

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

TOWNSHIP TRUSTEES OF SCHOOLS)	
TOWNSHIP 38 NORTH, RANGE 12 EAST,)	
)	
Plaintiff and Counter-Defendant,)	No. 13 CH 23386
)	
v.)	Hon. Sophia H. Hall
)	
LYONS TOWNSHIP H.S. DISTRICT 204,)	Calendar 14
)	
Defendant and Counter-Plaintiff.)	

**LT'S REPLY IN SUPPORT OF
ITS MOTION FOR PARTIAL SUMMARY JUDGMENT:
THE TTO'S CLAIMS ARE SUBJECT TO A 5-YEAR LIMITATIONS PERIOD**

A. The Statute of Limitations Issue is Ripe for Decision.

In response to LT's motion for partial summary judgment on the 5-year statute of limitations, the TTO does not claim that any of the pertinent facts set forth in the Motion are disputed. That is no doubt because LT's Motion relied principally on the testimony of the TTO's own witnesses to describe the nature of the accounts at issue. The TTO argues, instead, that LT's interpretation of the law is incorrect.

The TTO's Response underscores that this is the proper time to resolve the statute of limitations issue. As this Court observed at the last court appearance, the ruling on LT's Motion will give the parties a much better understanding of the breadth of the TTO's claims; the scope of the relevant time period; and the quantum of potential damages. If this motion is granted, TTO's three separate claims will be reduced to two claims; the relevant time period will reduce from a 20-year period to a 5-year period; and the TTO's damages claim will reduce from about \$4.6 million to about \$1.3 million.

B. The TTO Definitely Is Not a Zero-Sum Office.

The TTO's Response claims that "[u]nderstanding the zero-sum nature of the Treasurer's office is critical." (Response at 4) The TTO notes, correctly, that it has no independent source of tax revenue. (*Id.*) The TTO then argues, without reference to any record evidence or any legal authority, that it is "the trustee of a trust with over a dozen different beneficiaries. The *corpus* of the trust is public tax dollars." (*Id.*) In this way, the TTO seeks to portray itself as one giant trust organization.

Whatever the TTO might have been intended to be in the authorizing statutes, the undisputed evidence in this case shows that the TTO most certainly was NOT a zero-sum office, and that it does not operate like any trust organization this Court has ever seen. The reality is that the TTO treated the money belonging to the districts, including LT, as funds to be distributed as the TTO pleased and to be dipped into as desired, all without any obligation to provide an accounting or explanation to the member districts.

Moreover, the TTO has NEVER sought to balance the money that was accumulated with the money that was distributed. This is how its former Treasurer, Robert Healy, got away with stealing millions of dollars from the districts – an event that the TTO still has not accounted for to the districts or the public. This is how the TTO still refuses to distribute millions of dollars that rightfully belong to the districts into the districts' individual bank accounts. This is how the TTO borrows money from the districts without their consent, and without any outside oversight. This is how the TTO operated for all of the relevant years pursuant to its own agenda, without ever having a publicly disclosed budget.

A few examples from the record will suffice to make this point. According to the TTO's own annual audit reports, the amount of investment income that the TTO annually earned on the

districts' invested funds varied wildly – usually by millions of dollars – from the amounts that the TTO actually distributed to the districts. (SJ Ex. 27, attached hereto, p. 5-6) The TTO's "solution" to this repeated discrepancy was to simply delete the line items for income earned and income distributed from its audit reports starting in 1997 on – so the districts could not tell when they were being shorted, and by how much. (*Id.* p. 6)

Also, the TTO claims in a verified pleading that during the relevant years, the total expenses that the TTO incurred usually were significantly different than the amounts that the TTO actually billed the districts for those same expenses. (SJ Ex. 28, attached hereto, p. 1-2) In many of those years, the difference between the expenses incurred and the expenses billed, according to the TTO, was in excess of \$100,000. (*Id.*)

In addition, unlike a zero-sum office, the TTO admits that it has operated with a "structural deficit" for at least the past 15 years. (SJ Ex. 12, p. 13) In other words, the TTO's office NEVER balances to zero. The TTO covers for its deficits by taking millions of dollars from the districts' funds without the districts' consent. The TTO's annual audit reports record these unauthorized and improper transactions under a line item called "Advances to Township School Treasurer." (SJ Ex. 29, attached hereto (part of TTO Dep. Ex. 19), p. 10)

Also, the TTO never distributed investment income that plainly belongs to the districts. In 2013, the TTO informed the districts that it somehow had discovered a pool of undistributed investment income, left over from prior years, that belonged to the districts. (SJ Ex. 21) However, as the TTO recently admitted, the TTO failed to tell the districts that it distributed only a small fraction of those funds, and kept most of the estimated \$1.3 million in undistributed investment income for its own use. (SJ Ex. 7, p. 41-43, 48-49)

Here is one more example. To this day, according to the TTO's representative deponent, the TTO still does not know many millions of dollars its former Treasurer Robert Healy stole from the districts; still does not know how many hundreds of thousands of dollars the TTO wasted on attorneys' fees in order to sue Healy; and still does not know how much it recovered from Healy (it might be "about \$497"). (SJ Ex. 7, p. 20-25, 33) The TTO admits that the TTO made claims on two insurers for surety bonds covering Healy's dishonesty, and that the TTO recovered \$1,040,000. (*Id.* p. 25-26) To this day, however, the TTO has refused to distribute the \$1,040,000 in bond recoveries to the districts, and instead has kept these recoveries in its own account. (SJ Ex. 12, p. 12-15) This is not the behavior of a zero-sum office.

Thus, there is no factual support in the record for the TTO's present attempt to portray itself as a zero-based office that operates as a giant trust organization. The actual record evidence, which comes from the TTO's own documents and witnesses, conclusively demonstrates that the TTO operates according to its own standards, without any meaningful oversight, and without any real concern for the financial welfare of the districts or the integrity of their agency accounts.

C. This Case Does not Involve a Dispute over Funds Held in Trust.

The TTO's primary legal argument is that its claims involve disputes over public money that the TTO holds in trust. The TTO's argument is incorrect. First, the TTO ignores the clear testimony of its own current Board President. He explained that LT has its own bank account that the TTO administers as an agent, which is not the same legal concept as a trust account. Second, the TTO confuses two different types of cases: a dispute over a particular public fund that has yet to be spent or distributed (some of the TTO's cited cases), versus a claim for damages that arises out of funds already spent or distributed (our case, and other cited cases).

Thiessen, the current President of the TTO's Board of Trustees, is the highest ranking authority at the TTO. He testified that the TTO maintains separate accounts for the TTO and for the school districts. According to Thiessen, the TTO account is distinct from the accounts of LT and the other districts, which are "agency funds which we manage on their behalf." (SJ Ex. 12, p. 7-8)

There is no genuine dispute over how the money flowed with respect to each of the three claims that the TTO asserted in this case. On the claim for repayment of LT's annual audit costs, Thiessen testified that the money used to pay Baker Tilly for the disputed invoices "came out of the TTO's bank account versus 204's bank account." (*Id.* p. 29-30) On the claim for repayment of investment income, Thiessen testified that the TTO "over-allocated or contributed to LT's fund that they were not entitled to." (SJ Ex. 12, p. 39) On the claim for unpaid pro rata expenses, LT made net payments to the TTO (*i.e.*, the invoiced amount less the offset) through checks drawn on LT's account, entitled "Lyons Township High School District 204," and made payable to the "Township School Treasurer." (SJ Ex. 16, p. 6; SJ Ex. 12, p. 22-23)

This record evidence – none of which the TTO disputes in its Response – is consistent with the testimony that the TTO's current treasurer Birkenmaier provided in this case. Birkenmaier acknowledged that the TTO regularly distributed funds from its own account to the accounts of LT and the other school districts. Birkenmaier testified that a particular exhibit showed that the TTO was "reassigning funds," and in particular, that money "came out of the TTO account and went into the various accounts that are listed below: the health insurance, District 102, District 204, and LADSE." (SJ Ex. 7, p. 191-92)

Where the TTO's argument goes awry is by taking the evidence that the TTO's manages LT's bank account as an agency account, and then deciding for itself – without reference to any law or evidence – that LT's bank account therefore constitutes a trust account of public funds.

The testimony of both Thiessen and Birkenmaier – the top two authorities currently at the TTO – is very clear: the TTO has its operation account, and the TTO manages a series of agency accounts for LT and each of the other districts. Once the TTO assigns money from the TTO's account to LT's account, the money belongs to LT. The TTO cannot simply reverse these transfers of funds legally, which is exactly why the TTO had to file this lawsuit. Furthermore, whether the TTO transfers money from its account to LT's account through a bookkeeping entry or the issuance of a check obviously is immaterial, and the TTO offers no legal authority that suggests otherwise.

The decision in *School Directors of District No. 5 v. School Directors of District No. 1*, 105 Ill. 653 (1883), is the perfect example of why the TTO's position on public trust funds is wrong. The case arose in 1883, decades before all Illinois counties other than Cook were released from the township treasurer system. The plaintiff school district claimed that the township treasurer collected tax revenue, and then mistakenly credited that money to the defendant school district: “The bill alleges that complainant had been levying taxes for school purposes each year, since 1869, on property in its district, and that the treasurer of said town 2, by mistake, from confusing the names of the two districts, placed to the credit of District No. 1 Union, and paid out, on its orders, funds arising from taxes levied and collected from sections 1 and 2 in complainant's school district The object of the bill was the recovery of the above named sum of money.” (*Id.* at 655)

Accordingly, *School Directors of District No. 5* stands for the proposition that once the township treasurer “placed to the credit” of the defendant school district's account the disputed tax

revenues, the funds ceased to be held as a public trust. It also is clear from the quote above that the treasurer in that case continued to manage the account of the defendant school district, because the Court found that the treasurer “paid out” funds from the district’s account on the “orders” of the district. Based on these facts – which the TTO’s Response does not address – the Court held that the plaintiff school district’s claim was barred by the statute of limitations because the disputed funds no longer were held in trust by the township treasurer.

The holding in the *School Directors of District No. 5* case applies directly to the undisputed facts in our case. Once the TTO credits tax revenues and investment income to LT’s account, it becomes LT’s money and ceases to be funds that the TTO holds in public trust. Also, there is a further critical similarity between our case and the *School Directors of District No. 5* case. The TTO’s claims in this case stretch back as far as 20 years. There is no question that revenues that the TTO credited to LT’s account 5, 10, or 15 years ago were long ago paid out to vendors, employees, and other payees on LT’s direction, just like the disputed tax revenues in the *School Directors of District No. 5* case.

The second major flaw in the TTO’s argument is that the TTO confuses cases involving a dispute over a specific fund held by another entity in public trust, with situations like our case in which a governmental entity seeks to recover damages to be paid from the general accounts of another governmental entity. This is an important and determinative distinction.

In other words, in our case, the parties are NOT fighting over a particular pool of money that the TTO received and still is holding in trust, pending any crediting or spending. On the contrary, the TTO’s claims all concern monies that the TTO credited to LT long ago, or paid to outside parties, or simply did not receive from LT’s own account. For example, the TTO admits that it knowingly and deliberately paid, from 1994 through 2012, certain invoices of Baker Tilly.

The TTO now wants LT to pay damages in an amount equal to the sum of those invoices. This claim has nothing to do with a dispute over public funds held in trust. The TTO simply wants LT to be ordered to pay a judgment with funds that are sitting in LT's general coffers.

The circumstances in our case, therefore, differ greatly from the cases that the TTO cites in support of its public trust funds argument. As discussed above, the *School Directors of District No. 5* case involved a dispute over specific tax revenues that the township treasurer credited to the defendant school district's account. Because the treasurer credited the funds over to the district, the funds no longer were held in trust, and the statute of limitations applied. As the Supreme Court expressly held, "when he [the township treasurer] paid it out to appellee [the defendant school district], or on its orders, it was not a trust fund in appellee's hands which would exclude the operation of the Statute of Limitations." (*Id.* at 655-56 (emphasis added)) This is why LT cited this case in its original motion – to foreclose any potential public trust fund argument from the TTO.

Likewise, in the Supreme Court's decision in *Bd. of Sup'rs of Logan Cty. v. City of Lincoln*, 81 Ill. 156 (1876), which the TTO cites, a city claimed the right to receive specific tax revenues in order to build roads. *Id.* at 157. As the Court found, these disputed funds were "taxes collected for county purposes within the city, and paid into the county treasury by each, respectively." *Id.* (emphasis added) The Court held that the tax revenues that the county was holding, and which the county had refused to release to the city, were trust funds: "The funds involved in this controversy are in the nature of trust funds, held by the county for a specific object, defined by a public law, and hence the Statute of Limitations is not available as a defense to the action." *Id.* at 158-59 (emphasis added).

The *City of Lincoln* case might apply to a pool of money that the TTO holds in its own operational account, which is an account that the TTO hold in trust for the all of the districts. (That is, because the TTO, in theory anyway, has no money, the TTO's own bank account belongs to the districts.) However, the *City of Lincoln* case, by its own terms, does not apply to funds that have resided in LT's account for years following the TTO's periodic distributions.

The TTO's Response also cites to *Trustees of Sch. v. Arnold*, 58 Ill. App. 103 (Ill. App. Ct. 1895). This 1895 Appellate Court decision is not binding precedent. "Appellate court decisions issued prior to 1935 had no binding authority." *Bryson v. News Am. Publications, Inc.*, 174 Ill.2d 77, 95 (1996).

In the *Arnold* case, the trustees of schools sued a township treasurer for stealing tax revenues that he had collected for the districts: "there came to the hands of said town treasurer large sums of money, arising from the various sources common to such funds, a large portion of which' ... defendant failed to account for and pay over...." *Id.* at 104. Thus, instead of crediting the school districts with the tax revenues, the treasurer pocketed the money. (Healy was not the first dishonest township treasurer, and unfortunately, he will not be the last.) The Court's holding that the treasurer held the collected tax revenues in trust is consistent with the other cases discussed above.

Indeed, the holding of the *Arnold* case fully supports LT's Counterclaim for breach of fiduciary duty. LT's claim alleges that the TTO collected over a \$1 million in surety bond recoveries, and then kept that money for itself instead of distributing it to LT and the other districts. LT notes that in response to the Counterclaim, the TTO – in stark contrast to its current public trust argument – filed a sworn answer denying that the TTO has any fiduciary duty to LT. (SJ Ex. 30, attached hereto, ¶ 26)

The TTO's Response contains other contentions that are not supported by citation to the record or legal authority. The TTO claims that the "funds at issue ... remain in the control of the Treasurer." (Response at 7) This is not the case. As Thiessen himself explained, LT's account is an agency account that the TTO manages. If the TTO truly controlled LT's bank account, it would not have needed to file this lawsuit in order to obtain reimbursement.

Also, the TTO's Response misleadingly characterizes its three claims as "pots." (Response at 4). The TTO chose this word so it can later assert – without citation to any facts or law – that "the undisputed facts are that the funds for each 'pot' have never left the Treasurer's custody." (*Id.* at 8.) Essentially, the TTO contends that it can sue LT for any cause of action at any time covering any period of time, no matter how long ago it was – the 1950s, the 1920s, whenever – because the TTO's management of LT's agency account means that the TTO has always and will always hold LT's money in trust. The TTO's public trust argument, however, is not supported by Illinois law or the record evidence in this case.

D. This Case Does not Involve Public Rights, and so the Limitations Period Applies.

The TTO claims that it is enforcing a public right by asserting, without citation to the record, that "the TTO effectively brings this lawsuit on behalf of all of the other member districts it serves ..." Note the use of the word "effectively." The TTO failed to produce in discovery any authorization or resolution from the other member districts for the initiation of this lawsuit, and LT is not aware of any such authorization.

Furthermore, the TTO's claim that it will take any damages it receives from this case and distribute it to the member districts (Response at 11) is dubious, given that the past predicts the future. The record in this case shows that in 2014, the TTO recovered over \$1 million on surety bonds for Healy's thefts. Yet according to Thiessen, the TTO considers Healy's thefts to be from

the TTO, not the districts, and – as of a few months ago – the TTO still had not decided what to do with the bond recoveries. (SJ Ex. 12, p. 12, 15)

The TTO also tries to support its public rights argument through its “zero-sum office” contention. As LT demonstrated above, through detailed citations to undisputed evidence, the TTO most decidedly is not a zero-sum office. The TTO then leaps to the following conclusion, again without citation: “If the TTO cannot properly account for the funds at issue, then the Treasurer necessarily must pass that loss along to its member districts.” (Response at 11) Again, this speculation has no basis in the record. Time and time again, the TTO has proven that it cannot properly account for either its receipts or its expenditures.

Moreover, if the TTO truly was concerned about making the districts whole, they would have paid to the districts – years ago – the districts’ shares of the investment income discovered in 2013 (which the TTO largely retained) and the bond recoveries received in 2014 (which the TTO kept). The alleged “loss” that the TTO says it must pass on to the districts occurred mostly between 5 to 20 years ago. The TTO offers no explanation for why – in a supposedly “zero-sum office” – these losses were not “passed on” a long time ago. The TTO’s invocation of the interests of the other school districts, unfortunately for them and LT, is an argument of convenience designed to cloak the TTO in the guise of public interest. For purposes of the controlling legal standard, the issues in this case involve private rights.

E. There Is No Statutory Liability Exception to Limitations.

The TTO also argues, in a single paragraph, that the TTO’s claims are exempt from the applicable limitations period because LT’s liability is created by statute, citing the *Arnold* decision. (Response at 15) This argument is misplaced.

In *Arnold*, the Appellate Court was considering the public versus private rights distinction (an issue addressed above) when it quoted from a treatise on limitations. This is the quote that the TTO sets forth on page 15 of the Response. While the TTO presents this quotation as embodying a separate rule of Illinois law, that position is not borne out by the *Arnold* decision. Also, LT again notes that *Arnold* is not binding authority. *Bryson v. News Am. Publications, Inc.*, 174 Ill. 2d at 95. LT further notes that no subsequent case ever cited the *Arnold* decision for this supposed rule of law.

Even still, the TTO's argument is so short because the 'statutory liability means no limitation period' rule of law that the TTO advances makes no sense in our case. On the issue of the annual audit payments, there is a statute that requires LT to be audited annually. (107 ILCS 5/3-7) However, that statute says NOTHING about who must pay for that audit, and indeed, no statute prohibited the TTO from paying for the annual audit of LT (or those of other districts, for that matter). There is no statutory basis for the TTO's claim on annual audit costs.

Likewise, the TTO does not and cannot point to any statute suggesting that LT violated Illinois law when the TTO supposedly – and more than 5 years ago – overallocated investment income to LT. The TTO does not deny that it never provided LT with the information necessary to determine whether the TTO's income payments were accurate. In addition, while the TTO relies generally on the statute requiring districts to make pro rata expense payments to the TTO, that statute does not deal with the set-offs to the pro rata invoices that the parties agreed to in 2000 and thereafter.

Accordingly, not only is the TTO's 'statutory liability means no limitations period' argument not a recognized legal rule, but it does not apply to the circumstances of this case.

F. Conclusion

For all of the reasons set forth in LT's Motion and in this Reply, LT respectfully asks this Court to grant LT's Motion and decide, as a matter of law, that (a) the five-year catch-all limitations period in 735 ILCS 5/13-205 applies to the TTO's claims in the Amended Complaint, and (b) the TTO's claims, to the extent they are based on events or transactions that occurred before October 17, 2008, are time-barred.

Respectfully submitted,

LYONS TOWNSHIP HIGH SCHOOL
DISTRICT 204

By s/Jay R. Hoffman
Its Attorney

Jay R. Hoffman
Hoffman Legal
20 N. Clark St., Suite 2500
Chicago, IL 60602
(312) 899-0899
jay@hoffmanlegal.com
Attorney No. 34710

CERTIFICATE OF SERVICE

Jay R. Hoffman, an attorney, certifies that on August 9, 2017, he caused the foregoing pleading to be served by email on the following attorneys:

Gerald E. Kubasiak

kubasiak@millercanfield.com

Barry P. Kaltenbach

kaltenbach@millercanfield.com

Gretchen M. Kubasiak

kubasiakg@millercanfield.com

Miller, Canfield, Paddock and Stone, P.L.C.

Suite 2600

225 W. Washington St.

Chicago, IL 60606

s/Jay R. Hoffman

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

TOWNSHIP TRUSTEES OF)
SCHOOLS TOWNSHIP 38 NORTH,)
RANGE 12 EAST,) No. 13 CH 23386

Plaintiff)

vs.)

LYONS TOWNSHIP HIGH SCHOOL)
DISTRICT NO. 204,)

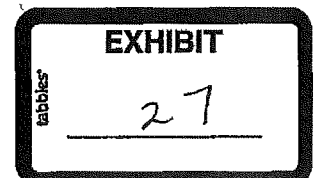
Defendant)

Judge Sophia H. Hall
Calendar 14

**EXPERT REPORT
OF
MARTIN W. TERPSTRA, CPA, CFE**

**PLANTE & MORAN, PLLC
10 South Riverside Plaza, Suite 900
Chicago, Illinois 60606**

May 4, 2017



A. Introduction

I was engaged by Hoffman Legal, on behalf of Lyons Township High School District No. 204 ("LT"), to evaluate and respond to the disclosures and deposition testimony of Plaintiff's expert, James P. Martin ("Martin") of Cendrowski Corporate Advisors LLC, on behalf of Township Trustees of Schools Township 38 North, Range 12 East (collectively "TTO" or "Plaintiff").

In completing this engagement, I and/or staff working under my direction have read and analyzed various pleadings, reports, records, correspondence, and relevant documents, as described below and in Section E of this report. This report is based on information made available to me through May 4, 2017. As additional information becomes available, I reserve the right to amend and modify this report.

My hourly rate for this engagement is \$350. Others working under my direction are billed at hourly rates between \$50 and \$330. Our fees are not contingent on the outcome of this matter.

B. Professional Qualifications

I am a partner in the Forensic & Valuation Services Group of Plante & Moran, PLLC ("PM"). PM is ranked by *Accounting Today* in its 2017 survey as the 15th largest certified public accounting and management consulting firm in the United States.

I am a Certified Public Accountant ("CPA"), Certified Fraud Examiner ("CFE"), and Chartered Global Management Accountant ("CGMA") with over 40 years of experience as an auditor, consultant and fraud examiner covering many diverse industries. For the first 15 years of my professional career, I served in the Audit Department of Altschuler, Melvoin & Glasser LLP ("AM&G"), where I focused on audits of clients in a wide range of industries, including governmental entities. In April 1990, I transferred into AM&G's Litigation Services Group. I joined Blackman Kallick LLP ("BK") in September 2006 to lead its Forensic and Litigation Services Group. On July 1, 2012, BK merged with PM.

Since 1990, I have focused my career on forensic and litigation services. I have worked with many attorneys in the area of professional liability litigation. I have also performed forensic accounting and fraud investigation services for clients in a wide range of industries.

I have investigated and evaluated over 800 professional liability claims against accountants, attorneys, directors and officers, and other professionals. These matters involved compliance with professional standards, financial analysis, and evaluation of alleged damages.

I have directed more than 200 forensic investigations involving misstatement of financial statements and misappropriation of corporate assets. These engagements include special investigations for boards of directors of publicly-traded companies, including representation before the Securities and Exchange Commission.

I served on AM&G's internal inspection teams to monitor the quality of its audit practice and external peer review teams to evaluate the audit practices of other public accounting firms. I also served on BK's risk management committee.

I have served as senior technical specialist for a national accounting and consulting firm serving colleges and universities, governmental entities, and not-for-profit organizations. I developed and taught a series of courses relating to accounting for colleges, universities and not-for-profit organizations. I have been a member of the Government Finance Officers Association, the National Association of College and University Business Officers, the National Association of Student Financial Aid Administrators, and the Association of School Business Officials.

I have served on the Federal Financial Assistance Committee and the Government Report Review Committee of the Illinois CPA Society and have extensive experience with federal and state grant programs. I participated in an Illinois CPA Society's task force to study revisions to federal audit guides.

I have developed risk management programs for accounting firms, which I present nationally to accounting firms and professional organizations. I have also developed training programs on fraud detection and prevention programs.

I am a member of the American Institute of Certified Public Accountants ("AICPA"), the Illinois CPA Society ("ICPAS"), and the Association of Certified Fraud Examiners ("ACFE"). I currently serve on the Ethics Committee of the ICPAS.

I am a frequent speaker for professional organizations and I serve as an adjunct faculty member at Benedictine University teaching courses in forensic accounting and fraud investigation, as part of its Graduate Business Programs.

I earned a Bachelor of Science in Accounting (Magna Cum Laude) in 1975 and a Master of Accountancy (With Distinction) in 1998 from DePaul University.

A copy of my curriculum vitae is attached as Exhibit A and further sets forth my qualifications.

C. Background

We understand the following facts from our review of the TTO's amended complaint:

- The TTO is a corporate entity organized under the laws of the State of Illinois with its principal office in La Grange, Illinois.
- LT is a corporate entity organized under the laws of the State of Illinois with its principal office in La Grange, Illinois.
- The Illinois School Code, 105 ILCS 5/1 *et seq.* ("School Code") holds that Township Trustees, elected by and responsible to the voters of Lyons Township, appoint the Lyons Township School Treasurer ("Treasurer") to serve as the statutorily-appointed treasurer for LT and other educational districts (collectively "Districts") within Lyons Township.

- During the fiscal years 1995 through 2012 (“Relevant Period”), Robert Healy (“Healy”) served as Treasurer.
- Among other tasks, the Treasurer takes custody of public funds (property taxes and other funds) for the benefit of the Districts and pays amounts to persons and entities as it is lawfully instructed to pay by the Districts it serves.
- The School Code imposes upon the Treasurer the responsibility to account for all receipts, disbursements, and investments arising out of the operations of all the Districts served by the TTO.
- The School Code also requires the Treasurer to prepare and submit a biannual statement showing the investment proceeds, other income received, and distributions of funds on hand.
- The School Code, Section 8-7, governs the depositing and investing of school funds. It allows the Districts’ monies to be combined. Those funds are to be “accounted for separately in all respects, and the earnings from such investment shall be separately and individually computed and recorded, and credited to the fund or school district ... for which the investment was acquired.”
- The Treasurer commingles funds from the Districts for investment purposes and allocates the interest earned on the investments via journal entries. Funds are held in the custody of the Treasurer.
- The TTO claims that during the Relevant Period LT was over-allocated investment interest. Martin testified that the amount is \$1,427,442.

D. Summary of Opinions and Bases of Opinions

All of my opinions are stated within a reasonable degree of accounting certainty.

- The TTO and Martin are unable to determine with certainty annual investment earnings.

We would have expected that the TTO determined investment interest on pooled investments for the Districts by using source documentation such as bank and investment statements. Then, based on that information, we would anticipate the TTO to have calculated each District’s allocation of the investment interest.

The recordkeeping at the TTO was such that Michael Theissen (“Theissen”), TTO President, testified that after Healy was terminated the TTO had to go through an exhaustive search to find and identify its investments, who held them, how they were managed, how much they were earning, and if they were in compliance with the statutory investment policy.¹

Theissen testified that he asked Kelly Bradshaw (“Bradshaw”), current TTO accountant, to compare the allocation of investment earnings for all of the Districts with Healy’s notes to determine whether the quarterly allocations were proper.² Theissen further testified that he expected Bradshaw would trace the quarterly distribution amounts to source documents and that he would be concerned if Bradshaw only utilized internal TTO documents in her analysis.³

¹ Deposition of Michael Theissen at pages 86-87.

² Deposition of Michael Theissen at pages 87-88.

³ Deposition of Michael Theissen at page 102.

Dr. Susan Birkenmaier (“Dr. Birkenmaier”), the TTO’s designated representative in this matter and its current Treasurer, testified that she does not know whether Bradshaw had gone back to look at what was actually earned by reviewing TTO bank and investment statements.⁴

Bradshaw testified that she did not go back to source documentation from banks and investment brokers, advisors, and other financial institutions, but would have had to in order to determine what the Districts actually earned for investment income during the Relevant Period.⁵

Martin attempted to, but was unable to, determine how much investment interest the TTO actually earned on pooled investments during the Relevant Period.⁶ Martin testified that for the earlier years only about 50 percent of the records were available and in the more recent years approximately 90 percent were available.⁷ Martin was unable to complete his analysis of earned investment interest and he does not believe, based on the documents available, that any other accounting firm could perform the analysis.⁸ As a result, Martin testified that he was unable to determine what share LT was entitled to receive during the Relevant Period.⁹

We attempted to locate source documents that supported a TTO-prepared statement that purported to show quarterly interest amounts. We were not able to locate all of the necessary documents. As such, based on the documents produced in this matter, it is not possible to determine investment interest with reasonable certainty due to the lack of available source documents.

- The audited financial statements demonstrate that there were additional funds that were available for distribution to the Districts on a net basis for the fiscal years 1995 through 2007.

Based on our analysis of the TTO’s audited financial statements for the fiscal years 1995 through 2007, it appears that the TTO earned in excess of \$1 million of investment interest that had not been allocated to the Districts.¹⁰

The TTO’s audited financial statements for fiscal 1995 through 2007 reported net earnings on investments. The presentation of the net earnings on investments changed during that time period. For fiscal years 1995 through 2003, the TTO reported earnings on investments net of distributions to Districts. For fiscal years 2004 through 2007, the TTO reported gross investment earnings and then deducted distributions to the Districts to report a net amount.

⁴ Deposition of Dr. Susan Birkenmaier at page 196.

⁵ Deposition of Kelly Bradshaw at page 89.

⁶ Deposition of James Martin at page 12.

⁷ Deposition of James Martin at pages 12-15.

⁸ Deposition of James Martin at page 15.

⁹ Deposition of James Martin at page 39.

¹⁰ Exhibit B.

During the thirteen fiscal years 1995 to 2007, in six years investment interest allocated to Districts exceeded investment interest earned, while in seven years investment interest allocated was less than investment interest earned. For example, during fiscal 2002, the TTO allocated approximately \$2 million dollars to Districts in excess of interest earned.¹¹ During fiscal 2003, the TTO earned interest of approximately \$3.3 million in excess of amounts allocated to Districts.¹² These examples demonstrate how the TTO earned in excess of \$1 million of investment interest that had not been allocated to the Districts.

For fiscal years 2008 through the present, the TTO did not report either gross or net earnings on investments. Dr. Birkenmaier, however, testified that in fiscal 2013 the TTO's auditor, Miller Cooper & Co., Ltd., determined there was undistributed investment interest held over from prior years of approximately \$1.3 million and that, but for a \$500,000 distribution, it is still being held by the TTO.¹³

Martin testified that he read the TTO's audited financial statements but did not utilize them to analyze the unallocated funds.¹⁴ He further testified that he did not perform any analysis to determine if undistributed investment income from the Relevant Period remains in the TTO's possession, as he did not believe that those funds would be relevant to his analysis.¹⁵

It is not possible to determine, from the TTO's audited financial statements alone, to which Districts the unallocated funds should be distributed. Martin, however, ignores both the evidence in the TTO's audited financial statements and Dr. Birkenmaier's testimony that there are additional funds available to be distributed to the Districts. The TTO should have allocated the undistributed investment interest based on the Districts' fund balances at the time the earnings became available during the Relevant Period and take those distributions into account in the context of its claim in this case.

- Healy's handwritten sheets were estimates and subject to revision.

Martin incorrectly assumes that Healy's calculations of allocable investment interest were the amounts that should have been distributed to the Districts. However, Healy's quarterly allocations of investment earnings to the Districts were estimates. Healy testified, "I often estimated the value, estimated the income, because the actual numbers weren't readily available."¹⁶

With regard to his quarterly allocations, Healy testified, "I could pretty much judge what was made in my head. And then I would make a conservative estimate for the first three periods of the fiscal year; and then at the end, the fourth was usually a large payment."¹⁷

¹¹ Exhibit C.

¹² Exhibit D.

¹³ Deposition of Dr. Susan Birkenmaier at pages 45-49.

¹⁴ Deposition of James Martin at page 22.

¹⁵ Deposition of James Martin at pages 125-129.

¹⁶ Deposition of Robert Healy at page 52.

¹⁷ Ibid.

Healy testified that the TTO's outside accountant, Cheryl Sudd ("Sudd"), "went back and reconciled and checked all the investment transactions to make sure that all income and few losses were properly recorded."¹⁸ Sudd was responsible for the bulk of the general ledger and she had assistance from the auditors (Baker Tilly and its predecessors).¹⁹

Healy testified that his allocations were reasonable estimates of what was available for distribution.²⁰ In order to determine the exact amounts that should have been allocated to each District, it would be necessary to use Sudd's exact numbers from the general ledger for all four quarters.²¹

Martin testified that he had no concerns relying on Healy's handwritten notes as being what should have been distributed.²² Martin actually used the numbers that Healy calculated on his handwritten sheet.²³

Based on Healy's testimony with regard to the use of estimates in the first three quarters of the fiscal year and the use of TTO staff and outside professionals to follow up on those estimates, it is not reasonable for Martin to rely on Healy's handwritten notes as a guide for what the TTO intended to distribute.

- Martin did not test Healy's handwritten notes for mathematical accuracy. He testified that "in all instances" Healy's calculation of taking the percentages and applying them to the total distribution arrived at Healy's interest allocation for LT.²⁴

Martin treated Healy's allocable interest calculations as a "business record that were correct at that time."²⁵ Martin testified that he relied upon the specific amounts that Healy set forth in his notes as the amount that each District should have been allocated in the applicable quarter.²⁶ However, Martin admitted that Healy testified that his handwritten notes were preliminary and conservative estimates and that they were subject to later adjustment by Sudd and the auditors.²⁷

The preliminary nature of Healy's notes is reflected in calculation errors within these notes. Our analysis of Healy's notes, which Martin accepted at face value, disclosed several quarters where his calculations for other Districts were not based on the method of applying each District's proportionate share of the fund balance to the allocable quarterly interest.

¹⁸ Deposition of Robert Healy at page 53.

¹⁹ Deposition of Robert Healy at pages 54-55.

²⁰ Deposition of Robert Healy at page 59.

²¹ Deposition of Robert Healy at pages 59-60.

²² Deposition of James Martin at page 67.

²³ Deposition of James Martin at page 70.

²⁴ Deposition of James Martin at page 116.

²⁵ Deposition of James Martin at page 66.

²⁶ Deposition of James Martin at page 69.

²⁷ Deposition of James Martin at page 132.

We noted the following:

- In his March 1995 investment interest calculation, Healy used a fund balance for District 107 that was \$333,333 greater than his underlying documentation indicated. By doing so, he increased District 107's proportion of the investment interest pool and, as such, over-allocated investment interest to that District.²⁸
- In his June 1997 calculation, Healy apparently under-allocated District 104 by \$55,264 and over-allocated District 109 by \$10,363 and LT by \$44,903.²⁹
- In his June 1998 investment interest calculation, Healy used a fund balance for District 106 that was \$323,003 greater than his underlying documentation indicated. By doing so, he increased District 106's proportion of the investment interest pool and, as such, over-allocated investment interest to that District.³⁰
- In his June 2005 calculation, Healy apparently over-allocated District 108 by \$3,612 and under-allocated District 106.5 by \$72,349. Healy's handwritten sheet actually allocated \$2,468,400, not the \$2,400,000 that is written on the sheet.³¹
- In his June 2006 calculation, Healy apparently over-allocated \$128,819 to LT. While his math on the handwritten sheet does not appear to be accurate for several Districts, the amount written on the sheet for LT agrees to the amount recorded in the TTO's general ledger.³²
- In Healy's June 2006 calculation, Districts 102, 107, and 109 appear to be over-allocated by \$20,000, \$16,108, and \$50,000, respectively. Districts 101, 106, 217, 999, 106.5, and 204.5 appear to be under-allocated by \$17,001, \$29,385, \$111,882, \$2,852, \$2,835, and \$3,552, respectively.³³
- In his April 2008 calculation, Healy apparently over-allocated \$27,863 to LT; however, the amount on Healy's handwritten sheet (\$292,000) for LT's quarterly distribution agrees to the amount recorded in the TTO's general ledger.³⁴
- In Healy's April 2008 calculation, District 999 was apparently over-allocated investment interest by \$8,685, and District 109 has an annotation on Healy's handwritten sheet that allocates an additional \$32,080.³⁵
- In his June 2009 calculation, Healy apparently over-allocated \$246,711 to LT; however the amount on the Healy's handwritten sheet (\$633,364) for LT's quarterly distribution agrees to the amount recorded in the TTO's general ledger.³⁶
- In Healy's June 2009 calculation, District 109 was apparently over-allocated investment interest by \$45,202 and District 999 by \$8,926.³⁷

²⁸ Exhibit E.

²⁹ Exhibit F.

³⁰ Exhibit G.

³¹ Exhibit H.

³² Exhibit I.

³³ Ibid.

³⁴ Exhibit J.

³⁵ Ibid.

³⁶ Exhibit K.

³⁷ Ibid.

- In his June 2012 calculation, Healy apparently under-allocated \$15,001 to LT; however, the amount written on Healy's handwritten sheet (\$336,977) for LT's quarterly distribution agrees to the amount recorded in the TTO's general ledger.³⁸
- In Healy's June 2012 calculation, District 204.5 was apparently under-allocated investment interest by \$20,001 and District 999 by \$9,993.³⁹

As demonstrated by the examples noted above, Healy did not always make clear and uniform calculations of interest that followed a proportionate allocation to the Districts. As such, Martin's reliance on Healy's calculation causes his analysis to be flawed.

- Martin did not use a consistent approach to general ledger entries to determine the amount of investment interest allocated to LT.

Martin testified "my analysis is based on the review of the general ledger records, which show the four entries for interest, one quarterly entry for the interest four times a year."⁴⁰ However, we noted entries for adjustments to interest that were made to the LT general ledger. Martin did not recall if he had seen any of those entries.⁴¹ He also did not use a consistent method when considering entries for interest amounts described in the general ledger as something other than quarterly interest.

The following are adjustments that Martin should have considered:

- At April 30, 1995, Martin alleges that LT was over-allocated investment interest by \$5,000.33. The TTO's general ledger shows an "INT TRANSF" of \$5,000.00 on that same date. Although Martin testified that he did not include that transfer,⁴² in order to arrive at his "Allocation per TTO GL," it must be included.
- At April 30, 1998, Martin alleges that LT was over-allocated investment interest by \$4,674.68. The TTO's general ledger shows an entry at March 31, 1998 for \$4,675.00 described as "QTRLY INT (10, 11, 12-1997)". Although Martin testified that he did not include that entry,⁴³ in order to arrive at his "Allocation per TTO GL," it must be included.
- Martin alleges that LT was under-allocated investment interest by \$101,829.90 at December 31, 1997. The TTO's independent auditor proposed an adjustment to the investment interest allocation. This adjustment was included by Healy in his handwritten calculation.⁴⁴ As such, this made Healy's calculation equal the amount recorded in the TTO's general ledger. Martin ignored this adjustment.

³⁸ Exhibit L.

³⁹ Ibid.

⁴⁰ Deposition of James Martin at page 132.

⁴¹ Deposition of James Martin at page 99.

⁴² Deposition of James Martin at page 135.

⁴³ Deposition of James Martin at page 141.

⁴⁴ Exhibit M.

- Martin determined that in adopting Bradshaw's analysis, there were certain numbers that he disagreed with and subsequently adjusted. One such adjustment was at June 30, 2006, where Martin found that Bradshaw interpreted a journal entry differently than he did.⁴⁵ Martin included an additional amount of \$31,500 as allocable investment interest for LT even though the TTO's general ledger entries described it as either "Interest" or "Trans Interest Retro on BD Res". Martin could not explain why he picked these entries, given their descriptions, after he testified earlier that he only picked up entries denoted as quarterly interest. When questioned why he determined the entry to be quarterly interest, he testified, "I don't know. At the time that's what I determined that to be."⁴⁶

Martin did not attempt to understand the purpose behind the entries by either talking to the professionals actually involved in the TTO's affairs (Healy, Sudd, or Baker Tilly) or searching for documents which would provide corroborating evidence of the transactions. The above mentioned general ledger entries contain descriptions that are vague, subject to translation, and appear to lack supporting documentation. We would have expected the TTO to provide supporting documentation for journal entries that are recorded in its general ledger. The general ledger contains entries that have not been adequately explained by the TTO or Martin, which raises questions as to Martin's analysis.

- Martin does not remember seeing annotations of apparent additional investment interest allocations made on Healy's handwritten sheets, even though he reviewed and relied upon them.⁴⁷

In certain quarters, Healy's sheets contained handwritten notes and/or annotations which appear to adjust the calculated amounts. Martin testified that he's "not familiar with those notes you're describing . . ."⁴⁸ Martin further testified that it was his practice to ignore adjustments and utilize the straight calculation of quarterly interest that Healy performed.⁴⁹

Our analysis of Healy's handwritten sheets shows numerous annotations, which appear to show a relation between the handwritten note and the amount recorded in the TTO's general ledger. For example:

- In his December 1997 calculation, Healy applied suggested adjustments from the TTO's independent auditor, which in effect reduced allocated investment interest to District 109 by \$6,098 and LT by \$101,830, and increased allocated investment interest to all other Districts.⁵⁰
- At April 2007, Healy's handwritten sheet includes a note for an additional \$125,000 for LT. When added to the initial investment interest allocation on the sheet, the total equals the amount recorded in the TTO's general ledger.⁵¹

⁴⁵ Deposition of James Martin at page 163.

⁴⁶ Deposition of James Martin at page 166.

⁴⁷ Deposition of James Martin at page 70.

⁴⁸ Deposition of James Martin at page 71.

⁴⁹ Deposition of James Martin at page 151.

⁵⁰ Exhibit M.

⁵¹ Exhibit N.

- At January 2007, Healy's handwritten sheet includes a note for an additional \$125,000 for LT. When added to the initial investment interest allocation on the sheet, the total equals the amount recorded in the TTO's general ledger.⁵²
- At October 2006, Healy's handwritten sheet includes a note for an additional \$125,000 for LT. When added to the initial investment interest allocation on the sheet, the total equals the amount recorded in the TTO's general ledger. Healy also notes at the bottom of the page "#204 will be adjusted @ EOY for larger est. payout."⁵³
- At April 2008, Healy's handwritten notes include an additional \$32,080 for District 109.⁵⁴
- At November 2007, Healy's handwritten sheet includes a note for an additional \$100,000 for LT. When added to the initial interest allocation, the total equals the amount recorded in the TTO's general ledger.⁵⁵
- At June 2009, Healy's handwritten sheets include a note for an additional \$45,203 for District 109.⁵⁶ When added to the initial interest allocation, the total equals the amount recorded in the TTO's general ledger.
- At June 2011, Healy's handwritten sheet includes a reduction of \$200,000 from LT's allocation. Martin's calculation shows that LT was under-allocated by that amount. The amount listed on Healy's handwritten sheet equals the amount recorded in the TTO's general ledger.⁵⁷

We do not have sufficient information to explain how or why Healy deviated from exact proportional allocations. By simply ignoring these deviations, when noted, Martin's analysis is inconsistent with the facts that are known in this matter and, as such, is unreasonable.

- Other Districts also may have been over-allocated and under-allocated investment interest under the TTO's methodology.

The TTO's amended complaint, in accusing LT of receiving over-allocations of investment interest, further states that, as a result, the other Districts have been under-allocated interest.⁵⁸ Dr. Birkenmaier testified that, to the best of her knowledge, no District, other than LT, received an over-allocation during the Relevant Period.⁵⁹ Healy testified that he did not recall paying LT or any other District more than they were entitled to.⁶⁰ However, Healy testified that if there were over-allocations in one year, he would make it up by reducing future allocations.⁶¹

⁵² Exhibit O.

⁵³ Exhibit P.

⁵⁴ Exhibit J.

⁵⁵ Exhibit Q.

⁵⁶ Exhibit K.

⁵⁷ Exhibit R.

⁵⁸ TTO Amended Complaint paragraph 46.

⁵⁹ Deposition of Dr. Susan Birkenmaier at page 234.

⁶⁰ Deposition of Robert Healy at page 64.

⁶¹ Ibid.

Martin began an analysis to understand what had occurred with Districts other than LT. Martin looked at interest allocations for 11 quarters for most of the Districts and 28 quarters for the others.⁶² Martin testified “the purpose of this analysis was to show that the other districts weren’t also getting interest out – weren’t getting additional interest at the time that 204 was.”⁶³ However, he found the opposite; other Districts received additional allocations based on his methodology.

Martin’s analysis of the other Districts discovered anomalies in quarterly interest payments that, had they been made to LT, he would have concluded to be over-allocations. Martin tested 11 quarters for District 109, noting that in 4 of those quarters, the TTO paid additional interest amounts to District 109. When he found what he considered to be additional interest payments to LT, he concluded they were over-allocations. (An example is the general ledger entry for \$31,500 for LT that Martin concluded was a quarterly interest payment.) However, Martin testified that he could not characterize the additional interest payments to District 109 as over-allocations without further analysis and consultation with the TTO.⁶⁴ Martin testified that there was no one he could speak with at the TTO who had knowledge of the payments to District 109.⁶⁵

Martin testified that if a District other than LT was allocated disproportionately, then they would theoretically need to be adjusted.⁶⁶ But in those periods where he identified a misallocation to LT, he believed that the other Districts received exactly the percentage that was detailed on Healy’s notes.⁶⁷

We also examined this issue. Our testing (for the period covering Martin’s analysis) disclosed that Districts other than LT were also allocated investment interest amounts other than what was calculated on Healy’s handwritten sheets. We observed over- and under-allocations of investment interest to numerous Districts other than LT, as noted in our discussion regarding the mathematical accuracy of Healy’s calculations above.

As demonstrated above, it is clear that Districts other than LT were also receiving under and over allocations when examined using the TTO’s methodology. As with LT, Healy’s calculations of interest payments and the general ledger entries for other Districts cannot be fully explained by the available documentation and witness testimony. In addition, the TTO’s position that over-allocations to LT necessarily resulted in corresponding under-allocations to all other Districts is erroneous.

⁶² Deposition of James Martin at page 77.

⁶³ Deposition of James Martin at page 76.

⁶⁴ Deposition of James Martin at pages 75-81.

⁶⁵ Deposition of James Martin at page 79.

⁶⁶ Deposition of James Martin at pages 154-155.

⁶⁷ Ibid.

- The TTO made a \$1.5 million reduction to LT's allocable investment interest.

During June 2011, the TTO recorded an adjustment to the LT general ledger that effectively reduced allocable investment interest by approximately \$1.5 million.⁶⁸ The journal entry decreases LT's cash and beginning fund balance accounts with a description of "J/E Audit Adjustment Interest." However, neither Martin nor any representative of the TTO has been able to explain why LT's interest allocation was reduced by \$1.5 million.

Martin attempted to perform a twelve-year analysis of interest allocations related to LT. Martin testified that he is not familiar with this "audit adjustment" transaction⁶⁹ and that this entry was unimportant to his analysis and had no effect.⁷⁰

Representatives of the TTO were either not aware of, or made no effort to understand, this adjustment. Theissen testified that he was not familiar with the \$1.5 million adjustment.⁷¹ Theissen speculated that the \$1,512,451 adjustment could be an off-set for a July 2010 entry for expenses in the amount of \$1,587,296.⁷² It is highly unlikely that these two general ledger entries are related, particularly because they are both reductions to cash. We have seen no entry in the general ledger that we believe constitutes an off-set to the \$1,512,451 adjustment.

Dr. Birkenmaier testified that she made no effort to look at the records of the TTO to determine why LT's funds were being adjusted by \$1.5 million.⁷³ Dr. Birkenmaier did not talk to anyone at the TTO in order to understand the transaction.⁷⁴

This entry reduced LT's allocated investment interest by \$1.5 million. This amount exceeds the total over-allocations alleged by the TTO. It is apparent that Martin's review of the general ledgers LT maintained at the TTO was incomplete because he did not locate and include this journal entry in his analysis. We also do not understand why the TTO is unable to explain a transaction of this magnitude, and does not appear to have any documentation to support this reduction in LT's fund balance.

⁶⁸ Exhibit S.

⁶⁹ Deposition of James Martin at page 50.

⁷⁰ Deposition of James Martin at pages 59-60.

⁷¹ Deposition of Michael Theissen at pages 78-79.

⁷² Deposition of Michael Theissen at pages 80-81.

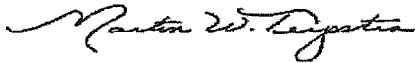
⁷³ Deposition of Dr. Susan Birkenmaier at page 188.

⁷⁴ Deposition of Dr. Susan Birkenmaier at page 192.

E. Documents Reviewed

- All TTO document productions in this case
- All LT document productions in this case
- James Martin's disclosures, exhibits, and invoices
- Deposition transcript of Michael Theissen
- Deposition transcript of Dr. Susan Birkenmaier
- Deposition transcript of James P. Martin
- Deposition transcript of Kelly Bradshaw
- Deposition transcript of Robert Healy
- Verified Amended Complaint for Declaratory Relief
- Portions of the Illinois School Code relating to the TTO operations
- Township Trustee's Response to District 204's Revised Motion to Compel Production of Documents
- Lyons' Revised Motion to Compel Production of Documents
- Defendant's Verified Answer and Affirmative Defenses to Amended Complaint for Declaratory Relief

Respectfully submitted,

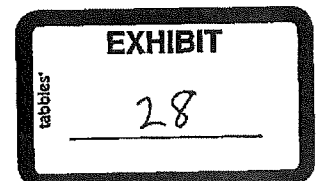


Martin W. Terpstra, CPA, CFE

**Lyons Township School Treasurer
Township 38 North, Range 12 East
Cook County, Illinois**

Financial Statements

Year Ended June 30, 2013



CONTENTS

	Page
FINANCIAL SECTION	
Independent Auditors' Report	1 - 3
Basic Financial Statements	
Statement of Net Position	4
Statement of Activities	5
Balance Sheet - Governmental Fund	6
Reconciliation of the Governmental Fund to the Statement of Net Position	7
Statement of Revenues, Expenditures, and Changes in Fund Deficit - Governmental Fund	8
Reconciliation of the Statements of Revenues, Expenditures and Changes in Fund Deficit to the Statement of Activities - Governmental Funds	9
Statement of Fiduciary Assets and Liabilities	10
Notes to the Financial Statements	11 - 29
REQUIRED SUPPLEMENTARY INFORMATION (UNAUDITED)	
Schedule of Funding Progress - Illinois Municipal Retirement Fund	31

FINANCIAL SECTION

MILLER COOPER & Co., Ltd

ACCOUNTANTS AND CONSULTANTS

INDEPENDENT AUDITORS' REPORT

The Board of Trustees
Lyons Township School Treasurer
LaGrange Park, Illinois

Report on the Financial Statements

We have audited the accompanying financial statements of governmental activities, major fund and the aggregate remaining fund information of Lyons Township School Treasurer (the Treasurer), as of and for the year ended June 30, 2013, and the related notes to the financial statements, which collectively comprise the Treasurer's basic financial statements, as listed in the table of contents.

Management's Responsibility for the Financial Statements

The Treasurer's management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this also includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

(Continued)

The Board of Trustees
Lyons Township School Treasurer
LaGrange Park, Illinois

(Continued)

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the governmental activities, major fund and the aggregate remaining fund information of the Treasurer, as of June 30, 2013, and the respective changes in financial position, thereof for the years then ended, in accordance with accounting principles generally accepted in the United States of America.

Other Matters

The Lyons Township School Treasurer has not presented the Management's Discussion and Analysis or the General Fund budgetary comparison information that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of the financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Illinois Municipal Retirement Fund historical data, on page 18, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

MILLER, COOPER & CO., LTD.

Miller, Cooper & Co., Ltd.

Certified Public Accountants

Deerfield, Illinois
March 14, 2014

BASIC FINANCIAL STATEMENTS

Lyons Township School Treasurer
STATEMENT OF NET POSITION
June 30, 2013

	<u>Governmental Activities (Distributive) Fund</u>
ASSETS	
Cash	\$ 64,121
Accounts receivable:	
Pro-rata billings and other receivables (net of allowance for doubtful accounts of \$3,056,707)	1,738,583
Capital assets, net of accumulated depreciation	<u>70,463</u>
Total assets	<u>1,873,167</u>
LIABILITIES	
Accounts payable	191,046
Accrued salaries	15,511
Advances from township districts	3,267,267
Noncurrent liabilities:	
Due after one year	<u>106,409</u>
Total liabilities	<u>3,580,233</u>
NET POSITION (DEFICIT)	
Investment in capital assets	70,463
Unrestricted	<u>(1,777,529)</u>
Total net position	<u>\$ (1,707,066)</u>

The accompanying notes are an integral part of this statement.

Lyons Township School Treasurer
STATEMENT OF ACTIVITIES
For the Year Ended June 30, 2013

Programs	Expenses	Program Revenues	Net Expenses and Change in Net Position
Governmental activities			
Treasurer's office services	\$ <u>1,632,533</u>	\$ <u>690,674</u>	\$ <u>(941,859)</u>
	General Revenues:		
			\$ <u>6,081</u>
		Total General Revenues	<u>6,081</u>
		Change in net position	(935,778)
		Net position - beginning	<u>(771,288)</u>
		Net position - ending	<u><u>\$ (1,707,066)</u></u>

The accompanying notes are an integral part of this statement.

Lyons Township School Treasurer
Governmental Fund
BALANCE SHEET
June 30, 2013

	General (Distributive) Fund
ASSETS	
Cash	\$ 64,121
Accounts receivable:	
Pro-rata billings and other receivables (net of allowance for doubtful accounts of \$3,056,707)	<u>1,738,583</u>
Total assets	<u>\$ 1,802,704</u>
LIABILITIES AND FUND DEFICIT	
Liabilities	
Accounts payable	\$ 191,046
Accrued salaries	15,511
Deferred revenue	1,587,621
Advances from township districts	3,267,267
Fund Deficit	
Unassigned	<u>(3,258,741)</u>
Total liabilities and fund deficit	<u>\$ 1,802,704</u>

The accompanying notes are an integral part of this statement.

Lyons Township School Treasurer
RECONCILIATION OF THE BALANCE SHEET OF GOVERNMENTAL
FUND TO THE STATEMENT OF NET POSITION
For the Year Ended June 30, 2013

Amounts reported for governmental activities in the statement of net position are different because:

Total fund deficit - governmental fund	\$ (3,258,741)
Net capital assets used in governmental activities and included in the statement of net position do not require the expenditure of financial resources and, therefore, are not reported in the governmental fund balance sheet.	70,463
Pro-rata billings revenue that is deferred in the fund financial statements, because it is not available, is recognized as revenue in the government-wide financial statements.	1,587,621
Long-term liabilities included in the statement of net position are not due and payable in the current period and, accordingly, are not reported in the governmental fund balance sheet.	<u>(106,409)</u>
Net position - governmental activities	<u>\$ (1,707,066)</u>

The accompanying notes are an integral part of this statement.

Lyons Township School Treasurer
 Governmental Fund
 STATEMENT OF REVENUES, EXPENDITURES, AND
 CHANGES IN FUND DEFICIT
For the Year Ended June 30, 2013

	General (Distributive) Fund
Revenue	
Pro-rata billings	\$ 721,628
Other	6,081
Total revenues	727,709
Expenditures	
Salaries	396,040
Benefits	191,092
Purchased services	953,076
Supplies and materials	71,358
Capital outlay	6,154
Other objects	300
Total expenditures	1,618,020
Deficiency of revenues over expenditures	(890,311)
Fund deficit	
Beginning of year	(2,368,430)
End of year	\$ (3,258,741)

The accompanying notes are an integral part of this statement.

Lyons Township School Treasurer
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN
FUND DEFICIT OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES
For the Year Ended June 30, 2013

Amounts reported for governmental activities in the statement of activities are different because:

Net change in fund deficit - governmental fund	\$ (890,311)
Governmental funds report capital outlays as expenditures. However, in the statement of activities, the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. This is the amount by which depreciation expense exceeds capital outlay in the current period.	(3,671)
Pro-rata billings revenue not collected within 60 days after year end is considered unavailable and is deferred in the government fund. These amounts are considered earned, however, and recognized as revenue in the government-wide statements.	(30,954)
In the Statement of Activities, certain operating expenses - compensated absences and retirement benefits - are measured by the amounts earned during the year. In the governmental fund, however, expenditures for these items are measured by the amount of financial resources that are used.	<u>(10,842)</u>
Change in net position - governmental activities	<u>\$ (935,778)</u>

The accompanying notes are an integral part of this statement.

Lyons Township School Treasurer
 Agency Fund
STATEMENT OF FIDUCIARY ASSETS AND LIABILITIES
For the Year Ended June 30, 2013

Assets

Pooled cash and investments	\$	195,737,295
Advances to Township School Treasurer		<u>3,267,267</u>
Total assets	\$	<u>199,004,562</u>

Liabilities

Due to Township Districts:		
Cook County School District 101		10,113,557
Elementary School District 102		16,793,396
Lyons Elementary School District 103		10,231,744
Cook County School District 104		8,922,802
Cook County School District 105		14,072,252
LaGrange Highlands School District 106		9,706,699
Pleasantdale School District 107		14,511,500
Cook County School District 108		5,628,764
Indian Springs School District 109		25,973,978
Lyons Township High School District 204		40,355,628
Argo Community High School District 217		33,933,888
LaGrange Area Department of Special Education		5,386,196
Lyons Township Elementary School Districts' Employee Benefit Cooperative		2,411,537
Cook County Intermediate Service Center #2 (West 40)		272,099
Undistributed investment income		<u>690,522</u>
Total liabilities	\$	<u>199,004,562</u>

The accompanying notes are an integral part of this statement.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Lyons Township School Treasurer (the Treasurer) have been prepared in conformity with accounting principles generally accepted in the United States of America, as applied to government units (hereinafter referred to as generally accepted accounting principles (GAAP)). The Governmental Accounting Standards Board (GASB) is the standard-setting body for establishing governmental accounting and financial reporting principles.

The following is a summary of the reporting entity and the Treasurer's significant accounting policies:

1. **Reporting Entity**

The Lyons Township School Treasurer oversees the treasury functions of eleven school districts, two educational cooperatives and a medical self-insurance cooperative (the Township Districts) through the activities of the assistant school treasurer at each Township District. In this capacity, funds received by the Treasurer from various sources are distributed to the Township Districts on a current basis to meet operating needs. Excess funds are invested by the Treasurer, per the Investment Policy. The Treasurer and each Township District are located within the Township of Lyons, in Cook County, Illinois.

2. **New Accounting Pronouncement**

The Governmental Accounting Standards Board (GASB) has issued Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position* (GASB 63), which was adopted by the Treasurer, as of the fiscal year ended June 30, 2013. In the government-wide financial statements, the Treasurer is now required to report five elements on the statement of net position (formerly known as the statement of net assets), assets, deferred outflow of resources, liabilities, deferred inflows of resources, and net position (formerly known as net assets). The types of deferred outflows and inflows of resources to be reported currently consist of service concession arrangements and derivative instruments. As of June 30, 2013, the Treasurer has no deferred outflows or deferred inflows of resources.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

3. Fund Accounting

The accounts of the Treasurer are organized on the basis of funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets and liabilities (arising from cash transactions), fund balances, revenues collected, and expenditures paid. The Treasurer maintains individual funds required by the state of Illinois. Resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which spending activities are controlled. The following funds are kept by the Treasurer:

a. General (Distributive) Fund

The General (Distributive) Fund is the primary operating fund of the Treasurer. It is used to account for all financial resources except those required to be accounted for in another fund. This fund is used for most of the administrative aspects of the Treasurer's operations. The revenue consists of primarily of pro-rata billings to Township Districts.

b. Fiduciary Fund

The Agency Fund is a fiduciary fund, custodial in nature. It is used to account for cash and investments maintained by the Treasurer, in an agency capacity, for the benefit of the Township Districts.

4. Fund Balance

In the fund financial statements, governmental funds may report five components of fund balance: nonspendable, restricted, committed, assigned, and unassigned.

- a. *Nonspendable* - includes amounts that cannot be spent because they are either not in spendable form or are legally or contractually required to be maintained intact. The nonspendable in form criteria include items that are not expected to be converted to cash such as prepaid items. As of June 30, 2013, the Treasurer had no nonspendable fund balances.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

4. Fund Balance (Continued)

- b. *Restricted* - refers to amounts that are subject to outside restrictions such as creditors, grantors, contributors, laws and regulations of other governments, or are imposed by law through enabling legislation. Special revenue funds are by definition restricted for those specified purposes. As of June 30, 2013, the Treasurer had no restricted fund balances.
- c. *Committed* - refers to amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the Treasurer's highest level of decision-making authority (the Board of Trustees). The Board of Trustees commits fund balances by passing a resolution. Amounts committed cannot be used for any purpose unless the Board removes or changes the specific use by taking the same type of formal action it employed to previously commit those funds. As of June 30, 2013, the Treasurer had no committed fund balances.
- d. *Assigned* - refers to amounts that are constrained by the Treasurer's intent to be used for a specific purpose, but are neither restricted or committed. Authority to assign fund balance has not been delegated by the Board of Trustees. As of June 30, 2013, the Treasurer had no assigned fund balances.
- e. *Unassigned* - refers to all spendable amounts not contained in the other four classifications described above. In funds other than the General Fund, the unassigned classification is used only to report a deficit balance resulting from overspending for specific purposes for which amounts had been restricted, committed, or assigned.

5. Government-Wide and Fund Financial Statements

The government-wide financial statements (i.e., the statement of net position and the statement of activities) report information on all of the nonfiduciary activities of the Treasurer. The Treasurer's operating activities are considered "governmental activities". The Treasurer has no operating activities that would be considered "business activities".

The statement of activities demonstrates the degree to which the direct expenses of a given function are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function. Program revenues include charges to Township Districts who use or directly benefit from the goods, services, or privileges provided by a given function.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

5. Government-Wide and Fund Financial Statements (Continued)

Separate financial statements are provided for the governmental fund and fiduciary fund. The fiduciary fund is excluded from the government-wide financial statements.

6. Measurement Focus, Basis of Accounting, and Basis of Presentation

The Government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues and additions are recorded when earned, and expenses and deductions are recorded when a liability is incurred. Revenues, expenses, gains, losses, assets and liabilities resulting from exchange and exchange-like transactions are recognized when the exchange takes place.

A Governmental fund is used to account for the Treasurer's general governmental activities. Governmental fund financial statements are reported using current financial resources measurement focus and the modified accrual basis of accounting, as are the Fiduciary (Agency) fund statement. Revenues are recorded when they are both "measurable and available. Measurable means that the amount of the transaction can be determined, and "available" means collectible within the current period or soon enough thereafter to be used to pay the liabilities of the current period. The Treasurer considers most revenues available if they are collected within 60 days after year-end. Expenditures are recorded when the related fund liability is incurred, except for certain compensated absences, which are recognized when the obligations are expected to be liquidated with expendable available financial resources.

7. Investments

State statutes and the Treasurer's investment policy authorize the Treasurer to invest in obligations listed in Note E. No amortization is made to interest income for discounted federal securities. Gains and losses on the sale of investments are recorded as interest income at the date of sale or maturity. Investments held in the Fiduciary (Agency) Fund are stated at cost.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

8. **Accumulated Unpaid Vacation and Sick Pay**

Employees who have completed 60 work days are entitled to be compensated for vacation time. Vacations are to be taken in the following year in which they are earned. Unused vacation time can be carried forward indefinitely or paid at the discretion of the Township Treasurer. Employees who resign or whose employment is terminated for any reason will be paid for unused vacation time. All vested vacation is accrued when incurred in the government-wide financial statements. A liability is reported in the General (Disbributive) fund only to the extent that the earned and untaken vacation will be paid with the expendable available financial resources.

Sick leave of 10 days is provided on a pro-rata basis to all employees. Unused sick leave can be accumulated for future use, up to 240 days, and is forfeited if not utilized. No liability is provided in the financial statements for accumulated unpaid sick leave because of the uncertainty of the amount due, if any.

9. **Capital Assets**

Capital assets, which consists entirely of equipment, are reported in the government-wide financial statements. Capital assets are defined by the Treasurer as assets with an initial individual cost of more than \$1,000 and an estimated useful life in excess of one year. Such assets are recorded at historical cost if purchased or constructed. Donated capital assets are recorded at estimated fair value at the date of donation.

The cost of normal maintenance and repairs that do not add to the value of the asset or materially extend the assets' lives are not capitalized.

Depreciation of capital assets is provided using the straight-line method over the following estimated useful lives:

<u>Assets</u>	<u>Years</u>
Equipment	8 - 15

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

10. Long-Term Obligations

In the government-wide financial statements, all long-term obligations to be paid from government resources are reported as liabilities in the statement of net position. Long-term obligations for the governmental fund are not reported as liabilities in the governmental fund financial statements.

11. Deferred Revenue

The Treasurer reports deferred revenue on its governmental fund balance sheet. Deferred revenues arise from pro-rata billings to Township Districts which do not meet the Treasurer's revenue recognition criteria for availability as defined above. At the end of the current fiscal year, the deferred revenue reported in the General (Distributive) Fund was \$1,587,621.

12. Use of Estimates

In preparing the financial statements, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

NOTE B - TRANSACTIONS WITH TOWNSHIP DISTRICTS

The Lyons Township School Treasurer collects both pro-rata billings and insurance premiums from Township Districts in accordance with state statute 105 ILCS 5/8-4. Billings are used to pay for each Township District's pro rata share of Township expenditures.

Pro rata billings for the fiscal year ended June 30, 2013, are not calculated and billed until the following fiscal year. Prior year billings were billed in a similar manner. These amounts are not collected within sixty days of year-end are considered deferred in the governmental fund financial statements until the following year. While collection is expected within one year, some amounts remain outstanding from certain Township Districts for prior fiscal years. The amount owed to the Treasurer's Office at June 30, 2013 for these billings is \$714,512, which relates to all billing periods through June 30, 2013; of this amount, \$150,962 was collected within the sixty day recognition period and recognized as revenue in the General (Distributive) fund.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE B - TRANSACTIONS WITH TOWNSHIP DISTRICTS (Continued)

Also included in the pro-rata billings receivable is the estimated amount for the pro-rata billings for the fiscal year ended June 30, 2013. This entire amount, \$1,278,000, is expected to be billed and collected within one year.

Other receivables include costs for a Township District's prior year audits that are expected to be reimbursed by the Township District. The amount reported as other receivables is \$473,175 with the entire amount fully reserved by an allowance for doubtful accounts.

Detail of the accounts receivable are as follows:

<u>Township District</u>	<u>Amount</u>
Unbilled pro-rata receivable to all Township Districts	\$ 1,278,000
Cook County School District 101	58,107
Elementary School District 102	132,401
Cook County School District 105	19,648
Indian Springs School District 109	131,314
Lyons Township High School District 204	3,056,707
Argo Community High School District 217	<u>119,113</u>
Total pro-rata and other receivables	4,795,290
Less: Allowance for doubtful accounts	<u>(3,056,707)</u>
Total pro-rata billings and other receivables	<u>\$ 1,738,583</u>

NOTE C - STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY

1. **Deficit Fund Balance**

The General (Distributive) Fund has a deficit balance of \$3,258,741 as of June 30, 2013. This deficit is anticipated to be funded by future receipts from Township Districts.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE C - STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY (Continued)

2. Non-Compliance with Illinois Public Funds Act

The Treasurer held assets in the pooled investments for its agency fund that are non-compliant with the Illinois Public Funds Act. This included an amount held in insurance contracts, the type of which are not allowable per the Act. The Treasurer's intent is to hold the insurance contracts to maturity to avoid surrender charges.

NOTE D - RECONCILIATION OF GOVERNMENT-WIDE AND FUND FINANCIAL STATEMENTS

1. Explanation of Certain Differences Between the Government Fund Balance Sheet and the Government-wide Statement of Net Position

The government fund balance sheet includes a reconciliation between fund balance - total governmental funds and net position - governmental activities as reported in the government-wide statement of net position. One element of that reconciliation explains that "Long-term liabilities included in the statement of net position are not due and payable in the current period and, accordingly, are not reported in the governmental funds balance sheet." The details of the difference are as follows:

Compensated absences	\$ 60,809
Net pension obligation	<u>45,600</u>
Net adjustment to increase fund deficit - total governmental funds to arrive at net position of governmental activities	\$ <u>106,409</u>

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE D - RECONCILIATION OF GOVERNMENT-WIDE AND FUND FINANCIAL STATEMENTS
(Continued)

2. **Explanation of Certain Differences Between the Government Fund Statement of Revenues, Expenditures, and Changes in Fund Balance and the Government-wide Statement of Activities**

The governmental fund statement of revenues, expenditures, and changes in fund deficit includes a reconciliation between net change in fund deficit - governmental funds and change in net position of governmental activities as reported in the government-wide statement of net position. One element of that reconciliation explains that "Governmental funds report capital outlay as expenditures. However, in the statement of activities, the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense." The details of this difference are as follows:

Capital outlay	\$	6,106
Depreciation expense		<u>(9,777)</u>
Net adjustment to increase net change in fund deficit - total governmental fund to arrive at change in net position of governmental activities	\$	<u><u>(3,671)</u></u>

Another element of that reconciliation states that "In the Statement of Activities, certain operating expenses - compensated absences and retirement benefits - are measured by the amounts earned during the year. In the governmental fund, however, expenditures for these items are measured by the amount of financial resources that are used." The details of this difference are as follows:

Compensated absences, net	\$	(8,448)
Net pension obligation, net		<u>(2,394)</u>
Net adjustment to increase net change in fund deficit - total governmental fund to arrive at change in net position of governmental activities	\$	<u><u>(10,842)</u></u>

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE E - DEPOSITS AND INVESTMENTS

The Treasurer is the legal custodian of all Township Districts' cash and investments. Accounting records are maintained to separate the common cash and investment accounts by individual Township District. Cash and investments are recorded at cost and the realized gains, realized loss as and investment income are allocated on a pro-rata basis to the Township Districts. No unrealized gains and losses are allocated to the Township Districts or recorded in the financial statements. Cash deposits, investments, and the underlying collateral are held in the name of the Treasurer.

The Treasurer's investment policy is in line with State Statutes. The investments that the Treasurer may purchase are limited by Illinois law to the following: (1) securities that are fully guaranteed by the U.S. government as to principal and interest; (2) certain U.S. government agency securities; (3) interest-bearing savings accounts, interest-bearing certificates of deposit or time deposits or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act; (4) short-term discount obligations of corporations organized in the United States with assets exceeding \$500,000,000; (5) interest-bearing bonds of any county, township, city, village, incorporated town, municipal corporation or school district; (6) fully collateralized repurchase agreements; (7) the State Treasurer's Illinois and Prime Funds; and (8) money market mutual funds and certain other instruments.

At June 30, 2013, the Treasurer's cash and investments consisted of the following:

	<u>Governmental</u>	<u>Fiduciary</u>	<u>Total</u>
Cash and investments	\$ 64,121	\$ 195,737,295	\$ 195,801,416

For disclosure purposes, this amount is segregated into the following components at June 30, 2013:

Deposits with financial institutions	\$ 29,487,854
Money Market Mutual Fund	3,151,300
Illinois School District Liquid Asset Fund Plus	91,232
Other Investments	<u>163,071,030</u>
 Total	 <u>\$ 195,801,416</u>

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE E - DEPOSITS AND INVESTMENTS (Continued)

Deposits with financial institutions include amounts held in demand accounts, savings accounts and non-negotiable certificates of deposit; custodial credit risk is applicable to these holdings. Carrying value approximates fair value due to the short term nature of these deposits.

The Illinois School Member Liquid Asset Fund Plus (ISDLAF+) is an unrated, not-for-profit investment trust formed pursuant to the School Code and managed by a Board of Trustees, elected from Township Districts. It is not registered with the SEC as an investment company, but operates in a manner consistent with Rule 2a7 of the Investment Company Act of 1940. Investments are rated AAAM and are valued at share price, which is the price for which the investment could be sold.

At June 30, 2013, other investments consisted of the following:

Investment Type	Carrying Value	Fair Value	Weighted Average Maturity (in years)	Associated Risks
Citi Group Inc. Securities	\$ 3,073,530	\$ 3,069,690	0.501	Credit, interest rate
Federal Home Loan Bank (FHLB) - U.S. Agency implicitly guaranteed	5,752,580	5,729,846	21.953	Custodial credit, interest rate
Federal National Mortgage Association - (FNMA) U.S. Agency explicitly guaranteed	126,913,613	124,006,574	17.181	Custodial credit, interest rate
Freddie Mac - U.S. Agency explicitly guaranteed	17,845,177	17,590,854	14.897	Custodial credit, interest rate
Insurance Annuity Contracts	2,426,615	2,551,557	0.519	Credit, interest rate
United States Treasury Notes	<u>7,059,515</u>	<u>6,682,534</u>	4.545	Custodial credit, interest rate
Total	\$ <u>163,071,030</u>	\$ <u>159,631,055</u>		

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE E - DEPOSITS AND INVESTMENTS (Continued)

As of June 30, 2013, there was an unrealized loss of \$3,439,975 that is not recorded in the accompanying financial statements.

Interest Rate Risk

The Treasurer's investment policy seeks to ensure preservation of capital in the Treasurer's overall portfolio. The highest return on investments is sought, consistent with the preservation of principal and prudent investment principles. The investment portfolio is required to provide sufficient liquidity to pay Treasurer obligations as they come due, considering maturity and marketability. The investment portfolio is also required to be diversified as to maturities and investments, as appropriate to the nature, purpose, and amount of funds. The Treasurer will also consider investments in local financial institutions, recognizing their contribution to the community's economic development.

Credit Risk

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. State law limits investments in commercial paper, corporate bonds and mutual funds to the top two ratings issued by nationally recognized rating organizations (NRSROs). The Treasurer's investment policy further minimizes credit risk by limiting the investments to the safest types of securities and/or financial institutions; pre-qualifying the financial institutions, brokers, intermediaries, and advisors with which the Treasurer will do business; and diversifying the investment portfolio so that potential losses on individual securities will be minimized.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE E - DEPOSITS AND INVESTMENTS (Continued)

At June 30, 2013, the Treasurer's investments subject to credit risk were rated as followed:

<u>Investment</u>	<u>Moody's Investor Service</u>	<u>Standard & Poor's</u>
Citi Group Inc. Securities	Baa2	A-2
Federal Home Loan Bank (FHLB) - U.S Agency implicitly guaranteed	Aaa	Not available
Federal National Mortgage Association (FNMA) - U.S. Agency explicitly guaranteed	Aaa	Not available
Freddie Mac - U.S. Agency explicitly guaranteed	Aaa	Not available
Insurance Annuity Contracts	Not applicable	Not applicable
United States Treasury Notes	Aaa	AA+

Concentration of Credit Risk

The Treasurer's investment policy requires diversification of the investment portfolio to minimize the risk of loss resulting from overconcentration in a particular type of security, risk factor, issuer, or maturity. The policy requires diversification strategies to be determined and revised periodically by the Treasurer's Investment Officer to meet the Treasurer's ongoing need for safety, liquidity, and rate of return.

At June 30, 2013, the Treasurer had five federally backed mortgage investments in excess of 5% of the total investment portfolio. These five investments totaled \$53,458,347 at fiscal year end. However, based on the nature of the investments and the overall credit rating of the investments, this is not in violation of the Treasurer's investment policy.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE E - DEPOSITS AND INVESTMENTS (Continued)

Custodial Credit Risk

With respect to deposits, custodial credit risk is the risk that, in the event of a bank failure, the government's deposits may not be returned to it. The Treasurer's investment policy limits the exposure to deposit custodial credit risk by requiring all deposits in excess of FDIC insurable limits to be secured by collateral in the event of default or failure of the financial institution holding the funds. At June 30, 2013, the bank balance of the Treasurer's deposits with financial institutions totaled \$34,176,929, all was collateralized or insured.

With respect to investments, custodial credit risk is the risk that, in the event of the failure of the counterparty, the government will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. The Treasurer's investments are held by their agent and in the Treasurer's name.

At June 30, 2013, \$2,426,615 of the Treasurer's investments were exposed to custodial credit risk.

NOTE F - CAPITAL ASSETS

Capital asset activity for the year ended June 30, 2013 was as follows:

	Balance <u>July 1, 2012</u>	Increases	Decreases	Balance <u>June 30, 2013</u>
Capital assets, being depreciated				
Equipment	\$ 111,402	\$ 6,106	\$ -	\$ 117,508
Total capital assets, being depreciated	<u>111,402</u>	<u>6,106</u>	<u>-</u>	<u>117,508</u>
Less accumulated depreciation for:				
Equipment	<u>37,268</u>	<u>9,777</u>	<u>-</u>	<u>47,045</u>
Total accumulated depreciation	<u>37,268</u>	<u>9,777</u>	<u>-</u>	<u>47,045</u>
Governmental activities capital assets, net	<u>\$ 74,134</u>	<u>\$ (3,671)</u>	<u>\$ -</u>	<u>\$ 70,463</u>

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE G - OPERATING LEASES

The Treasurer leases its office space and equipment under noncancelable operating leases. Total costs for such leases were \$49,428 for the year ended June 30, 2013. At June 30, 2013, future minimum lease payments for these leases are as follows:

Year Ending June 30	Total
2014	\$ 49,428
2015	7,488
2016	7,488
2017	<u>2,496</u>
Total	<u>\$ 66,900</u>

NOTE H - LONG-TERM LIABILITIES

The long-term liabilities activity for the Treasurer during the year ended June 30, 2013 was as follows:

Governmental Activities	<u>Balance July 1, 2012</u>	<u>Additions</u>	<u>Reductions</u>	<u>Balance June 30, 2013</u>
Compensated absences	\$ 58,415	\$ 17,559	\$ 15,165	\$ 60,809
IMRF net pension obligation	<u>37,152</u>	<u>57,013</u>	<u>48,565</u>	<u>45,600</u>
Total long-term liabilities - governmental activities	<u>\$ 95,567</u>	<u>\$ 74,572</u>	<u>\$ 63,730</u>	<u>\$ 106,409</u>

The obligations for accrued compensation absences and the net pension obligation will be repaid from the General (Distributive) Fund.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE I - RISK MANAGEMENT

The Treasurer is exposed to various risks of loss related to torts; workers' compensation claims; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters. The Treasurer has purchased insurance from private insurance companies for general liability, workers' compensation, and other coverages to mitigate these risks. Premiums have been recorded as expenditures in the general fund. There have been no significant reductions in insurance coverage from coverage in prior years. Settled claims resulting from these risks have not exceeded insurance coverage in any of the past three years.

The Treasurer is a member of the Lyons Township Elementary School Districts' Employee Benefit Cooperative (LTESDEBC), a health insurance cooperative that provides medical, dental and life insurance coverage to the employees of the Treasurer. The Township Districts of LTESDEBC make payments to the Cooperative which is used to pay the insurance provider for medical and dental coverage. The Treasurer believes that because it does not control the selection of the governing authority, and because of the control over operations, scope of public service, and special financing relationships exercised by the governing board, LTESDEBC is not included as a component unit of the Treasurer. Settled claims resulting from these risks have not exceeded insurance coverage in any of the past three years.

NOTE J - RETIREMENT FUND COMMITMENTS

Illinois Municipal Retirement Fund

Plan Description

The Treasurer's defined benefit pension plan for regular employees provides retirement and disability benefits, postretirement increases, and death benefits to plan members and beneficiaries. The Treasurer's plan is associated with the Illinois Municipal Retirement Fund (IMRF), an agent, multiple-employer plan. Benefit provisions are established and may only be changed by the General Assembly of the State of Illinois. IMRF issues a publicly available financial report that includes financial statements and required supplementary information. That report may be obtained on-line at www.imrf.org.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE J - RETIREMENT FUND COMMITMENTS (Continued)

Funding Policy

As set by state statute, the Treasurer's regular plan members are required to contribute 4.50 percent of their annual covered salary. The statute requires the Treasurer to contribute the amount necessary, in addition to member contributions, to finance the retirement coverage of its own employees. The contribution rate for calendar year 2012 used by the Treasurer was 17.43 percent of annual covered payroll. The Treasurer's annual required contribution rate for calendar year 2012 was 18.79 percent. The Treasurer also contributes for disability benefits, death benefits, and supplemental retirement benefits, all of which are pooled at the IMRF level. Contribution rates for disability and death benefits are set by the IMRF Board of Trustees, while the supplemental retirement benefits rate is set by state statute.

Fiscal IMRF Pension Cost and Net IMRF Pension Obligation

The Treasurer's annual IMRF pension cost is calculated based on the annual required contribution (ARC) of the employer. The following table shows the components of the Treasurer's annual IMRF pension cost for the fiscal year, the amount actually contributed to the plan for the fiscal year, and changes in the Treasurer's net IMRF pension obligation as of June 30, 2013.

		<u>June 30, 2013</u>
Annual required contribution (ARC)	\$	55,465
Interest on net IMRF obligation		2,786
Adjustment to annual required contribution		<u>(1,238)</u>
Annual IMRF cost		57,013
Less: Contributions made		<u>48,565</u>
Increase in IMRF obligation		8,448
Net IMRF obligation, beginning of year		<u>37,152</u>
Net IMRF obligation, end of year	\$	<u><u>45,600</u></u>

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE J - RETIREMENT FUND COMMITMENTS (Continued)

Illinois Municipal Retirement Fund (Continued)

Annual Pension Cost

Information related to the employer's contributions are on a fiscal year basis. The actuarial and trend information are on a calendar basis as that is the year used by the IMRF. The required contribution for the fiscal year 2013 was \$55,465.

Three-Year Trend Information for the Regular Plan

<u>Fiscal Year Ending</u>	<u>Annual Pension Cost (APC)</u>	<u>Percentage of APC Contributed</u>	<u>Net Pension Obligation</u>
6/30/2013	\$ 57,013	85%	\$ 45,600
6/30/2012	107,495	83%	37,152
6/30/2011	80,192	76%	19,256

The required contribution for 2012 was determined as part of the December 31, 2010 actuarial valuation using the entry age normal actuarial cost method. The actuarial assumptions at December 31, 2010 included (a) 7.5 percent investment rate of return (net of administrative and direct investment expenses), (b) projected salary increases of 4 percent a year, attributable to inflation, (c) additional projected salary increases ranging from 0.4 percent to 10 percent per year depending on age and service, attributable to seniority/merit, and (d) postretirement benefit increases of 3 percent annually. The actuarial value of the Township's regular plan assets was determined using techniques that spread the effects of short-term volatility in the market value of investments over a five-year period with a 20 percent corridor between the actuarial value and market value of assets. The Township's regular plan's unfunded actuarial accrued liability at December 31, 2010 is being amortized as a level percentage of projected payroll on an open 30-year basis.

Funded Status and Funding Progress

As of December 31, 2012, the most recent actuarial valuation date, the regular plan was 59.91 percent funded. The actuarial accrued liability for benefits was \$1,547,761 and the actuarial value of assets was \$921,103, resulting in an underfunded actuarial accrued liability (UAAL) of \$626,658. The covered payroll for calendar year 2012 (annual payroll of active employees covered by the plan) was \$399,106 and the ratio of the UAAL to the covered payroll was 157 percent.

Lyons Township School Treasurer
NOTES TO THE FINANCIAL STATEMENTS
June 30, 2013

NOTE J - RETIREMENT FUND COMMITMENTS (Continued)

Illinois Municipal Retirement Fund (Continued)

Funded Status and Funding Progress (Continued)

The schedule of funding progress, presented as required supplementary information (RSI) following the notes to the financial statements, presents multiyear trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits.

NOTE K - LITIGATION

Former Treasurer Lawsuit

The employee appointed to serve as Treasurer for the Lyons Township School Treasurer for the fiscal year ended June 30, 2012, resigned on September 1, 2012 under allegations of misappropriating assets. On July 18, 2013, there was a summary judgment of approximately \$900,000 assessed against the former Treasurer. As of March 14, 2014, the date these financial statements were available to be issued, the Lyons Township School Treasurer is pursuing collection against this former employee to retrieve these assets. The Lyons Township School Treasurer has also filed a claim with its insurance carrier. At this time, neither the outcome of the litigation, nor the amount to be paid as a claim by the insurance carrier are determinable. As such, no related amounts have been recorded in the financial statements. The Lyons Township School Treasurer paid approximately \$328,000 during fiscal year 2013 in legal fees for the above matter.

Township District Lawsuit

On October 15, 2013, the Lyons Township School Treasurer filed litigation against one of its Township Districts (Lyons Township High School District 204). The claim is pursuing uncollected pro-rata billings, unreimbursed audit costs, and interest income allocations for a total of approximately \$4,400,000. As of the March 14, 2014, the date these financial statements were available to be issued, the outcome of the litigation is not determinable. The amount for the uncollected pro-rata billings and unreimbursed audit costs have been reported on the Statement of Net Position and the Governmental Fund Balance Sheet as an accounts receivable with the entire amount fully reserved by an allowance for doubtful accounts.

NOTE L - SUBSEQUENT EVENTS

Management has evaluated subsequent events through March 14, 2014, the date that these financial statements were available to be issued. Management has determined that no events or transactions have occurred subsequent to the statement of net position date that require disclosure in the financial statements, except has reported in Note K.

REQUIRED SUPPLEMENTARY INFORMATION
(Unaudited)

Lyons Township School Treasurer
SCHEDULE OF FUNDING PROGRESS
ILLINOIS MUNICIPAL RETIREMENT FUND
June 30, 2013

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability -Entry Age (b)	Unfunded AAL (UAAL) (b-a)	Funded Ratio (a/b)	Covered Payroll (c)	UAAL as a Percentage of Covered Payroll ((b-a)/c)
12/31/2012	\$ 921,103	\$ 1,547,761	\$ 626,658	59.51%	\$ 399,106	157.02%
12/31/2011	759,615	2,171,000	1,411,385	34.99%	588,693	239.75%
12/31/2010	709,490	1,191,396	481,906	59.55%	427,921	112.62%

On a market value basis, the actuarial value of assets as of December 31, 2012 is \$953,103. On a market basis, the funded ratio would be 61.58%.

The actuarial value of assets and accrued liability cover active and inactive members who have service credit with the Lyons Township Treasurer. They do not include amounts for retirees. The actuarial accrued liability for retirees is 100% funded.

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION

TOWNSHIP TRUSTEES OF SCHOOLS)
TOWNSHIP 38 NORTH, RANGE 12 EAST,)

Plaintiff-Counter Defendant,)

v.)

LYONS TOWNSHIP HIGH SCHOOL DIST. 204,)

Defendant-Counter Plaintiff.)

Case No. 13 CH 23386

Hon. Sophia H. Hall

FILED - 1
2017 APR 29 AM 11:00
CLERK

**TOWNSHIP TRUSTEES' ANSWER TO
DISTRICT 204'S SECOND AMENDED COUNTERCLAIM**

Plaintiff and Counter-Defendant, Township Trustees of Schools Township 38 North, Range 12 East ("Township Trustees" or "TTO"), by its undersigned counsel, MILLER, CANFIELD, PADDOCK & STONE, P.L.C., for its Answer to the Second Amended Counterclaim filed by Defendant and Counter-Plaintiff, Lyons Township High School Dist. 204 ("District 204" or "LT"), states as follows:

1. LT is a public school district organized under the laws of the State of Illinois with a principal office located in LaGrange, Cook County, Illinois.

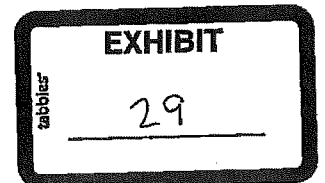
Answer: Township Trustees admits paragraph 1.

2. The TTO is a local public entity organized under the law of the State of Illinois with a principal office located in LaGrange, Cook County, Illinois.

Answer: Township Trustees admits paragraph 2.

3. The TTO has three elected Trustees. The Trustees select a salaried Treasurer.

Answer: Township Trustees admits paragraph 3, except that they "appoint" (not "select") a salaried Treasurer.



4. The Treasurer manages the TTO's office, supervises its support staff, and interfaces with the school districts that are members of the TTO.

Answer: Township Trustees denies paragraph 4.

5. LT is a member district of the TTO. LT's membership in the TTO is mandated by state statute.

Answer: Township Trustees admits the first sentence of paragraph 5. The second sentence of paragraph 39 contains an allegation of law to which it is not appropriate to respond. To the extent the second sentence of paragraph 39 can be deemed as containing factual allegations, such allegations are admitted.

6. The TTO holds the funds (received through taxes and other sources) belonging to LT and the other member school districts ("the Other Districts"). The TTO pools the funds of the member districts together and invests those funds on behalf of LT and the Other Districts.

Answer: Township Trustees admits paragraph 6.

7. During all relevant times through August 2012, Robert Healy served as Treasurer of the TTO.

Answer: Township Trustees denies that at all relevant time through about August 2012, served as "Treasurer of the TTO." Township Trustees admits that Healy served as Treasurer during this time period.

Count I – Setoff

8. LT incorporates by reference the allegations in paragraphs 1-51 of the Affirmative Defenses and paragraphs 1-7 of the Counterclaim as set forth above.

Answer: Township Trustees incorporates its replies to paragraphs 1-51 of District 204's Affirmative Defenses and answers to paragraphs 1-7 of the Second Amended Counterclaim.

9. In the First Amended Complaint, the TTO contends that LT did not pay in full the invoices that the TTO sent LT from 2000 to 2012 for LT's pro rata share of the TTO's expenses. Implicit in the First Amended Complaint is a refusal to acknowledge that the TTO and LT agreed in 2000, and reaffirmed in each subsequent year through 2012, that the TTO would pay the costs of LT's business functions and offset those costs against the pro rata invoices.

Answer: Township Trustees admits that in its First Amended Complaint it alleges that District 204 did not pay the invoices that were sent to District 204. Township Trustees denies the remaining allegations in paragraph 9.

10. In its other pleadings in this case, the TTO has claimed that the parties' agreement on the payment of LT's business functions is illegal and unenforceable.

Answer: Township Trustees admits that it contends that to the extent any such agreement existed, it was not entered into in accordance with Illinois law and would have violated Illinois law. Township Trustees denies any remaining allegations within paragraph 10.

11. The TTO's position on this agreement is wrong. As detailed above, in 2000, the TTO and LT knowingly entered into a valid and binding written agreement, approved by both boards, in which the TTO agreed to pay the costs of LT's business expenses as set forth in the 2/29/00 Memo (Exhibit B).

Answer: Township Trustees denies paragraph 11.

12. In each subsequent year from 2001 to 2012, the TTO and LT reaffirmed this agreement when LT presented the TTO with a written statement of the annual costs that it

proposed the TTO would pay (Exhibit C). In each of those years, the TTO accepted these amounts, as well as LT's offset of those amounts against the annual pro rata expense invoice that the TTO provided to LT. The boards of both parties provided their consents to this arrangement.

Answer: Township Trustees denies paragraph 12.

13. In 2013, the TTO terminated this arrangement. LT does not contest the TTO's right to terminate in 2013 for 2013 fiscal year. LT does not assert any claims or seek any damages relating to the TTO's 2013 termination.

Answer: Township Trustees admits that it sent a letter to District 204 advising District 204 that to the extent any such agreement might lawfully exist it was being terminated. Township Trustees did not thereby agree that a lawful agreement had existed. Township Trustees admits the last two sentences of paragraph 13 based upon the current pleadings filed by District 204. Township Trustees denies any remaining allegations within paragraph 13.

14. Under the circumstances of this case, LT is entitled to a setoff, in the amounts set forth in the memoranda attached as Exhibit A, which covers the years 2000 through 2012, against any claim of the TTO relating to the alleged non-payment of the TTO's pro rata expense invoices from 2000 to 2012.

Answer: Paragraph 14 contains an allegation of law to which it is not appropriate to respond. To the extent paragraph 14 can be deemed as containing factual allegations, such allegations are denied.

15. In asserting this claim for setoff, LT does not seek any affirmative recovery of damages against the TTO.

Answer: Township Trustees admits paragraph 15 based upon the current pleadings filed by District 204.

Wherefore, plaintiff and counter-defendant, Township Trustees of Schools Township 38 North, Range 12 East, respectfully requests that this Court enter judgment in its favor on Count I of Lyons Township High School District 204's Second Amended Counterclaim and award Township Trustees its costs and such other relief as is appropriate.

Count II – Breach of Fiduciary Duty

16. LT incorporates by reference the allegations in paragraphs 1-7 of the Counterclaim as set forth above.

Answer: Township Trustees incorporates its answers to paragraphs 1-7 of the Second Amended Counterclaim.

17. During the relevant period, in accordance with state law requirements, the TTO purchased fidelity bonds that applied to Healy's services as Treasurer ("the Bonds").

Answer: Township Trustees admits paragraph 17, except to state that whether or not its purchases were in accordance with state law is an allegation of law to which it is not appropriate to respond.

18. Liberty Mutual Insurance Company and The Hanover Insurance Company (a/k/a Massachusetts Bay Insurance Company) issued the Bonds to the TTO.

Answer: Township Trustees admits paragraph 18.

19. Through their pro rata share payments of the TTO's expenditures, LT and the Other Districts paid the premiums on the Bonds.

Answer: Township Trustees admits that the cost of purchasing the bonds was an expense of the Treasurer's office for which all member districts, including District 204, were responsible. Because District 204 failed to pay for a considerable portion of its *pro rata* share during the timeframe in question, including in many years refusing to pay any portion of its *pro*

rata share, Township Trustees cannot admit or deny that District 204 paid for or did not pay for specific expenses. Township Trustees denies any remaining allegations within paragraph 19.

20. After Healy resigned from the TTO in 2012, the TTO learned that Healy had stolen more than \$1 million through wrongful wire transfers of funds from the TTO's bank and through wrongful payments for sick and vacation days. This money that Healy stole was money that the TTO held in trust for LT and the Other Districts.

Answer: Township Trustees admits that Healy resigned from his position as Treasurer in 2012, after an investigation of his wrongdoing had begun, and that the Township Trustees eventually learned that Healy had stolen more than \$1 million in funds through wrongful wire transfers and through wrongful payment for sick and vacation days. Township Trustees admits that the money Healy stole was money that the Township Trustees was holding for its member districts. Township Trustees denies any remaining allegations within paragraph 20.

21. In 2013, the State of Illinois charged Healy with the crime of Theft in Excess of \$1 million, a Class X felony. Healy pled guilty and received a sentence of nine years in prison.

Answer: Township Trustees admits paragraph 20.

22. The TTO made claims on the Bonds. The TTO's claims alleged that Healy had stolen more than in excess of \$1 million through wrongful wire transfers of funds from TTO's bank and through wrongful payments for sick and vacation days.

Answer: Township Trustees admits paragraph 21.

23. The TTO recovered \$1,040,000 on its claims on the Bonds.

Answer: Township Trustees admits paragraph 23.

24. In an affidavit filed in this case and dated June 5, 2015, the current Treasurer of the TTO, Dr. Susan Birkenmaier, claimed that \$1,040,000 in recovered on the Bonds “has been set aside while Township Trustees continue their efforts to recover additional sums.” Birkenmaier further claimed that the TTO can apply the \$1,040,000 recovery “to pay unrelated expenses of the Treasurer’s office”; that the TTO can “otherwise” use the money in an unspecified manner “in accordance with Illinois law”; and that the TTO has no obligation to allocate the recoveries on the Bonds amongst its member districts.

Answer: Township Trustees admits that Dr. Birkenmaier made the quoted statements in her Affidavit dated June 5, 2015. Township Trustees denies any remaining factual allegations within paragraph 24. Township Trustees affirmatively notes that Dr. Birkenmaier’s statements are proper under Illinois law. Whether Township Trustees allocates the bond recovery amongst the member districts and then bills them the full value of it services or instead applies the bond recovery to offset the cost of its services such that it bills a reduced amount, the end result is identical.

25. Since June 5, 2015, the TTO has not distributed to LT any of the recoveries on the Bonds, or explained why it has not made this distribution to LT.

Answer: Township Trustees denies paragraph 25.

26. The TTO serves as the fiscal agent of LT and the Other Districts with respect to its possession and investment of the funds of LT and the Other Districts, and as such, owes fiduciary duties to LT.

Answer: Paragraph 26 contains an allegation of law to which it is not appropriate to respond. To the extent a response is appropriate, Township Trustees admits that it performs those functions required of it under Illinois law and denies District 204’s characterizations of it duties

to the extent inconsistent with Illinois law. Township Trustees does not deny that in accordance with Illinois law it holds and invests money for the member districts.

27. Among the purposes of the Bonds was to protect LT and the Other Districts from losing money as a result of theft by the Treasurer of the TTO.

Answer: Township Trustees answers that the bonds are required by the Illinois School Code and that the School Code does not state the purpose of such bonds. On this basis, Township Trustees lacks sufficient knowledge to either admit or deny the stated allegation.

28. The \$1,040,000 in recoveries on the Bonds is money that rightly belongs to LT and the Other Districts, and that must be used to compensate LT and the Other Districts for Healy's theft of their funds.

Answer: Paragraph 28 contains an allegation of law to which it is not appropriate to respond. To the extent paragraph 28 can be deemed as containing factual allegations, Township Trustees lacks sufficient knowledge to either admit or deny the allegation that the bond recovery must be used "to compensate" the member districts, because Township Trustees does not understand what District 204 means by this phrase. Township Trustees affirmatively states that the bond recoveries have been or will be used to reduce the monies owed by the member districts. To the extent paragraph 28 contains any remaining allegations of fact, Township Trustees denies such remaining allegations.

29. LT's share of the \$1,040,000 recoveries on the Bonds is determined by its pro rata ownership of the pooled investment fund at the time of the recoveries, which was approximately 25 percent.

Answer: Paragraph 29 contains an allegation of law to which it is not appropriate to respond. To the extent paragraph 29 can be deemed as containing factual allegations, such

allegations are denied. Township Trustees affirmatively states that the other member districts might also claim some entitlement to the funds in combined percentages that would be at issue with District 204's claim for twenty five percent.

30. Despite LT's repeated demands to the TTO for payment of LT's share of the recoveries on the Bonds, the TTO still has refused to make payment.

Answer: Township Trustees denies that District 204 has made such repeated demands. Township Trustees affirmatively states that the bond recoveries have been or will be used to reduce the monies owed by the member districts. Township Trustees denies any remaining allegations within paragraph 30.

31. The TTO has no legal right, as the fiduciary agent of LT, to take LT's share of the recoveries on the Bonds and spend that money on expenses unrelated to the misconduct of Healy that gave rise to the claims on the Bonds.

Answer: Paragraph 31 contains an allegation of law to which it is not appropriate to respond. To the extent paragraph 31 can be deemed as containing factual allegations, such allegations are denied.

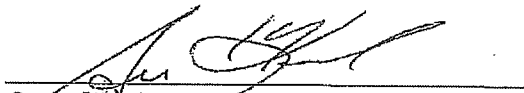
32. The TTO's refusal to pay LT its share of the recoveries on the Bonds in a breach of the TTO's fiduciary duties owed to LT. This breach directly and proximately caused injury to LT in the form of lost funds of about \$250,000.

Answer: Paragraph 32 contains an allegation of law to which it is not appropriate to respond. To the extent paragraph 32 can be deemed as containing factual allegations, such allegations are denied.

Wherefore, plaintiff and counter-defendant, Township Trustees of Schools Township 38 North, Range 12 East, respectfully requests that this Court enter judgment in its favor on Count

II of Lyons Township High School District 204's Second Amended Counterclaim and award
Township Trustees its costs and such other relief as is appropriate.

Respectfully,
TOWNSHIP TRUSTEES OF SCHOOLS,
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: 
One of Its Attorneys

Gerald E. Kubasiak
Barry P. Kaltenbach
Gretchen M. Kubasiak
Miller Canfield Paddock & Stone, PLC
225 W. Washington, Suite 2600
Chicago, Illinois 60606
(312) 460-4200
(312) 460-4201
Firm No. 44233

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that (s)he verily believes the same to be true.

Susan A. Birkman 4/27/17
Date

28891424.1\54483-00001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

TOWNSHIP TRUSTEES OF SCHOOLS)
TOWNSHIP 38 NORTH, RANGE 12 EAST,)
) Case No. 13 CH 23386
Plaintiff-Counter Defendant,)
)
v.) Hon. Sophia H. Hall
LYONS TOWNSHIP HIGH SCHOOL DIST. 204,)
)
Defendant-Counter Plaintiff.)

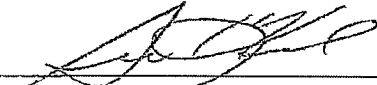
2017 APR 28 AM 11:31
FILED - 1

NOTICE OF FILING

TO: Jay R. Hoffman/Hoffman Legal
20 N. Clark Street, Suite 2500
Chicago, IL 60602

PLEASE TAKE NOTICE that on April 28, 2017, I have filed with the Clerk of the Circuit Court of Cook County, Illinois, the following: **Township Trustees' Answer to District 204's Second Amended Counterclaim**, a copy of which is hereby attached and served on you.

Respectfully,
TOWNSHIP TRUSTEES OF SCHOOLS,
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: 
One of Its Attorneys

Gerald E. Kubasiak
Barry P. Kaltenbach
Gretchen M. Kubasiak
Miller Canfield Paddock & Stone, PLC
225 W. Washington, Suite 2600
Chicago, Illinois 60606
(312) 460-4200
(312) 460-4201
Firm No. 44233

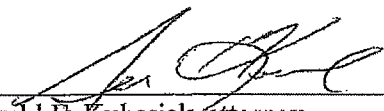
PROOF OF SERVICE

The undersigned, an attorney, certifies that a copy of the following document, **Township Trustees' Answer to District 204's Second Amended Counterclaim**, has been served upon:

Jay R. Hoffman
Hoffman Legal
20 N. Clark Street, Suite 2500
Chicago, IL 60602

as follows:

	by personal service on April 28, 2017 before 4:00 p.m.
	by U.S. mail, by placing the same in an envelope addressed to them at the above address with proper postage prepaid and depositing the same in the U.S. Postal Service collection box at 225 W. Washington Street, Chicago, Illinois, on April 28, 2017 before 4:00 p.m.
	by facsimile transmission from 225 W. Washington Street, Suite 2600, Chicago, Illinois to the [above stated fax number/their respective fax numbers] from my facsimile number (312) 460-4201, consisting of ____ pages on April 28, 2017 before 4:00 p.m., the served [party/parties] having consented to such service.
	by Federal Express or other similar commercial carrier by depositing the same in the carrier's pick-up box or drop off with the carrier's designated contractor on April 28, 2017 before the pickup/drop-off deadline for next-day delivery, enclosed in a package, plainly addressed to the above identified individual[s] at [his/her/their] above-stated address[es], with the delivery charge fully prepaid.
X	by electronic mail, on April 28, 2017 before 5:00 p.m., the served [party/parties] having consented to such service.



Gerald E. Kubasiak, attorney

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION

TOWNSHIP TRUSTEES OF SCHOOLS)
TOWNSHIP 38 NORTH, RANGE 12 EAST,)
Plaintiff-Counter Defendant,)
v.)
LYONS TOWNSHIP HIGH SCHOOL DIST. 204,)
Defendant-Counter Plaintiff.)

Case No. 13 CH 23386

Hon. Sophia H. Hall

FILED
 2017 JUL 10 PM 4:02
 CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 CHANCERY DIV.

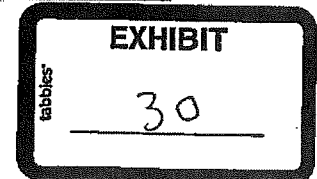
**TTO'S AMENDED REPLY TO PARAGRAPH 44 OF
LT'S FIRST AMENDED AFFIRMATIVE DEFENSES**

Plaintiff and Counter-Defendant, Township Trustees of Schools Township 38 North, Range 12 East ("TTO"), by its undersigned counsel, MILLER, CANFIELD, PADDOCK & STONE, P.L.C., for its Amended Reply to Paragraph 44 of the First Amended Affirmative Defenses filed by Defendant and Counter-Plaintiff, Lyons Township High School Dist. 204 ("LT"), states as follows:

44. From 1992 through 2012, the payments that the TTO made for the annual audits of LT were part of the expenditures of the TTO. The TTO's expenditures, in turn, formed the basis of the TTO's pro rata expense invoices. During this period, LT's pro rata share was about 25 percent. Therefore, through the pro rata billing process, the TTO invoiced LT for about 25 percent of the costs of LT's own annual audit.

Reply: Admits the following:

FY	TTO Total Audit \$	LT Audit \$ Paid by TTO	TTO Total Expenses \$	TTO Pro-Rata Billed	Difference
94	\$59,900.00	\$31,845.00	\$564,883.57	\$504,884.00	(\$59,999.57)
95	\$43,646.00	\$9,506.00	\$670,448.19	\$570,448.19	(\$100,000.00)
96	\$60,890.00	\$17,240.00	\$632,072.28	\$582,072.28	(\$50,000.00)
97	\$59,365.00	\$15,800.00	\$673,056.25	\$623,056.25	(\$50,000.00)



98	\$48,010.00	\$9,300.00	\$695,227.34	\$670,228.00	(24,999.34)
99	\$66,716.00	\$14,400.00	\$634,841.84	\$691,245.00	\$56,403.16
00	\$73,578.95	\$25,331.95	\$765,518.84	\$765,518.84	-
01	\$59,220.00	\$14,380.00	\$756,403.26	\$756,403.00	(\$0.26)
02	\$90,333.19	\$16,800.00	\$799,314.28	\$799,314.00	(\$0.28)
03	\$100,708.77	\$18,143.75	\$794,294.00	\$794,294.00	-
04	\$106,498.00	-	\$936,777.26	\$811,777.26	(\$125,000.00)
05	\$77,068.00	-	\$828,069.14	\$828,070.14	\$1.00
06	\$105,762.92	\$45,266.19	\$855,186.49	\$855,186.47	(\$0.02)
07	\$113,256.00	\$44,047.50	\$855,350.13	\$855,350.13	-
08	\$170,625.82	\$55,800.00	\$1,152,033.07	\$1,152,033.06	(\$0.01)
09	\$195,586.49	\$49,687.55	\$1,318,693.06	\$1,315,693.06	(\$3,000.00)
10	\$127,293.40	\$59,500.00	\$1,186,421.16	\$986,421.16	(\$200,000.00)
11	\$104,130.56	\$35,270.56	\$1,172,639.70	\$1,022,639.70	(\$150,000.00)
12	\$104,045.00	\$48,750.00	\$1,355,768.95	\$1,208,039.88	(\$147,729.07)
		\$511,068.60			

On this basis, the TTO admits that for fiscal years 1999 through 2003 and 2006 through 2008, LT was invoiced for its proportionate share of LT's own annual audit.

The TTO further admits that for fiscal years 1994 through 1998 and fiscal years 2009 through 2012, LT was invoiced for only a percentage of its proportionate share of LT's own annual audit. The TTO denies that this can be calculated simply as 25%.

For fiscal years 2004 and 2005, the TTO denies that LT was invoiced for its proportionate share of LT's own annual audit.

The TTO denies any remaining allegations, except to admit that as a general rule, LT's proportionate share was roughly 25%.

Respectfully,

TOWNSHIP TRUSTEES OF SCHOOLS,
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: 

One of its Attorneys

Gerald E. Kubasiak
Barry P. Kaltenbach
Gretchen M. Kubasiak
Miller Canfield Paddock & Stone, PLC
225 W. Washington, Suite 2600
Chicago, Illinois 60606
(312) 460-4200
(312) 460-4201
Firm No. 44233

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

TOWNSHIP TRUSTEES OF SCHOOLS)
TOWNSHIP 38 NORTH, RANGE 12 EAST,)
)
Plaintiff-Counter Defendant,)
v.)
LYONS TOWNSHIP HIGH SCHOOL DIST. 204,)
)
Defendant-Counter Plaintiff.)

Case No. 13 CH 23386

Hon. Sophia H. Hall

FILED-1
2017 JUL 21 PM 3:32
CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
CHANCERY DIV.
CLERK
STEPHEN BROWN

NOTICE OF FILING

TO: Jay R. Hoffman/Hoffman Legal
20 N. Clark Street, Suite 2500
Chicago, IL 60602

PLEASE TAKE NOTICE that on July 21, 2017, I have filed with the Clerk of the Circuit Court of Cook County, Illinois, the following: **Verification of Susan Birkenmaier to TTO'S Amended Reply to Paragraph 44 of LT's First Amended Affirmative Defenses**, a copy of which is hereby attached and served on you.

Respectfully,

TOWNSHIP TRUSTEES OF SCHOOLS,
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: _____

One of Its Attorneys

Gerald E. Kubasiak
Barry P. Kaltenbach
Gretchen M. Kubasiak
Miller Canfield Paddock & Stone, PLC
225 W. Washington, Suite 2600
Chicago, Illinois 60606
(312) 460-4200
(312) 460-4201
Firm No. 44233

PROOF OF SERVICE

The undersigned, a non-attorney, certifies that a copy of the following document, **Verification of Susan Birkenmaier to TTO'S Amended Reply to Paragraph 44 of LT's First Amended Affirmative Defenses**, has been served upon:

Jay R. Hoffman
Hoffman Legal
20 N. Clark Street, Suite 2500
Chicago, IL 60602

as follows:

	by personal service on July 21, 2017 before 4:00 p.m.
	by U.S. mail, by placing the same in an envelope addressed to them at the above address with proper postage prepaid and depositing the same in the U.S. Postal Service collection box at 225 W. Washington Street, Chicago, Illinois, on July 21, 2017 before 4:00 p.m.
	by facsimile transmission from 225 W. Washington Street, Suite 2600, Chicago, Illinois to the [above stated fax number/their respective fax numbers] from my facsimile number (312) 460-4201, consisting of ____ pages on July 21, 2017 before 4:00 p.m., the served [party/parties] having consented to such service.
	by Federal Express or other similar commercial carrier by depositing the same in the carrier's pick-up box or drop off with the carrier's designated contractor on July 21, 2017 before the pickup/drop-off deadline for next-day delivery, enclosed in a package, plainly addressed to the above identified individual[s] at [his/her/their] above-stated address[es], with the delivery charge fully prepaid.
X	by electronic mail, on July 21, 2017 before 5:00 p.m., the served [party/parties] having consented to such service.



[X] Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that (s)he verily believes the same to be true.

James Kirkpatrick 7/10/17
Date

FILED-1
JUL 21 PM 3:32
CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
CLARENCE BROWN
CLERK

29495831.1\154483-00001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

TOWNSHIP TRUSTEES OF SCHOOLS)
TOWNSHIP 38 NORTH, RANGE 12 EAST,)

Plaintiff-Counter Defendant,)

v.)

LYONS TOWNSHIP HIGH SCHOOL DIST. 204,)

Defendant-Counter Plaintiff.)

Case No. 13 CH 23386

Hon. Sophia H. Hall

NOTICE OF FILING

TO: Jay R. Hoffman/Hoffman Legal
20 N. Clark Street, Suite 2500
Chicago, IL 60602

FILED
2017 JUL 10 PM 4:01
CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
CHANCERY DIV.

PLEASE TAKE NOTICE that on July 10, 2017, I have filed with the Clerk of the Circuit Court of Cook County, Illinois, the following: **TTO'S AMENDED REPLY TO PARAGRAPH 44 OF LT'S FIRST AMENDED AFFIRMATIVE DEFENSES**, a copy of which is hereby attached and served on you.

Respectfully,

TOWNSHIP TRUSTEES OF SCHOOLS,
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: 

One of Its Attorneys

Gerald E. Kubasiak
Barry P. Kaltenbach
Gretchen M. Kubasiak
Miller Canfield Paddock & Stone, PLC
225 W. Washington, Suite 2600
Chicago, Illinois 60606
(312) 460-4200
(312) 460-4201
Firm No. 44233

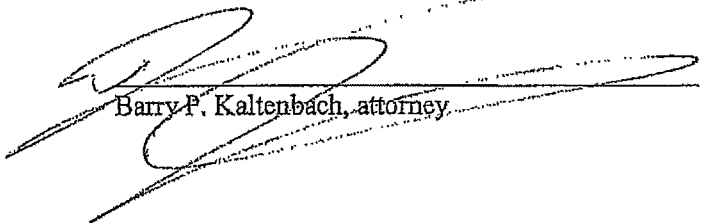
PROOF OF SERVICE

The undersigned, an attorney, certifies that a copy of the following document **TTO'S AMENDED REPLY TO PARAGRAPH 44 OF LT'S FIRST AMENDED AFFIRMATIVE DEFENSES**, has been served upon:

Jay R. Hoffman
Hoffman Legal
20 N. Clark Street, Suite 2500
Chicago, IL 60602

as follows:

	by personal service on July 10, 2017 before 4:00 p.m.
	by U.S. mail, by placing the same in an envelope addressed to them at the above address with proper postage prepaid and depositing the same in the U.S. Postal Service collection box at 225 W. Washington Street, Chicago, Illinois, on July 10, 2017 before 4:00 p.m.
	by facsimile transmission from 225 W. Washington Street, Suite 2600, Chicago, Illinois to the [above stated fax number/their respective fax numbers] from my facsimile number (312) 460-4201, consisting of ___ pages on July 10, 2017 before 4:00 p.m., the served [party/parties] having consented to such service.
	by Federal Express or other similar commercial carrier by depositing the same in the carrier's pick-up box or drop off with the carrier's designated contractor on July 10, 2017 before the pickup/drop-off deadline for next-day delivery, enclosed in a package, plainly addressed to the above identified individual[s] at [his/her/their] above-stated address[es], with the delivery charge fully prepaid.
<i>(A)</i>	by electronic mail, on July 10, 2017 before 5:00 p.m., the served [party/parties] having consented to such service.


Barry P. Kaltenbach, attorney