

August 1993

TRUCKING TRANSPORTATION

Information on Handling of Undercharge Claims



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**Resources, Community, and
Economic Development Division**

B-254290

August 30, 1993

**The Honorable Ernest F. Hollings
Chairman****The Honorable John C. Danforth
Ranking Minority Member
Committee on Commerce, Science,
and Transportation
United States Senate****The Honorable J. James Exon
Chairman****The Honorable John McCain
Ranking Minority Member
Subcommittee on Surface
Transportation
Committee on Commerce, Science,
and Transportation
United States Senate**

This fact sheet responds to your February 8, 1993, request that we provide information on the handling of undercharge claims by the trustees and other representatives of the estates of bankrupt trucking companies. Undercharge claims are the amounts that shippers allegedly owe bankrupt trucking companies because (1) the shippers, with the agreement of the trucking companies, paid rates that were less than the rates filed with the Interstate Commerce Commission (ICC); (2) the contract between the shipper and the trucking company is alleged to be in violation of statute or ICC regulation; or (3) disagreement exists over the appropriate tariff to apply to a shipment. In general, the rates filed with the ICC are the legal rates, and shippers are required to pay the difference.¹ Creditors of bankrupt trucking companies, especially former employees, hope that by collecting these undercharge claims, a greater share of their claims against the estates may be recovered.

Following discussions with representatives from your offices, we agreed to provide information to help the Committee better understand the undercharge issue as the Congress continues to pursue a legislative solution to the problem. Specifically, we agreed to examine the available records to determine (1) the nature and extent of undercharge claims, (2) the cost of collecting undercharge claims, (3) the nature and extent of

¹Maislin Industries, Inc. v. Primary Steel, Inc., 497 U.S. 116, (1990).

the liabilities of bankrupt trucking companies, and (4) the amount of undercharge claim collections that is available to pay the creditors of bankrupt trucking company estates. We sent questionnaires to 115 trustees and other representatives of the estates of bankrupt trucking companies. We received information from 52 of those estates.

There are two important caveats that must be kept in mind when reviewing the data we collected. First, since all the respondents did not answer every question, the base of respondents differs somewhat for each of the tables in sections 1 through 4. Second, most of the bankruptcy cases in our survey are still open. These data, therefore, provide a snapshot of the disposition of undercharge claims in trucking bankruptcy cases at a particular moment in time. There are good reasons to expect that the pattern of collection and resolution will be different for the later stages of a bankruptcy proceeding than it was for the earlier stages. The earlier cases, for example, might be smaller or less controversial, or the initial collections could be less expensive to collect, especially if they are uncontested, than the later stages. Consequently, the data in this fact sheet might not be predictive of the final outcome of undercharge cases.

In summary, the principal results from our questionnaire were as follows:

- Forty-eight respondents reported that they initially sought a total of \$1.22 billion in undercharge claims from shippers. Ten large estates accounted for \$1.07 billion of the total. The average amount sought by the 48 reporting estates was about \$25 million, while the median amount was about \$3 million. This substantial difference between the median and the average indicates that the amount of undercharge claims sought varied widely among the estates, and that a few large estates dominate the average.² No one knows the precise amount of potential undercharge claims nationwide.
- Trustees of 42 estates reported that they are still seeking to collect about \$985 million in undercharge claims. Eleven large estates accounted for \$923 million of the total, an average of \$84 million each. However, the median amount for the large estates was only \$3.7 million, again indicating that a few large estates are generating most of the claims.
- We compared undercharge claims still being sought from shippers to the total unpaid allowed liabilities of the bankrupt trucking company estates. Fifteen estates accounted for more than three-fourths of the total undercharge claims still being sought. On average, for those 15 estates,

²The average is the arithmetic mean, and the median is the mid-point in the distribution—i.e., half the observations are greater and half are less than the median.

undercharge claims still being sought are about 29 percent of their total unpaid allowed liabilities. However, there is a wide variation and undercharge claims still being sought are, on average, a much smaller percentage of unpaid allowed liabilities for small estates (8.1 percent) than for large ones (75.4 percent).³

- Net recovery is the amount received by the estate after direct collection costs (e.g., legal and audit fees and other direct expenses of collection) are deducted but before other administrative expenses and professional fees are paid. On average, net recovery for all estates was slightly less than 20 percent of the initial value of resolved undercharge claims. As of the time of our survey, net recovery for the large estates averaged about 30 percent of the initial value of resolved claims. For small estates, net recovery as a proportion of the initial value of resolved undercharge claims averaged 16.5 percent. Average collections for all estates were about 39 percent of the initial value of resolved claims. Of the amount collected by the large estates, an average of about 44 percent has gone to pay direct collection costs. Collection costs consumed an average of more than half of the amount collected by the small estates.

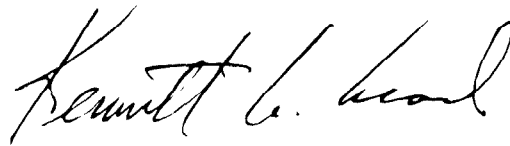
We obtained the information in this fact sheet by sending a questionnaire to representatives of the estates of bankrupt trucking companies. We identified bankrupt trucking companies from lists provided by the International Brotherhood of Teamsters; the Transportation Claims and Prevention Council, Inc. (TCPC); and eight freight tariff auditing companies. To meet the concerns of some trustees, we agreed with representatives from your offices that the responses would be kept confidential, and we established reporting protocols accordingly. For example, we did not report data for which there were fewer than five respondents. Details on our objectives, scope, and methodology are described in appendix I. Our work was performed between March and July 1993.

Unless you publicly announce the contents of this fact sheet earlier, we plan no further distribution until 15 days after the date of this letter. At that time, we will send copies to the Chairman of the Interstate Commerce Commission, the Secretary of Transportation, and the Chairmen of the House Committee on Public Works and Transportation and its Subcommittee on Surface Transportation. We will make copies available to others upon request.

³This may be an artifact of the estates' progression through the bankruptcy process. Smaller estates may have been further along in that process and may have evaluated more claims. Larger estates may not have completed their evaluation of liabilities.

If you have any questions about this fact sheet, please call me at (202) 512-6001. Major contributors to this fact sheet are listed in appendix II.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Kenneth M. Mead".

Kenneth M. Mead
Director, Transportation Issues

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Abbreviations

ICC Interstate Commerce Commission
 TCPC Transportation Claims and Prevention Council, Inc.

Nature and Extent of Undercharge Claims

This section presents data on the total value of undercharge claims sought by bankrupt trucking company estates. The section also presents a breakdown of undercharge claims by the type or source of claim, and data on net recovery of undercharge claims, the initial value of resolved claims, and claims still being sought.

Table 1.1: Total Value of Undercharge Claims Sought

Category of estate	Dollar value (thousands)	Median (thousands)	Average (thousands)	Number of estates reporting
Large estates	1,071,116	17,715	107,112	10
Small estates	149,987	2,277	3,947	38
All estates	1,221,103	2,954	25,440	48

The total value of undercharge claims sought by some estates may be overstated. Some trustees told us that they were unable to distinguish between undercharge claims and other accounts receivable, especially when the estate had more than one type of claim against an individual shipper. Other trustees told us that they had estimated the face value of the undercharge claims sought by their estates. For example, trustees may have estimated the value of undercharge claims when the audit had not yet been completed or when the audit company employed by a trustee had ceased operating. This may have understated or overstated the total value for their estates.

Table 1.2: Total Value of Undercharge Claims Still Being Sought

Category of estate	Dollar value			Number of estates		
	Total (thousands)	Median	Average	Seeking more	Not seeking more	Total
Large estates	923,214	3,710	83,929	8	3	11
Small estates	61,547	506	1,539	34	6	40
All estates	984,761	600	19,309	42	9	51

Section 1
Nature and Extent of Undercharge Claims

Table 1.3: Breakdown of Undercharge Claims by Type or Source of Claim

Type of undercharge claim by category of estate	Estimated dollar value (thousands)	Estimated percentage ^a	Number of estates reporting
Unfiled rates			
Large estates	79,203	32.9	7
Small estates ^b	48,795	54.6	26
All estates	127,998	38.7	33
Contracts in violation of statute or ICC regulations			
Large estates	106,733	44.3	7
Small estates	16,005	17.9	26
All estates	122,739	37.2	33
Customer account codes			
Large estates	0	0.0	7
Small estates	0	0.0	26
All estates	0	0.0	33
Tariff construction issues			
Large estates	55,125	22.9	7
Small estates	22,265	24.9	26
All estates	77,390	23.4	33
Other			
Large estates	0	0.0	7
Small estates	c	c	c
All estates	c	c	c

Note: One estate represented such a large proportion of the undercharge claims reported by estates that also reported a breakdown by type of claim that we could not include it in this tabulation without violating our confidentiality pledge. Therefore, the total value of undercharge claims broken down by type of claim in this table is about 27% of the total undercharge claims reported.

^aPercentages are calculated for each category of estate and do not add to 100 percent due to unreportable data and rounding.

^bAs shown in the above table, the majority of the undercharge claims from small estates appear in the "Unfiled rates" category (54.6%). However, when the responding small estate group is separated between estates appearing on the Teamster-provided list and estates appearing on the TCPC/auditor lists, some differences emerge. The undercharge claims for the Teamster list estates were more often from the "Contracts in violation of statute or ICC regulations" and the "Tariff construction issues" categories (27.2% and 33.5%, respectively) compared with the other small estates (10.0% and 17.5%, respectively). The majority of claims from small estates not appearing on the Teamster list were in the "Unfiled rates" category (67.8%), which represented only 39.3% of claims for estates on the Teamster list.

^cData cannot be reported for this category of undercharge claims due to confidentiality constraints.

**Section 1
Nature and Extent of Undercharge Claims**

Table 1.4: Net Recovery Compared to Estimated Initial Value of Resolved Undercharge Claims

Category of estate	Dollar value (thousands)		Percentage of initial value ^a				Estates reporting
	Net recovery ^b	Initial value ^c	Minimum	Maximum	Median	Average	
Large estates	47,939	141,782	7.7	57.3	30.2	31.2	8
Small estates	11,508	89,578	2.8	50.0	12.6	16.5	37
All estates	59,447	231,360	2.8	57.3	13.4	19.2	45

^aPercentages are calculated on an individual case basis for only those estates that reported both components needed to calculate the percentage.

^bNet recovery represents the amount collected on undercharge claims less the direct costs of collection (e.g., legal and audit fees and other expenses related to collections). This is the amount available to pay the estate's liabilities, including administrative expenses and professional fees. This table includes about 94 percent of the total value of net recovery for all 50 reporting estates, and includes net recovery for only those estates that also reported the data needed to calculate the initial value of resolved undercharge claims.

^cThe estimated initial value of resolved undercharge claims is the portion of an estate's total undercharge claims for which collection attempts have been completed. This includes, for example, unpaid claims that are too small to litigate and claims that were settled for less than the full amount, as well as claims paid in full. We calculated this amount as the difference between total undercharge claims sought and the value of undercharge claims still being sought.

Table 1.5: Collected Undercharge Claims Compared to Estimated Initial Value of Resolved Undercharge Claims

Category of estate	Dollar value (thousands)		Percentage of Initial Value				Estates reporting
	Collected ^a	Initial value ^b	Minimum	Maximum	Median	Average	
Large estates	71,617	141,782	16.8	79.0	49.4	47.8	8
Small estates	26,603	89,578	7.8	100.0	31.0	36.6	37
All estates	98,221 ^c	231,360	7.8	100.0	33.7	38.5	45

^aThis column represents the amount of undercharge claims collected before the direct costs of collection are deducted. In general, collections are used to pay the expenses and fees of the attorney and auditors making the collections, with the remainder going to the estate. Some claims are not collected, for example, because of restrictions on the dollar value of suits that can be filed in the courts or because the costs of suing exceed the value of the claim, among other reasons. This table includes over 90 percent of the total collections reported by 50 estates.

^bThe initial value of resolved undercharge claims is the portion of an estate's undercharge claims for which collection attempts have been completed. We calculated this amount as the difference between total undercharge claims sought and the value of undercharge claims still being sought.

^cThe dollar value for all estates does not equal the sum of the dollar values for large and small estates due to rounding.

Section 1
Nature and Extent of Undercharge Claims

Table 1.6: Net Recovery of Undercharge Claims Compared to Collections

Category of estate	Dollar value (thousands)		Percentage of collections ^a				Estates reporting
	Net recovery ^b	Collections ^c	Minimum	Maximum	Median	Average	
Large estates	51,712	80,373	34.7	97.8	45.8	55.8	11
Small estates	11,638	26,830	25.0	79.9	45.3	45.8	39
All estates	63,350	107,203	25.0	97.8	45.5	48.0	50

^aThis table shows net recovery as a percentage of collections, calculated on an individual case basis, for only those estates reporting both components needed to calculate the percentage.

^bNet recovery represents the amount collected on undercharge claims less the direct costs of collection (e.g., legal and audit fees and other expenses related to collections). This is the amount available to pay the estate's liabilities, including administrative expenses and professional fees.

^cCollections represent the gross amount collected on undercharge claims before the direct costs of collection (e.g., tariff audit agency and attorney fees) are deducted.

Nature and Extent of Liabilities of Bankrupt Trucking Company Estates

This section presents information about the liabilities of bankrupt trucking company estates; the relationship between net recovery, collections, and undercharge claims still being sought; and the liabilities owed by estates. Because trustees told us that claims filed against the estate may be invalidated for a variety of reasons — such as duplicate claims filed by both a former employee and the union, claims contested by the trustee, or claims reduced by negotiation with a creditor — our analysis focuses on allowed claims, i.e., those which have been allowed by the bankruptcy court judge.

Claims are paid in a ranked order specified by bankruptcy law. Thus, trustees also told us that they do not examine and determine the validity of all claims at a single point in time. Rather, the trustees limit the administrative expenses of the estates by examining and validating each group of claims when they judge that the estate is likely to have assets to disburse to the claimants. Therefore, fewer trustees were able to provide information on allowed claims as they progressed through the ranked order. The majority of these cases are open and further claims may be allowed in any of the reported categories.

**Section 2
Nature and Extent of Liabilities of Bankrupt
Trucking Company Estates**

Table 2.1: Allowed Liabilities Reported to Date

Type of claim by category of estate	Dollars in thousands			Estates reporting
	Total	Median	Average	
Allowed administrative and professional fees				
Large estates	185,654	15,192	20,628	9
Small estates	7,874	279	606	13
All estates	193,528	917	8,797	22
Allowed priority wage claims				
Large estates	53,756	4,641	5,973	9
Small estates	6,988	120	411	17
All estates	60,744	556	2,336	26
Allowed priority pension claims				
Large estates	52,542	1,632	6,568	8
Small estates	2,455	0	164	15
All estates	54,997	251	2,391	23
Allowed priority tax claims				
Large estates	32,517	1,139	4,065	8
Small estates	6,750	176	482	14
All estates	39,267	317	1,785	22
Allowed non-priority wage claims				
Large estates	57,405	12,950	9,568	6
Small estates	1,188	0	132	9
All estates	58,593	268	3,906	15
Allowed non-priority pension claims^a				
All estates	139,134	3	9,938	14
Total allowed claims				
Large estates	1,115,758	144,301	185,960	6
Small estates	28,779	1,641	4,111	7
All estates	1,144,538 ^b	18,322	88,041	13

Note: This table is arranged in the same order in which groups of claims are to be paid. Therefore, fewer trustees were able to provide information on allowed claims as we progress down the table.

^aDetailed data in this category are not reportable because of confidentiality constraints.

^bDollar value for all estates does not equal the sum of the dollar values for large and small estates due to rounding.

**Section 2
Nature and Extent of Liabilities of Bankrupt
Trucking Company Estates**

Table 2.2: Estimated Environmental Liabilities

Category of estate	Minimum liabilities			Maximum liabilities			Estates reporting
	Dollar value	Median	Average	Dollar value	Median	Average	
Large estates	4,248,657	12,500	849,731	13,512,500	12,500	2,702,500	5
Small estates	157,373	0	7,494	187,373	0	8,923	21
All estates	4,406,030	0	169,463	13,699,873	0	526,918	26

Note: We asked trustees to estimate the range of environmental claims against their estates. Some trustees were reluctant to put a dollar value on environmental claims because of concern that it could be construed as an admission of liability for the costs of cleanup.

Table 2.3: Net Recovery of Undercharge Claims Compared to Total Allowed Liabilities

Category of estate	Dollar value (thousands)		Percentage of total allowed liabilities ^a				Estates reporting
	Net recovery ^b	Total allowed liabilities ^c	Minimum	Maximum	Median	Average	
Large estates	47,238	1,115,758	1.7	5.8	3.6	3.6	6
Small estates	577	25,948	1.4	21.7	6.0	8.7	5
All estates	47,815	1,141,707 ^d	1.4	21.7	4.2	5.9	11

^aPercentages are calculated on an individual case basis for only those estates that reported both net recovery and total allowed liabilities.

^bNet recovery represents the amount collected on undercharge claims less the direct costs of collection (i.e., legal and audit fees, and other expenses related to collections). This is the amount available to pay the estate's liabilities, including administrative expenses and professional fees. About 76 percent of the total net recovery for all 50 reporting estates is included in this table.

^cTotal allowed liabilities includes all types of allowed claims against estates—secured, priority unsecured, and non-priority unsecured. This table includes over 99 percent of total allowed liabilities for all 13 reporting estates.

^dThe dollar value for all estates is not equal to the sum of the dollar values for large and small estates due to rounding.

Section 2
Nature and Extent of Liabilities of Bankrupt
Trucking Company Estates

Table 2.4: Collections of Undercharge Claims Compared to Total Allowed Liabilities

Category of estate	Dollar value (thousands)		Percentage of total allowed liabilities ^a				Estates reporting
	Collections ^b	Total allowed liabilities ^c	Minimum	Maximum	Median	Average	
Large estates	70,528	1,115,758	2.9	9.2	6.5	6.4	6
Small estates	1,370	25,948	2.7	37.6	19.7	18.1	5
All estates	71,898	1,141,707 ^d	2.7	37.6	8.5	11.7	11

^aPercentages are calculated on an individual case basis for those estates that reported both collections and total allowed liabilities.

^bThis column represents the amount of undercharge claims collected before the direct costs of collection are deducted. In general, collections are used to pay the expenses and fees of the attorneys and auditors making the collections, with the remainder going to the estate. This table includes about 67 percent of the total collections for all 50 reporting estates.

^cThis column is the aggregate dollar value of total allowed liabilities for only those estates that reported the value of allowed liabilities for all categories of claims. This table includes over 99 percent of the total allowed liabilities for all 13 reporting estates.

^dThe values for all estates are not equal to the sums of the values for large and small estates due to rounding.

**Section 2
Nature and Extent of Liabilities of Bankrupt
Trucking Company Estates**

**Table 2.5: Undercharge Claims Still
Being Sought as a Percentage of
Unpaid Allowed Liabilities**

Category of estate	Minimum	Maximum	Median	Average	Estates reporting
Total unpaid allowed liabilities^a					
Large estates	0.0	193.2	7.5	75.4	7
Small estates	0.0	60.6	0.0	8.1	8
All estates	0.0	193.2	0.0	29.4	15
Total unpaid allowed unsecured liabilities^b					
Large estates	0.0	228.1	7.5	58.8	7
Small estates	0.0	60.6	0.0	8.1	8
All estates	0.0	228.1	0.0	31.8	15

Note: This table represents \$751 million in undercharge claims still being sought, which is about 76 percent of the total undercharge claims still being sought. A breakdown of the dollar value of undercharge claims still being sought, total unpaid allowed liabilities, and total unpaid allowed unsecured liabilities between large and small estates cannot be reported due to confidentiality constraints. Unpaid allowed liabilities were calculated by subtracting the amounts distributed from the total claims allowed. Four estates not seeking to collect additional undercharge claims for which unpaid liabilities could not be calculated are included in the percentage calculations since zero divided by any number always equals zero. Both the amount of claims allowed and the amount disbursed or paid on those claims may change as estates progress through the bankruptcy process.

^aThe undercharge claims still being sought are stated as a percentage of total unpaid allowed liabilities reported by those estates. The unpaid allowed liabilities equal \$518 million and include over 99 percent of all such claims by the 11 reporting estates.

^bThe undercharge claims still being sought are stated as a percentage of total unpaid allowed unsecured liabilities reported by those estates. The unpaid allowed unsecured liabilities equal \$460 million and include over 99 percent of all such claims by the 11 reporting estates.

Distributions of Assets From Bankrupt Trucking Company Estates to Creditors

This section presents data on the assets that estates have distributed or disbursed to their creditors to date. We also tabulated data on the number of estates that have paid all, some, or none of certain types of claims, and we compared net recovery and collections to the amounts distributed. As explained in the previous section, distribution data become less widely available for the lower ranking types of claims. Also, because most estates are still open, the amounts distributed will increase from the amounts reported to date.

Section 3
Distributions of Assets From Bankrupt
Trucking Company Estates to Creditors

Table 3.1: Distributions of Assets Reported to Date

Distributions by category of estate	Dollars in thousands			Estates reporting
	Dollar value	Average value	Median value	
Administrative and professional fees				
Large estates	162,547	18,061	15,192	9
Small estates	9,054	348	138	26
All estates	171,600 ^a	4,903	255	35
Priority wage claims				
Large estates	34,884	3,876	2,130	9
Small estates	7,179	218	0	33
All estates	42,064 ^a	1,002	0	42
Priority pension claims				
Large estates	30,113	3,764	756	8
Small estates	1,082	43	0	30 ^b
All estates	31,195	945	0	38 ^b
Priority tax claims				
Large estates	14,975	1,498	462	10
Small estates	4,764	159	0	30
All estates	19,739	493	0	40
Non-priority pension claims				
Large estates	46,830	6,690	0	7
Small estates	0	0	0	20 ^c
All estates	46,830	1,801	0	27 ^c
Total distributions^d				
Large estates	540,930	77,276	30,077	7
Small estates	29,503	1,180	289	25
All estates	570,433	17,826	717	32

Note: Distributions for non-priority wage claims cannot be reported due to confidentiality constraints.

^aFigure does not equal the sum of large estates and small estates due to rounding.

^bFive of the reporting estates had no claims of this type and are not included in the average computation.

^cOne of the reporting estates had no claims of this type and is not included in the average computation.

^dTotal distributions is the total amount of assets distributed for all types of claims and is reported only for those estates that either reported a total distribution amount or that reported the amount distributed for all types of claims. The table above does not enumerate all of the types of claims for which distributions may have been made by a particular estate (e.g., secured claims).

**Section 3
Distributions of Assets From Bankrupt
Trucking Company Estates to Creditors**

**Table 3.2: Status of Payments for
Allowed Priority and Non-Priority
Claims Against Estates**

Type of claim by category of estate	Estates paying			Total reporting
	All claims	No claims	Some claims	
Priority wage claims				
Large estates	5	2	2	9
Small estates	9	3	3	15
All estates	14	5	5	24
Priority pension claims				
Large estates	4	3	1	8
Small estates	10	3	1	14
All estates	14	6	2	22
Priority tax claims				
Large estates	4	2	2	8
Small estates	3	5	3	11
All estates	7	7	5	19
Non-priority wage & pension claims				
Large estates	0	2	2	4
Small estates	5	2	0	7
All estates	5	4	2	11

Note: This table contains information on only those estates that reported both the amount of allowed claims and the amount of claims paid to date for each category of claims in the table.

**Section 3
Distributions of Assets From Bankrupt
Trucking Company Estates to Creditors**

Table 3.3: Net Recovery of Undercharge Claims Compared to Distributions of Assets

Category of estate	Dollar value (thousands)		Percentage of distributions ^a				Estates reporting
	Net recovery ^b	Distributions	Minimum	Maximum	Median	Average	
Total distributions^c							
Large estates	50,286	568,643	0.6	100.0	9.7	21.4	9
Small estates	6,159	27,322	1.7	126.2	26.8	39.6	23
All estates	56,445	595,965	0.6	126.2	20.0	32.1	32
Total distributions for unsecured liabilities^d							
Large estates	48,392	351,038	1.0	39.1	17.2	19.0	7
Small estates	4,524	12,106	2.2	1141.7	33.4	168.1	18
All estates	52,917 ^e	363,143 ^e	1.0	1141.7	30.5	102.9	25

^aPercentages are calculated on an individual case basis for only those estates that reported both components needed to calculate the percentages.

^bNet recovery represents the amount collected on undercharge claims less the direct costs of collection (e.g., legal and audit fees and other expenses related to collections). This is the amount available to pay the estate's liabilities, including administrative expenses and professional fees.

^cTotal distributions for all types of liabilities are included — secured, priority unsecured, and non-priority unsecured. This table includes about 89 percent of the total net recovery of all 50 reporting estates and over 99 percent of the total distributions for 34 reporting estates.

^dOnly total distributions for unsecured liabilities are included. This table includes about 84 percent of total net recovery by 50 reporting estates and over 99 percent of the total distributions for unsecured liabilities by 27 reporting estates.

^eThe dollar value for all estates is not equal to the sum of the dollar values for large and small estates due to rounding.

**Section 8
Distributions of Assets From Bankrupt
Trucking Company Estates to Creditors**

Table 3.4: Collections of Undercharge Claims Compared to Distributions of Assets

Category of estate	Dollar value (thousands)		Percentage of distributions				Estates reporting
	Collections ^a	Distributions	Minimum	Maximum	Median	Average	
Total distributions^b							
Large estates	76,994	568,643	1.0	222.2	10.1	43.9	9
Small estates	14,378	27,322	4.4	252.4	68.1	90.0	23
All estates	91,372	595,965	1.0	252.4	35.5	71.1	32
Total distributions for unsecured liabilities^c							
Large estates	72,773	351,038	1.5	85.4	17.6	35.0	7
Small estates	11,012	12,106	4.4	3038.0	93.8	450.2	18
All estates	83,785	363,143 ^d	1.5	3038.0	57.6	268.6	25

^aThis column represents the amount of undercharge claims collected before the direct costs of collection are deducted. In general, collections are used to pay expenses and fees of the attorneys and auditors making the collections, with the remainder going to the estate.

^bTotal distributions are included for only those estates that reported both total distributions and collections. Percentages are calculated on an individual case basis for only those estates reporting both components needed to calculate the percentage. This table includes about 85 percent of the collections by 50 reporting estates and over 99 percent of total distributions by 34 reporting estates.

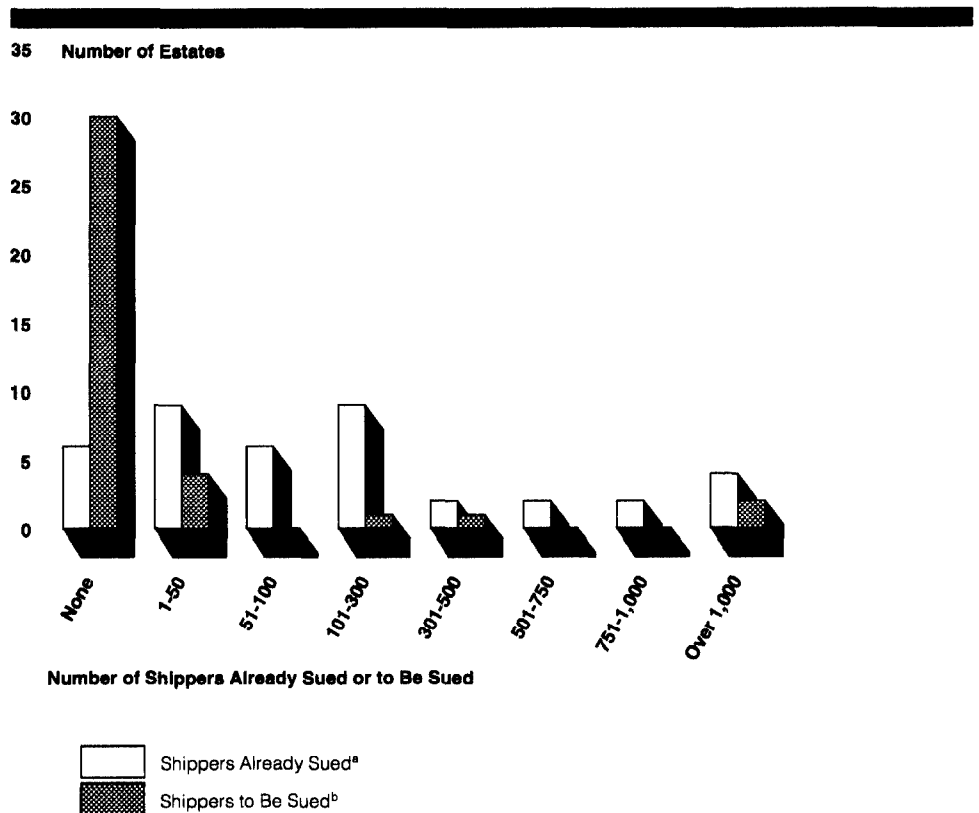
^cTotal distributions for unsecured liabilities are included for only those estates that reported such distributions and collections. Percentages are calculated on an individual case basis for only those estates reporting both components needed to calculate the percentage. This table includes about 78 percent of the collections by 50 reporting estates and over 99 percent of total distributions for unsecured liabilities by 27 reporting estates.

^dThe dollar value for all estates is not equal to the sum of the dollar values for large and small estates due to rounding.

Shippers Affected by Undercharge Claims

This section presents data on the variations across estates in the number of shippers from whom collection of undercharge claims is being sought. We also present data on the numbers of shippers affected, sued, and still to be sued broken down by category of estate. This section presents data on the minimum number of shippers affected for each estate. In some cases, data on the total number of shippers affected were not provided, but data were given for the number of shippers already sued and/or the number of shippers the trustee still expected to sue. For those cases, we calculated a minimum number of shippers affected for each estate as the sum of the shippers already sued and the shippers the trustee still expected to sue. However, the total number of shippers affected may be overstated because more than one estate may be seeking to collect undercharge claims from a single shipper.

Figure 4.1: Variation Across Estates In Number of Shippers From Whom Collection of Undercharge Claims Has Been or Will Be Sought Through Suits



Note: These figures represent the number of shippers from whom collection of undercharge claims has been sought or will be sought through lawsuits.

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Shippers Affected by Undercharge Claims

^aThis represents the number of estates that reported that they had already sued the stated number of shippers. A total of 40 estates are represented.

^bThis represents the number of estates that reported that they plan to sue the stated number of shippers. A total of 38 estates are represented.

Table 4.1: Number of Shippers From Whom Recovery of Undercharge Claims Is Sought in Total and Through Suits

Category of estate	Total ^a	Median	Average	Estates reporting
Number of shippers affected by undercharge claims^b				
Large estates	^c	3,750	36,189	^c
Small estates	^c	297	1,347	^c
All estates	366,105	500	9,387	39
Number of shippers that have already been sued				
Large estates	41,206	890	4,578	9
Small estates	4,527	84	146	31
All estates	45,733	88	1,143	40
Number of shippers trustees expect to sue				
Large estates	17,000	0	1,700	10
Small estates	386	0	14	28
All estates	17,386	0	458	38

^aThe totals are likely to overstate the total number of shippers involved because more than one estate may be seeking to collect from the same shipper.

^bThe figures represent the minimum number of shippers from whom collections of undercharge claims are being sought by each estate.

^cBreakdown between large and small estates cannot be reported due to confidentiality constraints.

Objectives, Scope, and Methodology

Our objectives were to examine the available records to determine the nature and extent of undercharge claims, the cost of collecting such claims, the nature and extent of liabilities of bankrupt trucking companies, and the amount of undercharge claim collections available to pay creditors.

We sent a questionnaire to representatives of the estates of bankrupt trucking companies. We identified bankrupt trucking companies through lists provided by the International Brotherhood of Teamsters, the Transportation Claims and Prevention Council, Inc. (TCPC), and eight freight tariff auditing companies. We sought the names of bankrupt trucking companies from different sources to avoid relying on a list from a single source and to provide us with more balanced sources of information.

We merged the lists of the bankrupt trucking companies, eliminating duplicates; cases that had closed prior to January 1, 1985; estates for which trustees no longer had access to records; and companies that we later determined were not bankrupt. The resulting list contained 290 bankrupt trucking companies, including 121 from the Teamsters list, 159 from the TCPC list that did not also appear on the Teamsters list, and 10 from the auditor list that did not appear on either the Teamsters or TCPC lists.

We reviewed draft questions with trustees of two bankrupt trucking companies—one in New Jersey and another in Chicago and incorporated the changes they suggested. In addition, representatives of TCPC also provided comments. Because of time constraints, we were unable to pretest the questionnaire as extensively as we would have liked, and some respondents had questions about the data requested. We discussed responses with some trustees to resolve questions we had about the proper interpretation of the data they provided. All questionnaires are subject to reporting and other errors of measurement. We noted in the text and tables potential sources of such error.

Questionnaires were sent to all of the representatives of bankruptcy estates that we could identify in the time permitted—primarily trustees and debtors-in-possession. In addition, when the address of a trustee or debtor-in-possession could not be located, we mailed questionnaires to attorneys representing debtors, trustees, or creditors, if known. Our sources generally provided the name of the bankrupt trucking company and, in some cases, the state where bankruptcy was filed. We encountered

great difficulties in locating information on many of these firms. In all, we sent questionnaires to 115 trustees and other representatives of the estates of bankrupt trucking companies. We received information from the estates of 52 bankrupt trucking companies, including one that was not on any of our original lists. Of the remaining 63 bankrupt trucking companies, 4 representatives of eligible estates told us they were unable to provide any data, 49 did not respond, and 10 later proved to be ineligible.

Some of the respondents were concerned about whether the data they supplied would be kept confidential. We agreed that we would not reveal data that could be linked to any particular respondent and, to ensure anonymity, we established reporting protocols. We did not report aggregated data for which there were fewer than 5 respondents, nor did we report dollar amounts if any single respondent accounted for more than 90 percent of the total value in the response category. In the attached tables, instances where reporting would violate the protocols are noted.

We separated the trucking companies into two categories—large and small. Large companies were those with at least \$80 million in operating revenues during the year immediately preceding the filing for bankruptcy. Eleven estates, nine from the Teamsters list and two from the TCPC list, involved large trucking companies.¹ The earliest bankruptcy case in our review was filed in January 1983 and the latest in February 1992. Nearly three-fourths were filed in 1987 or later. Nearly three-fourths of the bankruptcies are now filed under Chapter 7 of the bankruptcy code, the remainder are now filed under Chapter 11. Only 3 cases, all Chapter 7 cases, were closed. The bankrupt trucking companies in the estates we reviewed had nearly 72,000 employees in the year prior to filing for bankruptcy, but the 11 largest trucking companies accounted for almost 61,000 of these.

¹In cases where information on operating revenues in the year preceding the filing for bankruptcy was not available, we relied on 1979 operating revenues supplied by the Teamsters for some of the estates on their list. When operating revenues were not available, we classified the company in the small estates group.

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