respect operate to the disadvantage of existing management of firms for which the tender offers are made.

Paragraph (4) of Section 14 (d), as proposed, reads:

"Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors."

This might be construed by the Securities and Exchange Commission as a license to require clearance by the Commission of material that management would want to communicate to stockholders in response to a tender offer. The very nature of tender offers, with their relatively short time limit, makes it imperative for management to respond immediately. If SEC clearance is imposed on such representations that management might make, the critical element in delay in virtually all cases would enure to the advantage of the interests making the tender offer.

Our aim is not to hinder the acquisition of stock by any interested party, but rather to ensure that neither party be placed in an unfavorable position by regulatory procedures. Without taking a position on the need for additional disclosure requirements to prevent misrepresentation, the NAM feels that S. 510 in its present form could produce inequities in regulation.

Therefore, if and when this bill is reported out by your Committee, we urge amendment so that it is clearly understood that management material replying to a tender offer may not be subject to delays by the SEC. This would not rule out minimum requirements for such answering materials, but would ensure that no stricter burden be placed on the party in opposition to the tender offer than on the maker of the offer.

The NAM would appreciate your Committee taking these thoughts into consideration.

Yours very truly,

MAURICE H. STANS,
Chairman, Money, Credit, and Capital Formation Committee.

ARNSTEIN, GLUCK, WEITZENFELD & MINOW,
Chicago, Ill., July 1, 1968.

Re H.R. 14475.

Hon. JOHN E. MOSS,
Chairman, Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. MOSS: On behalf of Sears, Roebuck and Co. and the 192,000 Sears employees who are participants in The Savings and Profit Sharing Pension Fund of Sears, Roebuck and Co. Employees, I take this opportunity to bring to your attention a serious problem for employe benefit plans, which H.R. 14475 presents in its present form. I wish to limit my comments primarily to that portion of Section 2 of the bill which would add a new subsection (e) (1) and (2) to Section 13 of the Securities Exchange Act of 1934.

Section 13 of the Securities Exchange Act relates to the "information, documents, and reports" to be filed with the Securities and Exchange Commission by publicly held companies (registered with the Commission under Section 12 of the Act) whose securities are traded in the over-the-counter market or on national securities exchanges. Section 14 of the Act relates to proxy solicitations with respect to securities of publicly held companies. Section 2 of H.R. 14475 would add new subsections (d) and (e) to Section 13 of the Act. Section 3, which would add new subsections (d), (e) and (f) to Section 14 of the Act, relates primarily to the solicitation of tenders and the dissemination of investment information deemed relevant to such solicitations. The first part of Section 2, which would add the new subsection (d) to Section 13 of the Act, similarly seems to be concerned with information which should be made public by persons who acquire substantial stock interests (i.e., in excess of 10%) in publicly held companies. On the basis of the historical record of the SEC's interpretation and administration of federal securities laws, it is not foreseen that the proposed Sections 13(d) and 14(d), (e), and (f) would affect the orderly and proper conduct of the daily affairs of publicly held companies or of their employee plans. No such conclusion, however, may be drawn with respect to the new subsection (e) which Section 2 of the bill would add to Section 13 of the Securities Exchange Act.