at the home during this visit.

We found no instances in which MHP exceeded the \$300 yearly limit on any resident. As a result, MHP was not required to seek prior authorization and possible case review by State officials.

For the 2-year period, 1978 and 1979, we found that MHP had submitted 302 claims amounting to \$5,224 for 21 L & S residents who were 70 years of age or older. Many were being treated for disorders which may not be rehabilitative and the need for psychological services questionable. For example, 7 of the 21 elderly residents were diagnosed solely as "senile and presenile dementia" for which, according to the Merck Manual,<sup>1</sup> there is no known treatment.

DR. ZACHARY BRAMNICK, D.O.

Dr. Bramnick serves as primary physician at the L & S Boarding Home. His specialty is internal medicine.

Dr. Bramnick received about \$34,000 in Medicaid funds in 1978 and 1979. Of the total, about \$22,000 or 66 percent was paid for treatment of L & S recipients. Dr. Bramnick also received over \$53,000 in Medicare funds during this period.

Our examination into the frequency of Medicaid recipients treated by Dr. Bramnick for the first 3 months (January-March) in 1978 and 1979 showed from 1 to 32 recipients were treated in a 1-day period. For the most part, less than 10 patients were treated in a 1-day period.

Dr. Bramnick has not been the subject of any Medicaid investigation by the State's surveillance unit. However, the Prudential Insurance Company of America, which serves as Medicare Carrier in New Jersey, performed a post-payment audit of Dr. Bramnick services in 1980. The audit was done as part of Prudential's responsibilities as Medicare Carrier to conduct post-payment utilization reviews of providers whose pattern of practice exceeds the norm for their peers.

Medicare law requires service must be medically necessary, reasonable in frequency, and may not be preventative in nature. It must be directed towards the active treatment of a disease, illness, or injury; be fully documented as to necessity and service; be provided in the most economical setting; and consistent with the disease process.

Prudential's post-payment audit found that (1) the doctor's hospital records on nine patients did not reflect documentation or substantiate the medical necessity of visits and (2) more boarding home visits were rendered than were deemed medically necessary, and a total of about \$1,600 in Medicare overpayments resulted.

In December 1980, Prudential began offset proceedings against amounts payable to the doctor in order to recover the overpayments. Subsequently, Dr. Bramnick furnished Prudential with additional documents to support the disallowed claims. Prudential reviewed these claims and continued disallowance. In February 1981, Prudential took action to offset the \$1,600 from his account.

<sup>1</sup>The Merck Manual is a medical textbook which provides a broad spectrum of current and accurate information on the diagnosis and treatment of a whole range of medical disorders.

CASE 9

Subpena Duces Tecum (Hearing)

By Authority of the House of Representatives of the  
Congress of the United States of America

To Catherine Solomon, owner \_\_\_\_\_ Windsor House  
2126-34 Green Street  
Philadelphia, PA 19130

You are hereby commanded to be and appear before the Select \_\_\_\_\_ Committee on Aging, Subcommittee on Health and Long-term Care of the House of Representatives of the United States, of which the Hon. Claude D. Pepper \_\_\_\_\_ is chairman, in Room 2212 \_\_\_\_\_ of the Rayburn \_\_\_\_\_ Building \_\_\_\_\_, in the city of Washington, on June 25, 1980 \_\_\_\_\_, at the hour of 10:00 a.m. \_\_\_\_\_,

then and there to produce the things identified on the attached schedule and to testify touching matters of inquiry committed to said Committee; and you are not to depart without leave of said

\*David Holton, Chief Investigator Bernard J. Trescavage  
Select Committee on Aging U.S. General Accounting Office  
3269 House Annex #2 434 Walnut Street, 11th Floor  
To Washington, D.C. 20515 or Philadelphia, PA 19106

to serve and make return. \*In lieu of personal appearance in Washington on the above date, the records noted on the attached schedule may be turned over to either of the Committee representatives designated above to serve this subpoena upon you, but not later than June 18, 1980.

Witness my hand and the seal of the House of Representatives

of the United States, at the city of Washington, this  
25<sup>th</sup> day of May, 1980

Claude D. Pepper  
Chairman

Attest: Edmund H. Henderson, Jr.  
Clerk

By: W. Raymond Colley  
W. Raymond Colley, Deputy Clerk



TO Catherine Solomon, owner Windsor House, Philadelphia, PA 19130

FROM U.S. House of Representatives  
Select Committee on Aging  
Subcommittee on Health and Long-Term Care

DATE May 28, 1980

SCHEDULE OF ITEMS TO BE PRODUCED  
(Pursuant to subpoena)

(All items listed in this schedule are to be provided for both calendar years 1978 and 1979 unless otherwise specified):

- (1) Records indicating the names and periods of occupancy for residents of the facility.
- (2) Records of the resident's identification numbers and payment and administrative records related to the following federal and public assistance programs: Social Security, Supplemental Security Income, Veterans Administration, AFDC, OASDI, and other types of federal assistance such as food stamps.
- (3) Records of any fuel and other energy expenses and records of disposition of the January 1980 Federal Energy Assistance payments.
- (4) Records of personal spending allowance accounts.
- (5) Resident savings or checking accounts where owner/operator or other employee is or has been designated as representative payee.
- (6) Medical, nursing, social service and activity records.
- (7) Incident reports.
- (8) Records of drug prescriptions, purchases, inventory balances by drug type at December 31, 1977, 1978 and 1979, and the records of administration of such drugs to residents.
- (9) Roster and work schedules of all employees by function, title, duties and salaries.
- (10) Records of food purchases, such as cancelled checks, invoices, register tapes, and any other similar documentation.
- (11) Records of receipt of rents, leases or purchases by the facility(s).
- (12) Records of payment of rents, leases, or purchases to the facility(s).
- (13) Copies of any purchase or lease agreements pertaining to the real property, the building, and the equipment and services pertinent to the facility(s).
- (14) Bank statements, cancelled checks and stubs.
- (15) Cash receipts and disbursements journals.
- (16) General ledgers and general journals.
- (17) Retained copies of Federal Income Tax Form 1120, 1120s, 1040, 1065 with associated schedules, as appropriate, and copies of State income tax forms and correspondence with income tax authorities.

## CASE 9

SUMMARY OF GAO FINDINGS WITH RESPECT TO THE WINDSOR HOUSE, 2126-36  
GREEN STREET, PHILADELPHIA, PA.

1. *Owner:* Catherine Solomon.
2. *About the Home:* The facility consists of five interconnected, three story brick townhouses, licensed by the City of Philadelphia as an old age home. The home has a provisional certificate from the State as a result of having met 67 percent of the State's minimum requirements for operation as a personal care home. It has 27 rooming units, housing about 100 people, most of whom are aged or mentally disabled.
3. *Compliance with the Committee's Subpena:* Full compliance.
4. *Income as reported for tax purposes compared with income calculated by GAO:* Federal and State benefits account for 99 percent of the home's \$231,391 1978 income and about the same percentage of its \$271,356 1979 income. GAO said it was unable to trace income received by the residents to the records of the home because the latter were incomplete. GAO found that income was underreported by a significant amount on the basis of calculating payments made to the home by the Social Security Administration. GAO says income was underreported by 10 percent in 1978 (\$22,856) and by 8 percent in 1979 (\$21,516).  
The home showed a before-tax profit of 22.8 percent and 30.8 percent in 1978 and 1979 respectively. After-tax profits were 16 and 17.6 percent of gross respectively. They amounted to \$36,727 in 1978 and \$47,717 in 1979. Profits equalled \$1.04 per resident per day in 1978 and \$1.34 per resident per day in 1979. By contrast, food costs were low at 78 cents and 94 cents per resident per day respectively in 1978 and 1979.
5. *Expenses reported on tax returns as contrasted with GAO independent verification:* GAO examined the expenditures and found that amounts reported for tax purposes could not be verified. GAO says reported food costs of \$95,849 in 1978 and \$117,417 in 1979 could not be fully supported by invoices or cancelled checks. GAO says checks verify only \$27,315 in expenditures for food (only 29 percent of the total claimed) in 1978 and only \$33,525 in 1979 (28 percent of what was reported in tax returns). GAO says the owner's contention that she paid cash for costs was unrealistic because:
  - (a) Food costs were based on estimates on the admission of the accountants; and
  - (b) The operator's general practice is to write checks for small amounts of food.
 From GAO's perspective, food costs are overstated. Claimed costs of \$3.29 per resident per day are more like 94 cents per resident per day in 1979, according to GAO.  
GAO says other costs such as fuel, repairs, utilities, and insurance were allocated to the boarding home on an arbitrary basis. The operator uses the same checks to pay for repairs at the boarding home and at an apartment complex she owns. GAO says it was impossible to establish what were the proper allocations.
6. *Disposition of Special Energy Checks:* In January 1980, SSA issued \$157.00 energy checks to 82 persons who were Windsor residents. The total amount of these checks was \$12,874. The operator said she waited until April to place \$10,676 (68 checks) into the home's account. Subsequent to GAO inquiry, the operator said she placed half of the \$10,676 in a separate bank account and planned to retain the money for the residents. No explanation was given as to what happened to the remaining \$2,200. GAO says, since the home's energy costs decreased in 1979, the operator would have received a windfall profit of at least \$10,767 but for our inquiry.
7. *Handling of Residents Personal Funds:* GAO says the owner does not maintain records on personal spending allowances given to residents. She contends \$25 a month was given in 1978 and \$30 a month in 1979. There is no way to verify this. Clearly, the operator was depositing these monies in the general account, commingling the resident's money with operating funds. The operator claims funds were paid on an as needed basis but there is no verification.
8. *Analysis of billings to the Medicaid program for medical assistance on behalf of boarding home residents:* GAO says it was unable to construct a profile of which

physicians and other providers serviced the residents and how much they received from Medicaid. This is due to the State of Pennsylvania not having an integrated computer system until this year which would have allowed retrieval of this data on a timely basis.

9. Principal GAO Findings:

(a) The home has not established a management and financial records system which can accurately reflect the operations of the boarding home.  
 (b) The amount of income reflected in tax returns was not verifiable because boarding home records were unreliable.

(c) Income may have been underreported depending on whether or not residents, actually received their personal spending allowances.

(d) Food costs reported on tax returns could not be verified. GAO calculated 94 cents per resident per day in 1979 as the actual cost while the operator claimed \$3.29 per resident per day in this same year. Expenses in general were prorated between the boarding home and the owner's apartments on an arbitrary basis.

(e) There is no accountability of residents' funds and personal spending allowances. Residents' funds are commingled with the home's general operating funds.

(f) The operator retained \$10,676 in residents' special energy checks and commingled them with the operating account. After GAO intervened, the operator made known her intention to place half of the monies in a separate account for residents. Since the home's energy costs actually decreased from 1978 to 1979, the operator realized a windfall profit of at least \$10,676 until GAO intervened.

(g) Social service workers were not actively involved in the home and the amount of social activity is minimal—principally watching television.

(h) 1978 and 1979 inspections noted mice feces and cockroaches in rooms and spoilage of food.

The 1980 inspection reports by State and City officials noted: Unclean kitchen utensil trays; clothes on floor; old mice droppings in closet; missing window glass; and fire extinguishers in need of recharging.

A 1981 inspection showed the home was in compliance with only 67 percent of State personal care requirements, thus a provisional (6 months) license was granted. Among the 26 violations listed were: Resident records do not exist; provider records do not contain all information; staffing was half of the required level; medication was not given as prescribed; medication was not locked in a container within a locked room; resident rights were not observed. The operator opens their mail which contains their checks and does not permit normal use of the phone; no separate records of financial transactions of residents are maintained. Deposits and expenditures were not documented; basic furnishings such as towels, mirrors, pillows, etc., were lacking; first aid supplies were unavailable; menus were not prepared and residents ate in their bedrooms; and more than 4 persons were housed in each of the 7 rooms.

QUESTIONS FOR THE GAO WITH RESPECT TO THE WINDSOR HOUSE, 2126-36 GREEN STREET, PHILADELPHIA, PA.

1. On the basis of calculating payments made by the Social Security Administration to residents, you said income was underreported by 10 percent in 1978 (\$22,856) and by 8 percent in 1979 (\$21,516). Is this true?

2. Your report states that the owner has overstated food costs. The owner claims costs of \$3.29 per resident per day but they are more like 94 cents per resident per day. Is this correct?

3. The operator retained \$10,676 in residents' special energy checks and commingled them with the operating account. Since the home's energy costs decreased between 1978 and 1979, the operator realized a windfall profit of at least \$10,676 until GAO intervened. Is this correct?

4. The owner does not maintain records on personal spending allowances given to residents although it was claimed that residents were given \$25.00 a month in 1978 and \$30.00 a month in 1979. The operator was depositing resident's monies in the general account, commingling residents' money with operating funds. Is this true?

5. The home has not established a management and financial records system which accurately reflects the operations of the boarding home. Is this true?

6. The 1981 inspections by both State and City officials noted that there were several violations and therefore, the home was granted only a provisional license. Among the violations noted were: staffing at half the prescribed level, medications not given as prescribed, operator opening mail of residents and refusing to allow residents normal use of the phone. Is this correct?

TABLE I

NUMBER OF INPATIENTS IN STATE MENTAL HOSPITALS 1969, 1974, 1978 AND 1980 AND NUMBER OVER AGE 65

STATE	Total in-patients all ages				Percentage of increase or decrease	Total in-patients over age 65				
	1969*	1974	1978	1980		1969*	1974	1978	1980	
Alabama	7,601	3,067	2,255	2,259	-70	2,646	639	488	510	-80
Alaska	674	148	87	151	-77	27	0	0	---	-100**
Arizona	1,141	655	519	332	-71	384	116	118	103	-73
Arkansas	1,460	474	221	302	-79	311	416	10	24	-92
California	16,116	6,476	5,237	5,314	-67	4,129	573	375	353	-91
Colorado	10,317	5,652	1,148	792	-92	1,250	614	352	100	-95
Connecticut	6,068	3,597	2,350	2,412	-60	1,611	568	355	336	-79
Delaware	1,140	966	530	505	-56	408	410	120	150	-63
D.C.	5,111	2,708	2,165	2,091	-59	2,058	1,077	704	669	-67
Florida	9,562	6,385	5,337	5,071	-47	3,952	1,966	1,500	1,386	-65
Georgia	7,653	7,446	5,139	5,971	-22	2,207	1,040	836	875	-60
Hawaii	581	297	150	225	-61	182	92	20	5	-97
Idaho	527	207	179	190	-64	300	46	38	33	-89
Illinois	28,233	14,179	10,540	10,139	-64	7,263	1,744	777	681	-91
Indiana	16,703	7,735	5,271	1,506	-90	4,209	1,248	690	1,131	-73
Iowa	2,230	991	1,207	---	-46**	1,742	132	63	---	-96**
Kansas	5,592	1,298	1,385	1,243	-78	1,175	114	106	63	-95
Kentucky	3,479	1,956	898	763	-78	873	390	157	61	-93
Louisiana	4,676	2,851	2,074	---	-56**	553	255	198	605	+9
Maine	2,726	1,480	747	654	-76	1,072	442	302	240	-78
Maryland	7,161	4,968	3,518	3,550	-50	2,387	1,469	957	854	-64
Massachusetts	21,000	11,688	3,292	5,501	-74	8,000	1,050	658	---	-92**
Michigan	12,293	5,922	4,880	4,529	-63	2,890	1,119	753	748	-74
Minnesota	3,792	5,584	1,550	4,599	+21	785	478	354	---	-55**
Mississippi	5,955	4,107	2,207	---	-63**	2,567	865	830	524	-79
Missouri	7,496	4,054	2,570	2,489	-67	2,587	807	729	667	-74
Montana	1,376	1,057	855	---	-38**	500	139	423	---	-15**
Nebraska	1,685	2,815	560	---	-67**	382	208	57	---	-85**
Nevada	439	264	106	130	-70	78	19	8	5	-93
New Hampshire	2,074	1,306	588	750	-64	966	472	93	358	-63
New Jersey	22,857	10,695	6,253	5,626	-75	6,563	3,680	2,282	1,978	-70
New Mexico	700	337	254	---	-64**	168	86	25	---	-85**
New York	70,765	39,770	27,116	24,327	-66	28,400	17,681	12,141	10,653	-62
North Carolina	22,507	4,829	2,950	3,033	-86	3,824	1,347	952	705	-81
North Dakota	1,208	642	627	536	-56	360	146	147	48	-87
Ohio	16,934	9,793	5,275	4,879	-71	4,752	2,850	1,694	1,268	-73
Oklahoma	3,854	2,281	1,999	---	-48**	713	507	560	---	-21**
Oregon	3,360	3,491	1,175	---	-65**	710	219	153	---	-78**
Pennsylvania	27,536	16,307	10,280	9,940	-64	8,360	5,597	4,495	---	-46**
Rhode Island	1,881	3,456	944	506	-64	610	660	270	35	-94
South Carolina	5,805	4,330	3,673	3,120	-46	1,874	1,224	1,293	1,000	-46
South Dakota	1,229	690	489	462	-62	711	194	82	135	-81
Tennessee	6,713	4,562	2,839	2,612	-63	1,807	1,357	920	813	-55
Texas	14,253	8,588	5,620	5,608	-60	5,464	1,447	1,131	1,077	-80
Utah	1,284	897	350	967	-24	209	96	62	108	-48
Vermont	1,079	475	315	263	-76	455	110	85	50	-89
Virginia	11,338	6,072	4,963	7,779	-31	4,100	2,614	2,269	1,921	-53
Washington	4,252	4,286	1,156	1,123	-73	722	349	176	168	-76
West Virginia	3,950	2,869	1,497	1,300	-67	1,194	782	531	450	-62
Wisconsin	10,908	1,691	682	516	-95	4,616	96	18	23	-99
Wyoming	435	303	210	264	-39	160	60	50	50	-68
TOTAL	427,709			134,239		133,261			30,963	
AVERAGE	8,386			3,121	-61.6	2,612			737	-72.8

\* These figures were obtained from a U.S. Senate Special Committee on Aging report, "Part VII - Nursing Home Care in the United States: Failure in Public Policy" p.719  
 \*\* 1980 figures were not available. In these States, percentage increase or decrease is based on 1969 to 1977 data.

TABLE 2  
TOTAL AMOUNT BUDGETED FOR MENTAL HEALTH  
1969 - 1980

STATE	Total State Budget for Mental Health (in Millions)				Percentage of increase or decrease 1969-1980
	1969*	1974	1977	1980	
Alabama	16.0	31.6	40.3	137.0	756.3
Alaska	4.7	8.0	16.7	22.3	374.5
Arizona	8.4	14.0	15.7	22.6	169.0
Arkansas	11.3	18.3	26.1	21.5	90.3
California	152.3	253.8	339.0	568.6	273.3
Colorado	24.7	29.8	45.3	3.8	-84.6
Connecticut	46.8	66.2	65.6	98.9	111.3
Delaware	11.2	12.4	20.4	26.8	139.3
D.C.**	31.0	38.9	50.8	---	63.8***
Florida	34.7	86.4	126.1	181.0	421.6
Georgia	82.9	127.5	214.5	144.0	73.7
Hawaii	7.3	8.5	11.4	20.4	179.5
Idaho	3.2	3.5	5.3	---	65.6***
Illinois	268.4	314.3	389.4	350.4	30.5
Indiana	68.9	89.9	150.0	194.9	182.9
Iowa	19.1	28.2	38.9	29.1	52.4
Kansas	22.8	24.4	32.1	---	40.8***
Kentucky	13.9	19.7	26.0	30.5	119.4
Louisiana	18.0	29.0	39.0	84.0	366.7
Maine	8.5	14.9	14.9	21.4	151.8
Maryland	37.9	66.9	80.9	112.4	196.6
Massachusetts	116.9	188.3	233.9	391.8	235.2
Michigan	151.0	258.0	291.0	539.0	256.9
Minnesota	9.0	---	18.2	115.0	1177.8
Mississippi	7.7	12.1	14.7	61.0	692.2
Missouri	73.3	73.2	112.5	206.9	182.2
Montana	5.1	8.8	17.1	---	235.3
Nebraska	15.0	17.0	20.1	21.1	40.7
Nevada	2.9	7.4	11.6	15.6	437.9
New Hampshire	10.1	19.2	28.6	24.7	144.6
New Jersey	66.2	102.8	115.1	143.5	116.8
New Mexico	4.0	10.7	15.2	---	280.0
New York	330.7	479.9	489.5	1100.0	232.6
North Carolina	58.0	126.7	183.6	107.5	85.3
North Dakota	.3	1.2	.4	29.8	983.3
Ohio	87.6	138.5	166.5	607.4	593.4
Oklahoma	16.9	25.2	37.1	51.8	206.5
Oregon	23.3	38.9	57.1	104.0	346.4
Pennsylvania	141.8	263.7	336.6	450.0	217.3
Rhode Island	11.0	18.3	28.5	29.0	163.6
South Carolina	18.5	39.5	64.1	93.9	407.6
South Dakota	4.1	6.4	9.9	9.5	131.7
Tennessee	33.5	88.9	114.5	160.3	378.5
Texas	35.8	62.2	98.3	118.8	231.8
Utah	3.8	6.8	11.3	20.0	426.3
Vermont	6.1	9.9	11.2	8.1	32.8
Virginia	31.9	52.1	64.9	183.0	473.7
Washington	24.7	32.2	37.5	58.6	137.2
West Virginia	15.0	21.9	45.8	24.0	60.0
Wisconsin	29.2	42.2	59.4	70.7	142.1
Wyoming	2.7	4.0	6.4	10.1	274.1

TOTAL 2,228.1 3,710.4 4,449.0 6,824.7  
 AVERAGE 43.7 74.2 87.2 148.4 256.8  
 \*These figures were obtained from the U.S. Senate Special Committee on Aging report, "Part VII - Nursing Home Care in the U.S.: Failure in Public Policy."  
 \*\*D.C. reported its previous figures were invalid but could not clarify.  
 \*\*\*1980 figures were not available. In these States, percentage increase or decrease is based on 1969 to 1977 data.

TABLE 3  
AVERAGE COST TO KEEP AN INDIVIDUAL  
IN A MENTAL HOSPITAL, 1969-1980

STATE	Cost per year per inpatient				1969-1980 Percentage Increase
	1969*	1974	1977	1980	
Alabama	2,124	9,424	15,903	22,225	949
Alaska	14,385	27,766	60,225	71,175	393
Arizona	5,009	18,193	21,366	43,119	851
Arkansas	8,432	19,228	28,134	37,778	348
California	8,694	18,038	22,780	35,150	304
Colorado	19,829	37,048	43,828	45,625	130
Connecticut	7,603	16,582	23,798	44,114	480
Delaware	7,300	10,282	20,761	26,364	261
D.C.	7,019	19,231	33,069	52,049	641
Florida	3,293	8,811	14,146	19,497	492
Georgia**	2,200	2,971	3,498	24,117	996
Hawaii	6,570	15,695	29,565	48,545	639
Idaho	7,300	12,775	18,250	32,668	347
Illinois	6,304	15,082	43,828	33,974	439
Indiana	4,376	8,337	15,593	22,130	406
Iowa	8,660	16,780	21,200	26,679	208
Kansas	7,949	14,455	20,838	31,759	300
Kentucky	2,607	2,585	3,687	---	---
Louisiana	5,840	9,811	20,714	29,200	1020
Maine	2,974	14,177	20,049	23,725	306
Maryland	4,214	10,089	16,519	29,266	887
Massachusetts	4,425	13,948	21,485	35,113	833
Michigan	6,169	20,035	26,324	43,070	598
Minnesota	5,500	9,125	16,790	27,375	398
Mississippi	2,022	3,595	9,023	16,425	712
Missouri	5,898	12,760	19,225	39,646	572
Montana	3,900	8,000	21,000	---	438***
Nebraska	5,475	NA	14,674	---	168***
Nevada	6,830	13,837	36,835	54,720	701
New Hampshire	3,600	9,800	19,700	33,718	837
New Jersey	5,421	11,265	18,202	24,346	349
New Mexico	4,573	9,862	15,896	---	248***
New York	7,665	14,856	21,973	38,325	400
North Carolina	3,362	10,720	18,890	35,405	953
North Dakota	5,676	12,538	14,848	20,191	256
Ohio	3,467	9,665	17,265	32,912	849
Oklahoma	4,015	7,300	16,425	29,000	622
Oregon	6,390	9,340	17,130	30,090	378
Pennsylvania	4,570	12,841	22,867	32,842	619
Rhode Island	5,074	10,027	18,146	39,909	686
South Carolina	2,504	5,549	11,349	18,501	639
South Dakota	3,697	7,864	12,629	20,064	443
Tennessee	5,186	17,913	29,872	26,645	414
Texas	2,679	6,453	16,775	21,425	700
Utah	2,900	7,232	9,004	36,500	1159
Vermont	4,132	12,845	23,240	38,325	827
Virginia	2,654	6,785	11,508	22,914	763
Washington	7,880	13,978	20,052	27,375	247
West Virginia	3,180	8,137	17,079	8,212	158
Wisconsin	9,200	24,900	30,400	61,944	538
Wyoming	5,811	12,246	20,889	30,532	425

TOTAL 286,927 630,776 1,067,146 1,574,867  
 AVERAGE 5,626 12,616 20,924 32,809 547

\* These figures were obtained from a report of the U.S. Special Committee on Aging, Part VII - "Nursing Home Care in the United States: Failure in Public Policy."  
 \*\* Georgia reported that its cost figures for 1969, 1974, and 1977 were inaccurate.  
 \*\*\* 1980 data not available in these States. Percentage increase is based on 1969-1977 data.

[News—Select Committee on Aging]

PEPPER RELEASES REPORTS ON BOARDING HOME FINANCIAL ACCOUNTABILITY WITH  
LATEST STATISTICS OF DUMPING OF PATIENTS

WASHINGTON, D.C.—Congressman Claude Pepper (D-Fla), Chairman of the House Select Committee on Aging, today released a summary of a financial analysis conducted by the General Accounting Office of books and records of 10 boarding homes received in response to Committee subpoenas.

"Our Committee has held a number of hearings relating to poor care and abuse in boarding homes which are the newest class of institutional occupancy in the United States. We have held hearings relating to the 130 deaths by fire in these old hotels and dilapidated buildings which house thousands of aged, mentally disabled and handicapped individuals. We have found that the States are dumping people wholesale out of State institutions in order to save money and are shifting the cost burden to the Federal government through the Supplementary Security Income (SSI) program. Thanks to the help of the U.S. General Accounting Office and the exercise of Committee subpoenas, we now have the first detailed look at the financial operations of a number of boarding homes. I am releasing this information here this morning. I think that all America will be shocked to read the sordid details of rampant fraud and abuse now evident from the GAO audits. The results of this investigation demonstrate that we have a desperate situation on our hands," said Chairman Pepper.

Chairman Pepper also released statistics which document the movement of mental patients from State hospitals. State-by-State tables attached to this release show that the average State has reduced its inpatient population 61 percent since 1969 and that the number of aged patients has been reduced by 73 percent during this same time frame. (See attached State-by-State tables).

Chairman Pepper pointed out that the average cost of keeping a patient in a State mental hospital has increased 73 percent during the 1969-1980 time frame so that it now costs the average State \$32,000 a year. He said this is a significant incentive for the States to discharge patients to boarding homes and place them on the SSI rolls.

"I hesitate to think what is going to happen when the States are faced with the coming Medicaid cutbacks," said Chairman Pepper. "I fear that they will accelerate their wholesale dumping to include thousands of senior citizens who reside in nursing homes. There have even been some reports that a few States are considering releasing prisoners and placing drug addicts in boarding homes, many of which are simply unsafe warehouses for the dying."

Following are summaries of 9 case studies which involve 10 homes (2 homes have common ownership).

Chairman Pepper said he plans to introduce legislation to require boarding homes to file CPA audited cost statements and comply with other Federal minimum standards in the near future. He also said that GAO was conducting yet another audit with respect to boarding homes which they will present to the Committee in the not too distant future.

DAVID D. ROSENSTEIN,  
ATTORNEY AT LAW,  
Chicago, Ill., July 17, 1981.

Re Gracell Manor-Irwin Sweet

Mr. VAL HALAMANDARIS,  
Select Committee on Aging, U.S. House of Representatives, 300 New Jersey Avenue,  
SE., Washington, D.C. 20515

DEAR MR. HALAMANDARIS: As suggested when we met on the afternoon of June 25, 1981, I am writing on behalf of my client, Mr. Irwin Sweet, to respond to some of the erroneous conclusions reached by the GAO in its findings with respect to Gracell Manor.

First, it should be noted that Mr. Sweet is retired. As of January 1, 1981, his corporations disposed of all interest in Gracell Manor and the adjacent real estate in an arm's length transaction to an unrelated buyer. The buyer is an Illinois corporation, Gracell Terrace, Inc., and it is represented by Mr. Albert Milstein of the well-known Chicago law firm of Winston & Strawn. The details of the transaction are set forth in a detailed written agreement, and Mr. Milstein can confirm the truly arm's length nature of the negotiations.

Mr. Sweet is presently in poor health, with a thyroid condition, diabetes and high

blood pressure. He is 66 years old, and has no plans to resume any active business. Mr. Sweet, although possessing little formal education, has heretofore had an unblemished record as a law-abiding citizen, and he has already been greatly damaged by the newspaper accounts of the Committee's findings which appeared in Chicago newspapers (copies enclosed).

As stated before the Committee, the reason for his failure to comply with the Committee's May, 1981 request for additional information was that Mr. Sweet was not then at the Gracell Manor and the Committee's letter was returned by some current employee unopened. Last year, prior to the sale, we attempted to comply with all of the requests made by the GAO even though doing so imposed a substantial burden on Mr. Sweet. Prior to the June 25, 1981 hearing, we had no opportunity to respond to any questions raised by the GAO nor were we aware of their proposed findings. Upon review of the GAO's finding, it appears that they have reached erroneous conclusions which should be corrected:

(a) With respect to the allegations in paragraph 4 relating to alleged unreported income, Mr. Sweet denies any intentional understatement of income, and the Internal Revenue Service has never even raised the issue upon audit.

(b) With respect to the various alleged items of "unsupported" expenses set forth in paragraph 5, please be advised:

(1) insurance bills and canceled checks are available for verification of the amounts spent on insurance;

(2) the \$8,400.00 rent was paid to a separate corporation which owned a property adjacent to Gracell Manor. Gracell Manor utilized the backyard area, with dimensions of 66' by 33', as a recreational area for residents, storage space in the basement of approximately 2,400 square feet, and a garage 42' by 33'. The rent was reasonable for the space used.

(3) with respect to the medical expenses of Mrs. Molly Sweet, she was and is an officer (Secretary-Treasurer) of the corporation which operated Gracell Manor and did bookkeeping work for the corporation. Reimbursements of her medical expenses were authorized by a medical reimbursement plan adopted by the corporation.

(4) with respect to professional fees, there is substantiation available for all of these items. The accountant, Mr. Ernest Hochfelder, has long been on a retainer from the corporations and will confirm that the payments in question were received without the need for formal invoices.

(5) all payroll records for regular employees of the Gracell Manor were done by computer by the A.D.P. Service. We are unaware of any discrepancies. However, there have been various independent contractors such as the painter and certain repairmen who have from time to time provided services at the Gracell Manor. None of these parties were employees of Gracell Manor.

(c) With respect to energy check money, please be advised that the recipients of the checks were credited with the amounts in full in their individual ledgers. State of Illinois officials had recommended that procedure as the appropriate handling of these moneys. Even the GAO noted in paragraph 7 that the procedures employed by Gracell Manor to safeguard resident funds appear to be adequate.

(d) The matters alleged in paragraph 8 with respect to participants in the Medicaid program at Gracell Manor have nothing whatsoever to do with Mr. Sweet. He is in no way related to any of the parties listed, nor has he received any compensation from them, direct or indirect.

In view of the foregoing, we respectfully submit that the conclusions reached by the GAO are erroneous and unsupported.

We respectfully request that this letter be a part of the record and that any recommendations made by the Committee consider the matters included herein.

If we can be of any further assistance to the Committee, we would be pleased to cooperate.

Sincerely yours,

DAVID D. ROSENSTEIN.

Enclosure.

[From the Chicago Sun-Times, Friday, June 26, 1981]

FRAUD PROBE HITS REST HOME HERE

Washington—Government audits of 10 privately run boarding homes catering to the elderly—one of them in Chicago—support allegations of "rampant fraud" and appropriation of payments earmarked for residents, a House committee chairman said Thursday.

Rep. Claude Pepper (D-Fla.), who heads the Select Committee on Aging, said he will ask the Justice Department and the Internal Revenue Service to investigate the situation further.

Pepper said there are at least 100,000 boarding homes in the country—"generally old hotels or structures which once were nursing homes but which could not meet fire safety standards."

His committee said these facilities house some 1.5 million people, most of them aged or disabled and living almost entirely on government aid.

The General Accounting Office report on its audits, conducted at the committee's request, alleged that seven of the 10 homes under-reported their income for federal tax purposes in either 1979 or 1980. The amounts ranged from less than \$200 to more than \$124,000.

The seven facilities that the GAO said under-reported income on federal tax returns are Gracell Manor in Chicago, Alcazar Home for the Aged in St. Louis, Park Avenue Home for the Aged in Baltimore, Windsor House in Philadelphia and three boarding homes in Coatsville, Pa.

There was no explanation of how the boarding homes were selected for audit. Irwin Sweet, who owned Gracell Manor until selling his interest to a corporation this year, appeared before the House committee with his attorney.

The audit indicated Gracell under-reported 1979 income by more than \$35,000, kept all energy assistance checks for a "windfall profit" of more than \$17,000, claimed questionable business expenses and failed to verify others.

In response to questions from Pepper and other committee members, Sweet repeatedly declined to answer "on grounds of my Fifth Amendment rights." Officials of Gracell Manor were not immediately available for comment on Thursday's development.

[From the Chicago Tribune, Friday, June 26, 1981]

#### MAN CHARGED IN AID FRAUD

(By Andy Knott)

The former owner of a South Side nursing home underreported his income by more than \$35,000 and claimed a windfall profit of \$17,000 from government energy assistance checks, the Government Accounting Office charged Thursday.

The charges, which came during a meeting of the House Select Committee on Aging, are the result of government audits of 10 privately run boarding and nursing homes catering to the elderly, said committee chairman Rep. Claude Pepper (D., Fla.).

During the committee meeting, Pepper charged Irwin Sweet, former owner of Gracell Manor, 6410 S. Kenwood Ave., with "rampant fraud and abuse," of government assistance.

Gracell, according to the audit, under-reported its 1979 corporate income by more than \$35,000, kept all energy assistance checks for a "windfall profit" of more than \$17,000, claimed questionable business expenses, and failed to verify others.

Sweet, who owned the home until selling his interest earlier this year, appeared before the committee but repeatedly declined to answer questions "on the grounds of my Fifth Amendment rights."

Attorneys representing Sweet and other owners disputed the allegations. "If three GAO accountants examined any small business in this country there would be discrepancies," one said.

However, Rep. William Ratchford (D., Conn.) said afterward that the GAO report and other information compiled by House investigators showed systematic fraud. "We found double-billing, use of government funds for improvement on the owner's home, questionable use of cars, false employment records and even patient dumping," he said.

"It is very sad," he added. "Many patients have been deprived of their rights. They never see their Social Security insurance checks. The nursing homes convert them to their own use."

Ratchford said the GAO estimates of fraud are "probably on the low side" because of shoddy recordkeeping in the industry.

Repeated attempts to contact Sweet were unsuccessful.



**END**