

TRENDS IN LONG-TERM CARE

HEARING
BEFORE THE
SUBCOMMITTEE ON LONG-TERM CARE
OF THE
SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE
NINETY-FOURTH CONGRESS
FIRST SESSION

PART 24—NEW YORK, N.Y.

FEBRUARY 4, 1975



Printed for the use of the Special Committee on Aging

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1975

47-104

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 - Price \$2.40

I may say that the inspector general has delivered to this committee an updated copy of a report on the Towers Nursing Home, which I am pleased to receive, and we will be inquiring about this. [The material referred to follows. Testimony resumes on p. 3076.]

REPORT ON TOWERS NURSING HOME, PREPARED BY THE NEW YORK STATE WELFARE INSPECTOR GENERAL, FOR PRESENTATION TO THE SUBCOMMITTEE ON LONG-TERM CARE

THE TOWERS NURSING HOME—GENERAL

BACKGROUND INFORMATION

A Physical Description Of Towers Nursing Home

The Towers Nursing Home commenced operations in 1956 and closed its doors in January 1975, at which time it had a bed capacity of 347. It is located at 2 West 108th Street, New York City.

The Towers Nursing Home, found to be in serious violation of the Federal Life Safety Code for several years, had joined the Hayden-Manor class action legal suit. However, in December 1974, the Towers Nursing Home decided, voluntarily, to cease operation because of uncorrectable deficiencies. Their decision to close seems also related to the fact that the NYSDH would not approve transfer of the Towers' license to another building located at Fifth Avenue and 108th Street, New York City.

The home consisted of four floors of round dormitories joined by corridors. These corridors were sufficient in width but were lined in many areas by stand-up closets, chairs, tables and other furniture and equipment. The fourth floor is located in the building's turrets and one cannot get from one section of this floor to the other without crossing over on the floor below. The building's floor plans vary from floor to floor. All patients, including blind and nonambulatory or physically handicapped patients, were quartered on all four floors.

In addition to patient rooms, the first floor contained the lobby, offices, and a physical therapy room which appeared to be used more for storage than rehabilitation. Each floor contained a patient dining/recreation area which was inadequate for the home's patient population. The home had only one treatment room located on the third floor. A basement housed the home's dietary facilities, staff dining room, laundry facilities, storage area, and boiler room.

HISTORY OF OWNERS, OPERATORS AND ADMINISTRATORS

The building housing the Towers Nursing Home was built as a hospital in the 19th century and sold, in 1952, by the hospital to Webb and Knapp, Inc.

West Par Realty Co., Inc., purchased the property from Webb and Knapp, Inc., in December 1955. West Par Realty Co., Inc., had two mortgages on the property: the first, for \$199,700 at 6 percent interest, was granted by David Lidsky and Joseph Rubenstein on November 29, 1955. It was payable in monthly installments of \$2,550 from December 29, 1955, to October 29, 1956, with the balance due on November 29, 1956. Lidsky and Rubenstein assigned the mortgage to the Lafayette National Bank of Brooklyn on the same date. The second (subordinated to the first) was for \$600,000—at no interest—granted by Philip Deutsch on July 3, 1956, and payable on November 15, 1959.

Three transactions took place prior to November 29, 1956, the due date for the first mortgage: (1) Lafayette National Bank assigned the mortgage to David Lidsky; (2) Lidsky assigned it to Bernard Bergman; (3) Bernard Bergman assigned it to Lafayette National Bank for a consideration of \$150,000.

In March 1957, West Par Realty conveyed the property to Anne Weiss (Mrs. Bernard Bergman). Anne Bergman was the secretary and Bernard Bergman the president of West Par Realty Co., Inc. The \$600,000 second mortgage, which had been assigned by Philip Deutsch to K. D. H. Towers, Inc., on December 12, 1956, was thereafter assigned by K. D. H. Towers to B & B Holding Corp. on January 6, 1958. Bernard Bergman was the president of B & B Holding Corp.

In October 1958, the following transactions took place:

(1) Anne Weiss conveyed the property to Bogardus Realty Corp. Her address was listed as 280 Riverside Drive, New York. The deed was subject to an \$800,000 consolidated purchase mortgage (to be recorded at the same time) and to a lease for the property, with Anne Weiss as lessee and Bogardus Realty as lessor. This deed was signed in the presence of Mark A. Bogart.

(2) Bogardus Realty was granted a mortgage by Anne Weiss for \$54,500 at no interest. This constituted a third mortgage on the property and was subordinate to the other two.

(3) Lafayette National Bank assigned the first mortgage to Anne Weiss.

(4) B & B Holding Corp., a corporation in which Anne Weiss owned stock under the name of Anne Bergman, assigned the \$600,000 mortgage to Anne Weiss (she was now the owner of all three mortgages on the property).

(5) A consolidation and extension agreement was entered into by Anne Weiss and Bogardus Realty on October 15, 1958. Under this agreement, all three mortgages were consolidated into one \$800,000 lien. Bogardus was to pay \$65,000 a year—\$150,000 on January 2, 1959, and 5 percent interest on the remaining \$650,000 lien, with the balance of the principal due on October 15, 1968 (the date that the lease with Anne Weiss expired).

(6) Anne Weiss leased the property from Bogardus Realty for an annual rent of \$130,000 from October 15, 1958, to October 15, 1968. The lessee was to pay all real estate taxes and water charges. The lessee was given the option to renew for an additional 11 years at a rate of \$130,000 per year. The address of the lessee was given as c/o Mark A. Bogart, Esq., 1270 Sixth Avenue, New York, N.Y. The mortgage between Anne Weiss and Bogardus Realty was recorded at the request of Mark A. Bogart.

(7) Bogardus Realty conveyed the property to Towers Associates, a partnership consisting of thirty (30) partners formed on October 14, 1958. [exhibit 1].¹ According to the papers of incorporation of Bogardus Realty on file with the New York Department of State, Benjamin Pulier is one of the directors of Bogardus (Pulier was one of the 30 partners in Towers Associates in 1958). The conveyance was subject to a \$800,000 mortgage as a first lien and to a lease entered into by Bogardus Realty and Anne Weiss.

As indicated above, Anne Weiss assigned the \$800,000 mortgage to Lafayette National Bank in December of 1958 for a consideration of \$150,000. According to the mortgage, Bogardus was to pay \$150,000 to the holder of the mortgage on January 2, 1959, as a reduction of principal. In July 1959, Anne Weiss and Lafayette National Bank entered into an agreement in which they were to share ownership of the consolidated mortgage, with \$628,014.70 in principal still outstanding. Lafayette's share of the mortgage was \$150,000. On the same date (July, 1959) Anne Weiss assigned her interest in the mortgage to Miltstol Syndicate, Inc., located at 50 Court Street in Brooklyn.

Miltstol Syndicate assigned its interest in the mortgage to Sterling Investment Corp. in July 1960. Sterling Investment, in turn, assigned it to Irving Fox in February 1961. In May 1961, Fox assigned his share of the mortgage to Anne Weiss, and Lafayette National Bank assigned its \$150,000 share to Anne Weiss for a consideration of \$150,000. She then assigned the entire mortgage to Laurence Tisch and Preston Tisch, who held an undivided one-half share, and to 221 Realty Corp., who received the other one-half share. The unpaid principal was \$563,644.67. Mark A. Bogart was the notary for this last transaction.

In July 1962, the Tisches and 221 Realty Corp. assigned their shares of the mortgage to Federation Bank & Trust Co., located at 10 Columbus Circle. The outstanding principal on the mortgage was then \$519,507.62. In May 1963, Towers Associates entered into an extension agreement with Federation Bank, the Tisches and 221 Realty Corp. The outstanding principal on the mortgage was then \$489,746.54. Interest was to be paid at the rate of 6 percent a year commencing on March 15, 1963. Monthly payments of \$4,075 were to be made from April 15, 1963, to October 15, 1978. The unpaid balance was scheduled for payment on October 15, 1978. Solomon J. Freedman was the notary of the Towers signatures. He was also listed as the vice president of Bogardus Realty.

¹ All exhibits mentioned in this report are retained in committee files.

On April 1, 1964, Aghadjan and Nourollah Elghanayan became the sole partners of Towers Associates. They assigned their interest to David Berg, Irving Dimson, Harry Feldman, Bernard Alt and Stanley A. Alt on June 18, 1964 [exhibit 2].

Anne Weiss and Towers Associates agreed to a modification of the lease on May 25, 1965. She agreed to make repairs and installations at a cost of \$90,000 in return for an extension of the lease from 1979 to 1989. There would also be an increase in the rent of \$7,500 per year. This modification was not recorded until February 27, 1968. Bernard Bergman signed as a witness to the agreement.

On July 12, 1965, Anne Weiss assigned the lease to Liberty House of New York, Inc. This document was recorded on February 27, 1968. Liberty House is a wholly owned subsidiary of Medic-Home Enterprises, Inc. According to a recent offering circular, dated September 25, 1974 (exhibit 3), Bernard Bergman is the chairman of the board of directors of Medic-Home and owned approximately 25 percent of the outstanding shares of common stock as of August 30, 1974. Furthermore, Samuel A. Klurman, the chairman of the executive committee, and a director, owned approximately 32 percent of the outstanding shares of common stock at that time [exhibit 3].

On January 12, 1968, Liberty House of New York sub-letted the property to a partnership, Towers Nursing Home, which partners included Alexander Forro, Sisel Klurman, and Anne Weiss. Samuel Klurman signed the agreement in his role as president of Liberty House. The rent was set at \$1,000 per bed annually, which was equivalent to \$347,000 in 1974. Accompanying this sub-lease was a consideration of \$100,000.

The following situation prevailed when the Towers Nursing Home was closed in January 1975:

- (1) *Deed*: Held by Towers Associates.
- (2) *Mortgage*:
 - (a) Laurence and Preston Tisch hold an undivided one-half share.
 - (b) United Jewish Appeal of Greater New York, Inc. holds 29 percent.
 - (c) Federation of Jewish Philanthropies of New York hold 21 percent.
- (3) *Lease*: Liberty House of New York, Inc.
- (4) *Sub-Lease*: Towers Nursing Home (a Partnership) consisting of Anne Weiss and Sisel Klurman.

Principal Parties Involved in Transactions:

1. West Par Realty Co., Inc., 19 West 44th Street; 2 West 106th Street, New York, N.Y. Bernard Bergman, president; Anne Bergman, secretary; Murray Kalk, attorney and vice-president.
2. B & B Holding Corp., 250 West 57th Street, New York, N.Y. Bernard Bergman, president.
3. Bogardus Realty Corp., c/o Benjamin Pulier, Esq., 51 Chambers Street, New York, N.Y. David Rabey, president; Solomon J. Freedman, vice-president.
4. Towers Associates (partnership), c/o B. Pulier, 51 Chambers Street, New York, N.Y. David Rabey and Benjamin Pulier.
5. Anne Weiss is the wife of Bernard Bergman. She uses the names Weiss and Bergman interchangeably and both names use the address: 280 Riverside Drive, New York, N.Y.
6. Liberty House of N.Y., Inc. (a subsidiary of Medi-Homes, Inc.), 250 West 57th Street, New York, N.Y. Samuel Klurman, president.
7. Medic-Home Enterprises, Inc., 1700 Broadway, New York, N.Y. officers: Dr. Bernard Bergman, chairman of the board; Samuel Klurman, chairman of the executive committee; Morris A. Shmidman, president; James M. Breiner, vice-president, board of director Conn. Soic.; Samuel Oberfest, secretary and treasurer. Directors: Bernard Bergman, Stanley Bergman (executive committee), James M. Breiner, Samuel A. Klurman (executive committee), Samuel Oberfest, Morris A. Shmidman (executive committee).
8. Miltstol Syndicate, Inc., 50 Court Street, Brooklyn, N.Y. Milton Stohitsky, president.

9. Sterling Investing Corp., 42 Broadway, New York, N.Y. Joseph Aliger, president.

The following information on the ownership, operation and administration of Towers Nursing Home for the years 1966-73 was obtained from the HE-2P's submitted by the Towers Nursing Home to the New York State Department of Health:

1966.—Administrator, Alexander Forro; operator, Anne Weiss; owner, Anne Weiss.

1967.—Administrator, Alexander Forro; operator, Anne Weiss and Jeanette Leifer; owner, "no change."

1968.—Administrator, Alexander Forro; operator, Alexander Forro, Anne Weiss, and Sisel Klurman (the wife of Samuel Klurman); owner, "no change."

1969.—Administrator, Alexander Forro; operator, Alexander Forro, Sisel Klurman, and Anne Weiss; owner, "same as above" (presumably Forro, Klurman, and Weiss).

1970.—Administrator, Mark Loren; operator, Anne Weiss and Sisel Klurman; owner, Towers Associates, Inc.

1971.—Administrator, Jack Stern; assistant administrators, Mark Loren and Simon Pelman; operator Anne Weiss and Sisel Klurman; owner, Towers Associates, Inc.

1972.—Administrator, Jack Stern; assistant administrator, Mark Loren, Simon Pelman, and Shapiro; operator, Anne Weiss and Sisel Klurman; owner, Towers Associates, Inc.

1973.—Administrator, Jack Stern; other licensed administrators, Mark Loren (executive director), Margaret Klein (assistant administrator—pending); operator, Anne Weiss and Sisel Klurman; owner, Towers Associates, Inc.

1974.—The Towers Nursing Home was closed in January 1975. HE-2P for the year ending December 1974 has not been submitted as yet to the NYSDH.

ON-SITE AUDIT BY OFFICE OF WELFARE INSPECTOR GENERAL

A. OBSERVATIONS WITH RESPECT TO BOOKS AND FINANCIAL RECORDS

The financial books and records of the Towers Nursing Home are such as to all but defy review to determine the home's true financial conditions. Moreover, the HE-2P's submitted to the NYSDH were not prepared in accordance with accepted accounting procedures, further complicating attempts to properly review financial activity at the home.

Negative cash position in bank accounts: The cash accounts at the National Bank of North America, as maintained in the general ledger, indicate a negative cash balance. The bank account does not show overdrafts.

The payroll account at the Manufacturers Hanover Trust Co. shows a negative cash position, as of December 31, 1973, of \$59,676.81, while the actual balance in the bank account on that date was \$27,799.15.

Following are partial payroll figures for the last 4 months of 1973 (payroll deductions not itemized). The weekly payroll ranges between \$25,000 and \$30,000.

	September	October	November	December
Gross payroll.....	\$130,806.61	\$149,841.93	\$132,820.97	\$281,326.13
	37.77	24.72	37.77	58.80
Net cash.....	102,502.14	116,998.32	104,340.56	241,662.91

Cash receipts books: Cash receipts books are maintained by a clerical employee who is not a bookkeeper. Her principal interest in this record is to maintain postings of payments of social security paid to or on behalf of patients.

For the year 1972, monthly posting totals from the cash disbursements book to the general ledger have been changed to higher amounts, the total difference for the year being an increase of \$199,650. This increase is noted without explanation,

and results in the negative balance carried in the accountant's statement of assets and liabilities and in the HE-2P submitted to the NYSDH by Towers for the year ending December 31, 1972.

For the year 1973, this same procedure was followed. The total difference for 1973 totaled \$114,350, resulting again in a negative balance. The reason for making such entries is not apparent and the offsetting entry is not apparent.

The schedule of payroll, which is a monthly memorandum record maintained by the home's accountant, Mr. Samuel Dachowitz, for the year 1973 (in rear of the cash disbursements book), shows a questionably large figure for December 1973.

Receipts of any other nature are entered under the week received and some receipts are identified, such as payments from the NYSDSS and receipts from the soda machine. Many entries are unidentified.

There are no monthly posting totals to the general ledger.

A memorandum record of "receipts and sales" is maintained in the rear of the cash disbursements book. Many entries are unexplained.

There are unexplained deductions (recorded in the cash receipts book) from the cash balance at the National Bank of North America. Such deductions are made frequently and it cannot be determined whether these are checks issued but not identified, or just an adjustment of figures.

Lack of folio references and column footings: Many of the books of original entry are missing both folio references and column footings. This makes it difficult, and in some instances impossible, to tell where a specific item appears in the general ledger.

Unidentified entries in general ledger: There are numerous entries in the general ledger, the source of which is not apparent and/or cannot be determined.

Unexplained entries: The journal contains many entries without indicating the purpose of the entries. The folio reference numbers for these entries cannot be easily read. Tracing these entries into the general ledger would have to be accomplished by trial and error.

Loans & exchange account—G.L. #7: Numerous checks in significant amounts have been issued, and according to the cash disbursements book are charged to "Loans & exchange account," or to "G.L. #7," or just to "7."

Almost none of these disbursements actually appear in the loans & exchange account in the general ledger. Just where they do appear, or what the offsetting entry is to the reduction of cash, is not apparent.

Many of these checks are listed as "outstanding checks." Recordak film at the Bank of North America indicates that a substantial number of these checks were paid to Samuel Dachowitz, the home's accountant.

Capital account: The capital account also reflects the absence of generally acceptable accounting practices. The capital account in the general ledger for 1972, for example, carries one pencilled entry, a debit entry in the amount of \$667,027, which seems to indicate a negative, or deficit, capital position.

No breakdown is shown by partner, and no record of any drawings against capital, or investment of additional capital funds is indicated.

Year-end adjusting entries: Year-end adjusting entries, in the form of setting up accruals under the accrual method of accounting, are made without explanation or supporting data.

The bookkeeper set up in accounts payable, an item of \$400, payable monthly to Samuel Dachowitz for audit (\$4,800 for the year). Examination of checks to Dachowitz showed that he received \$4,800 in 1971.

However, a journal entry dated December 31, 1971 shows a charge to auditing expense of \$10,200, with a corresponding credit to accounts payable. This brought total auditing expense to \$15,000 for the year, the amount claimed in the HE-2P dated December 31, 1971. Dachowitz accrues up to allowable entries. This entry was not reversed in the subsequent year, and Dachowitz was not at any time paid the \$10,200. The net effect was to overstate auditing expenses as indicated on the HE-2P.

Illegibility of General Ledger and Recapitulation Sheets: The work done by Mr. Dachowitz on the General Ledger and the Payroll & Cash Receipts recapitulations is untidy, abbreviated, cramped and nearly illegible.

Explanations by Dachowitz: During conversations with Mr. Dachowitz, attempts were made to elicit explanations of some of his entries. Explanations offered by Dachowitz to support his adjustments amounts to requiring a complete rehauling of all books and records.

Mr. Dachowitz did indicate that some entries were the result of combining figures, with no explanation as to the source, or to the various components.

It should be noted that the mailing address for bank statements of Towers Nursing Home from the National Bank of North America is as follows: c/o Samuel Dachowitz, 50 54 231st St., Bayside, N.Y. 11364.

ANALYSIS OF EXPENSES

1. Ineligible expenses submitted for medicaid reimbursement

OWIG's limited audit of the Towers 1970-1974 books found that many expenses claimed are not eligible Medicaid expenses for Medicaid rate-setting purposes.

A review of the NYSDH Medicaid rate calculation sheets covering Towers expenses for 1970-1972 indicates that 1970 and 1971 disallowable expenses were reflected in the Medicaid rate. The 1972 expenses, however, did not affect the Medicaid rate because Towers exceeded the over-all cost ceiling.

The 1973 and 1974 rate calculation sheets were not reviewed. These expenses would normally be used to set the 1975 and 1976 Medicaid rates respectively. Because Towers has closed, it is assumed these expenses will not be reflected in any Medicaid rate-setting calculations for its "Group".

Summary of Disallowable Expenses By Year

1970	-----	\$807.70
1971	-----	21,163.35
1972	-----	7,317.92
1973	-----	¹ 16,314.66
1974	-----	5,556.08
Total	-----	51,159.71

¹ In addition, Towers in 1973, purchased an automobile from the Chrysler Corporation for \$8,982.50. This car is apparently exclusively used by Mark Loren. OWIG questions the expense as relating to patient care. Because the car is being depreciated, the expense was allocated over a number of years. OWIG did not calculate the expense for each year (see item 3).

DISALLOWABLE EXPENSES (SEE EXHIBIT 4)

Payable to—	Account charged	Amount	Reason for disallowance
1970			
Beacon Beverage	Not known		Not necessary.
Pilgrim Liquor	do	\$365.00	Do.
Royal Wine Corp	do	62.70	Do.
Radio Church of God	Social services and recreation	25.00	Contributions are not allowable.
Parking violations bureau	Travel and entertainment	30.00	Fines are not allowable.
Do	do	25.00	Do.
Joseph Burg	"Audit"	300.00	Unsubstantiated.
Total		807.70	
1971			
Religious Zionists of America	Social services and recreation	500.00	Contributions are not allowable.
Belle Wires	do	1,000.00	Unsubstantiated.
Raye Goldberg	do	1,500.00	Do.
Congregation Mihas Service	do	225.00	Contributions are not allowable.
"Congregation"	do	500.00	Do.
Agudath Ashil Sphinka	do	200.00	Do.
Joseph Burg	do	100.00	Unsubstantiated.
Jewish Home and Hospital	do	400.00	Contributions are not allowable.
Joseph Burg	Legal	200.00	Unsubstantiated.
Royal Wine Corp	Food	89.00	Not necessary.
Mark Loren (Christmas)	Social services and recreation	1,000.00	Unsubstantiated.
Parking violations bureau	Travel and entertainment	40.00	Fines are not allowable.

DISALLOWABLE EXPENSES (SEE EXHIBIT 4)—Continued

Payable to—	Account charged	Amount	Reason for disallowance
Yeshiva of Spinka.....	Not known.....	500.00	Contributions are not allowable.
Margaret Moskowitz.....	do.....	500.00	Unsubstantiated.
Jenn Beverage Co.....	Food.....	3,971.50	Vending machine expenses are not allowable.
Coca-Cola Bottling Co.....	do.....	237.85	Do.
Samuel Dachowitz.....	Accounting.....	10,200.00	Expense charged to books but not paid.
Total.....		21,163.35	
1972			
United Hospital Fund.....	Medical supplies.....	25.00	Contributions are not allowable.
Burnside Nursing Home.....	Insurance.....	397.48	Unsubstantiated.
Do.....	do.....	178.28	Do.
Local 144—Dance.....	Medical and other professional fees.....	30.00	Not necessary.
Religious Zionists of America.....	do.....	500.00	Contributions are not allowable.
State Farm Mutual Auto Insurance Co.....	Travel and entertainment.....	319.80	Not nursing home expense—Personal expense of Mark Loren.
Parkway Lincoln Mercury.....	do.....	19.85	Do.
Do.....	do.....	425.99	Do.
Do.....	do.....	92.02	Do.
Brooklyn, Wines & Liquors.....	Medical and other professional fees.....	47.00	Not necessary.
Jenn Beverage Co.....	Food.....	3,723.00	Vending machine expenses are not allowable.
Various doctors.....	Medical and other professional fees.....	1,559.50	Private patient expenses are not allowable.
Total.....		7,317.92	
1973			
Academy Liquor Corp.....	Medical and other professional fees.....	44.91	Not necessary.
Moshe Braunstein.....	Office expense.....	5,000.00	Unsubstantiated.
Clinton Wine Co.....	Medical and other professional fees.....	144.10	Not necessary.
Burnside Nursing Home.....	Insurance.....	222.85	Unsubstantiated.
Do.....	do.....	137.50	Do.
Do.....	do.....	241.80	Do.
Mizrachi Publications.....	Medical and other professional fees.....	250.00	Contributions are not allowable.
Rider College.....	do.....	1,070.00	Not necessary.
United Federation of Postal Clerks.....	Office supplies.....	10.00	Contributions are not allowable.
Israel Emergency Fund of REA.....	Medical and other professional fees.....	3,123.00	Do.
Samuel Dachowitz.....	do.....	1,500.00	Unsubstantiated.
Parking violation bureau.....	Travel and entertainment.....	15.00	Fines are not allowable.
Jenn Beverage Co.....	Food.....	4,209.00	Vending machine expenses are not allowable.
Various doctors.....	Medical and other professional fees.....	346.50	Private patient expenses are not allowable.
Total.....		16,314.66	
1974			
Burnside Nursing Home.....	Hospitalization.....	193.44	Unsubstantiated.
Do.....	Insurance.....	234.09	Do.
Rider College.....	Indirect expense.....	450.00	Not necessary.
United Hospital Fund.....	Medicine and drugs.....	70.00	Contributions are not allowable.
Wilbur Ross, treasurer (New York State Democratic Legislative Campaign Committee).....	Legal.....	500.00	Do.
Jenn Beverage Co.....	Food.....	3,784.95	Vending machine expenses are not allowable.
Various doctors.....	Medical and other professional fees.....	323.60	Private patient expenses are not allowable.
Total.....		5,556.08	

2. Calculation of "True" profits 1966-1973

In calculating the "true" profit of the Towers Nursing Home, OWIG used the net income as reported by Towers to the NYSDH and adjusted it for the rent paid by Towers which was in excess of what it cost to provide the service, and, for excess salaries paid to owners of the Home, as determined by the NYSDH in setting the Medicaid rate.

The excess rent increases the net income in that any amount over cost required to provide the service is, in fact, profit resulting from the nursing home operation, even though that profit is reflected in the books of another business. Excess salaries necessarily increase the net income because they are actually a withdrawal of profit rather than an expense.

	Profit or (loss) per HE-2P ¹	Excess rent paid ²	Excess salaries	Indicated profit or (loss) per OWIG
1966.....	\$422	\$195,325	0	\$195,747
1967.....	7,403	268,500	0	275,903
1968.....	46,390	298,500	0	344,890
1969.....	(181,242)	256,890	\$8,000	83,648
1970.....	(312,389)	255,864	5,800	(50,725)
1971.....	(275,145)	252,775	0	(22,370)
1972.....	(141,050)	249,665	1,175	109,790
1973.....	(332,205)	236,942	0	(95,263)
Total.....	(1,187,816)	2,014,461	14,975	841,620

¹ Includes income derived from private patient care. Since the HE-2P does not break out costs as between private and public patients, it would be extremely difficult to fix the exact income figure for patients versus public patients. However since the number of private patients has been small since 1966, it can be reasonably assumed that the major portion of reported income are public funds. These calculations do not take into consideration such offsets to income as bad debts, advertising expenses and depreciation allowed for income tax purposes.

² Excess rent was calculated by applying the rental figures reported by Towers in the HE-2P and deducting from them the actual costs incurred by the related company (Liberty House Nursing Home of New York) in providing the service. Because these costs were reflected only in the 1959 HE-2P, OWIG used the 1969 figures for the years 1966-73 inclusive (exhibit 7). In that these costs are basically rent and depreciation, it can be reasonably assumed that they would not vary greatly from year to year. OWIG's calculations by year of the excess rent is as follows:

	Rent expense per HE-2P	Cost of the re- lated company of providing service	Excess rent
1966.....	\$256,825	\$61,500	\$195,325
1967.....	330,000	61,500	268,500
1968.....	360,000	61,500	298,500
1969.....	318,390	61,500	256,890
1970.....	317,364	61,500	255,864
1971.....	314,275	61,500	252,775
1972.....	311,165	61,500	249,665
1973.....	298,442	61,500	236,942
Total.....	2,506,461	492,000	2,014,461

3. Towers Nursing Home was issued a Getty Oil Co. credit card dated 11/72, account #285-454-8563. Charges were all signed by Mark A. Loren. Most purchases were made in New Rochelle, New York, where Mr. Loren resided in 1972. Purchases of gas, oil, etc. were made for automobiles bearing 3 different license numbers, all in 1972, as follows:

1. License 8770YT (N.Y.)—known to be a 1970 Mercury; allegedly owned by Towers.
2. License YO2002 (N.Y.)—owner unknown.
3. License 9551-MB (N.Y.)—owner unknown.

The eligibility of all or a part of these expenses are in question.

4. Anne Weiss and Sisel Klurman, d/b/a Towers Nursing Home, 2 West 106th Street, New York City, were insured under a Workman's Compensation policy of the State Insurance Fund, Policy #319-837-1. The invoice submitted for renewal of the premium from 1/1/72 to 1/1/73 contained the following statement:

"This policy covers the following location in addition to the one shown above—250 W. 57th St., N.Y.C." The invoice does not indicate what portion of the total bill applies to the West 57th Street location.

The eligibility of all or a part of these expenses are in question.

ANALYSIS OF CASH RECEIPTS

OWIG investigated three possible sources of information to secure data on Cash Receipts:

- a. Bank deposits
- b. Cash Receipts Books
- c. The reconciliation schedule of cash receipts prepared monthly by Mr. Dachowitz and located in the rear of the Cash Disbursements Book each year. It is captioned "Receipts and Sales".

1. Cash Receipts Books

The Cash Receipts Books are, to say the least, very poorly kept. Pencil and abbreviated notations such as: "25,000—BB loan"; "MB"; "loan B.S."; "AWB"; "S"; "M.L.", identify cash transactions, when identification is made at all.

The total of such items in the Cash Receipts Books for the period January 1, 1971 to September 30, 1974 is \$2,256,300. It is not conclusive that these items represent loans. Many entries are not identified in any way. Of the above amount, a total of only \$1,523,050 has any sort of identifying legend, and those are abbreviations or initials, and often in pencil.

A total of \$733,250.00 is completely unidentified.

On October 31, 1974 Mr. Dachowitz, the Home's Accountant, and Mr. Loren, then a consultant to Towers, and also described as Executive Director in the HE-2P, conferred with our staff as to the identity of persons who had loaned money to Towers. They answered that "a very dear friend" of Dr. Bergman had loaned considerable money to the nursing home with the understanding that his name would not be disclosed.

The various initials found in the Cash Receipts Book were discussed and identified as follows:

"B.B." is Bernard Bergman.

"S.B." is Stanley Bergman, son of Bernard Bergman.

"A.W.B." is Anne Weiss Bergman, wife of Bernard Bergman.

"M.B." is Moses Braunstein, Secretary of the Metropolitan New York Nursing Home Ass'n. in 1972 and 1973 and owner of the Olinville and Laconia Nursing Homes. He was said also to have acted as a consultant to Towers on personnel problems, although the home's books do not reflect this.

"M.L." is Mark Loren.

"B.S." is not known to Dachowitz/Loren.

"S." is not known to Dachowitz/Loren.

Loans were also received from White Plains Nursing Home, owned by Mark Loren.

Examples of loan listings in the Cash Receipts Book, by initials, and totalling \$1,523,050, is as follows:

1. M. Loren, or M.L.:		7. "M.B.":	
1972 -----	\$107,950	1973 -----	\$30,000
1972 -----	52,000	8. 7th Ave. Nursing Home:	
Total -----	159,950	1971 -----	\$100,000
		9. Jame Johnson (?)—	
		Somewhat illegible:	
2. "B.B.":		1971 -----	\$10,000
1972 -----	\$119,000	10. E. Gobel:	
1973 -----	184,000	1971 -----	\$25,000
1974 -----	25,000	11. 87 St.:	
Total -----	328,000	1971 -----	\$25,000
		12. M.A.:	
3. "S.B.":		1971 -----	\$17,000
1974 -----	\$335,000	13. White Plains:	
4. "A.W.B.":		1972 -----	\$35,000
1974 -----	\$380,000	14. Felman:	
5. "S.":		1972 -----	\$2,000
1974 -----	\$1,100		
6. "B.S.":			
1972 -----	\$25,000		
1973 -----	50,000		
Total -----	75,000		

2. Samuel Dachowitz: Schedules of cash receipts

In the Dachowitz' schedules of cash receipts, there is a category captioned "Loans & Exchanges." Various amounts are posted each month with most not identified in any manner.

For the period January 1, 1971 to September 30, 1974, these amounts total \$2,756,731.53, which is \$500,431.53 greater than the amount shown in the Cash Receipts Books. This discrepancy is unexplained.

Mr. Dachowitz freely admitted that probably \$1.5 million in loans had been handled without recording same in the Loans and Exchange account. Money loaned one month was repaid the next and paired off without interest.

SPECIAL AREAS OF STUDY

MISSING CHECKS AND UNRECORDED TRANSACTIONS

OWIG's study of a National Bank of North America bank statement for November, 1973, noted that two \$30,000.00 checks which had cleared the bank that month were not among the checks which accompanied the statement. Preliminary investigation, at that time, showed at least \$340,000 in checks "missing" in 1973 in amounts of \$10,000 or over. These transactions were not recorded in the Home's books.

OWIG contacted Mr. Samuel Dachowitz, CPA for Towers Nursing Home, by telephone, and asked him about the missing checks. Mr. Dachowitz first stated the checks had been destroyed as soon as the bank statements had been reconciled. Mr. Dachowitz claimed that this was done since these particular checks represented repayment of loans made to Towers Nursing Home by individuals not affiliated with the home. Further, these persons had requested (of Mr. Dachowitz) that their identities not be made known. When our auditor expressed some "surprise" as to this procedure, Mr. Dachowitz apparently conferred with someone and then stated that the checks were "not presently available." (Exhibit 5).

On 10/31/74, Mr. Loren, consultant to Towers, and Mr. Dachowitz, visited Towers and talked with our auditor. Our auditor asked Mr. Dachowitz if the missing checks had been destroyed. Mr. Loren's reply was "they are not presently available. The missing checks, said Loren, represent repayment of loans made to Towers Nursing Home by a very dear friend of Dr. Bernard Bergman who was promised that his identity would not be disclosed.

OWIG has examined bank statements and cancelled checks for the years 1971 through 1974. Findings are as follows:

1. For the years 1971-1974 inclusive, checks in amounts of \$10,000 and over, which are missing and unrecorded in the cash disbursements book, total \$2,220,816.67.

2. A number of other checks, in amounts less than \$10,000 are also missing, but there is no indication of which checks these are.

3. From 1-1-71 to 9-30-74, checks totalling \$1,895,535.46, recorded in the Cash Disbursements Book, in amounts of \$10,000 or over are outstanding, or are unexplained deductions from the bank balances.

4. Pursuant to a Subpoena issued by OWIG to the National Bank of North America, upon which the missing checks were drawn, our auditor was able to view Recordak film and to photocopy certain items. Only a relatively small percentage of the total of \$2,220,816.67 could be found, due to inadequate record-keeping procedures on the part of the bank.

OWIG found 30 checks, totaling \$807,816.67 as follows:

Date cleared	Payee	Amount	Check No.	Date of check
1971				
Feb. 18	Izior Corp.....	\$25,000.00	1012	Feb. 18, 1971
May 6	Samuel Dachowitz.....	15,000.00	1017	Apr. 29, 1971
May 21	.....do.....	18,000.00	1159	May 18, 1971
May 20	Mark A. Loren.....	10,000.00	1243	May 19, 1971
June 30	Burnside Nursing Home.....	10,000.00	1597	June 19, 1971
July 8	Liberty House, Inc.....	12,500.00	1326	June 24, 1971
July 7	Bernard Izbicki.....	10,000.00	1598	July 6, 1971
July 8	Mark A. Loren.....	16,400.00	1341	Do.
Sept. 21	Sam Dachowitz.....	18,000.00	1691	Sept. 16, 1971
1972				
Jan. 10	.....do.....	15,000.00	2096	Dec. 14, 1971
Dec. 11	.....do.....	10,000.00	3096	Nov. 15, 1972

Date cleared	Payee	Amount	Check No.	Date of check
1973				
Jan. 15	Sam Dachowitz	12,000.00	4100	Dec. 20, 1972
Apr. 13	do	12,000.00	3597	Apr. 9, 1973
Nov. 9	do	30,000.00	4384	Oct. 15, 1973
1974				
Jan. 21	Liberty House	23,916.67	4713	Dec. 28, 1973
Feb. 14	Sam Dachowitz	30,000.00	4841	Jan. 8, 1974
Apr. 16	do	35,000.00	5067	Apr. 11, 1974
May 10	do	35,000.00	(?)	(C)
June 18	do	35,000.00	5068	June 7, 1974
June 11	do	35,000.00	(?)	(C)
July 8	do	40,000.00	5342	July 5, 1974
July 24	do	25,000.00	5355	July 22, 1974
Aug. 6	do	40,000.00	5474	Aug. 5, 1974
Aug. 16	do	35,000.00	5475	Aug. 14, 1974
Aug. 27	do	25,000.00	5476	Aug. 22, 1974
Sept. 10	do	45,000.00	5593	Sept. 6, 1974
Sept. 13	Mark Loren	10,000.00	?	Sept. 10, 1974
Sept. 17	Sam Dachowitz	45,000.00	5594	Sept. 12, 1974
Oct. 16	do	45,000.00	5595	Oct. 11, 1974
Oct. 24	do	45,000.00	5707	Oct. 4, 1974
Total		807,816.67		

1 May 9 deb.
2 June 10 deb.

Twenty-two checks were paid to Samuel Dachowitz, CPA for Towers. These were endorsed by him for deposit in one or more accounts at Chase Manhattan Bank, Little Neck Branch, Little Neck, L.I. These twenty-two checks totaled \$645,000.

Others receiving payments were:

1. Izlor Corporation: 1 check, \$25,000.
2. Mark A. Loren: 3 checks, \$36,400.
3. Liberty House: 2 checks, \$36,416.
4. Bernard Izbicki: 1 check, \$10,000.
5. Burnside Nursing Home: 1 check, \$10,000.

The following checks bear the same check number drawn on the same Towers bank account (#0260-0315-001-1-3892-5).

Payee	Check No.	Date	Amount
Local 144	4841	Jan. 24, 1974	\$15,048.49
Sam Dachowitz	4841	Jan. 8, 1974	30,000.00
Mark Loren	5097	Apr. 11, 1974	637.50
Bernard Bergman	5097	Mar. 1, 1974	35,000.00
Izlor Corp.	1012	Feb. 18, 1971	25,000.00
Local 144	1012	Mar. 24, 1971	574.73

TRANSACTIONS AT NATIONAL BANK OF NORTH AMERICA

1. Pursuant to its subpoena (Exhibit 6), OWIG secured from the National Bank of North America copies of Towers Nursing Home loan applications and related correspondence, a copy of a Towers' Balance Sheet dated October 31, 1972 and a Statement of Income and Expenses for the same period, prepared by Mr. Samuel Dachowitz, accountant to the Home.

A review of this information between figures submitted to the Bank in applying for a net loan of \$103,633.12 on December 12, 1972, and figures in the Home's Financial Statement of December 31, 1972, which were used as a basis for submission of the HE-2P to the NYSDEH for 1972.

For example, on October 31, 1972, the Bank was told that Towers had a net worth of \$432,061.00, whereas on December 31, 1972, according to the Home's statements, it had a negative capital position of \$687,027.

2. On December 6, 1972, Anne and Bernard Bergman applied for a business installment loan of \$75,000 plus the amount necessary to pay off the balances

of two previous loans made in March and November 1970. The balance on these two previous loans totaled \$28,633.12. A note dated December 12, 1972 was signed by "Bernard Bergman, 280 Riverside Drive, New York, New York. Moses Braunstein, 2402 Bronx Park East, Bronx, New York, and Anne Bergman, 280 Riverside Drive, New York."

The amount of the loan was \$103,633.12 plus a finance charge of \$17,099.46, totaling \$120,732.58, to be paid in 36 monthly installments of \$3,354.

The bank's files on this loan contained statements dated December 31, 1972 on stationery of Samuel Dachowitz for the Towers Nursing Home that differ from those furnished to the NYSDH as follows:

(a) A Balance Sheet of Towers Nursing Home dated October 31, 1972 shows assets of \$564,536 and liabilities of \$132,475, leaving capital of \$432,061.

(b) A Balance Sheet prepared by Dachowitz for OWIG auditors for the year ended December 31, 1972, 2 months later showed a loss for the year of \$141,050 and a negative or deficit capital of \$667,027. This agrees with the General Ledger. (The difference between these two sets of figures is \$1,099,088.)

(c) The HE-2P dated December 31, 1972, prepared by Dachowitz and signed by Anne Weiss, shows, on page 12, line 65, under the caption "Equity", an item entitled "Owners Capital," in the negative amount of \$1,057.

(This increases the difference to \$1,489,938.)

The following items constitute the major differences in the Home's Statements of October 31, 1972 and the HE-2Ps dated December 31, 1972:

Cash in bank:	
October 31, 1972.....	\$18,604
December 31, 1972 (negative balance).....	(105,343)
HE-2P (negative balance).....	(105,094)
Accounts Receivable:	
October 31, 1972.....	88,450
December 31, 1972.....	191,614
HE-2P.....	191,614
Leasehold (an asset):	
October 31, 1972.....	360,000
December 31, 1972.....	
HE-2P.....	
Accounts Payable:	
October 31, 1972.....	86,775
December 31, 1972.....	1,024,871
HE-2P.....	1,024,871
Notes payable:	
October 31, 1972.....	17,500
December 31, 1972.....	159,220
HE-2P.....	159,220
Net profit (loss):	
October 31, 1972 (profit).....	192,735
December 31, 1972 (loss).....	(141,050)
HE-2P (loss).....	(141,050)

3. On February 12, 1970, partners of Towers Nursing Home were Sisel P. Klurman and Anne Weiss.

On a loan application on this date, trade references for the Towers Nursing Home were as follows:

1. L. E. & S., 1319 Utica Avenue, Brooklyn, New York.
2. Medic-Home Enterprise, 1700 Broadway, New York City.
3. King Medical (Mr. Pour) 1969 Westchester Avenue, Bronx.

On this application, the Home's bank was given as Franklin National Bank; its broker was listed as All Eastern Brokerage Corp. (Mr. Greenberg); its accountant was Chas. Bick. The loan application was guaranteed by Bernard Bergman and Samuel Klurman. It was set forth that statements were attached for Bergman and for Klurman, but they were not included in material furnished by the Bank.

4. An application dated November 10, 1970 for a \$50,000 loan for physical improvements and installation of a new boiler facility was signed by Bernard Bergman, Anne Weiss, and Meyer Bergman. The insurance broker was listed as "Warren Janpo" (known to be Jampol), 369 E. 149th St., Bronx; the accountant was listed as Samuel Dachowitz.

LEASEHOLD IMPROVEMENTS

In reviewing the accountant's balance sheet for the year ending December 31, 1973, leasehold improvements totalling \$157,057.00 were noted among the home's assets. Nothing could be located in the Towers' books to support any leasehold improvements in 1973.

The Accounts Payable Ledger for March 1974 included an account payable to the U.S. Construction Co. for \$57,057.00. The Towers made payment for this item in two installments:

1. March 6, 1974, check #4987—\$30,000.
2. May 22, 1974, check #5292—\$27,057.

The company's invoice for this particular job listed the name and address of the company as the United States Construction and Remodeling Co., 2067 Broadway, New York City, and also gave a terse description of the work performed. There was nothing in the way of improvements that could be physically verified by observation, since the majority of the improvements came under the general heading of normal repairs, such as caulking holes, replacing roof tiles, replacing toilets, etc.

OWIG requested a copy of the contract or agreement concerning this work, since the invoice was not itemized. Our auditor was informed that the agreement was in Stanley Bergman's possession. A copy was requested of Raye Goldberg and Meyer Bergman, but has not been furnished to date.

OWIG questions the expenditure of \$157,057.00 for leasehold improvement. Additionally, there is no explanation as to \$100,000 of the reported \$157,057 expenditure.

PATIENT PERSONAL ALLOWANCE

(1) *Introduction*

While most items of need are provided directly by the nursing home, certain incidentals such as clothing, toilet articles, cigarettes and newspapers must be obtained at the patient's own expense. To insure that all patients are able to purchase such items, the federal government, under its Supplementary Security Income Program, provides a \$25 monthly personal allowance to each Medicaid patient who has no income. (42 USCA 1382(e), 1974 Supp.). If the Medicaid patient has income, he is allowed to keep \$11.50 of this income each month for his personal needs. NYCDSS supplements this amount by issuing an additional \$17 per month, so that the total monthly allowance for Medicaid patients with income is \$28.50 (18 NYCRR 352.8).

Eighteen (18) patients were interviewed regarding their personal allowances. Only two (2) were aware of the amount of personal allowance to which they were entitled.

Personal allowance records were examined based on a random sample of budget cards obtained from the Chelsea Social Services Center. Of thirty-two (32) patients in the sample, the home did not have personal allowance cards on five (5) of them. In view of this fact, OWIG examined the personal allowance records for all patients in the home for the period January 1972 through October 1974. One month from each of the three years was chosen at random and personal allowances paid to patients were tallied for these months.

(2) *Towers Nursing Home Personal Allowance System*

Towers Nursing Home, utilizes an index card system to record the patients' personal allowance credit-debit balance. For each patient that is entitled to a personal allowance, the home maintains an individual index card with monthly amounts written on the card. The monthly amount is issued to the patients in two payments, twice a month. Upon receipt of a payment, patients are required to sign the index card adjacent to the amount received.

Towers separates these index cards into three categories:

(1) For the patients who are deemed incompetent by the home, the cards are placed in the "hold" category, from which the home issues money in small amounts to a patient when the need arises. Clothing for these patients is ordered by the home and provided for out of their personal allowance monies, also;

(2) For those patients whose relatives have been made trustees, the cards are placed in a "pick-up" file. Upon receipt of personal allowance monies, these relatives are then required to sign the patient's index card and are obliged to provide for the patient's needs out of these funds;

(3) Index cards by the patients' room number. The home considers these patients to be competent enough to handle their own money. As such, personal

allowance monies are delivered to these patients, and the patient is required to sign for it.

The Towers' personal allowance system has several deficiencies as follows:

(a) The home does not maintain a running balance on the individual index cards. If a signature does not appear adjacent to a semi-monthly amount, there is no way to verify that the money was actually received. Consequently, to determine what is owed patients, the patients' cards dating back to the date the patient was admitted would have to be examined.

(b) Towers Nursing Home's General Ledger does not show its liability for the patients' personal allowance monies. This lack of control is compounded by the fact that, personal allowance funds are co-mingled with the home's regular operating funds in the books. Thus, the bank accounts cannot be reconciled to the individual patients' cards.

(c) In those instances where a patient does not sign for allowance, there is no single designated employee responsible for signing for these patients. OWIG found signatures of 28 different Nursing Home employees signing for the patients (Exhibit 7).

(d) A number of patient cards have no signatures and no notations of any sort.

(3) Personal Allowance Audit Findings

For the period January 1972 through October 1974, \$17,622.85 in personal allowance monies was unaccounted for as follows:

(a) Twenty-seven (27) patients did not receive personal allowance monies for certain periods. Using an average personal allowance rate of \$25.00 and multiplying this by the number of months delinquent, OWIG calculated that these patients were owed \$3,725.00.

(b) Seven (7) patients' cards had neither signatures nor notations. The Home owed them \$158.00.

(c) The transmission of funds totalling \$13,458.25 can not be confirmed due to the multiplicity of responsibility for transmitting funds to patients.

(d) Personal allowance monies owed deceased patients are to be returned to the NYCDSS. The NYCDSS reports that monies owed at least five deceased patients had not been returned to the agency by Towers. This amounted to \$261.60 in this particular category.

VENDORS

1. Sani-Interiors, Inc. (Exhibit 8)

A contract for cleaning services dated January 1, 1971 was entered into between Sani-Interiors Co., 241 W. 97th St., N.Y.C., and Towers Nursing Home. Frank Moskowitz signed for Sani-Interiors. The contract called for payment of \$20,799 monthly.

That address, 241 W. 97th St., is the home address of Margaret Klein, Assistant Administrator of Towers Nursing Home. Her married name is Margaret Moskowitz (Exhibit 9).

At the time the Sani-Interiors contract was signed, Margaret Klein was purchasing agent for the Towers Nursing Home. She had originally been employed in 1969.

According to data furnished by the bookkeeper, Margaret Klein's name did not appear on the Towers payroll during 1971 and the first half of 1972. It was reported that she had left Towers and worked for Sani-Interiors.

She next appeared on the Towers payroll the week ending July 16, 1972 and has continued on. Her initial gross salary was \$275. per week, her total gross salary from July 16 to December 24, 1972 was \$6,875. Her W-2 form for 1973 reflects gross earnings of \$14,914. From January 1974 to September 22, 1974, she received \$9,520.74 as gross salary at the rate of \$237.25 per week.

The Towers' file on Sani-Interiors contains a number of Sani-Interiors bank statements and cancelled checks, mostly for the years 1973 and 1974. The account was maintained at Bankers Trust Co., 2520 Broadway, New York City and the signatory on checks was Margaret Klein.

Business dealings with Sani-Interiors ended in mid- or late 1971 because of unsatisfactory performance. OWIG was able to ascertain why a payment of \$82,000 was made to Sani-Interiors in 1972. There would appear to be no reason for business transactions in March 1974.

Other items of interest concerning Sani-Interiors are as follows:

1. An invoice from Gordon's Stationers (#20812, dated January 10, 1972) paid by Towers Nursing Home. This invoice included a charge for #300 W-2 Forms, imprinted "Sani-Interiors."

2. Payment to State Insurance Fund, Workmen's Compensation carrier, by Towers Nursing Home of \$760, on December 6, 1971, for Policy #427 794-3, the insured being Sani-Interior, Inc., 241 W. 97th St.

3. The Towers' cash disbursements book for 1971, which shows the following checks payable to "Local 144 (Sani)" and charged to Loans and Exchanges:

- (a) check #1012 dated March 24, 1971—\$574.73
- (b) check #1013 dated March 24, 1971—\$2298.92
- (c) check #1014 dated March 24, 1971—\$441.00

4. Letters in the Towers' Sani-Interiors file from the I.R.S. addressed to "M. Klein, L. Moskowitz, and I. Weiss—Ptr., Sani-Interiors, 241 W. 97th St., N.Y., N.Y.

5. A photocopy in the Towers' Sani-Interiors file of a U.S. Treasury check dated March 5, 1970 for \$1,421.52 payable to "Weiss, et al, Ptr., Towers Nursing Home, 2 W. 106 St., N.Y.C."

6. A check dated February 12, 1973, in the Towers' Sani-Interiors file in the amount of \$5,900., signed by Margaret Klein, and drawn payable to Mosad Harav Kook. This check was deposited in the Security National Bank. The identity of this individual or organization could not be ascertained.

7. A check in the Towers' Sani-Interiors file dated December 31, 1972, drawn to Dr. Bernard Poupko, in the amount of \$1,500. This check was deposited by payee in the Mellon Bank, N.A., Squirrel Hill Office, Pittsburgh, Pennsylvania. Dr. Poupko, according to Towers' administrative personnel, is the "Chaplain" of Towers Nursing Home. Beginning in November, 1973, and continuing through October 1974, payments of \$400 per month were made to Dr. Poupko (Poupko). All of these checks, with the exception of one, were deposited by the payee in the Mellon Bank, N.A., Pittsburgh, Pa.

8. As has already been pointed out, a disbursement of \$500 actually paid to Margaret Moskowitz was erased and another entry was made stating that the payment was made to Sani-Interiors.

9. The Sani-Interiors' file contains a letter addressed to Sani-Interiors, 241 W. 97th St., N.Y.C., from the Internal Revenue Service, Holtsville, New York, which is a seizure notice for non-payment of taxes for the period ending September 30, 1971. This letter lists the 73 employees of Sani-Interiors, the amounts of compensation paid them by Sani-Interiors, and their Social Security numbers.

The fact that bank statements and cancelled checks for Sani-Interiors appear in the Towers file for this concern raises questions as to actual relationship between Sani-Interiors and the Towers Nursing Home.

2. Amsterdam Meat Company

The Towers Nursing Home's principal meat supplier is the Amsterdam Meat Company, 844 Amsterdam Avenue, New York City. Checks issued to the Amsterdam Meat Co. bear a handwritten endorsement of the payee usually followed by the name "Moskowitz". All checks are deposited in the Chemical Bank and Trust Company.

Margaret Klein, who is Mrs. Emil Moskowitz, has stated that her husband operates the Amsterdam Meat Co. Examination of cancelled checks payable to Amsterdam Meat Co. for 1971 through October 1974 showed that the dollar volume for the years 1971-1974 increased from \$4100 per month to \$5900 per month as follows:

- 1971—\$50,099.00
- 1972—\$56,784.26
- 1973—\$70,942.18
- 1974—\$59,417.36 (through October 31, 1974)

The Certificate of Incorporation for Amsterdam Meat Markets, Inc., filed with the New York Secretary of State, indicates that Jean Klein of 472 E. 48th St., Brooklyn, was the original Incorporator of this company (see Exhibits 14 & 15).

OBSERVATIONS WITH RESPECT TO FINANCIAL TRANSACTIONS BY INDIVIDUALS CLOSELY RELATED TO THE TOWERS NURSING HOME

1. Samuel and Muriel Dachowitz

Since a scrutiny of the cancelled checks drawn on the Towers Nursing Home bank account disclosed payments made to Mr. Samuel Dachowitz, which were deposited to an account at the Chase Manhattan Bank, Little Neck, Queens Branch, OWIG subpoenaed two known accounts, namely, Samuel Dachowitz, Special Account No. 108-1-040345 and Samuel or Muriel Dachowitz, Account No. 108-1-031773.

An examination of these accounts revealed the following:

	Total deposits	Total withdrawals
(a) Samuel Dachowitz—Special Chase Manhattan Bank—Account No. 108-1-040345:		
1969.....	\$381,401.79	\$251,796.11
1970.....	1,067,160.01	1,019,395.05
1971 ¹	2,091,455.05	1,743,702.50
1972 ¹	1,887,047.47	2,001,653.32
1973.....	2,248,105.13	2,159,635.80
1974 (to December 4).....	3,121,815.25	3,216,613.80
(b) Samuel or Muriel Dachowitz—Joint—Chase Manhattan Bank—Account No. 108-1-031773:		
1969.....	89,082.72	115,125.00
1970.....	90,280.00	80,803.00
1971.....	42,100.00	49,870.30
1972.....	5,484.00	4,839.14
1973 ²	5,175.00	8,162.20
1974 (to December 4).....	9,299.28	1,182.20

¹ The March 1971 and February 1972 statements contained several illegible entries and the July 1972 and July 1973 statements were not located by the bank.

² The January 1973 statement contained several illegible entries and the March and July 1973 statements were not located by the bank.

c. The microfilm library at the Chase Manhattan Bank depository, Granite Springs, New York, examined with respect to the Samuel Dachowitz special account (No. 108-1-040345) covering withdrawals of \$5,000 and above, indicated the following (microfilming of cancelled checks was not employed by the bank prior to July 1972):

Payee	Date	Amount
Not located on film.....	Aug. 16, 1972	\$5,000
Bernard Izbicki.....	Aug. 28, 1972	5,000
Cash.....	Sept. 26, 1972	5,000
Bernard Izbicki.....	Oct. 13, 1972	6,000
Not located on film.....	Oct. 18, 1972	6,000
Mark Loren.....	do.....	5,000
Bernard Izbicki.....	Oct. 25, 1972	6,000
M. Loren.....	do.....	6,000
Towers Nursing Home.....	Nov. 29, 1972	25,000
Do.....	Dec. 26, 1972	25,000
Mark Loren.....	do.....	12,500
Towers Nursing Home.....	Jan. 22, 1973	25,000
Do.....	Feb. 27, 1973	25,000
Do.....	Mar. 22, 1973	25,000
Samuel Dachowitz.....	Apr. 2, 1973	5,000
Towers Nursing Home.....	Apr. 19, 1973	25,000
Do.....	May 24, 1973	25,000
Bernard Izbicki.....	May 25, 1973	5,000
Mark Loren.....	June 6, 1973	5,000
Do.....	do.....	12,500
Towers Nursing Home.....	June 25, 1973	25,000
Do.....	Oct. 10, 1973	25,000
Do.....	Oct. 31, 1973	25,000
Do.....	Dec. 18, 1973	25,000
Bernard Izbicki.....	Dec. 24, 1973	6,100
Do.....	do.....	6,000
Illegible.....	Dec. 26, 1973	25,000
Do.....	do.....	6,000
Towers Nursing Home.....	Feb. 1, 1974	25,000
Do.....	Feb. 19, 1974	25,000
Do.....	Feb. 21, 1974	25,000
Do.....	do.....	25,000
Do.....	Apr. 23, 1974	25,000
Do.....	May 17, 1974	25,000
Do.....	May 23, 1974	25,000
Do.....	June 18, 1974	25,000
Do.....	June 24, 1974	25,000
Do.....	June 25, 1974	25,000
Do.....	July 17, 1974	25,000
Do.....	July 19, 1974	25,000
Do.....	July 22, 1974	25,000
Do.....	Aug. 20, 1974	25,000
Do.....	do.....	25,000
Do.....	Aug. 27, 1974	25,000
Bernard Izbicki.....	Aug. 29, 1974	15,000
Mark A. Loren.....	Sept. 3, 1974	15,000

Payee	Date	Amount
Towers Nursing Home.....	Sept. 23, 1974	50,000
Do.....	Oct. 3, 1974	25,000
Do.....	Oct. 16, 1974	25,000
Do.....	Oct. 25, 1974	25,000
Not located on film.....	Oct. 28, 1974	45,000
Towers Nursing Home.....	Nov. 6, 1974	25,000
Sam Dachowitz.....	Nov. 25, 1974	8,410

† Appeared on same microfilm with requested check.

d. Bank statements for the Samuel Dachowitz special account (No. 108-1-040345) disclose substantial debit and credit memoranda. The following is listing of said memoranda with respect to items of \$5,000 and above:

Credit memo		Debit memo	
Sept. 26, 1969.....	\$80,000	July 29, 1969.....	\$78,951.11
Dec. 31, 1969.....	100,000	Oct. 2, 1969.....	98,000.00
April 28, 1970.....	175,000	Jan. 2, 1970.....	124,093.75
May 21, 1970.....	5,000	Jan. 29, 1970.....	171,430.73
July 28, 1970.....	175,000	April 30, 1970.....	171,701.13
Oct. 23, 1970.....	200,000	July 28, 1970.....	196,133.33
Jan. 23, 1971.....	250,000	Oct. 26, 1970.....	245,892.36
Feb. 22, 1971.....	25,000	Jan. 27, 1971.....	296,437.50
April 27, 1971.....	300,000	April 29, 1971.....	370,894.44
July 19, 1971.....	18,000	April 30, 1971.....	25,000.00
July 27, 1971.....	375,000	July 28, 1971.....	369,726.56
Oct. 26, 1971.....	375,000	Oct. 27, 1971.....	394,875.00
Jan. 25, 1972.....	400,000	Jan. 26, 1972.....	495,312.50
April 25, 1972.....	500,000	April 26, 1972.....	593,437.50
Oct. 24, 1972.....	600,000	Oct. 25, 1972.....	740,156.25
Jan. 23, 1973.....	750,000	Jan. 23, 1973.....	788,400.00
Feb. 26, 1973.....	31,350	April 23, 1973.....	883,961.25
April 23, 1973.....	800,000	April 25, 1973.....	31,350.00
Jan. 8, 1974.....	100,000	Sept. 10, 1973.....	96,625.00
April 22, 1974.....	1,000,000	Jan. 9, 1974.....	192,088.89
July 5, 1974.....	200,000	April 19, 1974.....	937,750.00
Aug. 7, 1974.....	200,000	May 10, 1974.....	194,746.53
Oct. 23, 1974.....	25,000	July 5, 1974.....	193,058.33
Nov. 1, 1974.....	200,000	July 26, 1974.....	24,343.06
Nov. 4, 1974.....	300,000	Aug. 7, 1974.....	291,563.54
		Oct. 22, 1974.....	25,000.00
		Nov. 6, 1974.....	500,000.00
		Dec. 2, 1974.....	159,474.67

2. Bernard Bergman

a. Possible Loans from Bernard Bergman

As set forth elsewhere in this report, certain entries in the Cash Receipts Books identified by symbols are identified as loans. Under the initials "B. B." (Bernard Bergman) are the following:

1971.....	None
1972.....	\$119,000.00
1973.....	184,000.00
1974.....	25,000.00
Total.....	328,000.00

b. Checks Paid to Bernard Bergman

1971.....	None
1972.....	\$139,000.00
1973.....	350,000.00
(two checks for \$25,000 are outstanding).....	
1974.....	55,000.00
Total.....	544,000.00

c. Bank Accounts of Bernard Bergman

Examination of endorsements on checks issued to Bergman discloses the following bank accounts:

1. Franklin National Bank, 80 Pine Street, New York City.
2. Royal National Bank of New York, N.Y.C.
3. Security National Bank, New York City.

3. Anne Weiss (a/k/a Anne Weiss Bergman)

a. Possible Loans from Anne Weiss

As set forth elsewhere in this report, certain entries in the Cash Receipts Books identified by symbols are identified as loans. Under the initials "A.W.B." are receipts totaling \$380,000 in 1974.

b. Checks Paid to Anne Weiss

- 1971—\$10,000 outstanding.
 1972—\$13,500.
 (2 checks, endorsed to Bernard Bergman and deposited by him).
 1973—None.
 1974—\$175,000.
 (7 checks for \$25,000—all outstanding).

4. Mark A. Loren

a. Possible Loans From Mark Loren

During 1971 and 1972, entries in the Cash Receipts Books bearing the initials M. L. or the name Mr. Loren total \$159,500. In 1972, White Plains Nursing Home (owned by Mr. Loren) purportedly loaned \$35,000 to Towers.

b. Checks Paid to Mark Loren

Checks located at the National Bank of North America, total \$41,400, to Mark Loren.

A check dated December 10, 1974 in the amount of \$17,000 was paid to Mark A. Loren as "repayment of Loan." On the same date, Loren was paid \$1,250, representing interest on 3 loans as follows:

- \$30,000 loan 1½ months \$375.
 \$27,000 loan 2 months \$450.
 \$17,000 loan 3 months \$425.

Payments to Loren from Towers, in addition to consulting fees and loan interest in 1971:

- 1971—\$47,400.
 1972—\$3,750.
 1973—\$2,500.
 1974—None.

5. Moses Braunstein

a. Moses Braunstein was, in 1972 and 1973, Secretary of the Metropolitan New York Nursing Home Association and was said, by Mark Loren, to be owner of the Olinville Nursing Home and the Laconia Nursing Home.

b. Checks Paid to Moses Braunstein

- 1972—\$3,750.
 1973—\$7,500.
 1974—\$5,000.
 (charged to Loan and Exchanges).

c. Possible Loans from Moses Braunstein

The Cash Receipts Book for May 1973 reflects receipt of the amount of \$15,000, together with a notation "M. B."

The Cash Receipts Book for July 1973 reflects receipt of \$15,000, together with a notation "M. B."

OBSERVATIONS WITH RESPECT TO MEDICAID RATE-SETTING

1. Medicaid rate-reimbursement problems

Since the inception of Medicaid, Towers has waged a continuous battle with the NYSDH over expenses submitted by Towers for Medicaid rate-setting purposes. Towers has made many successful appeals of initial rates set by NYSDH. The result has been a number of upward revisions by the NYSDH in the Medicaid rate.

2. Complex ownership and lease arrangements increase the Medicaid rate

One of the most significant problems affecting the Medicaid rate has been the confusing ownership situation. The question at issue was whether the complex Towers lease arrangements involving Towers Associates, Liberty House of New York, Medic-Home Enterprises and the Towers Nursing Home were arms-length. It appears that Towers practiced a policy of revealing little concerning ownership of the Home. A good example of the NYSDH's confusion regarding the Towers ownership is reflected in a letter dated October 3, 1972 (more than 6 years after Towers had begun receiving Medicaid monies) from the NYSDH to Stanley Lowell, Towers attorney (Exhibit 10) admitting its confusion as a result of conflicting ownership information received from Towers over the years (Exhibit 8).

Due to the NYSDH's apparent lack of understanding of the "true" ownership picture of the Home and of the companies leasing the real property to it, the NYSDH from 1965 to 1970 had been improperly allowing, for Medicaid rate-setting purposes, an "arms-length" rental, when in fact they should have allowed a "non arms-length" rental. This resulted in large overpayments to Towers.

In 1970, the NYSDH determined that the rent allowed was improper and that a 1958 rental arrangement calling for rent of \$130,000 per year should be used. As a result, the Towers Medicaid rates were adjusted to reflect the new rental figure and to recover previous overpayments. In recovering the overpayments, the NYSDH did not assess any interest or penalty.

3. Financial Condition of the Towers Nursing Home

According to its financial records, the Towers Nursing Home was in extremely poor financial condition at the time of its closing. For example, at the end of 1973, Towers showed current liabilities (amounts owed which fall due within a year) of \$1,008,261 and current assets (cash, and assets readily converted to cash) of (-\$13,648). Clearly without immediate transfusions of funds Towers would have gone bankrupt. To a lesser degree this general condition has been reflected since 1966.

4. Towers since the inception of Medicaid has been an extremely profitable operation

According to Towers financial statements, Towers has been losing a substantial amount of money since 1969. However, because the financial statements include rent payments which are "non arms-length" in nature and far in excess of what it costs to provide the service, the Towers' statements do not fairly represent the true profits accruing as a result of the nursing home operation.

5. Payment of salaries to Towers operators and owners and their relatives

Towers has paid large salaries, almost all of which were reimbursed by Medicaid, to the operators of the Home and to their relatives (Exhibit 12). It is questionable that all of the salaries were earned. For example, in 1972 Anne Weiss was paid a salary of \$25,000 as owner-operator, yet did not report any hours worked. The full cost of this salary was included for Medicaid rate-setting purposes. A breakdown of these salaries by total amount paid since 1966 is as follows:

Anne Weiss—\$126,100.
Sisel Klurman—\$57,400.
Mark Loren—\$49,350.
Alex Forro—\$84,900.
Amram Kass—\$31,600.

In computing the true profit, OWIG considered these salaries as expenses, although at least a portion of these salaries should probably be considered as a withdrawal of profit. Thus, the true profit picture as developed by OWIG must be considered as a conservative one, which, if all relevant elements could be factored in, would be even higher.

PATIENT CARE

NYCDH AND NYSDH INSPECTION REPORTS

Inspection Reports (Exhibit 13)

New York State and New York City inspection reports for the years 1971-1973 indicate the persistence of substandard conditions in the Towers Nursing Home. A total of 18 reports were reviewed, and the deficiencies noted in them

are summarized below (some of these deficiencies are repeats, having been reported in prior inspections).

<i>Area of deficiency</i>	<i>No. of deficiencies</i>
Administrative and management.....	48
Staffing.....	9
Nursing service.....	83
Patient medical care.....	19
Patient care.....	6
Recreational activities.....	6
Plant equipment and maintenance.....	94
Housekeeping.....	87
Dietary.....	58

Some examples of these deficiencies as follows:

September 23 and November 22, 1971.—Violations from the Bureau of Sanitary Inspections re: "gnawed labels on food containers; mice droppings; and live roaches in bedside stands".

September 8, 1971.—Inspection report "call bells must be made accessible to all patients and the control switches of the call bells located at the nurses' station must not be deactivated by the staff at any time. These are serious offenses which also existed on the previous survey".

March 13, 1974.—"The frankfurters had been cut into inch long pieces and each patient received 3-4 pieces. Covers for the hot plates were not used. Diabetics were not given dessert because none was available for them".

February 1 through 9, 1971.—"On arrival it was found that the rear of the building housing 140 patients had only intermittent heat since January 25, 1971. On Monday, February 1, 1971, there was no heat in the rear of the building and temperatures ranged from 42° F. to 67° F., the median temperature being 54° F. Patients had slept in this area since the time of the breakdown of the heating plant and had only been provided with one, small, thin blanket.

"Patients were sitting in wet trousers and wet dresses with pools of urine on the floor under chairs. Some patients with circulatory conditions of the lower extremities had no socks or shoes on. Men's outer clothing was soiled, encrusted with old food spills and often pinned together, due to lack of buttons, zippers, etc. Many women were in dire need of head shampoos. Many patients' shoes were very dirty and lacked laces. Several ill patients lay in bed obviously unattended to. Two female patients had had ecchymosed and/or bruised areas on the face which no one could explain. One female patient had been readmitted from a hospital during this emergency period. The Director of Nursing Services was muddling through, making do, in a bad situation. It was obvious that the staff was just geared to getting through each day with no planned program necessary to deal with a situation where the time the emergency would terminate was not known. The lack of planning created difficulties and compounded hazardous conditions.

"The entire facility reeked with an odor of urine. The deodorizers were so strong as to cause an irritation of the skin, mucosa and stomach.

"The elevators were out of order on the first and second floors but not both at the same time. This added to the problem of getting meals to the patients".

Senator Moss. Is Mr. Shaw here?

Mr. SHAW. Yes, Senator.

Senator Moss. Will you take the stand, please, and Mr. Ruehle also.

[Whereupon, Mr. Shaw and Mr. Ruehle were duly sworn.]

Senator Moss. We are pleased to have you gentlemen before the committee.

I have had an opportunity overnight to read the report of the inspector general of the State of New York Welfare Office.

I find it rather chilling and sickening. It tells a story of the abuse and neglect of elderly people, the systematic gouging and corruption, and ripoffs of Medicaid and State welfare, and the calculated prying upon the most defenseless segment of our society.

Out of this we must find a way to punish those who commit offenses against the elderly, to increase our vigilance to detect and punish

acts of this nature in all segments, and to fashion a system of inspection and enforcement which will preclude the future abuses and ripoffs.

You may proceed.

**STATEMENT OF HORTON R. SHAW, COUNSEL, NEW YORK STATE
OFFICE OF WELFARE INSPECTOR GENERAL; ACCOMPANIED BY
JOHN RUEHLE, ASSISTANT AUDITOR**

Mr. SHAW. Thank you for the opportunity to present these brief observations on nursing home operations under medicaid that have been observed by the New York State Office of Welfare Inspector General in the course of its investigations.

As background, the functions of this agency should be explained, for it is the only one of its kind in the Nation. It was created in 1971 by the legislature as one of several actions undertaken that year to restore fiscal integrity to the welfare system that had been suffering for a decade from continuously rising costs. It was placed in the State's executive department, with the agency head reporting directly to the Governor.

Its mandate was to receive and investigate complaints of abuse, fraud, and investigate the welfare delivery system within the State. It was given no enforcement powers, which remained with existing State supervisory agencies.

Initial investigations were directed to ineligibility, mismanagement, and fraud in income maintenance programs. These included all Federally assisted programs in addition to State-funded programs to which the Federal Government does not contribute. As budget and staff increased, investigations were undertaken in medicaid programs. They dealt with recipient ineligibility, unlicensed "clinics," and frauds by professionals and other vendors of medicaid services, as well as the inadequate and sometimes chaotic management practices of administrative agencies that constituted an open invitation to abuse and fraud.

Institution investigations began in mid-1973 after the legislature appropriated additional moneys permitting this office to hire some investigative personnel with auditing backgrounds.

In most instances, institution investigations have been initiated after receipt of complaints. To date one mental hygiene facility and six nursing home reports have been published.

Our first nursing home report, published in October 1973, dealt primarily with patient care and poor local regulation compliance. More recent reports in 1974 dealt also with poor local social service department contact with patients, substandard staffing, apparent non-arms-length dealings, the nursing home rate setting mechanism, lack of on-site audits of proffered rate application forms, expenses submitted for rate setting which are questionably related to patient care, and poor recordkeeping. All these reports have been made available to your committee.

That abuses by nursing home operators reimbursed by medicaid recited to you and appearing in the press affect those least able to cry out in indignation is deplorable, but the fact of such abuse should not be surprising, for nursing homes are just one type of contractor in