

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

TOWNSHIP TRUSTEES OF SCHOOLS)	
TOWNSHIP 38 NORTH, RANGE 12 EAST,)	
)	No. 13 CH 23386
Plaintiff and Counter-Defendant,)	
)	
v.)	Hon. Jerry A. Esrig
)	
LYONS TOWNSHIP H.S. DISTRICT 204,)	Commercial Calendar S
)	
Defendant and Counter-Plaintiff.)	(Transferred to Law)

**LT’S RESPONSE TO
THE TTO’S MOTION TO VOLUNTARILY DISMISS
ITS INVESTMENT EARNING CLAIM**

I. INTRODUCTION

Lyons Township H.S. District 204 (“LT”) respectfully asks this Court to deny the motion to voluntarily dismiss, without prejudice, the investment earnings claim of Plaintiff and Counter-Defendant Township Trustees of Schools Township 38 North, Range 12 East (“the TTO”)

The TTO’s motion should be denied for ten good reasons: (1) The TTO cannot voluntarily dismiss its investment earnings claim under 735 ILCS 5/2-1009 due to the pending LT counterclaim asserting the TTO’s failure to pay investment earnings to LT. (2) Granting the motion would violate the Supreme Court’s prohibition on claim splitting and thereby impinge on LT’s right to assert a res judicata defense to future claims of the TTO that could have been raised in this case. (3) LT’s hoped-for departure from the TTO system may never happen, or if it does, it may not happen for many years. (4) Between the TTO’s claim and LT’s counterclaim, the full time period that could be disputed (1995-2020) is being disputed in this case. (5) The failure of the TTO to adequately account for the investment earnings of other school districts in its damages analysis has been obvious for many years, and it should not be the basis for allowing the TTO another

chance to re-formulate its claim. (6) The dismissal of the claim certainly will embolden the TTO to take unilateral action to remove money from LT's agency account, which would violate the Illinois School Code. (7) If the claim is dismissed based on a misapplication of the ripeness doctrine, and the TTO unilaterally removes money from LT's account, it will be very difficult for LT to ever get this money back. (8) A delay of several more years in resolving the TTO's claim would result in LT's inability to fully defend its rights in the future. (9) Allowing the TTO to pull back this claim now would result in the wasting of millions of dollars in public funds. (10) The withdrawal of this claim would not appreciably streamline the ongoing trial.

II. ARGUMENT

On November 17, 2020, at the close of the TTO's case, LT moved for a partial directed finding on the TTO's investment earnings claim asserted under Section 8-7 of the School Code. The Court voiced skepticism about the TTO's claim; asked about an accounting based on LT's hoped-for departure from the TTO; raised the issue of ripeness; expressed a concern about the impact of a ruling on the other school districts in the TTO; and ultimately denied the motion. The Court ruled as follows: "I'm going to deny the motion and hear the remainder of the evidence." (TTO Mtn. Ex. C p.119)

On January 19, 2021, the TTO filed the present motion to withdraw its investment earnings claim ("the Motion"). The TTO acknowledges that because the trial is underway, the TTO cannot dismiss this claim without prejudice absent authorization from this Court.

1. The Motion is procedurally defective due to the pending LT counterclaim asserting the TTO's failure to pay full investment earnings to LT. Under Illinois law, a plaintiff cannot dismiss any part of an action once the defendant has asserted a counterclaim: "The Code of Civil Procedure, section 2-1009, allows a plaintiff to dismiss an action or any part thereof as to any

defendant at any time before trial or hearing begins. However, after a counterclaim has been pleaded by a defendant, no dismissal may be had as to the defendant except by defendant's consent.” *Schmitt v. Motorola, Inc.*, 160 Ill. App. 3d 1059, 1061 (1st Dist. 1987) (emphasis added).

In this case, the parties are locked into a mutual dispute over the crediting of investment earnings and the TTO’s compliance with Section 8-7 of the School Code from 1995-2020. The TTO’s claim contends that the TTO violated Section 8-7 of the School Code and over-credited LT with investment earnings of about \$1.5 million.

In addition to disputing this claim, LT filed a counterclaim that also is being tried now. LT contends in Count II that the TTO under-credited LT with investment earnings and violated Section 8-7 by (a) crediting all districts, in 2013, with only \$500,000 of about \$783,000 in earned but undistributed interest earnings that had accumulated in prior years, and (b) by crediting, in 2013 through 2020, most but not all of LT’s investment earnings in each of those years. (See LT Trial Brief p. 61-63) While the TTO’s and LT’s methods of analysis are very different – for one, LT’s analysis relies on actual investment earnings – both parties’ claims address the same subject matter and the same statutory requirement.

Under the *Schmitt* case, the TTO is barred from dismissing its investment earnings claim due to the pendency of LT’s counterclaim.

2. Granting the motion would violate the Supreme Court’s prohibition on claim splitting and thereby impinge on LT’s right to assert a res judicata defense to future claims of the TTO that could have been raised in this case. The Supreme Court of Illinois prohibits plaintiffs from engaging in claim-splitting, and it has applied the doctrine of res judicata to bar plaintiffs from voluntarily dismissing a part of its claims and refileing that part in a subsequent suit. Under the rule of claim-splitting, where a cause of action is in its nature entire and indivisible, a plaintiff

cannot divide it in order to maintain separate lawsuits. *Best Coin-Op, Inc. v. Paul F. Ilg Supply Co.*, 189 Ill. App. 3d 638, 657 (Ill. 1989). If a plaintiff “uses sections 2-1009 and 13-217 to voluntarily dismiss and refile a claim after another part of the cause of action has gone to final judgment in a previous case, that plaintiff will have engaged in claim-splitting.” *Hudson v. City of Chicago*, 228 Ill. 2d 462, 482 (2008). In *Hudson*, the Court further stated that “a plaintiff who splits his claims by voluntarily dismissing and refiling part of an action after a final judgment has been entered on another part of the case subjects himself to a *res judicata* defense.” *Id.* at 473.

Here, the TTO has brought a single count for declaratory relief containing three claims. All three claims ask this Court to authorize the Treasurer to take money from LT’s agency account to cure what it contends are financial issues mostly arising during the Healy era. As this Court has seen in this trial already, the resolution of the TTO’s investment earnings claim depends greatly on the knowledge and credibility of the witnesses who have testified in this trial and on the availability, reliability, and decipherability of the TTO’s handwritten records and computerized general ledger. The TTO should not be permitted to split its claims in this manner, and LT should be able to rely on the *res judicata* doctrine to prevent the TTO from bringing subsequent claims against LT that the TTO could have raised in this case – including any re-formulated investment earnings claim.

3. LT’s hoped-for departure from the TTO may never happen, or if it does, it may not happen until many years from now. A state law enacted in 2018 allows LT to leave the TTO once this lawsuit is over “including the exhaustion of all appeals.” (LT Trial Ex. E6 p.3) The law requires the TTO to transfer and deliver all money and assets to LT. (*Id.*) The law does not give the TTO any right to make “adjustments” based on perceived financial issues at the TTO.

The TTO repeatedly has reminded LT that this state law can be overturned by a future state

law. LT does not consider this to be an idle threat. The TTO's President Michael Thiessen is business partners with powerful State Senator Steven Landek. (Ex. A hereto; LT Trial Ex. E3) The TTO's Treasurer Kenneth Getty is part of the politically prominent Getty family. (Ex. B hereto) LT does not underestimate the TTO's ability to lobby for new legislation.

It is not difficult for LT to envision a scenario in which the TTO is allowed to dismiss its claim voluntarily and without prejudice; the trial ends; one of the parties appeals; and the TTO is successful in lobbying for a new bill that rescinds the prior law – and with it, LT's still theoretical right to withdraw. This scenario would leave LT with a \$1.5 million claim hanging over its head, at best. At worst, it would embolden the TTO to take unilateral action to grant itself, through a “bookkeeping entry,” the relief that it could not win in Court. This would be an unjust result.

Moreover, even if the law remains in effect, the withdraw of LT might not happen for many more years. The TTO and its counsel have been successful in stretching this case out for eight years. The TTO has an incentive to delay this case because while it is pending, the TTO gets to manage LT's substantial assets; charge LT about \$400,000 a year in expenses; and incur almost no costs with respect to LT. Any appeal in this case could take years. A determined appellant can delay the filing of the record, the submission of briefs, and even oral argument. The Appellate Court rarely agrees to expedite appeals. The withdrawal of LT from the TTO, if it ever occurs, easily could drag out until 2023. LT should not have to wait for the TTO's \$1.5 million investment earnings claim to be resolved for several more years.

4. The TTO's claim and LT's counterclaim cover the payment of investment income for all possible years. In November, the Court stated a concern about making a ruling for only a “limited period.” (TTO Mtn. Ex. C p.103) However, this case does not involve a limited period.

Kelly Bradshaw prepared the TTO investment earnings analysis that Jim Martin later

adopted with changes. Bradshaw testified that she could not go back further than 1994 because the computerized general ledger started in 1994. She said she omitted 1994 from her analysis and started in 1995 because she did not see any issues in 1994. (Ex. C hereto, p.70-73)

The TTO's position is that LT got about \$1.5 million too much investment earnings in 1995-2012. Also, the TTO admits that it did not credit LT its full investment earnings in 2013 to the present, but asserts it had the right to under-credit interest under Section 8-7. This is the TTO's argument that in statutes, the word "shall" really means "may." (This is not Illinois law, see *Emerald Casino, Inc. v. Illinois Gaming Bd.*, 803 N.E.2d 914, 921-28 (1st Dist. 2003).).

LT, on the other hand, argues that the only reliable record of undistributed earnings during the Healy era is what the TTO has admitted under oath in this case that it had on hand in 2013 based on its audit report figure. LT also argues that Section 8-7 required the TTO to credit LT with its full earnings annually, and LT relies on the TTO's own records of non-credited earnings. Thus, the time period for investment earnings at issue in this case is not limited, and this is not a basis for declining to resolve the parties' dispute over investment earnings.

5. The failure of the TTO to adequately account for the investment earnings of other school districts in its damages analysis has been obvious for many years, and it should not be the basis for allowing the TTO to avoid a negative ruling. Bradshaw completed two investment earnings analyses for this case, and the second one was disclosed about six years ago. Her analyses did not account for any credits for investment earnings to any school districts other than LT. The TTO's expert admitted in his 2017 deposition that he only spot-checked a few other districts for a few quarters, and that he and the TTO did nothing to investigate or correct any seeming misallocations involving other districts. (Ex. D hereto, p.72-95) TTO President Thiessen contended in his 2017 deposition that any over-allocations to other districts under the TTO's methodology

applied to LT were “immaterial” and thus not worth considering. (Ex. E hereto, p.105-09) The TTO’s counsel repeated the same “de minimus” argument to this Court in November 2020. (TTO Mtn. Ex. C p.103-04) On the other hand, LT’s expert Martin Terpstra issued a report in 2017 that, among other things, criticized Martin’s analysis for ignoring issues under Martin’s theory of misallocation that involved districts other than LT. (LT Trial Ex. B1 p.11-12)

It has been evident for years to any fair observer that the TTO’s analysis was unreasonable because it focused only on LT and ignored the other districts. For example, the TTO’s analysis claims that LT was **under**-allocated earnings in FY 2011 by \$240,001.56. (TTO Trial Ex. 54B) Not only did the TTO make no effort to determine, explain, or document how or why this might have happened, but the TTO assumed – for no reason – that the other districts were over-allocated proportionately in the same amount for FY2011. It is just as possible that Healy’s multi-million dollar, multi-year embezzlement binge included additional thefts from the investment pool balances through false, one-sided ledger entries. In other words, the under-paid interest easily could have gone into Healy’s pocket. It also is quite possible and perhaps even likely (and both Martin and Terpstra found fragments of information suggesting it), that under the TTO’s allocation theory, the districts other than LT were not all treated the same in all years.

The TTO chose to ignore all of these concerns about the other districts and assert its investment earnings claim in this case as it did. The TTO was the “master of its case.” Furthermore, the TTO argued unsuccessfully that LT’s counterclaim should be dismissed because the other districts were necessary parties. The Court’s order denying the TTO’s motion necessarily decided that the other districts were not necessary parties, and this ruling now is the law of the case.

In addition, the record in this case shows that in 2013, the TTO refused the request of “many districts” to conduct a forensic audit of the TTO’s finances. (TTO Trial Ex. 94 p.2) While

the benefits of a comprehensive, independent audit of the TTO's finances and assets are readily evident to this Court, LT, the other districts, media observers, and civic organizations, it did not happen and will never happen. If it were going to happen, it would have happened soon after Healy left, or during this case while the TTO was trying to prove its claims. The departure of LT from the TTO will not be an event guided by logical action and independent refereeing.

Also, it was not incumbent on LT, having been wrongly accused of benefiting from an alleged violation of Section 8-7, to somehow "figure this all out" and account for all credits made to all districts. The documents simply do not exist, as Martin admitted, and there is no institutional memory at the TTO to draw on. There also is the problem of the TTO's lack of transparency and cooperation with LT and the other districts. The other districts could have intervened at any point in this case, but they chose to remain on the sidelines. For the Court to decline to decide the TTO's claim because it ignores the other districts, and does not deal with the TTO's finances in a comprehensive way, would be unfair to LT at this stage of the litigation.

6. The dismissal of the claim would likely embolden the TTO to take unilateral action to remove money from LT's agency account in violation of the School Code. At the November 17 hearing, the Court asked the TTO this question: "[W]hy couldn't the trustee – the Trustees have simply made a journal entry that says we found a misallocation back in 1999; we make a journal entry to correct it? Why do we even need to be in court?" (TTO Mtn Ex. 3 p.101) This was a well-intentioned question that was not the basis for the Court's ruling on the motion for directed verdict. What this Court may not have realized is that this question was like catnip to the TTO.

The answer to the question is that the School Code prohibits the TTO from taking money from LT's account without LT's express authorization. The TTO's Second Amended Complaint admits this limit on the TTO's authority in Paragraph 17, which cites to Section 8-16 of the School

Code requiring the authorization of LT's Board for debits. This is why the complaint asks this Court for a judgment authorizing the Treasurer to make deductions from LT's agency account, instead of the Treasurer having just made the deductions.

Yet LT knows that the TTO would prefer to take unilateral action without the need for approval from the districts or authorization from a Court. Indeed, the TTO already took this Court's question in November and transformed it into an authorization to act. At its November 30, 2020 meeting, the TTO Board began the process of making unilateral debits to LT's account and credits to the accounts of other districts. The minutes discussed "potential action to be taken at the LTTO's December 2020 Board Meeting to help streamline the litigation items and help bring relief to the LTTO Member Districts." (Ex. F hereto, p.3-4)

At its December 21, 2020 meeting, the TTO Board discussed the Judge's questions at the November 17 hearing about the Treasurer 'making adjustments' and 'bookkeeping corrections.' The Board decided to do a new analysis of investment income for all member districts. The Board voted in favor of a motion to direct the Treasurer to "examine/explore, in light of eventual District 204 withdrawal, income allocations to all member districts and to make corrections and adjustments for all years under litigation." The Board directed Treasurer Getty to report back in January about possible adjustments. (Ex. G hereto)

Just today, the TTO circulated an attachment to its Board materials for the January 25, 2021 TTO Board meeting. These materials appear to state that the Treasurer conducted some kind of analysis, which is unexplained, in order to conclude that LT should be debited for over \$1.5 million in investment earnings, while the other districts should be debited or credited in varying amounts. (Ex. H hereto)

LT doubts that this Court's questions about an audit envisioned an inexperienced Treasurer and the TTO's litigation counsel looking through incomplete records in secret at the direction of a biased Board that denies the existence of a fiduciary duty to LT. Nor did this Court expect the Treasurer to slap together a report in a few weeks – after eight years of opportunity in the litigation – to try to justify virtually the same damages amount that the TTO has sought in this case. The results of the Treasurer's analysis, whatever it consisted of, were entirely predictable. These developments should be deeply concerning to this Court, as they show that the Motion was not brought in good faith.

Thus, the Treasurer taking money from LT and calling it a “journal entry” does not make an illegal and unjustified taking of funds more palatable. The millions of dollars that Healy stole from the districts, including LT, were recorded in journal entries to the general ledger. LT has come too far, and worked too hard, to lose the protections of the judicial decision-making process and be subjected once again to the unchecked decisions of the TTO.

7. If the claim is dismissed based on a misapplication of the ripeness doctrine, and the TTO unilaterally takes money from LT's agency account, it will be very difficult for LT to get this money back. The ripeness issue seems to be summarized as follows: until the TTO takes money from LT's account, the dispute between the parties is not ready for decision by this Court. LT respectfully disagrees, and a decision in favor of the TTO on the ripeness issue would have potentially irreversible consequences.

The doctrine of ripeness “seeks to insure [sic] that courts decide actual controversies and not abstract questions.” *People v. 1,124,905 U.S. Currency*, 177 Ill. 2d 314, 328 (1997). There is nothing abstract about the TTO's claim that it is entitled to take \$1,427,442.04 from LT's agency account based on an alleged over-crediting of investment earnings from 1995-2012. The fact that

the TTO presented an incomplete and unpersuasive analysis based on incomplete records and faulty assumptions does not make the controversy either premature or unable to be resolved.

The major problem with viewing ripeness as dependent upon the TTO unilaterally taking money from LT's account – aside from the statutory prohibition against it – is that it will be very hard for LT to get that money back even if the TTO acts improperly. The TTO tried unsuccessfully to dismiss LT's counterclaim under the theory that the TTO has no money for paying judgments. The TTO makes this argument despite the fact that it maintains a fund of undistributed money that as of June 30, 2020, stood at \$7,005,702. (LT Trial Ex. K7 p.18) Yet the TTO, once it removes money from LT's agency fund, will claim that it made simultaneous credits to the other districts and that LT will have to sue those districts to get its money back.

Regardless of how the Court rules on the Motion, LT respectfully asks the Court to make clear that it is not condoning any unilateral actions by the TTO to debit LT's agency account based on its investment earnings claim or any other dispute with LT.

8. A delay of several more years in resolving the TTO's claim will result in LT's inability to fully present its position. The TTO is not going to give up on its investment earnings claim. The TTO can and will try to balance its financial problems at LT's expense. In the Motion (p.5), the TTO says as much: "regardless of the relief the Court may order here, the TTO may have to perform this analysis in the future." What this really means is that if the TTO is unsuccessful in getting the money it demands in this case, it simply will take the money from LT's account under the guise of balancing its books (which never have balanced).

The voluntarily dismissal statute, 735 ILCS 5/2-1009, was intended to work in unison with 735 ILCS 5/13-217, which permits plaintiffs to refile their claims within a year. However, the TTO would not refile and instead would engage in self-help. This would force LT suing the TTO, the

reverse of how this case started, for wrongfully taking LT's money. We would return to square one. Also, in the event of a dismissal, LT would lose the benefit of getting rulings from this Court on the application of the statute of limitations and the laches doctrine to the investment earnings claim.

Whenever this new litigation starts, fresh depositions are taken, and a new trial is held, the ability of LT to determine what happened in 1995 will be diminished. The critical missing witnesses from this case, Joe Nekola and Leon Eich, still will be dead. Other witnesses to the events from 1995-2012 will die, too. Anyone who remains alive will have recollections that are dimmer and perhaps inaccurate. The TTO's records may be further destroyed or lost. The TTO's former auditors from Baker Tilly, who avoiding producing records and information in this case by the accountant's privilege, will not cooperate again. The TTO's current auditors at Miller Cooper will be missing records based on the limits of record retention, if they would produce records at all. LT's expert Terpstra retired two years ago, and LT would have to start from scratch with a new expert. The passage of time is a severe disadvantage for LT.

9. Allowing the TTO to pull back this claim now will result in the wasting of millions of dollars in public funds. By the end of last summer, the TTO had spent over \$3.3 million in attorneys' fees and expenses on this case. (LT Trial Ex. J3) Adding several months of trial work by five lawyers at two law firms leads to a conservative guestimate of \$4 million for the TTO's legal tab alone. Of this amount, easily \$1 million was spent on the investment earnings claim, which is the most complex of the claims and the one that required expert witnesses. Just Martin's fees were about \$250,000.

To make matters worse, the TTO has billed LT for about a quarter of these costs. If these billings are legal (and LT contests that), it would be harsh result to require LT to pay the largest

share of the TTO's litigation costs in what would be a completely wasted effort. Of course, the costs of LT's defense and expert costs for eight years were substantial. LT believes that the investment of public funds in this case should yield a tangible outcome, even if that account does not involve an ideal, comprehensive accounting. Unfortunately, the TTO has no incentive to handle its disputes efficiently because it pays its legal costs with other entities' money. How else can we explain the TTO spending tens of thousands of dollars in legal fees in 2020 on the fourth in a series of audit payments analysis, which it disclosed right before trial and then never introduced into evidence. (TTO Trial Ex. 53C-D)

No doubt, the TTO is not happy with LT or how it litigated this case, either. But with both parties having invested millions of dollars in their efforts to get judicial evaluations of their claims, it would be a wasteful outcome to give the TTO the "do-over" on its investment earnings claim.

10. The granting of this motion will not appreciably streamline the trial. The TTO pitches the Motion as a way to streamline the trial. This argument is not well taken. The hearing took place on November 17, after 4.5 days of trial and the close of the TTO's case in chief. The TTO waited two months to bring the Motion. At this point, we have had 2.0 days of LT's case in chief, and we will hear more testimony this week before the hearing on the Motion.

III. CONCLUSION

LT respectfully asks this Court to deny the Motion, hear the evidence, and render a decision on the investment earnings claims in the pending complaint and counterclaim.

Furthermore, LT notes that the TTO's argument in the Motion about allowable costs is mistaken. While 735 ILCS 5/2-1009(a) requires the "payment of costs," which indeed are quite limited, Section 2-1009(a) applies only to motions to dismiss that are filed before the trial begins.

Section 2-1009(c) governs motions to dismiss filed during the trial. This section authorizes

dismissal “only on terms fixed by the Court.” In the event that this Court considers the granting of the Motion, LT respectfully ask the Court to exercise its discretion to fix the terms of any dismissal to require the TTO to (a) forgo its efforts to charge LT for the TTO’s attorneys’ fees and expert costs associated with the dismissed claim (in an amount to be determined), and (b) reimburse LT for the attorneys’ fees and expert witness costs spent in defense of this claim (in an amount to be determined).

Respectfully submitted,

LYONS TOWNSHIP HIGH SCHOOL
DISTRICT 204

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CERTIFICATE OF SERVICE

Jay R. Hoffman, an attorney, certifies that on January 25, 2021, he caused the foregoing pleading to be served by email and eService on the following attorneys:

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s/Jay R. Hoffman

Investigation

EXHIBIT A

Video Gambling Jackpot For Pals And Pals

The growth of video gambling in Illinois and the riches that go with it has opened new vistas for clout. Some politicians and their friends have cashed in.

By **Casey Toner** / Mar 18, 2017 8:00 AM



<p>Bob Sector | BGA</p>

Cook County Commissioner Peter Silvestri, who for years moonlighted as village president of Elmwood Park, took on a different side job in 2013 as a sales agent for a video gambling firm that, months later, began installing poker and slot machines in the west suburb.

A Republican, Silvestri made thousands of dollars in commissions off the arrangement and was later aided in a second deal when his successor in Elmwood Park blocked a rival company from opening a gambling parlor in the suburb and let Silvestri's firm install machines in the same spot.

Silvestri is hardly alone among political figures who have cashed in on Illinois' rapidly growing video gambling industry.

In Lake County, former Democratic state Sen. Michael Bond, whose vote in 2009 helped legalize video gambling in Illinois, is an owner and manager of a firm that he says now owns more than 900 slot and video poker machines in the state, with a large concentration of them in his former legislative district.

In Bridgeview, Mayor Steven Landek, who doubles as a Democratic state senator, used his powers as head of the southwest suburb to grant two liquor licenses to a video gambling chain partially owned by a partner of Landek in a separate business.

Anita Bedell, executive director of the anti-gambling group Illinois Church Action on Alcohol & Addiction Problems, said she was not surprised to learn some politicians had ties to the gambling industry.

"They have a lot of clout, they have a lot of connections, and it's a way for them to get a lot of money," Bedell said.

Peter Silvestri

Since 2013, the year Silvestri left his Elmwood Park post, he has been a sales agent for Gold Rush Amusements, which leases gambling machines to bars, restaurants and stand-alone video parlors, state records show. Sales agents act as middlemen who arrange the deal that bring video poker and slot machines to certain bars or parlors.

Gold Rush is owned by Rick Heidner, whom Silvestri described in an interview with the Better Government Association as a childhood friend.

Cook County officials are required to file annual economic interest statements to disclose their business ties, but Silvestri did not explicitly detail his work for Gold Rush. The BGA uncovered the connection in a review of Illinois Gaming Board records.

Silvestri said Gold Rush was a client of his legal practice. He did list the law firm on his filing.

“I don’t think you are required to list each client unless the client is doing business with the county, but they are not,” he said.

Silvestri declined to detail his financial arrangement with Gold Rush but acknowledged he was paid at least thousands of dollars. It’s common in the video gambling industry for sales agents to earn \$10,000 or more for placing machines in a gambling establishment. Silvestri said he’s worked on 10 to 15 arrangements for Gold Rush, including the two locations in Elmwood Park.

As a county commissioner, Silvestri is paid \$85,000 annually.

The ties between Heidner, Silvestri and Angelo “Skip” Saviano, the current Elmwood Park village president, are well documented.

State campaign finance records show Heidner and his companies have contributed more than \$16,000 since 2001 to support the political careers of Silvestri and Saviano, who served as a Republican state representative prior to assuming his village post. What's more, gushing endorsements of Heidner from both politicians are prominently displayed on the Gold Rush website.

A signed letter from Silvestri, written as village president and on Elmwood Park letterhead, declares that "I would be pleased to have Mr. Heidner as an economic and business force in either the village or county district and hope that will one day materialize."

Silvestri said most of the machine-placement contracts he arranged as a sales agent for Gold Rush were with Laredo Hospitality, a gambling parlor chain that operates more than 50 locations statewide under the names Stella's Place and Shelby's.

In December, Stella's opened a parlor stocked with Gold Rush machines in an Elmwood Park strip mall near the corner of North and Harlem avenues. Silvestri said he was the sales agent for Gold Rush on the deal.

A Stella's competitor, Blackhawk Restaurant Group, had earlier sought to open in the same location but was blocked by Saviano, who -- like most village presidents and mayors -- doubles as his suburb's liquor commissioner.

State law requires a video gambling parlor to obtain a liquor license, and Saviano said in an interview with the BGA that he refused to grant one to Blackhawk for that location.

Saviano said Blackhawk already ran a different parlor in town and he didn't want to appear to be "in bed" with the firm by allowing them to open a second.

Both Silvestri and Heidner rejected any notion that Saviano acted against Blackhawk to favor them. "This is not the way we play," said Heidner.

Michael Thiessen, a partial owner and principal for Blackhawk, chalked up the loss to Saviano.

"The unfortunate thing is that the liquor commissioners can make whatever decision they want," he said.

That principle, however, may have worked to Thiessen's advantage in Bridgeview, where Landek used his powers as mayor and liquor commissioner to grant two liquor licenses to Blackhawk.

Landek and Thiessen are among the owners of the Southwest Community News Group, the parent company of a small chain of suburban newspapers, including the Desplaines Valley News.

Under Landek, Bridgeview has also paid \$539,000 over seven years to Thiessen's stadium consulting business to help run Toyota Park, the publicly owned soccer stadium home to the Chicago Fire.

Blackhawk operates a chain of 67 gambling parlors, most of which are located in strip malls under the names of Penny's, Betty's, Emma's and Jena's. The Blackhawk sites have generated more than \$33 million after taxes, Gaming Board records show.

Blackhawk opened its first Bridgeview location in August 2014 and a second spot two years later at 7230 W. 87th Street.

Dotty's Cafe, a Blackhawk competitor, had scouted the 87th Street site in 2013. The company inquired with the village about obtaining a liquor license but it got no response, according to James Lang, Dotty's director of government relations.

"All of the sudden it literally went black," Lang said. "No return emails, no return phone calls."

Landek declined to comment when asked about Lang's claim. But village spokesman Ray Hanania, who also writes opinion columns that appear in a newspaper part-owned by Landek and Thiessen, said Dotty's "dropped the ball" by never submitting an application for a liquor license.

That's an assertion Lang denies.

Thiessen said he did not ask Landek for any favors.

"If I would have known we wanted that store, we would get there first — not second," he said.

To the north in Lake County, Bond's aunt founded Tap Room Gaming in 2011, a year after he lost re-election for his state Senate seat. Before leaving office, he had voted with a majority in the Illinois General Assembly for the law legalizing video gambling.

In an interview, Bond said he encouraged his aunt to found the company and he took over as chief executive officer in 2013 when Tap Room began placing machines around the state.

Michael Bond

According to a BGA analysis of Gaming Board records, Tap Room has grown to become one of Illinois' top ten video gambling machine owners. It now has more than 900 slot and video poker machines in bars, restaurants, truck stops and gambling parlors across the state, including a large concentration in Bond's former Lake County district.

After state and local gambling taxes, the Libertyville-based firm's machines generated about \$30 million in 2016, Bond said. Half of the proceeds went to Tap Room, while the other half was split with owners of the establishments where the machines were located, he said.

In Wadsworth, just south of the Wisconsin state line, Tap Room's machines are in seven of 11 gambling locations, gaming board records show.

Wadsworth Village President Glenn Ryback said his community liberally awards liquor licenses in an attempt to maximize local gambling revenue because it can't rely on other taxes to pay for village services.

"It's welcome," Ryback said, adding that the village uses the money to repave roads. "It's helped with some of the things around town."

Before leaving the legislature, Bond helped secure a \$200,000 state grant to the village to help it build a street salt container, according to public records.

Ryback and Bond insisted Tap Room was given no special consideration due to Bond's actions as senator.

"There isn't a connection," Bond said, adding that his firm bought two sites from another firm. "If you look at my success in Wadsworth, it is no different than my success in any of the other municipalities we operate in both inside my senate district and out."

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Casey Toner

Casey Toner is a longtime local journalist who worked for over four years at the SouthtownStar on major beats and investigative stories.

CONTACT:  

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Investigation

Small Town Government, Chicago-style Politics

Lyons' mayor, son of the former town boss who went to prison, is building clout in the western suburbs amid claims of cozy deals, including the purchase of his own house.

By **Casey Toner** / May 22, 2019 9:00 PM



Lyons Mayor Chris Getty lives in a home in the western suburb built on former village land and constructed by a campaign contributor. (Casey Toner/BGA)

One-time Lyons Mayor Ken Getty was sentenced to five years in prison for stealing from his west suburban village and, upon his release in 2004, he vowed revenge on political enemies he blamed for his downfall.

“I want to be like the Count of Monte Cristo,” Getty said at the time, a nod to the 19th century literary classic about a framed convict who escapes and exacts vengeance on his accusers.

Getty, for sure, was no Edmond Dantès. But the ex-con, now 77, does share something with the fictional French adventure hero.

The former Lyons mayor assembled a team of candidates to retake the village government. In 2009, his son Chris, then just 26 years old, became mayor and has held the reins of power ever since. Over his two-plus terms, Chris Getty has built up a political army with campaign funds currently holding more than \$400,000, restored the family fiefdom and transformed the financially ailing government under his control into a stronghold of nepotism and cozy deals, a Better Government Association and Fox 32 investigation found.

An examination of public records and interviews shows Getty has put his father back on the public payroll as well as a brother, gotten ordinances passed to increase his own village salary sevenfold, eliminated limits that would have barred him from a third term, used a family insurance company to peddle policies to local taverns that rely on village hall for operating licenses and is arranging an unusual tax break for a big campaign contributor that could financially hurt school districts in neighboring towns. All this took place, records show, as the village wrestled with budget shortfalls and imposed layoffs and tax hikes.

From Fox 32 Chicago: Finding the right house can be a challenge. But one southwest suburban mayor didn't have to look far to find his home sweet home.

Sold by the village, bought by the mayor

But nothing illustrates the questionable conduct more than the saga of the newly built split-level home in the 4600 block of Cracow Avenue where Getty now resides.

Under Getty's direction, the village in 2013 demolished a run-down house that sat there, bought the lot in 2014 for almost \$41,000 and then sold it in 2015 to a political contributor of the mayor — a construction firm that was the sole bidder on the property — at a nearly \$13,500 loss, according to public records. Once a new house was finished, the contractor sold it to Getty in 2016 for slightly more than \$291,000 without listing it on the market to field competing offers.

The Cook County Assessor now estimates the market value of Getty's house at almost \$325,000, while online real estate marketplace Zillow pegs it higher, at more than \$400,000.

That's just a taste of the unusual activity that has occurred under Getty in Lyons, a bite-sized, working-class community of 10,600 with big-city style politics involving cash and clout.

In addition to being mayor, Getty moonlights as the \$27,488-a-year supervisor of Lyons Township as well as a manager of an Oak Brook hotel, a post he holds alongside a former executive of his village's largest private contractor, a landfill. Owners of the landfill and other Lyons contractors poured in hundreds of thousands of dollars into Getty's political funds, which have turned around and paid \$169,000 in rent to Getty's insurance business, election records show.

"They're trying to get as much out of this job as they possibly can," complained Patti Krueger, a former village trustee who lost to Getty by 96 votes in the 2009 mayor's election. "It's using the village of Lyons as their own personal ATM."

Getty did not respond to detailed written questions about his conduct as mayor from the BGA. He also declined to speak in depth when confronted by reporters for the BGA and Fox 32 after a recent village board meeting, saying only that his house purchase was above board.

"It's a small community, we have a new home builder that's building homes in town," Getty said. "I'm going to take advantage of that."

At just one-fifth the size of a single Chicago ward, Lyons is one of those out-of-the-way places, like scores of suburbs and small towns across Illinois, where questions of accountability often go unexplored.

Former Cook County Commissioner Anthony Peraica, whose district once included Lyons, said elected officials in such small towns are emboldened to grant themselves taxpayer-funded perks because there's little outside scrutiny or serious political opposition.

"It's easy pickings," said Peraica. "You have no competition, no systems of checks and balances."

In Lyons, Getty's unusual house purchase long went under the radar.

Skyway Homes, a small family business run out of an apartment in Brookfield, made its first political contribution for \$2,000 to Getty more than four years ago. Since then, the firm and a sister company have contributed an additional \$24,000 to Getty, built the house the mayor now owns and lives in, and become prominent developers in town.

Over the past five years, Skyway and the sister company, M & F Masonry, have built four additional homes on vacant land purchased from Lyons, with one recently selling for \$427,000. As with Getty's home, the developers were the only bidders for those properties and the village sold some of them at a loss to taxpayers.

Moises Gonzalez, president of Skyway, insisted that no "special deal" was extended to Getty. The mayor, Gonzalez said, saw a "for sale" sign outside the property and approached him with an offer.

"Believe me, I work 14 hours a day," Gonzalez said. "I'm not in a position to be giving deals to anybody."



Lyons Mayor Chris Getty has amassed a massive campaign war chest in his 10 years as head of the small western suburb. (Casey Toner/BGA)

Another beneficiary of the village's real estate business is the Lyons deputy director of public works, Ivica "Otis" Lazich, a Getty donor and member of the crew Chris Getty's father organized years ago to retake Lyons, records show. Lazich, currently the Lyons Library Board president, made \$6,000 in commissions as a realtor connected to the village's purchase of two homes and an empty lot next to Lyons' village hall.

"Everything I do is legit so write your story," Lazich said in response to questions from the BGA.

An atypical TIF district

In December, the village embarked on yet another land deal involving a Getty campaign contributor. This time it was with Tom Koulouris, who owns several properties in town including a large commercial strip at the southwest corner of Ogden and Harlem Avenues. Koulouris has contributed \$27,000 to Getty political funds in recent years.

At its core, the deal aims to overlay a tax-increment financing district on Koulouris' property, a common albeit controversial financial tool that Chicago and many suburbs use to jumpstart development.

In a typical TIF, revenue from property tax collections is divided into two parts. Anything derived from increasing values is set aside to be spent on economic development within a specific geographic area, with municipal leaders holding considerable sway over how to use the money. The portion of tax revenue derived from the baseline value of the property at the time a TIF is created still gets distributed to taxing bodies, such as schools, as it had been distributed previously.

But there's little typical about the TIF Getty is proposing to set up for Koulouris. The village purchased the property for \$10,000, which is far less than what public records list as the market value, and public records show that the village plans to sell it back

to Koulouris for the same amount when it gets approval from county tax officials to declare the land tax-exempt government property. A petition from Lyons to achieve that status is currently being weighed by the Cook County Board of Review.

The properties last year generated nearly \$55,000 in tax revenue for public bodies, with more than \$37,000 of that benefitting school districts that largely cover Riverside and Brookfield as well as Triton Community College in River Grove, according to Cook County tax records.

But the maneuvering by Lyons, if approved, would reduce the value of the Koulouris property for tax purposes to zero and, for years to come, completely eliminate its revenue-generating capacity for those schools and other bodies. All property tax revenue would be poured back into the TIF district.



There's little typical about the TIF Getty is proposing to set up. The village purchased the property for \$10,000 and, according to village documents, plans to sell it back to its previous owner for the same amount when it gets approval from county tax officials to declare the land tax-exempt government property. (Casey Toner/BGA)

Multiple school districts serve different parts of Lyons, with the one serving most students in town, the Getty-controlled Lyons Elementary School District 103, effectively held harmless by the TIF scheme. But districts that mostly serve students

from outside of Lyons would pay the price under the plan.

“You can say it’s novel if you want to put a good spin on it,” said Ares Dalianis, an attorney with Riverside Public School District 96, one of the districts that stands to be harmed. “You can call it a little shady if you want to look at it in the opposite light.”

Rachel Weber, a professor of urban planning at University of Illinois-Chicago, who has studied TIFs, said the Lyons plan is “exploiting the letter of the law.”

“The method they are going about it is that they are artificially deflating the value by public hands,” Weber said. “That’s a little strange.”

Koulouris, the property owner, declined to comment.

Family, allies on public payroll

Wedged in between the Stevenson Expressway and affluent Riverside, Lyons’ population is half Hispanic with a median household income 23% below the rest of Illinois, census data show.

To close a budget shortfall, Getty in 2014 won approval for a ballot referendum that led to an increase in the combined sales tax rate in Lyons from 8% to 10%. About the same time, Getty’s government laid off seven full-time police officers, about one-third of its force.

But even in the face of such financial distress, a village board packed with members of the mayor’s political party who routinely back his measures moved to dramatically hike their own taxpayer-funded salaries as well as give themselves taxpayer-funded health insurance for what are part-time positions.

Getty’s pay as mayor and liquor commissioner started at \$10,000 in 2009 but will soon reach \$70,000 under the schedule of raises approved by the village board. In 2014, he successfully pushed a ballot referendum, passed easily amid low-voter turnout, that did away with term limits for elected village officials.

And being mayor is not Getty's only public job. In 2017, he ran without opposition to become supervisor of sprawling Lyons township, which covers all or parts of 17 suburbs.



Ivica "Otis" Lazich (left), Lyons deputy director of public works, was a member of the crew former Lyons Mayor Ken Getty (right) organized more than a decade ago to retake the village government. (Casey Toner/BGA)

Not long after assuming the mayor's office, Getty returned his father to the public payroll as the chairman of the Lyons zoning appeals board, a post that pays \$4,500 a year, to oversee a handful of meetings, public records show. The elder Getty was convicted in 1998 on 21 counts of mail fraud and money laundering in a bid-rigging scheme prosecutors said netted \$179,000 for Ken Getty and two accomplices, according to court records and news reports.

The village under Chris Getty also hired his brother, Ken T. Getty, as a financial analyst, a job that last year earned him nearly \$60,000 in wages and benefits, payroll records show. The brother also for several years has held another taxpayer-funded job with the Lyons Township Trustee of Schools, an agency with a history of controversy that manages money for more than a dozen west suburban school districts, according to public records. Last year, Ken T. Getty was promoted at the school agency to a \$140,000-a-year supervisory post.

The Getty family insurance business also has historically benefitted under Chris Getty's rule. Bars whose liquor licenses he oversees as liquor commissioner bought insurance from the agency until he promised in 2011 that the firm would stop the sales after a critical news report.

The mayor's political allies also have joined Getty in being part of the Lyons village government, records show. Local barber Bryan McPherson, who in 2014 collected signatures for Getty's political organization, holds a paid spot alongside Getty's father on the zoning appeals board.

McPherson rents an apartment and barber shop from the village, which purchased the buildings for \$250,000 from yet another Getty donor, according to village records. The village charges McPherson less than \$1,000 per month in combined rent for the apartment and barbershop.

Paul Marchiori, a village board member and former Getty precinct captain, voted along with the rest of the board in 2016 to have Lyons purchase another local building for \$120,000. The current tenant? Marchiori, who pays \$1-a-month in rent to house a non-profit that trains service dogs for veterans.

Getty recently re-gained political control of school District 103, the largest employer in town with 360 workers. Campaign funds controlled by Getty allies spent nearly \$20,000 — an unusually large sum in a small suburban election — to elect a slate of four candidates to the school board last month that included a village building inspector, the wife of another village inspector, and a sister of the village clerk, election records show.

This marks the second go-around of Getty control at District 103, which spends nearly \$31 million annually and, in the past, employed and extended contracts to individuals who were Getty political supporters.

One supporter was Ryan Grace, a former Getty campaign chairman, who became the district's maintenance director, according to news reports. Another was Marty Stack, once a Chicago city lawyer under former Mayor Richard M. Daley, hired as the

district's human resources director.

“When people win elections, they have the right to put people in who will put forth their platform and policies,” said Stack, now the lawyer for Getty's police and fire commission. “That's what politics is about at some level.”

Winifred Rodriguez, Vito Campanile, Olivia Quintero and Jorge Torres are sworn in on April 30 as Lyons Elementary School District 103 board members. Campaign funds controlled by allies of Lyons Mayor Chris Getty spent nearly \$20,000 to elect the four to the board. (Casey Toner/BGA)

Getty's spending on the school races represented just a fraction of his campaign power in the western suburbs. As of last month, campaign funds controlled by Getty or run by his allies held more than \$428,000 in the bank, according to state election records. That's a political war chest greater than that held by the mayors of neighboring Brookfield, Cicero, Forest View, North Riverside, Riverside and Stickney combined, and serves as a formidable source of clout filled largely with donations from Lyon's village contractors.

Over Getty's decade as mayor, his biggest financial benefactor has been Reliable Materials Lyons, the firm that operates an in-town quarry turned landfill. Reliable and its executives have donated \$103,000 to Getty over that time frame, records show.

Bill Ruting, a longtime resident and former village board member, has become a critic of the town's Chicago-style politics. He says not much happens in Lyons without the mayor's knowledge and blessing.

“You just get a sense that if you want to do business in Lyons you do it through Chris Getty,” he said.

EDITOR'S NOTE: A founding partner in a law firm that works for many Illinois municipalities, including Lyons, shares sports tickets with the reporter for Fox 32 who reported on this story. Neither the attorney nor any member of the firm were sources for this story.

EXHIBIT C

Township Trustees of Schools vs. Lyons Township High School

No. 13 CH 23386

Kelly A. Bradshaw

10/25/2016

TRANSCRIPT AND WORD INDEX

CASALE REPORTING SERVICE, INC.

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Page 1

Page 3

1
2 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
3 COUNTY DEPARTMENT - CHANCERY DIVISION
4 TOWNSHIP TRUSTEES OF)
5 SCHOOLS TOWNSHIP 38 NORTH)
6 RANGE 12 EAST,)
7 Plaintiff,)
8 -vs-) Case No. 13 CH
9 LYONS TOWNSHIP HIGH SCHOOL) 23386
10 DISTRICT 204,)
11 Defendant.)
12
13 The deposition of KELLY A. BRADSHAW,
14 called by the Defendant for examination, taken
15 pursuant to the provisions of the Code of Civil
16 Procedure and the Rules of the Supreme Court of the
17 State of Illinois pertaining to the taking of
18 depositions for the purpose of discovery, taken
19 before SHARON A. STUCKLY, a Notary Public within and
20 for the County of Cook, State of Illinois and a
21 Certified Shorthand Reporter of said state at 20
22 North Clark Street, Suite 2500, Chicago, Illinois,
23 on the 25th day of October A.D. 2016 at 1:05 p.m.
24

Page 2

1 PRESENT:
2
3 MILLER, CANFIELD, PADDOCK and STONE, PLC,
4 by
5 MR. BARRY P. KALTENBACH
6 225 West Washington Street, Suite 2600
7 Chicago, Illinois 60606
8 (312) 460-4251
9 kaltenbach@millercanfield.com
10 Appeared on behalf of the Plaintiff;
11
12 HOFFMAN LEGAL, by
13 MR. JAY R. HOFFMAN
14 20 North Clark Street, Suite 2500
15 Chicago, Illinois 60602
16 (312) 899-0899
17 jay@hoffmanlegal.com
18 Appeared on behalf of the Defendant.
19
20 ALSO PRESENT:
21
22 MR. RANDALL D. WILSON.
23
24

I N D E X

3	WITNESS	EXAMINATION
4	KELLY A. BRADSHAW	
5	By Mr. Hoffman	4
6		
7	E X H I B I T S	
8	NUMBER	MARKED OR FIRST REFERRED TO
9	Bradshaw Deposition Exhibit	
10	No. 1	55
11	No. 2	56
12	No. 3	62
13	No. 4	105
14	No. 5	116
15	No. 6	116
16	No. 7	126
17	No. 8	126
18	No. 9	138
19		
20		
21		
22		
23		
24		

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1 (WHEREUPON, the witness was duly sworn.)
2 KELLY A. BRADSHAW,
3 called as a witness herein, having been first duly
4 sworn on oath, was examined and testified as follows:
5 EXAMINATION
6 BY MR. HOFFMAN:
7 Q All right. Would you be so kind as to
8 state your full name?
9 A Kelly Ann Bradshaw.
10 Q All right. And at what address can we
11 reach you?
12 A 1115 Daisy Lane in Naperville, Illinois.
13 Q Is that your home residence?
14 A Yes.
15 Q What's your zip code?
16 A 60564.
17 Q All right. Terrific. Have you ever
18 given a deposition before?
19 A No.
20 Q All right. And Barry Kaltenbach is the
21 gentleman seated to next to you. And is it fair to
22 say that he is representing you as your attorney at
23 this deposition?
24 A Yes.

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1 MR. HOFFMAN: Barry, I believe you
2 represented to the court in writing that there were
3 no other analyses done for other districts. I will
4 go back and take a look. But without question --
5 MR. KALTENBACH: Let him make a
6 statement.
7 MR. HOFFMAN: -- without question, we
8 want to see those and those should have been given
9 to us and we have a pending motion to compel and
10 order granting the motion to compel.
11 And obviously I would like to ask
12 Miss Bradshaw questions about those documents that
13 I've never seen.
14 So I'm not going to argue with you about
15 it now because that's a waste of everyone's time,
16 but I am going to note for the record that we should
17 have received those and that I reserve my right to
18 recall this witness to ask questions about that
19 subject.
20 MR. KALTENBACH: That's fine. You can
21 note that for the record. I'm not going to respond
22 substantively. I'm not saying I agree. I'm not
23 saying I disagree.
24 MR. HOFFMAN: Okay. Fair enough.

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1 BY MR. HOFFMAN:
2 Q Who chose the 1994 through 2012 time
3 period?
4 A That's the information that was
5 available in their general ledger system.
6 Q What records are there of the TTO prior
7 to the 1994-1995 fiscal year?
8 A They all would be handwritten green bar
9 files.
10 Q Why did you decide that those
11 handwritten green bar files were not files that you
12 should review for years prior to fiscal year 1995?
13 A I didn't decide anything. We just -- in
14 the conversation with Mr. Theissen, he said to use
15 the information that was available in the general
16 ledger.
17 Q The information that was available in
18 the general ledger was computerized, correct?
19 A Correct.
20 Q So starting in 19 -- starting in --
21 would it be easier and would it be fair -- I see in
22 your interest allocation analysis you refer to
23 fiscal year 1995. And that refers to the fiscal
24 year that starts in 1994 and ends July 30, 1995,

1 correct?
2 A Yes.
3 Q Okay. So just so we can --
4 MR. KALTENBACH: June 30th. You said
5 July. He said it wrong and you heard it wrong.
6 BY MR. HOFFMAN:
7 Q Sorry. My mistake. And, Barry, thank
8 you for correcting. I appreciate that.
9 So fiscal year 1995 as stated in your
10 interest allocation analysis means July 1, 1994,
11 through June 30, 1995, correct?
12 A Yes.
13 Q So is it okay when I ask you questions
14 about this if I refer to that year as fiscal year
15 1995 just like you did?
16 A Yes.
17 Q As a shorthand. Okay. So in order to
18 examine fiscal year 1994 and earlier years and the
19 interest paid to the districts in those years, you
20 would have had to go to handwritten documents rather
21 than computerized records for the general ledger,
22 correct?
23 A 1994 was reviewed as well, but it didn't
24 meet the criteria of a difference.

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1 Q So you -- why did you review 1994?
2 A Because it was also in the general
3 ledger.
4 Q So when you say, "the criteria of a
5 difference," what does that mean, that it was --
6 A So through discussions with Mr. Theissen
7 he decided that if a difference was plus or minus a
8 thousand dollars in any given quarter that it wasn't
9 significant enough to be called a difference. It
10 could have been a rounding or an estimate error.
11 Q What is the accounting basis of that
12 determination?
13 A It's just a business call. It wasn't an
14 accounting determination.
15 Q Do you think that's one that makes sense
16 to you?
17 A I do. I do. It's a di minimus amount.
18 Q Okay. And even if that di minimus
19 amount would have favored District 204, you ignored
20 it in your analysis, correct?
21 A It was not compiled as a total
22 difference. Yes.
23 Q So if District 204 in any one quarter
24 got \$999 less than you determined that they should

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1 have, you ignored that amount, correct?
2 A Yes.
3 Q Okay. And in 1994, there was no
4 significant difference in any of the quarters in
5 1994, right?
6 A There was not.
7 Q And how do you know that? What are you
8 looking at?
9 A I'm looking at the last page of
10 Exhibit 3. And you can see that there are
11 four quarters for fiscal 1994 referred to. One was
12 a 15 cent difference, one was \$130 difference, a 32
13 cent difference and 18 cent difference.
14 Q So for the fiscal year 1994, you had to
15 actually go back and look at hard copy green bar
16 files to determine what the general ledger had for
17 interest payments?
18 A I did not. Fiscal '94 was also in the
19 general ledger.
20 Q I see. So the general ledger started in
21 fiscal year 1994?
22 A Yes. That was the first full year of
23 activity.
24 Q So why isn't -- okay. So you actually

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1 reviewed fiscal year 1994 through 2012, correct?
2 A I did. Yes.
3 Q And then you left fiscal year 1994 off
4 of the summary page because there was no significant
5 difference for that year?
6 A Correct.
7 Q Okay. Why didn't you go back and -- as
8 long as you were going all the way back to 1994, why
9 didn't you also go back to 1993 and 1992 and 1991
10 and 1990 as far back as the records would go?
11 A I wasn't asked to do that.
12 Q Who told you not to do that or who
13 limited your analysis to the fiscal year 1994 and
14 subsequent years?
15 A Mr. Theissen decided the time period
16 that we would be doing the work for.
17 Q And did he tell you the basis for his
18 decision on the time period?
19 A No.
20 Q Did he tell you that it would have taken
21 too much time and effort to look at 19 -- fiscal
22 year 1993 and prior years?
23 A No.
24 Q Okay. Would it have taken that much

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1 more time even though the interest -- even though
2 the general ledger for fiscal year 1993 and prior
3 years was on hard copy, it wouldn't have taken any
4 significantly more time to analyze those years than
5 looking at the electronic records of the general
6 ledger for subsequent years, right?
7 A Yes, it would.
8 Q It would?
9 A Yes.
10 Q How much more time would it take?
11 A I can't speak to it because I didn't
12 look through them, but it's paper documents that
13 you'd have to flip through versus being able to run
14 a specific report for the criteria that you're
15 looking for.
16 Q Do you have any opinion as to whether or
17 not District 204 was paid the right amount by the
18 TTO in fiscal year 1993 and prior years?
19 A I have no way to speak to that.
20 Q Do you have any knowledge as to -- did
21 anyone ever tell you how far back the TTO legally
22 can go in terms of reaching back to claw back money
23 from District 204?
24 A No. I don't know.

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1 Q Okay. But you're not aware of anything
2 that would limit its ability to go back to 1994 and
3 no further back, are you?
4 A I can't speak to what records are
5 available prior to that time.
6 Q What I'm asking you is you don't have
7 any reason to believe that somehow the TTO is
8 limited in its recovery as to only 1994 and that it
9 couldn't make the same claim as to prior years,
10 right? You don't know anything about that?
11 A I don't know.
12 Q Okay. Fair enough. Did Mr. Theissen
13 tell you why he only wanted you to go back to 1994?
14 Was it because the general ledger was electronic
15 only as to those years or did he just not give you a
16 reason?
17 A I can't recall. I mean we talked about
18 what was available electronically, but I don't know
19 if that was the determining factor or not.
20 Q Okay. Do you have any understanding --
21 now, you've prepared an analysis that claims that
22 the TTO overpaid District 204 in interest earnings
23 in the amount of over \$1.5 million for the 1995 to
24 2012 time period, correct?

The discovery deposition of JAMES MARTIN, taken before MAUREEN A. WOODMAN, a Certified Shorthand Reporter and Notary Public in and for the County of Cook and State of Illinois, pursuant to the Illinois Code of Civil Procedure and the Rules of the Supreme Court thereof, pertaining to the taking of depositions for the purpose of discovery at 20 North Clark Street, Chicago, Illinois, on March 30, 2017, at the hour of 1:00 o'clock p.m.

<p style="text-align: right;">Page 70</p> <p>1 Q. So it wasn't just taking the total of</p> <p>2 a million dollars for that particular quarter,</p> <p>3 figuring out a percentage allocation and using</p> <p>4 that number, you actually used the number that</p> <p>5 Healy came up with on his sheet, right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Now, in some of the sheets</p> <p>8 there were little side calculations where, for</p> <p>9 one or more of the districts, he did an</p> <p>10 additional analysis as to interest income. Do</p> <p>11 you remember seeing those?</p> <p>12 A. Not specifically, no.</p> <p>13 Q. I don't need to ask you what you did</p> <p>14 in that circumstance, do I?</p> <p>15 MR. KALTENBACH: Objection. Argumentative</p> <p>16 and form.</p> <p>17 BY MR. HOFFMAN:</p> <p>18 Q. You say you don't remember seeing any</p> <p>19 Healy handwritten notes in which there was a</p> <p>20 little sidebar or adjacent analysis on finances</p> <p>21 for one or more of the districts in addition to</p> <p>22 the straight allocation of a distribution,</p> <p>23 right?</p> <p>24 A. Not offhand, no.</p>	<p style="text-align: right;">Page 72</p> <p>1 received from your counsel.</p> <p>2 It's an Excel spreadsheet that we</p> <p>3 printed out on paper and the title is Other</p> <p>4 Districts' Comparison, right?</p> <p>5 A. Yes.</p> <p>6 (WHEREUPON, said</p> <p>7 document was marked as</p> <p>8 Martin Deposition</p> <p>9 Exhibit No. 5 for</p> <p>10 Identification.)</p> <p>11 BY MR. HOFFMAN:</p> <p>12 Q. Is there a document you created?</p> <p>13 A. This was created by actually Mike</p> <p>14 Maloziec, but I'm familiar with what this is</p> <p>15 and what he did on it.</p> <p>16 Q. What is it and what did he do?</p> <p>17 A. He took the general ledger journal</p> <p>18 entries for interest ascribed to other</p> <p>19 districts, other than 204, and compared that to</p> <p>20 the Healy notes.</p> <p>21 Q. For what periods of time did he</p> <p>22 perform this analysis?</p> <p>23 A. Well, he didn't get all the way</p> <p>24 through with this. As you can see, there's</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. So if I ask you what you did when</p> <p>2 there was a little sidebar like that, what are</p> <p>3 you going to tell me?</p> <p>4 MR. KALTENBACH: I'm going to object. I</p> <p>5 think that -- form of the question.</p> <p>6 BY MR. HOFFMAN:</p> <p>7 Q. So you don't remember there being any</p> <p>8 separate calculation in Healy's notes in any</p> <p>9 given quarter, therefore you don't remember</p> <p>10 having to deal with the problem of what do I do</p> <p>11 when there's a little side calculation set</p> <p>12 forth?</p> <p>13 A. Yeah, I'm not familiar with those</p> <p>14 notes you're describing, so...</p> <p>15 Q. Did you personally go through all of</p> <p>16 Healy's notes?</p> <p>17 A. Yes.</p> <p>18 Q. And you don't remember seeing in any</p> <p>19 of them a side calculation relating to one or</p> <p>20 more districts in addition to the total</p> <p>21 distribution across the districts that they all</p> <p>22 have?</p> <p>23 A. Not as I sit here today, no.</p> <p>24 Q. Sir, this is one of the documents we</p>	<p style="text-align: right;">Page 73</p> <p>1 some that are the -- where they're blank.</p> <p>2 Basically it is the ones that show the big</p> <p>3 difference on the right he didn't get to yet.</p> <p>4 The ones that don't have the full fund balance</p> <p>5 filled in. But it was really from 2005 through</p> <p>6 2012.</p> <p>7 Q. So why wasn't there any comparison</p> <p>8 done prior to 2005?</p> <p>9 A. Well, I mean, again, this was</p> <p>10 to -- this was just to show that the districts</p> <p>11 weren't also getting ascribed additional funds,</p> <p>12 but we just started it with 2005 to 2012, just</p> <p>13 a starting point.</p> <p>14 Q. Why did you pick 2005?</p> <p>15 A. 2005 was a breaking point it seemed</p> <p>16 from the district that looked like there was</p> <p>17 like a system that was implemented or something</p> <p>18 because there were two sets of reports, there</p> <p>19 was a set prior to that and then a set after</p> <p>20 that.</p> <p>21 Q. Did you not have this data for 2004</p> <p>22 and earlier years?</p> <p>23 A. Yes, we did.</p> <p>24 Q. So when you say it is a break point,</p>

<p style="text-align: right;">Page 74</p> <p>1 what do you mean by that?</p> <p>2 A. There was one set of reports would go</p> <p>3 through 2005 and then 2005 was another set of</p> <p>4 reports. Either stored in different archive or</p> <p>5 from a different system or something.</p> <p>6 Q. And so you for districts -- the very</p> <p>7 top is an analysis of one particular quarter</p> <p>8 for all the districts, October 31st, 2011,</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. And then you go through and for</p> <p>12 Districts 101, 102 you run from late 2005</p> <p>13 through mid 2012, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And then for all of the other</p> <p>16 districts, you do late 2005 through early 2008,</p> <p>17 correct?</p> <p>18 A. I'm not following where you are.</p> <p>19 Q. Turn to the second page, middle.</p> <p>20 Starting with District 103, that runs -- you</p> <p>21 got data that runs from 10/1/05 through</p> <p>22 1/31/08. Do you see that?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And then all of the remaining</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Well, are districts supposed to be</p> <p>2 getting extra interest?</p> <p>3 A. They're not supposed to get interest</p> <p>4 out of proportion with what the other districts</p> <p>5 receive.</p> <p>6 Q. What did you interpret the extra in</p> <p>7 the general ledger to mean?</p> <p>8 A. I didn't interpret it. We noted it</p> <p>9 for follow up.</p> <p>10 Q. Did you follow up on that?</p> <p>11 A. Certainly will at the correct time,</p> <p>12 yes.</p> <p>13 Q. You're being deposed now, and your</p> <p>14 expert report was due March 15th. When would</p> <p>15 the correct time be?</p> <p>16 A. Well, this would be -- again, the</p> <p>17 purpose of this analysis was to show that the</p> <p>18 other districts weren't also getting interest</p> <p>19 out -- weren't getting additional interest at</p> <p>20 the time that 204 was.</p> <p>21 Q. You just told me in the tenth line, or</p> <p>22 thereabouts, about the tenth row, there's extra</p> <p>23 interest, according to the general ledger, paid</p> <p>24 to District 109, right?</p>
<p style="text-align: right;">Page 75</p> <p>1 districts only go through that same time</p> <p>2 period, just late 2005 through the first month</p> <p>3 of 2008.</p> <p>4 A. Yes.</p> <p>5 Q. And it was your opinion that this was</p> <p>6 a sufficient sample to prove your point?</p> <p>7 A. Yes.</p> <p>8 Q. And let me ask you, why are some of</p> <p>9 the cells highlighted in yellow?</p> <p>10 A. Those were things that were on there</p> <p>11 that we had a question for follow-up on. So,</p> <p>12 for example, there's an entry, you can see the</p> <p>13 note over there, you know, just, for example,</p> <p>14 the first one for District 109, if you look at</p> <p>15 the GL, there's an entry that says extra. Some</p> <p>16 of these other ones say interest without being</p> <p>17 quarterly interest.</p> <p>18 Q. Let's start with that one. When you</p> <p>19 say there's something that says extra, what is</p> <p>20 that?</p> <p>21 A. If you look at the GL for District 109</p> <p>22 for 2011, again, each one of those is a 15-page</p> <p>23 report, but in all the detail in there, there</p> <p>24 is one entry that says extra.</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Well, no, I don't know if that's extra</p> <p>2 interest paid to them. There's an entry that</p> <p>3 says extra that I didn't know what it was.</p> <p>4 Q. Did you attempt to find out?</p> <p>5 A. Not yet, no.</p> <p>6 Q. When are you planning on doing that?</p> <p>7 A. At some point we'll report that to the</p> <p>8 trustee's office.</p> <p>9 Q. Why didn't you do it before today so</p> <p>10 that we could talk about it?</p> <p>11 A. I don't know.</p> <p>12 Q. You spent \$120,000 in fees on this.</p> <p>13 How come there's work that still has to be</p> <p>14 done?</p> <p>15 MR. KALTENBACH: I object as argumentative.</p> <p>16 BY MR. HOFFMAN:</p> <p>17 Q. You can answer.</p> <p>18 A. Well, I guess we'd have to report that</p> <p>19 to the trustee's office.</p> <p>20 Q. How much extra did -- how much is the</p> <p>21 amount described as extra, whatever that means,</p> <p>22 for 109 and -- for District 109 on the</p> <p>23 10/31/2011 quarter, what's the extra amount?</p> <p>24 A. I don't know. I'd have to pull that</p>

<p style="text-align: right;">Page 78</p> <p>1 sheet to see.</p> <p>2 Q. Was it a large amount of money? This</p> <p>3 is highlighted, it's noted as a problem, you</p> <p>4 say you're going to follow up with it, yet at</p> <p>5 the same time you're testifying that none of</p> <p>6 the other districts got more than they</p> <p>7 deserved.</p> <p>8 A. Well --</p> <p>9 Q. I want to know. I want to know how</p> <p>10 much. How much money are we talking about</p> <p>11 approximately?</p> <p>12 MR. KALTENBACH: I'm objecting as a series</p> <p>13 of compound questions.</p> <p>14 BY MR. HOFFMAN:</p> <p>15 Q. How much money are we talking about in</p> <p>16 this quarter for District 109 as an extra</p> <p>17 payment, roughly?</p> <p>18 A. Roughly it would be the 57,000.</p> <p>19 Q. And you have no understanding why</p> <p>20 there would be an entry in the general ledger</p> <p>21 for District 109 for this quarter stating there</p> <p>22 was an extra 57,000, you don't know?</p> <p>23 A. That's correct.</p> <p>24 Q. And let's say you follow up on this,</p>	<p style="text-align: right;">Page 80</p> <p>1 for a quarter in 2007 for District 101. What's</p> <p>2 the significance of that?</p> <p>3 A. Well, that's again the difference</p> <p>4 between the total, according to the GL we were</p> <p>5 provided, and the Robert Healy sheet.</p> <p>6 Q. Does that indicate that for this</p> <p>7 quarter, District 101 received \$49,000 too</p> <p>8 little?</p> <p>9 A. That could be one possible thing for</p> <p>10 this.</p> <p>11 Q. Well, what's your -- having looked at</p> <p>12 all these records and investigated this as</p> <p>13 thoroughly as you did, what's your belief and</p> <p>14 opinion as to what this \$49,000 figure</p> <p>15 represents?</p> <p>16 A. Well, I didn't investigate this that</p> <p>17 thoroughly.</p> <p>18 Again, this sheet was prepared</p> <p>19 because in those periods where District 204 was</p> <p>20 being ascribed interest out of formula against</p> <p>21 the other districts, I was trying to determine</p> <p>22 that there wasn't just some other mass interest</p> <p>23 payment that was properly ascribed to all the</p> <p>24 other districts.</p>
<p style="text-align: right;">Page 79</p> <p>1 as you say you will, how are you going to do</p> <p>2 that? Whom are you going to ask? What are you</p> <p>3 going to do?</p> <p>4 A. I would ask the trustee's office to</p> <p>5 say here is an entry that we came across during</p> <p>6 our analysis of the 204 misallocations, that</p> <p>7 possibly is another misallocation as well, and</p> <p>8 they can resolve that accordingly.</p> <p>9 Q. But whom would you speak with to get</p> <p>10 more information given that Healy's in jail,</p> <p>11 and he was the only one involved in the</p> <p>12 interest determinations in 2011?</p> <p>13 A. Well, I wouldn't really investigate</p> <p>14 that. I would point that out as another</p> <p>15 anomaly to the -- it was something we noted in</p> <p>16 our analysis that's, again, not related to the</p> <p>17 scope of the 204 analysis, but we noted it, and</p> <p>18 I just noted it on our summary here.</p> <p>19 Q. How many other similar sort of</p> <p>20 anomalies did you find?</p> <p>21 A. There's a few.</p> <p>22 Q. Okay. And further down on page one of</p> <p>23 Martin Exhibit 5, there's another highlighted</p> <p>24 cell, and it has a negative 49,383.38. This is</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. How could District 101 in the quarter</p> <p>2 ending 4/31/2007 get about \$49,000 too little</p> <p>3 when, say, District 103 in the same quarter got</p> <p>4 what you regard as the right amount of</p> <p>5 interest? In other words, the general ledger</p> <p>6 and Healy's notes match up for District 103 for</p> <p>7 that quarter but not for District 101. How do</p> <p>8 you explain that?</p> <p>9 A. I don't have an explanation.</p> <p>10 Q. Doesn't that suggest for some quarters</p> <p>11 and some districts, the allocation did not go</p> <p>12 according to the -- the notes -- the amounts in</p> <p>13 the Healy notes, the actual general ledger</p> <p>14 entries don't match up for districts other than</p> <p>15 District 204?</p> <p>16 A. No, I wouldn't conclude that.</p> <p>17 Q. Well, isn't that exactly what this</p> <p>18 line says for this quarter for District 101?</p> <p>19 And it doesn't -- it's not shown up in other</p> <p>20 districts for that quarter, right?</p> <p>21 A. I didn't see it in any other quarter.</p> <p>22 Q. Take a look. The 4/31/07 quarter</p> <p>23 where you note an underpayment to District 101</p> <p>24 of 49,000. You don't note underpayments to any</p>

<p style="text-align: right;">Page 82</p> <p>1 other districts in that quarter, do you?</p> <p>2 A. Nope, I don't see any.</p> <p>3 Q. How do you explain that then?</p> <p>4 A. I don't explain that.</p> <p>5 Q. Did you read in Bob Healy's deposition</p> <p>6 transcript the statement he made that</p> <p>7 he -- strike that. We'll get to his deposition</p> <p>8 later.</p> <p>9 Let's go to page -- these pages</p> <p>10 aren't numbered, but -- the numbers are very</p> <p>11 small and I'm old. Go to page four. For</p> <p>12 District 106.5 on the far column, you see that</p> <p>13 \$200,000 number?</p> <p>14 A. Yes.</p> <p>15 Q. What is that?</p> <p>16 A. I think that's just a typo or</p> <p>17 something, because it should be the difference</p> <p>18 between those two things. It's just a stray</p> <p>19 number, I think.</p> <p>20 Q. It's a stray number. Okay.</p> <p>21 And then on page six for District</p> <p>22 109, the very first quarter, why is there a</p> <p>23 highlighted -- why is there a highlighted cell</p> <p>24 for 67,878, and then it says interest on</p>	<p style="text-align: right;">Page 84</p> <p>1 right?</p> <p>2 A. It would depend on the context of what</p> <p>3 the line actually said.</p> <p>4 Q. What if it just said interest?</p> <p>5 A. Again, I would have to look at</p> <p>6 specific cases.</p> <p>7 Q. I'm asking you about your methodology,</p> <p>8 and I'd like a straight answer. What did you</p> <p>9 include in your methodology? I know you</p> <p>10 included quarterly interest. Did you include</p> <p>11 some line item in the general ledger where it</p> <p>12 just said interest?</p> <p>13 MR. KALTENBACH: I object as argumentative</p> <p>14 and compound. You can answer.</p> <p>15 THE WITNESS: I'd have to look at specific</p> <p>16 cases or not. It would depend on going through</p> <p>17 the general ledger detail and seeing what the</p> <p>18 line entry said.</p> <p>19 BY MR. HOFFMAN:</p> <p>20 Q. Let's say it says interest transfer.</p> <p>21 What did you do with a line entry that says</p> <p>22 that and only that?</p> <p>23 A. Interest transfer, I would see if</p> <p>24 there was offset somewhere else in the document</p>
<p style="text-align: right;">Page 83</p> <p>1 reserve 10,806? What is that?</p> <p>2 A. On the general ledger sheet there's a</p> <p>3 line that says interest on reserve.</p> <p>4 Q. Yes.</p> <p>5 A. For that amount.</p> <p>6 Q. Was that amount something you included</p> <p>7 or didn't include?</p> <p>8 A. That amount -- that amount is not</p> <p>9 included here.</p> <p>10 Q. Why is that amount not included?</p> <p>11 Because for District 204 you included things</p> <p>12 that just said interest even if it didn't say</p> <p>13 quarterly interest, didn't you?</p> <p>14 A. No, I think in 204 it was all items</p> <p>15 that said quarterly interest or -- quarterly</p> <p>16 interest or additional interests that were</p> <p>17 noted as being in the quarterly columns.</p> <p>18 Q. You understand the districts got</p> <p>19 interest from a variety of different sources,</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. If something just said interest for</p> <p>23 District 204, or one of the other districts in</p> <p>24 the general ledge, you would not include that,</p>	<p style="text-align: right;">Page 85</p> <p>1 in that month.</p> <p>2 Q. Would you regard a positive number for</p> <p>3 interest transfer as being quarterly interest</p> <p>4 from the investment income?</p> <p>5 A. Again, if it wasn't offset somewhere,</p> <p>6 it should have -- if an interest transfer</p> <p>7 should have been offset within those periods.</p> <p>8 Q. That wasn't my question. My question</p> <p>9 is: As a general ledger entry for an interest</p> <p>10 transfer, is that included in your quarterly</p> <p>11 interest analysis or excluded?</p> <p>12 A. I can't answer in general on that. It</p> <p>13 would depend on -- would depend on the actual</p> <p>14 entry within the general ledger.</p> <p>15 Q. What if it only say interest transfer</p> <p>16 and nothing else? How would you know that was</p> <p>17 quarterly interest?</p> <p>18 A. Well, again, it would be looking at</p> <p>19 the -- it would be looking at the entries there</p> <p>20 and seeing the context of the entries.</p> <p>21 Q. Okay. There's two more highlighted</p> <p>22 cells on page six for District 109. One talks</p> <p>23 about an additional interest of 9,566. What's</p> <p>24 that what about?</p>

<p style="text-align: right;">Page 86</p> <p>1 A. That, again, was a line in there that 2 said additional interest. 3 Q. How come you didn't include it and add 4 it to the 73,110 figure that's highlighted? 5 A. Well, because it's noted in the 6 right-hand column. 7 Q. But if there was an additional 8 interest -- you certainly had no problem adding 9 it to District 204's total when you thought 10 there was additional interest paid to them. 11 Why didn't you do it for 109? 12 A. I'm not calculating an amount of 13 differential for District 109. 14 Q. So how can you come up with 73,110 as 15 the sum of Healy's note -- as the sum of the 16 general ledger entries when, in fact, it's 17 9,566 higher? 18 Why did you make the numbers 19 match when, in fact, they don't match? 20 A. Again, it's noted in the right-hand 21 column that that is an amount that's shown on 22 that ledger sheet for that quarter. 23 Q. Why didn't you add the additional 24 interest to the general ledger total?</p>	<p style="text-align: right;">Page 88</p> <p>1 there was additional interest paid to District 2 109 in a particular quarter based on the 3 general ledger entries and your analysis 4 comparing it to Healy's notes? 5 A. I don't know. 6 Q. How come you don't know for District 7 109, but you have no doubt about District 204's 8 overpayments? 9 A. Again, I wasn't looking at calculating 10 the sum differential for District 109. 11 Q. I'm looking at that one particular 12 quarter entry. The amounts in the general 13 ledger are \$35,534 larger than the amount in 14 Healy's notes, correct? That's what this 15 means, yes? 16 MR. KALTENBACH: Objection. Compound. 17 BY MR. HOFFMAN: 18 Q. Correct? 19 MR. KALTENBACH: Objection. Compound. 20 MR. HOFFMAN: It is not compound. 21 MR. KALTENBACH: Don't argue with me. 22 MR. HOFFMAN: You are interrupting. You're 23 trying to obstruct this deposition. I'm sick 24 of it. It is not a compound question. Knock</p>
<p style="text-align: right;">Page 87</p> <p>1 A. Because it's in this column on the 2 right as an entry. 3 Q. With a question mark? Why does it 4 have a question mark? 5 It says additional -- if it's 6 additional interest, it's additional interest, 7 right? Why is there a question mark? 8 MR. KALTENBACH: Hold on. Objection. 9 Compound. 10 BY MR. HOFFMAN: 11 Q. Why is there a question mark next to 12 the 9,566 in additional interest for District 13 109? 14 A. Because those are items to be followed 15 up. Those are questions that were -- came to 16 our attention during the analysis. 17 Q. But you never actually did follow up 18 on that, did you? 19 A. Not yet, no. 20 Q. And then additional interest of 35,534 21 for District 109 and the quarter ending October 22 31st, 2007, do you see that? 23 A. Yes. 24 Q. Is that another instance in which</p>	<p style="text-align: right;">Page 89</p> <p>1 it off. 2 BY MR. HOFFMAN: 3 Q. Answer the question. 4 MR. KALTENBACH: Hold on. Jay, do not 5 yell. Do not raise your voice and yell. 6 MR. HOFFMAN: Barry, you are constantly 7 objecting. They are meritless objections. 8 Knock it off. 9 MR. KALTENBACH: Jay, I'll assert an 10 objection if I believe it is appropriate. And 11 if you think I'm doing that, take it to Judge 12 Hall. 13 Ask your question. Don't raise 14 your voice and yell. 15 BY MR. HOFFMAN: 16 Q. Sir, am I correct that the general 17 ledger entries for District 109 for the quarter 18 10/31/2007 total \$35,534 more than the \$92,123 19 reflected in Healy's notes? 20 A. No. 21 Q. So where is the \$34,534 in additional 22 interest coming from? 23 A. The general ledgers have a whole lot 24 of other transactions in there, as well.</p>

1 **This was just showing that**
 2 **there's one line in there that says additional**
 3 **interest 35,534. And marked for follow-up as**
 4 **something that came to our attention during**
 5 **this analysis.**

6 Q. Based on your review of a small subset
 7 of the records -- so you looked at less than
 8 two and a half years of the 1995 through 2012
 9 period for District 109, right?

10 A. Well, we looked at '5, '6 and -- yeah,
 11 half of '5, '6 and '7.

12 Q. You didn't look at half of '5, did
 13 you? You looked at one quarter?

14 A. One quarter of '5.

15 Q. That's not half, is it?

16 A. No, it's a quarter.

17 Q. And then you didn't look at half of
 18 2008 either, you looked at one quarter, right?

19 A. Yes.

20 Q. So you looked at 2006, 2007 and one
 21 quarter in 2005 and 2008, correct?

22 A. Yes.

23 Q. So that would be ten quarters, if my
 24 math is right, right?

1 BY MR. HOFFMAN:

2 Q. Isn't it true, sir -- I know there are
 3 a lot of interest statements. This is your
 4 analysis. You went through the general ledger,
 5 and you felt you were able for District 204 to
 6 determine which interest payments were
 7 quarterly interest payments from the investment
 8 pool and which were something else, right?

9 A. Yes.

10 Q. So you were able to do -- to make that
 11 same judgment and distinction for the other
 12 districts and their general ledger entries,
 13 too?

14 A. I didn't do that for the 109 entries,
 15 no.

16 Q. Somebody did this for the 109 entries,
 17 and three of the ten quarters they found
 18 additional interest payments that exceeded Bob
 19 Healy's notes, didn't they?

20 MR. KALTENBACH: Objection. Asked and
 21 answered.

22 MR. HOFFMAN: It wasn't answered.

23 MR. KALTENBACH: I don't need the
 24 commentary, Jay.

1 A. Yes, sir.

2 Q. And in three of those ten quarters for
 3 District 109 that you looked at, you found
 4 additional interest payments ranging from \$9500
 5 to \$35,000, correct?

6 A. We found transactions that were marked
 7 in the ledger with those descriptions there in
 8 those amounts.

9 Q. Did you -- that didn't answer my
 10 question. That evaded my question.

11 Isn't it true that for three of
 12 the ten quarters you looked at for District
 13 109, you found interest payments that exceeded
 14 the numbers in Bob Healy's notes as reflected
 15 in the general ledger payments?

16 A. The general ledger has a lot of other
 17 interest that's not just interest of those,
 18 there's interest on other funds, on cash
 19 balances and everything else and every period.

20 Q. That's not what I asked you. I'd
 21 appreciate a straight answer to a straight
 22 question.

23 MR. KALTENBACH: I object to the
 24 commentary.

1 THE WITNESS: No. We noted them as this is
 2 an entry that's in there with this description
 3 and this amount.

4 BY MR. HOFFMAN:

5 Q. I can read, but I'm asking you what it
 6 means.

7 Isn't it true, sir, that in three
 8 of the ten quarters that your firm looked at,
 9 there were additional interest payments beyond
 10 the amounts in Healy's notes reflected in the
 11 general ledger for District 109? Answer that
 12 question.

13 MR. KALTENBACH: Hold on. Objection. Asked
 14 and answered. Objection. Form of the
 15 question.

16 BY MR. HOFFMAN:

17 Q. You can answer.

18 A. These are three transactions that we
 19 noted as this description and this amount in
 20 there. I didn't investigate the basis for them
 21 or come to any conclusion.

22 Q. How would you investigate the basis
 23 for them?

24 A. I would need to look at the other

<p style="text-align: right;">Page 94</p> <p>1 entries in there. Look at the context of it.</p> <p>2 Q. Well, did District 109, yes, no, or I</p> <p>3 don't know, receive an overallocation of</p> <p>4 interest during the period that you looked at?</p> <p>5 A. I don't know.</p> <p>6 Q. So doesn't that necessarily mean, sir,</p> <p>7 that you do not have an opinion as to whether</p> <p>8 the other districts were under or overallocated</p> <p>9 interest during the period relevant to this</p> <p>10 lawsuit?</p> <p>11 A. No.</p> <p>12 Q. How can you have an opinion that all</p> <p>13 of the other districts were underallocated</p> <p>14 interest if you don't know whether, for</p> <p>15 example, District 109 was overallocated</p> <p>16 interest during the ten quarters you studied?</p> <p>17 A. I didn't form a conclusion on District</p> <p>18 109's entries.</p> <p>19 Q. But yet you're voicing an opinion that</p> <p>20 all of the other districts were underallocated</p> <p>21 money on interest because District 204 was</p> <p>22 overallocated, aren't you?</p> <p>23 A. Yes.</p> <p>24 Q. How can you possibly reach that</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Okay. And how did you -- there's one</p> <p>2 highlighted row on the second page. Why is</p> <p>3 that row highlighted?</p> <p>4 A. Is that highlighted in the sheet?</p> <p>5 Q. This is exactly as I received it, sir.</p> <p>6 Question is: Why is that highlighted?</p> <p>7 A. I think that was one of the rows that</p> <p>8 had a question that was a difference from -- I</p> <p>9 don't know. I don't know why that's</p> <p>10 highlighted, actually.</p> <p>11 Q. Okay. I appreciate your candor.</p> <p>12 Now, who prepared this?</p> <p>13 A. I did.</p> <p>14 Q. And tell me how you pulled</p> <p>15 these -- where did you get these numbers from?</p> <p>16 A. Those are from the -- I don't remember</p> <p>17 the name of that form.</p> <p>18 Q. The general ledger?</p> <p>19 A. General ledger 205 reports. I can't</p> <p>20 remember what they're called.</p> <p>21 Q. I'll help you. Are they called the C5</p> <p>22 Reports?</p> <p>23 A. Yes. Exactly.</p> <p>24 Q. It's Bradshaw Exhibit No. 7. They're</p>
<p style="text-align: right;">Page 95</p> <p>1 conclusion if you have no opinion as to whether</p> <p>2 during the time period you studied District 109</p> <p>3 they were under or overallocated interest?</p> <p>4 A. Those are really two completely</p> <p>5 unrelated things.</p> <p>6 MR. HOFFMAN: Okay. Let's take a couple of</p> <p>7 minutes.</p> <p>8 (Recess.)</p> <p>9 MR. HOFFMAN: Back on the record.</p> <p>10 Mark this as Exhibit No. 6.</p> <p>11 (WHEREUPON, said</p> <p>12 document was marked as</p> <p>13 Martin Deposition</p> <p>14 Exhibit No. 6 for</p> <p>15 Identification.)</p> <p>16 BY MR. HOFFMAN:</p> <p>17 Q. We marked as Martin Exhibit No. 6 a</p> <p>18 spreadsheet that we obtained from your Counsel.</p> <p>19 It says Summary Interest Income in the name of</p> <p>20 the Excel spreadsheet. Can you tell me what</p> <p>21 this document is, please?</p> <p>22 A. Yes. This is the summary of the</p> <p>23 interest allocations from the general ledger</p> <p>24 for District 204 by year.</p>	<p style="text-align: right;">Page 97</p> <p>1 also C5-1510?</p> <p>2 A. Yes.</p> <p>3 Q. These were the reports you used to get</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. And so tell me the -- in going through</p> <p>7 the general ledger, and we talked about this in</p> <p>8 general before, in going through the general</p> <p>9 ledger, there's a number of entries in the</p> <p>10 general ledger that are related to interest,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And some of them were pertinent to</p> <p>14 your analysis and some of them were not, right?</p> <p>15 A. Yes.</p> <p>16 Q. Tell me by description which ones were</p> <p>17 pertinent to your analysis and which ones were</p> <p>18 not?</p> <p>19 A. Sure. That's mostly related to the</p> <p>20 education fund, because the other funds it's</p> <p>21 pretty much just the allocated interest in most</p> <p>22 cases.</p> <p>23 But the education fund gets a lot</p> <p>24 of other interest things coming in or things</p>

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

TOWNSHIP TRUSTEES OF SCHOOLS)	
TOWNSHIP 38 NORTH, RANGE 12)	
EAST,)	
)	
Plaintiff,)	
)	
v.)	No. 13 CH 23386
)	
LYONS TOWNSHIP HIGH SCHOOL)	
DISTRICT 204,)	
)	
Defendant.)	

The deposition of MICHAEL THEISSEN taken before Loretta A. Tyska, Certified Shorthand Reporter, taken pursuant to the provisions of the Illinois Code of Civil Procedure and the Rules of the Supreme Court thereof pertaining to the taking of depositions for the purpose of discovery at 20 North Clark Street, Suite 2500, Chicago, Illinois, commencing at 1:04 p.m. on the 16th day of February, 2017.

<p style="text-align: right;">Page 102</p> <p>1 each school district.</p> <p>2 Q. Would you be concerned to learn that Kelly</p> <p>3 Bradshaw testified that where she got the amount</p> <p>4 that should have been distributed to all the</p> <p>5 districts was from Healey's own handwritten notes</p> <p>6 that I just showed you in this file, Bradshaw</p> <p>7 Exhibit Number 5?</p> <p>8 A. Would I be concerned --</p> <p>9 Q. Yes.</p> <p>10 A. -- if Kelly Bradshaw used that information</p> <p>11 in her analysis?</p> <p>12 Q. Would you be concerned if the source of</p> <p>13 information about how much interest was earned by</p> <p>14 the TTO on the district funds in every quarter came</p> <p>15 from Healey's handwritten notes and, by the way on</p> <p>16 top of that, in every single quarter was a round</p> <p>17 number every time?</p> <p>18 A. That's the soul source, you're saying she</p> <p>19 used?</p> <p>20 Q. Yes.</p> <p>21 A. The absolutely sole source?</p> <p>22 Q. Yes, sir. That's what she testified to.</p> <p>23 A. And was it equally applied to all school</p> <p>24 districts?</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Why can't you answer that question?</p> <p>2 A. Would I personally have some concern?</p> <p>3 Yes, I would have some personal concern. My bigger</p> <p>4 concern would be was the interest allocation done</p> <p>5 fairly as per the school code. That's where my</p> <p>6 bigger concern is.</p> <p>7 I'll tell you that Bob Healy was a crook.</p> <p>8 I have no problem admitting that. So if there was</p> <p>9 \$1 million and it was not allocated properly to the</p> <p>10 school districts, that's my bigger concern.</p> <p>11 Q. So isn't that a problem if Bradshaw's</p> <p>12 analysis is based solely on Healey's handwritten</p> <p>13 notes to determine how much interest should have</p> <p>14 been paid to the districts?</p> <p>15 A. No.</p> <p>16 MR. KALTENBACH: Objection to form.</p> <p>17 BY MR. HOFFMAN:</p> <p>18 Q. And why is that okay?</p> <p>19 A. Because if the basis of the analysis was</p> <p>20 applied to all school districts, I'm comfortable</p> <p>21 with that. What I'm not comfortable with -- if</p> <p>22 that's the only number she had to go for, what I</p> <p>23 would not be comfortable with is that school</p> <p>24 districts got what they were not entitled to. So if</p>
<p style="text-align: right;">Page 103</p> <p>1 Q. She looked at District 204 because that's</p> <p>2 what you told her to do.</p> <p>3 A. So what's your question to me?</p> <p>4 Q. My question, again, is: Would you be</p> <p>5 concerned that Bradshaw's sole source of information</p> <p>6 about how much interest was earned on the pooled</p> <p>7 investments in each quarter was from Healey's</p> <p>8 handwritten notes, and she never checked them</p> <p>9 against bank statements, investment records, or</p> <p>10 anything like that?</p> <p>11 A. I would have some concern for that.</p> <p>12 Q. And why would that be a concern for you?</p> <p>13 A. Because I think there would be other</p> <p>14 information she could gather from.</p> <p>15 Q. And do you think that other information</p> <p>16 would be more accurate?</p> <p>17 MR. KALTENBACH: Objection to form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I don't know that.</p> <p>20 Q. Do you have any concerns about the</p> <p>21 accuracy of Bob Healey's handwritten notes with</p> <p>22 respect to interest earned?</p> <p>23 A. I don't know. I would not know how to</p> <p>24 answer that question.</p>	<p style="text-align: right;">Page 105</p> <p>1 everybody was applied the same amount, if the pool</p> <p>2 was the same for all school districts, at that</p> <p>3 particular time I guess I cannot say I would have a</p> <p>4 problem with it. What I would have a problem with</p> <p>5 is if it was not distributed equally or properly.</p> <p>6 Q. The analysis that Kelly Bradshaw did, is</p> <p>7 it your understanding that that same analysis and</p> <p>8 the documents that she looked at as applied to the</p> <p>9 other school districts other than District 204 would</p> <p>10 show that the other districts got the amount of</p> <p>11 money that they were supposed to get or that they</p> <p>12 got less?</p> <p>13 A. Some of both. Some got more and some got</p> <p>14 less.</p> <p>15 Q. And what is the basis for that claim?</p> <p>16 A. The calculations that she showed me.</p> <p>17 Q. Well, we haven't seen them, so you</p> <p>18 describe them to me. As it relates to other</p> <p>19 districts, I've never seen them and they've never</p> <p>20 been produced. So why don't you tell me about them.</p> <p>21 What do they say?</p> <p>22 A. I don't remember at this point.</p> <p>23 Q. Well, what districts got more and what</p> <p>24 districts --</p>

1 **A. I don't know. There are 13 school**
2 **districts. I don't know them all.**
3 Q. I understand that. But they're all
4 important, aren't they?
5 **A. They're all important, every single one.**
6 Q. So how many of the districts other than
7 District 204 got more investment income than they
8 should have received during the relative period?
9 **A. I don't know that.**
10 Q. More than one?
11 **A. More than one.**
12 Q. And do you remember which ones there were?
13 **A. No.**
14 Q. And what has the TTO done about that
15 alleged overpayment of interest with respect to the
16 districts other than District 204?
17 **A. I don't think we've done anything with it**
18 **at this point.**
19 Q. Why not?
20 **A. Because there are some that are over and**
21 **there are some that are under, and as it relates to**
22 **the amounts, some of them were immaterial. They**
23 **could have been rounding errors based on the**
24 **accounting information that we had. There could**

1 **have been when it was booked, if it went over fiscal**
2 **year.**
3 Q. Well, you're speculating and you're saying
4 that some of the amounts are immaterial. Does that
5 mean some of the amounts were material?
6 **A. No. They didn't give me an amount. So if**
7 **it's \$5 over, that's a rounding error or an interest**
8 **miscalculation.**
9 Q. Well, you have a detail --
10 **A. If it's \$5 under --**
11 Q. We received a detailed analysis of your
12 claim for interest with respect to District 204.
13 And now you're telling me that there are other
14 districts that you believe got overpaid interest --
15 **A. I also said underpaid interest too.**
16 Q. I heard that.
17 **A. Okay.**
18 Q. So I'm talking about the ones that were
19 overpaid.
20 **A. Uh-huh.**
21 Q. Have you made any effort to recover that
22 money; and if not, why not?
23 **A. We have not proceeded down that path.**
24 Q. Why not?

1 **A. I think it's immaterial based on their**
2 **total fund balance.**
3 Q. How much money are we talking about that
4 was overpaid to the other districts? Give me a
5 ballpark.
6 **A. I don't remember.**
7 Q. You have no idea?
8 **A. No idea.**
9 Q. It was less than \$1,000?
10 **A. Yes, some were less than \$1,000.**
11 Q. Not some, all. All of them were less than
12 \$1,000, all of the differences?
13 **A. No.**
14 Q. Okay. Were some big?
15 **A. Well, what's big?**
16 Q. Well, any of them. You tell me. How
17 much --
18 **A. I think I just told you that I don't think**
19 **any of them were material. So if you're talking**
20 **about \$1,000 on a \$100 million portfolio, that's an**
21 **insignificant amount of money. If you're talking**
22 **about \$500 on a \$600 portfolio, that's material in**
23 **my mind.**
24 Q. You're saying that --

1 **A. So the fact -- I'm telling you the ones**
2 **that were under or over were immaterial. And if we**
3 **needed to switch -- correct those up at a future**
4 **date, we would probably try to do that.**
5 MR. KALTENBACH: You want to take a break?
6 MR. HOFFMAN: Sure. That would be great.
7 (Break from 3:18 p.m. to 3:29 p.m.)
8 BY MR. HOFFMAN:
9 Q. Sir, I'm going to show you what previously
10 was marked as Healy Exhibit 4 in this case. And I
11 believe this is the memo that you made reference to
12 involving David Sellers and Bob Healy. Am I
13 correct?
14 **A. I don't know if it was this specific one,**
15 **but if you say so.**
16 Q. This is the one that your attorney showed
17 to Bob Healy, so --
18 **A. Okay.**
19 Q. That's what I'm guessing. Why don't you
20 tell me. This is, for the record, Healy Exhibit
21 Number 4 is an August 1, 2006 email from David
22 Sellers to --
23 **A. Yes, okay.**
24 Q. -- Bob Healy, and a further August 2nd --

Township Trustees of Schools

TOWNSHIP 38 NORTH, RANGE 12 EAST

www.lyonstto.net

BOARD OF SCHOOL TRUSTEES

Michael S. Thiessen, President

Michael Dickman, Trustee

Nicholas A. Kantas, Trustee

22 Calendar Ave. STE D

LaGrange, IL 60525

Phone 708-352-4480

Fax 708-352-4417

Minutes of the Regular Meeting of the Board of Trustees of the Lyons Township School Treasurer's Office

November 30, 2020 – 6:00 P.M.

The Board of Township Trustees of Schools, Range 38 North, Range 12 East, Illinois (Lyons Township) have called a special meeting on November 30, 2020 at 6:00 P.M.

Pursuant to Governor Pritzker's Executive Order 2020-07, the special meeting will be a virtual meeting.

Microsoft Teams Virtual Meeting Information

[Click Here to Join Meeting](#)

To Join Meeting via Phone, Dial +1-872-810-3297,
and enter Conference ID: 825 527 83#

Board of School Trustees

VIRTUALLY PRESENT

ABSENT

Mr. Michael Thiessen

X

—

Mr. Michael Dickman

X

—

Mr. Nicholas Kantas

X

—

Staff Virtually Present

Mr. Kenneth T. Getty, Treasurer

Ms. Brigid Murphy, Director of Finance and Operations

Others Virtually Present

Ms. Amy Purham, Attorney

Ms. Cynthia Schilski, League of Women Voters

Ms. Kathleen Graffam, League of Women Voters

Call to Order

President Thiessen called the meeting to order at 6:00 P.M.

Pledge of Allegiance

Public Comment

Ms. Graffam read the statement below from the League of Women Voters:

“The lawsuit between Lyons High School District 204 and the TTO is finally being heard in court. Over the last 6 years of legal back and forth between the two entities over \$3,000,000 was spent in legal fees. That is \$3,000,000 in education tax dollars that is lost forever for the residents of the elementary school districts that feed into 204.

Whatever the outcome, we urge 204 and the TTO to accept the ruling and not to appeal the decision. We also urge that no other lawsuits regarding this issue be initiated.”

October 26, 2020, TTO Open Session Minutes

Motion by Trustee Dickman to approve the October 26, 2020, open session minutes as presented. **Seconded by Trustee Kantas.**

Roll Call: Ayes: Thiessen, Dickman, Kantas
Nays: None
Absent: None

Motion carried.

October 26, 2020, TTO Closed Session Minutes

Motion by Trustee Kantas to approve the October 26, 2020, closed session minutes as presented. **Seconded by President Thiessen.**

Roll Call: Ayes: Thiessen, Kantas
Nays: None
Abstained: Dickman

Motion carried.

Treasurer's Report

Treasurer Getty stated that he has been sending a significant amount of time both during the week and on weekends, preparing for the upcoming trial. He commended the staff for their continued commitment to the office and ensuring that needs of our member districts are met. Treasurer Getty also updated the Trustees on the health of TTO staff and their families since the last meeting and in relations to the Covid-19 pandemic.

Review the Lyons Township Treasurer's Financial Reports

Treasurer Getty reviewed the Lyons Township School Treasurer's financial statements with the Board of School Trustees for October 2020.

Review School Districts Official Records

Board of School Trustees discussion and review of the Lyons Township Schools and Coop's financial records for September 2020 and October 2020. Treasurer Getty noted that the Health and Dental Cooperative

NEW BUSINESS:

Review/Approval of Insurance Policy Coverage (12/01/2020 – 11/30/2021)

Motion by Trustee Dickman to approve the commercial insurance and workers compensation policy renewal beginning December 1, 2020. **Seconded by Trustee Kantas.**

Roll Call: Ayes: Kantas, Dickman, Thiessen
Nays: None
Absent: None

Motion carried.

November 30, 2020 Payables

Motion by Trustee Dickman to approve the October 26, 2020, payables in the amount \$143,834.82 as presented. **Seconded by Trustee Kantas.**

Roll Call: Ayes: Thiessen, Dickman, Kantas
Nays: None
Absent: None

Motion carried.

FY2021 Board of School Trustees Future Meeting Dates

Motion by Trustee Dickman to cancel the December 16, 2019 meeting and schedule the below future meeting dates. **Seconded by Trustee Kantas**

December 21, 2020 at 6:00 P.M.

January 25, 2021 at 6:00 P.M.

February 22, 2021 at 6:00 P.M.

March 22, 2021 at 6:00 P.M.

April 26, 2021 at 6:00 P.M.

May 17, 2021 at 6:00 P.M.

Roll Call: Ayes: Dickman, Thiessen, Kantas
Nays: None
Absent: None

Motion carried.

OLD BUSINESS:

Cook County Tax Distribution – FY2021

Treasurer Getty reported that the Cook County Board of Commissioners unanimously voted to waive for two months the 1.5 percent per month late fee on all Tax Year 2020 property taxes payable in 2021. The First Installment of 2020 taxes will be due March 2, 2021, and late fees will be waived until May 3, 2021 and the Second Installment of 2020 taxes will be due August 2, 2021, and late fees will be waived until October 1, 2021. Treasurer Getty stated that the amount of property tax collections the TTO has down approximately 1% from the same time last year. The TTO will continue to closely monitor the tax collections and distributions of property taxes by the Cook County Treasurer's Office and maintain sufficient liquidity to meet payment obligations of our member districts..

IMRF Election

As a member of the IMRF the TTO received the 2020 Official Ballot to elect the Executive Trustee for a Five-Year term to the IMRF Board. Treasurer Getty gave the Trustees a summary of each candidates' biographies that was included with the ballot and publicly available. The Trustees unanimously agreed and asked Treasurer Getty to submit the TTO's vote for DuPage County Treasurer Gwen Henry.

District 204 Litigation Update

President Thiessen informed the Trustees and wanted to place on the public record there are items to be discussed in Closed Session that may help to find closure with the litigation. The results of the discussion could cause potential action to be taken at the LTTO's December 2020 Board Meeting to help streamline litigation items and help to bring relief to the LTTO

Member Districts. Any action taken at the December 2020 Board meeting would require a vote to be taken by the Trustees in in Open Session with any opportunity for taxpayer comment. Additional trial dates have been set for 1/12/21, 1/13/21, 1/26/21, 1/27/21, 2/2/21, and 2/3/21 via Zoom. The updated Zoom information for the trial will also be posted on to the TTO Litigation page along with any new court filings.

Semi-Annual Review of Closed Session Minutes

Motion by Trustee Dickman to keep the following closed session minutes sealed:

<u>Date of Closed Meeting Minutes:</u>			
12/21/2012	3/16/2016	9/25/2017	7/29/2019
2/6/2014	4/25/2016	11/28/2017	8/26/2019
2/24/2014	6/27/2016	1/8/2018	9/23/2019
8/25/2014	8/22/2016	2/21/2018	10/21/2019
10/29/2014	9/26/2016	4/23/2018	11/25/2019
12/11/2014	10/31/2016	6/11/2018	2/6/2020
2/12/2015	11/28/2016	6/25/2018	4/27/2020
3/23/2015	1/9/2017	1/7/2019	5/18/2020
5/26/2015	3/13/2017	2/4/2019	6/22/2020
10/2/2015	4/24/2017	3/14/2019	6/30/2020
11/9/2015	5/22/2017	4/8/2019	7/30/2020
12/17/2015	6/26/2017	5/28/2019	8/24/2020
2/3/2016	8/14/2017	6/24/2019	9/28/2020

Seconded by President Thiessen.

Roll Call: Ayes: Thiessen, Dickman & Kantas

Nays: None

Absent: None

Motion carried.

Motion to suspend the Regular Meeting for the purpose of entering closed session

Motion at 6:46pm by Trustee Dickman to enter closed session under:

Illinois Open Meetings Act, (5 ILCS 120/2 (c)(11), “Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting.”

Illinois Open Meetings Act, (5 ILCS 120/2 (c)(1), “Discussion on the appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body.”

Seconded by President Thiessen.

Roll Call: Ayes: Thiessen, Dickman & Kantas
Nays: None
Absent: None

Motion carried.

Adjournment

Motion by Trustee Dickman to simultaneously adjourn the closed session and the Regular Meeting of the Board of Trustees at 7:45 P.M. **Seconded by President Thiessen.**

Roll Call: Ayes: Thiessen, Dickman & Kantas
Nays: None
Absent: None

Motion carried.

Minutes approved by:

***Minutes have been approved at the 12/21/2020 Meeting and will be signed when the current COVID-19 precautions allow

President, Michael Thiessen

Trustee, Michael Dickman

Trustee, Nicholas A. Kantas

Date: 12/21/2020

EXHIBIT G

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

TOWNSHIP TRUSTEES OF SCHOOLS)	
TOWNSHIP 38 NORTH, RANGE 12 EAST,)	
)	No. 13 CH 23386
Plaintiff and Counter-Defendant,)	
)	
v.)	Hon. Jerry A. Esrig
)	
LYONS TOWNSHIP H.S. DISTRICT 204,)	Commercial Calendar S
)	
Defendant and Counter-Plaintiff.)	(Transferred to Law)

AFFIDAVIT OF TIMOTHY B. KILREA

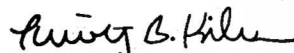
Timothy B. Kilrea states as follows:

1. I am the Superintendent of Lyons Township High School District 204.
2. On December 21, 2020, I attended the virtual meeting of the Board of the Lyons Township Trustees of Schools.
3. The minutes of that meeting are not yet posted on the TTO's website.
4. At its December 21, 2020 meeting, I heard the Board members discuss the Judge's questions at the November 17, 2020 hearing in this case, which they described as favoring the ability of the Treasurer to make 'adjustments' and 'bookkeeping corrections.' The Board decided to do a new analysis of investment income for all member districts. The Board voted in favor of a motion to direct the Treasurer to "examine/explore, in light of eventual District 204 withdrawal, income allocations to all member districts and to make corrections and adjustments for all years under litigation."
5. There was a subsequent discussion about which years were involved, and a

discussion from Mr. Getty about what he believed the Judge intended, so I cannot be certain of the exact wording of the proposal that will be reflected in the minutes.

6. Mr. Thiessen asked Mr. Getty to return with information learned and report at the January 25, 2021 TTO Board meeting.

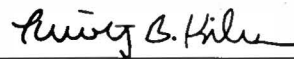
7. All of the statements in this affidavit are based on my personal knowledge. If called, I could testify competently about all of these facts.



Timothy B. Kilrea, Ed.D.

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the statements set forth in the foregoing pleading are true and correct.



Timothy B. Kilrea, Ed.D.

Township Trustees of Schools

TOWNSHIP 38 NORTH, RANGE 12 EAST

www.lyonstto.net

EXHIBIT H

BOARD OF SCHOOL TRUSTEES

Michael S. Thiessen, President

Michael Dickman, Trustee

Nicholas A. Kantas, Trustee

22 Calendar Ave. STE D

LaGrange, IL 60525

Phone 708-352-4480

Fax 708-352-4417

NOTICE

NOTICE OF A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE LYONS TOWNSHIP SCHOOL TREASURER'S OFFICE

January 25, 2020 – 6:00 P.M.

The Board of Township Trustees of Schools, Range 38 North, Range 12 East, Illinois (Lyons Township) have called a regular meeting on January 25, 2021 at 6:00 P.M.

Pursuant to Governor Pritzker's Executive Order 2020-73, the regular meeting will be a virtual meeting.

Microsoft Teams Virtual Meeting Information

[Click Here to Join Meeting](#)

To Join Meeting via Phone, Dial +1-872-810-3297,
and enter Conference ID: 491 151 869#

AGENDA

1. Call to Order & Roll Call

2. Pledge of Allegiance

3. Public Comments

4. Review/Approval of Minutes

Board of School Trustees review and approval of the Lyons Township School Treasurer's minutes of:

- December 21, 2020 – TTO Open Meeting
- December 21, 2020 – TTO Closed Meeting

5. Treasurer's Report

6. **Review the Lyons Township Treasurer's Financial Reports**

Board of School Trustees discussion and review of the Lyons Township School Treasurer's financial statements for the following months as presented:

- December 2020

7. **Review/Approval of Payables List**

Board of School Trustees approval and ratification for the payment of expenses is requested for the Lyons Township School Treasurer's payables in the amount of

- January 25, 2021 - \$ 38,316.67
 - **Total \$ 38,316.67**

8. **Review School Districts Official Records**

Board of School Trustees discussion and review of the Lyons Township Schools and Coop's financial records for:

- December 2020

NEW BUSINESS:

9. **Quarterly Investment Report – December 31, 2020**

10. **Approval of Resolution No. 2021-01 – Grant of Easement (1041 W Cossitt Ave, La Grange) on behalf of Lyons Township High School District 204**

OLD BUSINESS:

11. **Matters related to the possible withdrawal of Lyons Township High School District 204 from the Township Trustees of Schools, Township 38 North, Range 12 East, County of Cook, State of Illinois at the conclusion of FY2021**

12. **District 204 Litigation Update**

13. **Motion to suspend the Regular Meeting for the purpose of entering Closed Session**

- *Illinois Open Meetings Act, (5 ILCS 120/2 (c)(11)*, "Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting."
- *Illinois Open Meetings Act, (5 ILCS 120/2 (c)(1)*, "Discussion on the appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body."

14. **Motion to reconvene the Regular Meeting of the Board of Trustees**
15. **Action as a result of Closed Session**
16. **Adjournment**

Matters related to the possible
withdrawal of
Lyons Township High School (D204)
at the conclusion of FY2021

Lyons Township Treasurer's Office
Quarterly Average Fund Balance & Quarterly Interest Allocation Examination Summary

LTTO Member District	Total
Western Springs Elementary School District 101	\$ 450,241.42
LaGrange Elementary School District 102	\$ 891,898.86
Lyons Elementary School District 103	\$ 31,576.65
Summit Elementary School District 104	\$ (62,243.24)
LaGrange South Elementary School District 105	\$ (109,154.73)
LaGrange Highlands Elementary School District 106	\$ 236,295.40
Pleasantdale Elementary School District 107	\$ (49,097.83)
Willow Springs Elementary School District 108	\$ (3,255.89)
Indian Springs Elementary School District 109	\$ 246,079.08
Lyons Township High School District 204	\$ (1,537,045.31)
LaGrange Area Department of Special Education	\$ (341.50)
Argo Summit High School District 217	\$ 13,388.39
LTESDEBC - Dental	\$ (1,270.63)
LTESDEBC - Medical/Life	\$ (6,842.32)
West 40 - Learning Technology Center 1C	\$ 2,004.07
West 40 - Intermediate Service Center #2	\$ (69,585.74)
Puffer Hefty Elementary School District 69	\$ (32,646.67)

Lyons Township Treasurer's Office

Quarterly Average Fund Balance & Quarterly Interest Allocation Examination by Fiscal Year *(Fiscal Years 1995 through 2012)*

LTTO Member District	FY1995	FY1996	FY1997	FY1998	FY1999	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	Total
Western Springs Elementary School District 101	\$ (91.92)	\$ (2,076.10)	\$ (7,454.17)	\$ (510.48)	\$ 3,205.01	\$ 152,758.34	\$ 6.02	\$ 216,091.20	\$ (777.39)	\$ 3,846.24	\$ 9,635.87	\$ 20,847.68	\$ 38,593.80	\$ 4,709.13	\$ 13,115.07	\$ (1,063.57)	\$ (17,785.74)	\$ 17,192.44	\$ 450,241.42
LaGrange Elementary School District 102	\$ (272.77)	\$ (6,426.97)	\$ (16,604.86)	\$ (1,752.77)	\$ 5,941.44	\$ (17,528.37)	\$ (79.93)	\$ 848,685.19	\$ (2,257.55)	\$ (19,661.59)	\$ 26,238.80	\$ (13,846.14)	\$ 86,780.63	\$ 18,614.61	\$ 21,270.38	\$ (2,519.21)	\$ (42,247.57)	\$ 7,565.53	\$ 891,898.96
Lions Elementary School District 103	\$ 2,318.07	\$ (7,004.79)	\$ (15,211.29)	\$ (542.82)	\$ 5,489.74	\$ (13,428.63)	\$ 5.99	\$ (60,687.97)	\$ 3,790.94	\$ (5,557.21)	\$ 10,540.75	\$ 3,727.95	\$ 102,506.07	\$ 15,132.02	\$ 14,295.10	\$ 6,061.43	\$ 125,261.42	\$ (155,120.12)	\$ 31,576.65
Summit Elementary School District 104	\$ 29,236.96	\$ (4,313.06)	\$ 45,310.19	\$ (56,312.99)	\$ 3,177.86	\$ (17,157.08)	\$ 7.51	\$ (87,628.02)	\$ (2,208.16)	\$ (7,019.52)	\$ 3,998.40	\$ 14,100.79	\$ 14,026.09	\$ (3,628.09)	\$ 9,363.00	\$ (1,296.95)	\$ (20,984.23)	\$ 19,083.74	\$ (62,243.24)
LaGrange South Elementary School District 105	\$ 308.06	\$ (3,317.26)	\$ (7,922.94)	\$ (1,200.18)	\$ 2,908.11	\$ (8,128.22)	\$ 4.99	\$ (77,844.79)	\$ (1,005.82)	\$ (6,500.68)	\$ 6,857.46	\$ 2,983.32	\$ 9,996.45	\$ 1,682.80	\$ 14,369.03	\$ (3,397.13)	\$ (43,621.35)	\$ 4,679.35	\$ (109,154.73)
LaGrange Highlands Elementary School District 106	\$ 809.35	\$ (1,907.51)	\$ 59,636.97	\$ 21,235.44	\$ 2,626.70	\$ (7,657.96)	\$ 4.58	\$ 47,308.86	\$ 41.94	\$ (6,542.69)	\$ 9,461.09	\$ 32,602.41	\$ 67,574.02	\$ 11,728.69	\$ 16,944.30	\$ (1,366.98)	\$ (19,480.05)	\$ 3,276.14	\$ 236,295.40
Pleasantdale Elementary School District 107	\$ (4,542.24)	\$ (2,814.91)	\$ (7,015.63)	\$ (1,578.47)	\$ 3,630.95	\$ (3,931.26)	\$ 3.43	\$ (58,816.50)	\$ (187.24)	\$ (4,128.67)	\$ 7,270.07	\$ (13,458.75)	\$ 35,573.90	\$ 8,376.98	\$ 10,250.57	\$ (1,308.69)	\$ (23,052.17)	\$ 4,830.78	\$ (49,097.83)
Willow Springs Elementary School District 108	\$ (129.56)	\$ (273.62)	\$ (1,048.49)	\$ 199.57	\$ 722.52	\$ (1,872.64)	\$ 1.86	\$ (19,744.75)	\$ 50.58	\$ (1,796.50)	\$ 9,206.05	\$ 466.88	\$ 10,437.25	\$ 1,970.07	\$ 5,252.11	\$ (544.82)	\$ (8,574.09)	\$ 1,941.68	\$ (3,255.89)
Indian Springs Elementary School District 109	\$ (329.79)	\$ 70,542.18	\$ 89,528.43	\$ (48,253.45)	\$ 6,105.15	\$ (12,590.23)	\$ 8.62	\$ (148,861.79)	\$ (791.15)	\$ 65,057.23	\$ 41,558.03	\$ (62,545.77)	\$ 154,578.11	\$ 54,958.93	\$ 46,347.52	\$ 10,743.66	\$ (29,682.61)	\$ 9,706.38	\$ 246,079.08
Lions Township High School District 204	\$ (21,510.26)	\$ (2,609.73)	\$ (108,798.91)	\$ 81,688.71	\$ (45,481.83)	\$ (39,835.33)	\$ 18.71	\$ (380,084.00)	\$ (1,410.83)	\$ (2,826.68)	\$ (82,228.24)	\$ (116,444.46)	\$ (673,150.74)	\$ (132,178.57)	\$ (191,898.81)	\$ (4,933.86)	\$ 159,042.21	\$ 49,051.26	\$ (1,537,045.31)
LaGrange Area Department of Special Education	\$ (939.76)	\$ (2,188.01)	\$ (2,733.98)	\$ (861.77)	\$ 1,932.45	\$ (3,590.06)	\$ 7.05	\$ (40,453.70)	\$ 101.21	\$ 2,153.00	\$ 5,688.71	\$ 4,274.20	\$ 13,547.32	\$ 7,739.41	\$ 5,885.94	\$ (698.17)	\$ (10,371.34)	\$ 22,235.92	\$ (341.50)
Argo Summit High School District 217	\$ 1,240.73	\$ (8,958.97)	\$ (21,978.84)	\$ (7,361.53)	\$ 8,463.18	\$ (25,283.77)	\$ 14.08	\$ (209,959.02)	\$ 985.44	\$ (14,379.32)	\$ 24,359.03	\$ 119,650.45	\$ 133,856.93	\$ 19,876.02	\$ 37,922.41	\$ (3,876.03)	\$ (73,147.44)	\$ 17,221.99	\$ 13,388.39
LTSEDEBC - Dental	\$ (102.92)	\$ (24.69)	\$ (65.52)	\$ (6.77)	\$ 21.24	\$ (64.50)	\$ (0.20)	\$ (1,459.44)	\$ 4.43	\$ 427.75	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (1,270.63)
LTSEDEBC - Medical/Life	\$ (1,142.61)	\$ (555.77)	\$ (1,549.23)	\$ (134.15)	\$ 696.59	\$ (1,777.84)	\$ (0.61)	\$ (3,541.34)	\$ 459.37	\$ (921.22)	\$ (49.21)	\$ 3,156.78	\$ 3,344.23	\$ (7,229.29)	\$ (5,355.25)	\$ 5,326.37	\$ 5,461.50	\$ (3,030.63)	\$ (6,842.32)
West 40 - Learning Technology Center 1C	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 186.29	\$ 139.89	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,677.89	\$ 2,004.97
West 40 - Intermediate Service Center #2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (204.54)	\$ (71,262.19)	\$ 3,110.14	\$ 2,335.94	\$ (1,752.72)	\$ 444.57	\$ (1,126.05)	\$ (818.55)	\$ (312.35)	\$ (69,585.74)
Puffer Hefty Elementary School District 69	\$ (4,851.33)	\$ (4,610.80)	\$ (2,091.81)	\$ 698.61	\$ 560.90	\$ 87.48	\$ (2.10)	\$ (23,003.95)	\$ 3,204.22	\$ (2,637.89)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (32,646.67)
	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00