

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

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

Plaintiff,

v.

LYONS TOWNSHIP HIGH SCHOOL DIST. 204,

Defendants.

2014 DEC 18 AM 11:46

Case No. 13 CH 23386

Hon. Sophia H. Hall

NOTICE OF FILING

TO: Gerald E. Kubasiak
Douglas G. Hewitt
Kubasiak Fylstra Thorpe & Rotunno, PC
Two First National Plaza, 29th Floor
20 South Clark Street
Chicago, IL 60603
Fax: 312-630-7939

PLEASE TAKE NOTICE that on **December 18, 2014**, we filed with the Clerk of the Circuit Court of Cook County, Chancery Division, **Defendant's Verified Answer and Affirmative Defenses to Amended Complaint for Declaratory Relief**, a copy of which is served upon you.

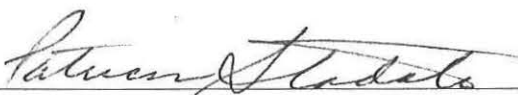
Name: Charles A. LeMoine
clemoine@dykema.com
Rosa A. Tumialán
rtumialan@dykema.com
Stephen M. Mahieu
smahieu@dykema.com
Dykema Gossett PLLC

Address: 10 South Wacker Drive
Telephone: (312) 876-1700
Attorney for: Defendant
City: Chicago, Illinois 60606

PROOF OF SERVICE

The undersigned, a non-attorney, states on oath that she served a copy of the foregoing Notice of Filing and Verified Answer and Affirmative Defenses to Amended Complaint for Declaratory Relief to the above counsel of record at the above mailing address by depositing a copy of same in the U.S. mail at 10 South Wacker Drive, Chicago, Illinois 60606, postage prepaid, before 5:00 p.m. on December 18, 2014.

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



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TOWNSHIP 38 NORTH, RANGE 12 EAST,

Plaintiff,

v.

LYONS TOWNSHIP HIGH SCHOOL DIST. 204,

Defendants.

No. 13 CH 23386

Hon. Sophia H. Hall

DOROTHY B...

**DEFENDANT'S VERIFIED ANSWER AND AFFIRMATIVE DEFENSES
TO AMENDED COMPLAINT FOR DECLARATORY RELIEF**

Defendant, LYONS TOWNSHIP HIGH SCHOOL DISTRICT 204 ("District 204"), by and through its undersigned attorneys, states as follows for its answer to the Verified Amended Complaint for Declaratory Relief filed by plaintiff, TOWNSHIP TRUSTEES OF SCHOOLS TOWNSHIP 38 NORTH, RANGE 12 EAST ("Township Trustees"):

THE PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Township Trustees of Schools Township 38 North, Range 12 East ("Township Trustees"), is a corporate entity organized under the laws of the State of Illinois with its principal office in LaGrange Park, Cook County, Illinois.

ANSWER: Admit only that Township Trustees is a local public entity organized under the laws of the State of Illinois with its principal office located in LaGrange Park, Cook County, Illinois.

2. Defendant, Lyons Township High School District No. 204 ("District 204"), is a corporate entity organized under the laws of the State of Illinois with its principal office in LaGrange, Cook County, Illinois.

ANSWER: Admit only that District 204 is a local public entity organized under the laws of the State of Illinois with its principal office located in LaGrange, Cook County, Illinois.

3. District 204 is subject to the personal jurisdiction of this Court because it is an entity organized under the laws of the State of Illinois.

ANSWER: Admit.

4. Venue is proper in Cook County because District 204 has its principal office in Cook County and because the transactions, or some part thereof, out of which the cause of action alleged herein arose occurred in Cook County.

ANSWER: Admit.

THE ROLE OF THE TOWNSHIP TRUSTEES AND TREASURER

5. Pursuant to the Illinois School Code, 105 ILCS 5/1 et seq. (the "School Code"), and more particularly Section 8-1 thereof, the Township Trustees, who are elected by and responsible to the voters within Lyons Township, have appointed the Lyons Township School Treasurer (the "Treasurer") to serve as the statutorily-appointed treasurer for the school and other educational districts within Lyons Township for which the Township Trustees are responsible.

ANSWER: Admit that Township Trustees is comprised of board members who were elected by voters within Lyons Township, and that they are required to operate pursuant to the provisions of the Illinois School Code, including Section 8-1, and other applicable Illinois laws. Admit that Township Trustees appointed various individuals to serve as the Lyons Township School Treasurer (the "Treasurer"), and that the Treasurer is legally required to conduct his/her activities pursuant to the provisions of the Illinois School Code and other applicable Illinois laws. The provisions of the Illinois School Code are the best evidence of the duties, responsibilities, and limitations of the activities of Township Trustees and the Treasurer, and District 204 denies the allegations of Paragraph 5 to the extent they are inconsistent with the provisions of the Illinois School Code. Deny the remaining allegations, if any, of Paragraph 5.

6. These school and other educational districts for which the Township Trustees are responsible, and for which the Treasurer provides financial services, include District 204 and: Western Springs School District 101; LaGrange School District 102; Lyons School District 103; Cook County School District 104; LaGrange School District 105; Highlands School District 106; Pleasantdale School District 107; Willow Springs School District 108; Indian Springs School District 109; Argo Community High School District 217; LaGrange Area Department of Special

Education, which serves students from fifteen area school districts; Intermediate Service Center #2, which serves forty school districts in western Cook County; Lyons Township Elementary School District Employee Benefits Cooperative; and the Lyons Township Elementary School District Employee Benefits Cooperative.

ANSWER: Admit that Township Trustees has purported to provide limited financial services to District 204 and to the other specific school districts listed in Paragraph 6. District 204 lacks knowledge or information sufficient to form a belief as to the truth or falsity of Township Trustees' allegations that it actually "provides financial services" to those other specific school districts. Deny the remaining allegations, if any, of Paragraph 6.

7. The above school districts contain thirty-eight schools servicing almost 20,000 students.

ANSWER: District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 7.

8. The districts within Lyons Township comprise a Class II county school unit within the meaning of the School Code.

ANSWER: The allegations of Paragraph 8 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the various relevant Class types, and District 204 denies the allegations of Paragraph 8 to the extent they are inconsistent with the provisions of the Illinois School Code.

9. The duties of the Township Trustees and the Treasurer are set out in Articles 5 and 8 of the School Code, respectively.

ANSWER: The allegations of Paragraph 9 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code and other Illinois laws are the best evidence of Township Trustees' and the Treasurer's duties and responsibilities, and District 204 denies the allegations of Paragraph

9 to the extent they are inconsistent with the provisions of the Illinois School Code or other Illinois laws.

10. As alleged more specifically herein, the obligation of the Treasurer is, in pertinent part, to take custody of public funds for the benefit of the districts it serves (with such funds coming from property taxes and other sources), invest those funds for the benefit of these districts, and pay such amounts to those persons and entities as it is lawfully instructed to pay by the districts it serves, whether such payments are for payroll or other purposes.

ANSWER: The allegations of Paragraph 10 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code and other Illinois laws are the best evidence of the Treasurer's obligations, and District 204 denies the allegations of Paragraph 10 to the extent they are inconsistent with the provisions of the Illinois School Code or other Illinois laws.

11. The obligation of the Treasurer to serve the financial needs of these districts, including managing the public funds upon which they depend and paying their bills, enables the districts to fulfill one of the most important public obligations of government: the obligation to educate. It is the public policy of the State of Illinois, as expressed through Article X, Section I of its Constitution, that "[a] fundamental goal of the People of the State is the educational development of all persons to the limits of their capabilities."

ANSWER: Admit that Paragraph 11 partially quotes from Article X, Section I of the Illinois Constitution of 1970. The remaining allegations of Paragraph 11 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code and other Illinois laws are the best evidence of the Treasurer's obligations, and District 204 denies the allegations of Paragraph 11 to the extent they are inconsistent with the provisions of the Illinois School Code or other Illinois laws. Answering further, the Illinois Constitution of 1970, Illinois statutes, and Illinois case law are the best evidence of the public policy of the State of Illinois, and District 204 denies the allegations of Paragraph 11 to the extent they are inconsistent with those sources of law.

12. Pursuant to Section 8-17 of the School Code, the Treasurer is to receive public funds, including property taxes, and hold those funds for the benefit of the school and other

educational districts it serves in furtherance of their obligation to provide for the education of students within Lyons Township.

ANSWER: The allegations of Paragraph 12 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 12 to the extent they are inconsistent with the provisions of the Illinois School Code.

13. Pursuant to Section 8-7 of the School Code, the Treasurer is, "the only lawful custodian of all school funds."

ANSWER: Admit that Paragraph 13 partially quotes from Section 8-7 of the Illinois School Code. The remaining allegations of Paragraph 13 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 13 to the extent they are inconsistent with the provisions of the Illinois School Code.

14. Section 8-6 of the School Code requires that the Treasurer "have custody of the school funds and shall keep in a cash book separate balances."

ANSWER: Admit that Paragraph 14 partially quotes from Section 8-6 of the Illinois School Code. The remaining allegations of Paragraph 14 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 14 to the extent they are inconsistent with the provisions of the Illinois School Code.

15. In accordance with Section 8-6, the Treasurer is required to maintain cash balances, by fund, for each district which it serves and the Treasurer is obligated to reconcile such balances with the respective cash balances shown by each district.

ANSWER: The allegations of Paragraph 15 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 15 to the extent they are inconsistent with the provisions of the Illinois School Code.

16. Section 8-17 of the School Code also imposes upon the Treasurer the responsibility for all receipts, disbursements, and investments arising out of the operation of all the school districts being served by the Treasurer.

ANSWER: The allegations of Paragraph 16 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 16 to the extent they are inconsistent with the provisions of the Illinois School Code.

17. With respect to paying such amounts as each district may owe, Section 8-16 of the School Code requires that the Treasurer make payment on behalf of the districts it serves out of the funds allocated to such districts, but "only upon an order of the school board signed by the president and clerk or secretary or by a majority of the board"

ANSWER: Admit that Paragraph 17 partially quotes from Section 8-16 of the Illinois School Code. The remaining allegations of Paragraph 17 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 17 to the extent they are inconsistent with the provisions of the Illinois School Code.

18. Sections 10-18 and 10-20.19 of the School Code provide further detail as to the procedure to be followed in submitting the above orders for payment. The form of order is specifically provided for in Section 10-18.

ANSWER: The allegations of Paragraph 18 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 18 to the extent they are inconsistent with the provisions of the Illinois School Code.

19. Section 10-20.19 also allows a board to choose to substitute a certified copy of the portions of the board minutes, properly signed by the secretary and president, or a majority of the board, showing all bills approved for payment by the board and clearly showing to whom, and for what purpose each payment is to be made by the Treasurer, and to what budgetary item each payment shall be debited. That certified copy provides "full authority" to the Treasurer to make the payments. A voucher system may also be used so long as it provides the same information.

ANSWER: The allegations of Paragraph 19 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 19 to the extent they are inconsistent with the provisions of the Illinois School Code.

20. In order to make payments as lawfully instructed by the districts which it serves, the Treasurer utilizes what are called "Agency Accounts" at local banks.

ANSWER: District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 20.

21. When a district has provided lawful instruction to the Treasurer to issue payment, the Treasurer effectuates the payment drawing on the appropriate Agency Account.

ANSWER: The allegations of paragraph 21 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 21.

22. Agency Accounts are funded by transfer from other accounts in the custody of the Treasurer and maintained and utilized by the Treasurer to hold funds belonging to multiple districts and for which there is not an immediate need. The funds in the Agency Account, both before and after they arrive in the Agency Account, remain in the custody of the Treasurer.

ANSWER: The allegations of paragraph 22 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 22.

23. The districts do not have signatory power on the Agency Accounts, with the exception of certain revolving and flex-spending accounts not at issue in this litigation. The Treasurer has signatory power on the Agency Accounts.

ANSWER: The allegations of paragraph 23 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 23.

DISTRICT 204'S FAILURE TO PAY FOR ITS PRO RATA SHARE OF THE TREASURER'S OPERATIONAL EXPENSES

24. The Treasurer has its own costs to run its office and provide its financial services to the districts it serves, including the Treasurer's compensation and expenses of the Treasurer's office. The Treasurer pays these operating expenses from its General Fund, which is funded through each district's Agency Account as alleged more fully below.

ANSWER: District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 24.

25. Section 8-4 of the School Code requires that each district "shall pay a proportionate share of the compensation of the township treasurer serving such district or districts and a proportionate share of the expenses of the treasurer's office."

ANSWER: Admit that Paragraph 25 partially quotes from Section 8-4 of the Illinois School Code. The remaining allegations of Paragraph 25 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of school districts' payment obligations, and

District 204 denies the allegations of Paragraph 25 to the extent they are inconsistent with the provisions of the Illinois School Code.

26. Pursuant to Section 8-4 of the School Code, each district's pro rata share "shall be determined by dividing the total amount of all school funds handled by the township treasurer by such amount of the funds as belong to each such . . . district."

ANSWER: Admit that Paragraph 26 partially quotes from Section 8-4 of the Illinois School Code. The remaining allegations of Paragraph 26 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the proper manner in which to determine any pro rata share, and District 204 denies the allegations of Paragraph 26 to the extent they are inconsistent with the provisions of the Illinois School Code.

27. This statutory formula obligates the districts with the most money to pay the largest proportion of the costs. For example, if a district is allocated twenty-five percent of all public funds handled by the Treasurer, then it is required by the School Code to pay twenty-five percent of the Treasurer's operating expenses.

ANSWER: The allegations of Paragraph 27 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the proper manner in which to determine any pro rata share, and District 204 denies the allegations of Paragraph 27 to the extent they are inconsistent with the provisions of the Illinois School Code.

28. This statutory formula is mandatory and can only be changed by the General Assembly. No district may unilaterally decide it does not wish to pay its pro rata share, nor may any private agreements be made between public bodies in violation of the School Code. A district is required to pay the amount calculated and has no statutory authority to deduct any of its own expenses from its pro rata share it owes.

ANSWER: The allegations of Paragraph 28 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, District 204 denies the allegations of Paragraph 28.

29. In accordance with the statutory requirements of the School Code, on an annual basis the Treasurer determines District 204's pro rata share of the Treasurer's operation expenses and submits an invoice to District 204 for payment thereupon.

ANSWER: Admit that the Treasurer has submitted certain invoices to District 204 that purportedly related to District 204's pro rata share of the Treasurer's annual operating expenses. Deny the remaining allegations of Paragraph 29.

30. As alleged more particularly above, in order for District 204 to pay these invoices, District 204 would lawfully issue an order or voucher to the Treasurer for payment (or submit a certified copy of the school board minutes approving payments). The Treasurer would then transfer, via check, the funds from the appropriate Agency Account to its General Fund.

ANSWER: Admit District 204 paid certain invoices submitted by the Treasurer, including by issuing vouchers or checks to the Treasurer for payment. District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegation that "The Treasurer would then transfer, via check, the funds from the appropriate Agency Account to its General Fund." Deny the remaining allegations of Paragraph 30.

31. Prior to fiscal year 2000, District 204 paid the full amount of the invoices submitted for its pro rata share.

ANSWER: Admit that prior to fiscal year 1999, District 204 paid the Treasurer's invoices in full. Deny that the Treasurer's invoices prior to fiscal year 2000 reflected District 204's proper or lawful pro rata share of expenses. Deny the remaining allegations of Paragraph 31.

32. In fiscal years 2000 through 2002, the Treasurer submitted invoices totaling \$538,431 to District 204 for its pro rata share. For these fiscal years, however, District 204 paid only \$157,262 for its pro rata share.

ANSWER: Admit District 204 received invoices from the Treasurer for fiscal years 2000, 2001, and 2002 totaling \$538,431.00 before agreed chargebacks for services District 204 supplied, which were applied and credited for the respective fiscal years. Admit District 204 mailed payments for the remaining balances to the Treasurer for fiscal years 2000,

2001, and 2002 in the total amount of \$98,188.75, consistent with the prior agreement between District 204 and the Township Trustees. Deny the remaining allegations of Paragraph 32.

33. In fiscal years 2003 through 2013, the Treasurer submitted invoices totaling \$2,397,189 to District 204 for its pro rata share. District 204, however, failed to pay any portion of the amount it owed, except for one payment of \$149,551.

ANSWER: Admit District 204 made a payment in the amount of \$149,551.00 toward fiscal year 2013. Deny the remaining allegations of Paragraph 33.

34. District 204's payment of \$149,551 was for fiscal year 2013 and was made on October 8, 2014, after Township Trustees filed its original Verified Complaint for Declaratory Relief and while Township Trustees were in the process of drafting this Verified Amended Complaint for Declaratory Relief. District 204's payment was drawn from an Agency Account at the First National Bank of La Grange.

ANSWER: District 204 lacks knowledge or information sufficient to form a belief about the allegation that any payment was "drawn from an Agency Account." Admit the remaining allegations of Paragraph 34.

35. In total, for fiscal years 2000 through 2013, the amount of District 204's unpaid pro rata share totals \$2,628,807, taking into account the payment just received.

ANSWER: Deny.

36. District 204's failure to pay its pro rata share in full has created a deficit. As custodian for the districts, the Treasurer has not incurred a loss — the other fourteen districts it serves have incurred a loss to the detriment of the thirty-eight schools and nearly twenty thousand school children that they are charged with educating.

ANSWER: Deny.

37. Because of its statutory obligations all of the districts it serves, the Treasurer brings this action seeking declaratory relief for the public purpose of recovering payment from District 204 so that the other districts the Treasurer serves will not suffer harm.

ANSWER: Deny.

THE ERRONEOUS ALLOCATION OF INTEREST TO DISTRICT 204

38. Sections 8-7 and 8-8 of the School Code govern the depositing and investing of school funds.

ANSWER: The allegations of Paragraph 38 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code and other Illinois law are the best evidence of the proper manner of depositing and investing school funds, and District 204 denies the allegations of Paragraph 38 to the extent they are inconsistent with the provisions of the Illinois School Code or other Illinois law.

39. Pursuant to Section 8-7, the Treasurer is "permitted to (i) combine moneys from more than one fund of a single school district for the purpose of investing such funds, and (ii) join with township and school treasurers, community college districts and educational service regions in investing school funds, community college funds and educational service region funds."

ANSWER: Admit that Paragraph 39 partially quotes from Section 8-7 of the Illinois School Code. The remaining allegations of Paragraph 39 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer's duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 39 to the extent they are inconsistent with the provisions of the Illinois School Code.

40. Section 8-7 of the School Code further provides, "When moneys of more than one fund of a single school district are combined for investment purposes or when moneys of a school district are combined with moneys of other school districts, community college districts or educational service regions, the moneys combined for such purposes shall be accounted for separately in all respects, and the earnings from such investment shall be separately and individually computed and recorded, and credited to the fund or school district, community college district or educational service region, as the case may be, for which the investment was acquired."

ANSWER: Admit that Paragraph 40 partially quotes from Section 8-7 of the Illinois School Code. Deny that Paragraph 40 includes the entire text of Section 8-7 of the Illinois

School Code, and deny the allegations of Paragraph 40 to the extent they are inconsistent with Section 8-7 of the Illinois School Code.

41. Pursuant to the authority of the School Code, the Treasurer comingles funds for investment purposes from the districts it serves and allocates the interest earned on these investments among the districts.

ANSWER: District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegation that “the Treasurer comingles funds for investment purposes from the districts it serves and allocates the interest earned on these investments among the districts.” The remaining allegations of Paragraph 41 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of the Treasurer’s duties, responsibilities, and obligations, and District 204 denies the allegations of Paragraph 41 to the extent they are inconsistent with the provisions of the Illinois School Code.

42. The Treasurer allocates interest on a quarterly basis or as more frequently as is appropriate.

ANSWER: Deny.

43. When the Treasurer allocates interest to a particular district (and when the Treasurer allocates the principal amongst the comingled funds) the Treasurer does so by making a journal entry. The Treasurer, in essence, makes an entry in its records that the district has been allocated a certain amount of interest generated by the comingled funds. The Treasurer does not write a check to the district, or otherwise physically turn custody of the interest over to the district. The interest stays in the custody of the Treasurer.

ANSWER: Deny.

44. In fiscal years 1995 through 2012, the Treasurer erroneously allocated \$1,574,636.77 in interest on investments to District 204.

ANSWER: Deny.

45. This over-allocation to District 204 necessarily means that the other districts which the Treasurer serves have been correspondingly under-allocated investment income. The Treasurer has not incurred a loss — the other fourteen districts it serves have incurred a loss to

the detriment of the thirty-eight schools and nearly twenty thousand school children that they are charged with educating.

ANSWER: Deny. District 204 further moves this Court to strike the inaccurate, self-serving, and politically-motivated allegations of Paragraph 46 regarding the supposed “loss” of allocations of interest to other school districts.

46. To the extent District 204 has been over-allocated this interest, it means the other districts have necessarily been under-allocated interest. The Treasurer anticipates that once this interest is able to be properly reallocated among the districts, as examples, LaGrange School District 102 would get allocated approximately \$265,626 in interest and Argo Community High School District 217 would get allocated approximately \$319,077 in interest.

ANSWER: Deny. District 204 further moves this Court to strike the inaccurate, self-serving, and politically-motivated allegations of Paragraph 46 regarding supposed allocations of interest to other school districts.

47. Because of its statutory obligations all of the districts it serves, the Treasurer brings this action seeking declaratory relief for the public purpose of reallocating interest so that the other districts it serves will not suffer harm.

ANSWER: Deny.

DISTRICT 204'S NON-PAYMENT OF ITS OWN AUDIT EXPENSES

48. Article 3, Section 7 of the School Code requires that each school district have an audit of its accounts completed at least once a year by a person who is lawfully qualified to practice public accounting in Illinois. Further requirements regarding a school district's obligation to undertake annual audits are included in the Illinois Administrative Code.

ANSWER: The allegations of Paragraph 48 state a legal conclusion to which no answer is required. To the extent an answer is deemed required, the provisions of the Illinois School Code are the best evidence of any audit requirement, and District 204 denies the allegations of Paragraph 48 to the extent they are inconsistent with the provisions of the Illinois School Code.

49. These audits are ordered by and undertaken for the benefit of each individual district. Each individual district is, therefore, obligated to pay for its own audit expenses. Typically, the auditing firm that each district elects to use submits an invoice to that district and

the district arranges for such invoice to be paid in the same way the district would arrange for any other account payable to be paid.

ANSWER: Deny.

50. Thus, the district would ordinarily issue a lawful order or voucher (or submit a certified copy of the school board minutes approving payment) and the Treasurer would sign a check prepared by the district and drawn on that district's Agency Account.

ANSWER: Deny.

51. Between 1993 and 2012, District 204 engaged Baker Tilly and/or its predecessor-in-interest to provide these audit and other professional services, including, but not limited to, preparation of audited financial statements and independent auditor's reports.

ANSWER: Admit.

52. District 204's auditors sent their invoices to District 204.

ANSWER: Admit.

53. Between 1993 and 2012, each district except District 204 paid for its audit through their Agency Account. The Treasurer did not pay for the districts' audits from its General Fund.

ANSWER: District 204 lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 53.

54. Between 1993 and 2012, however, the Treasurer improperly advanced money from its General Fund and paid \$511,068.60 for District 204's audit expenses.

ANSWER: Admit the Treasurer agreed to pay District 204's audit expenses for the years in question. Deny the remaining allegations of Paragraph 54.

55. The Treasurer has requested that District 204 reimburse the costs of District 204's audit expenses from 1993 to 2012, but District 204 has failed and refused to do so.

ANSWER: Admit that, in 2013, the Treasurer's office requested that District 204 reimburse the Treasurer for certain audit expenses the Treasurer previously paid, by agreement, and that District 204 has no obligation to reimburse the Treasurer's office for said expenses. Deny the remaining allegations of paragraph 55.

56. Since 2012, District 204 has paid its own audit expenses.

ANSWER: Admit.

57. Because the Treasurer's General Fund is funded by the pro rata payment of all of the districts the Treasurer serves, the practical effect of District 204's failure and refusal to pay for its own audit expenses is that all of the other districts have to absorb the cost of District 204's audits.

ANSWER: Deny.

58. In order to reimburse the Treasurer, District 204 would need only issue a lawful order or voucher (or submit a certified copy of the school board minutes approving payment) and the funds would be taken from District 204's Agency Account. The funds at issue remain and have always been within the Treasurer's custody.

ANSWER: Deny.

59. The Treasurer has not incurred a loss through District 204's failure and refusal to pay for its own audit expenses — the other fourteen districts it serves have incurred a loss to the detriment of the thirty-eight schools and nearly twenty thousand school children that they are charged with educating.

ANSWER: Deny.

60. Because of its statutory obligations all of the districts it serves, the Treasurer brings this action seeking declaratory relief for the public purpose of recovering payment from District 204 so that the other districts it serves will not suffer harm.

ANSWER: Deny.

THE TOWNSHIP TRUSTEES SEEK A DECLARATORY JUDGMENT

61. An actual controversy exists between Township Trustees and District 204 with respect to the disputes alleged herein and, by the terms and provisions of Section 2-701 of the Code of Civil Procedure, this Court is vested with the power to declare and adjudicate the rights and liabilities of the parties hereto and to grant such other and further relief as it deems necessary under the facts and circumstances presented.

ANSWER: District 204 asserts that it is entitled to a trial by jury on all contested facts at issue in this litigation. Subject to and without waiving that right, District 204 admits the remaining allegations of Paragraph 61.

WHEREFORE, defendant, LYONS TOWNSHIP HIGH SCHOOL DISTRICT 204, respectfully requests that this Honorable Court: (1) enter judgment in favor of District 204 and against plaintiff, TOWNSHIP TRUSTEES OF SCHOOLS TOWNSHIP 38 NORTH, RANGE 12 EAST; (2) award District 204 its costs; and (3) grant such further relief as the Court deems just and reasonable.

AFFIRMATIVE DEFENSES

Defendant, LYONS TOWNSHIP HIGH SCHOOL DISTRICT 204 (“District 204”), states as follows for its affirmative defenses to the Verified Amended Complaint for Declaratory Relief filed by plaintiff, TOWNSHIP TRUSTEES OF SCHOOLS TOWNSHIP 38 NORTH, RANGE 12 EAST (“Township Trustees”):

FACTS COMMON TO ALL AFFIRMATIVE DEFENSES

1. District 204 is a local public entity organized under the laws of the State of Illinois with its principal office located in LaGrange, Cook County, Illinois.
2. Township Trustees is a local public entity organized under the laws of the State of Illinois with its principal office located in LaGrange Park, Cook County, Illinois.
3. Township Trustees provides certain required, financial-related services to a limited number of school districts in Township 38 North, Range 12 East, including District 204.
4. District 204 and Township Trustees entered into an agreement in or around 1999 whereby District 204 agreed to perform certain financial-related services Township Trustees otherwise would have been obligated to perform on District 204’s behalf.
5. By virtue of District 204 performing certain financial-related services Township Trustees was otherwise obligated to perform on District 204’s behalf, Township Trustees saved millions of dollars in expenses it otherwise would have been obligated to incur in performing said services.

6. Through District 204 and Township Trustees' course of dealing, Township Trustees would first submit an invoice to District 204 setting forth District 204's purported *pro rata* share of Township Trustees' treasurer's expenses. District 204 would then provide Township Trustees with an invoice detailing the services District 204 performed that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

7. During the parties' course of dealing from fiscal years 1999 through 2012, Township Trustees agreed that District 204 could properly offset the expenses it undertook in performing services Township Trustees otherwise would have been obligated to perform on District 204's behalf against any amount it owed to Township Trustees for District 204's purported *pro rata* share of annual expenses.

8. During the fiscal years of 1999 through 2012, the value of the services District 204 performed that Township Trustees otherwise would have been obligated to perform on District 204's behalf exceeded the value of District 204's purported *pro rata* share of annual expenses by over \$285,000.00.

9. During the fiscal years of 1993 to 2012, it was necessary for an auditor to examine District 204's books and records relating to financial services it was performing that Township Trustees otherwise would have been obligated to perform on District 204's behalf. As such, Township Trustees agreed to cover the expense of those audits.

10. Any auditing expense payment Township Trustees made on behalf of District 204 involved the release of funds to a third-party auditing firm. Township Trustees does not hold those funds in trust.

11. In addition, on information and belief, for the fiscal years of 1999 through 2012, Township Trustees included all such auditing expenses in its invoices to District 204 and to other

school district members for their purported *pro rata* shares of the Township Trustees' annual expenses.

12. During the fiscal years of 1995 to present, Township Trustees has been obligated to pay member school districts, including District 204, their share of pooled investment interest income. Notwithstanding that obligation, Township Trustees has substantially underpaid District 204 the interest it is owed on hundreds of millions of dollars in investments.

13. Any interest payments Township Trustees made to member school districts, including District 204, involved the release of those funds by Township Trustees to each member school district for its discretionary use. Such funds did not remain in Township Trustees' custody.

14. Neither District 204, nor any other member district, had any control over Township Trustees' calculation and allocation of annual investment interest.

15. On information and belief, Township Trustees allocated interest payments to member school districts without regard for the amounts actually owed, resulting in overpayments to certain districts and underpayments to other districts.

16. On information and belief, Township Trustees made interest payment allocations to members school districts other than District 204 based on political concerns and not any proper mathematical formula.

17. Township Trustees has, to date, refused to provide District 204 and other member districts with documents and information necessary to examine Township Trustees' financial activities generally and its interest payments to member school districts specifically.

18. Township Trustees were statutorily obligated to oversee the Township Trustees' treasurer's office, including by receiving reports and examining financial books and records.

Notwithstanding that obligation, Township Trustees failed to oversee its treasurer's office, and instead permitted its former treasurer to steal or improperly spend nearly one million dollars in member school districts' funds.

19. The funds Township Trustees collected, or attempted to collect, from member school district, including District 204, to fund the expenses of Township Trustees' treasurer's office were not public funds. Such expenses did not involve any general public interest.

20. On information and belief, Township Trustees have recovered substantial insurance proceeds based on its former treasurer's misconduct. Township Trustees have refused to disclose the amount of those proceeds, and has further failed to distribute the proceeds to member school districts, including District 204.

21. Township Trustees has also frivolously expended, or attempted to expend, significant funds owned by member school districts on unnecessary public relations firm services, duplicative and wasteful financial advisor services, and unnecessary and hugely expensive computer software. On information and belief, Township Trustees' actions in this regard are consistent with its practice of billing member school districts for their "*pro rata* share" of Township Trustees' excessive and improper expenses that were not permitted by law.

FIRST AFFIRMATIVE DEFENSE - LACHES

22. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 22 of its First Affirmative Defense as though fully set forth herein.

23. Township Trustees was aware of, and repeatedly consented to, the foregoing facts for more than a decade.

24. Township Trustees showed a complete lack of diligence by affirmatively deciding not to challenge any payment owed by, made by, or made to District 204 until filing suit in this action in October of 2013.

25. During that same time period, District 204 has passed annual budgets affecting thousands of students, hundreds of staff members, and many thousands of community members.

26. Township Trustees' inexplicable delay in bringing any claim has caused District 204 to suffer severe prejudice.

27. Had Township Trustees raised any challenge or objection to the parties' course of action described above, District 204 would have taken action to adjust its annual budgets and to shift directly to Township Trustees all services Township Trustees otherwise would have been obligated to perform on District 204's behalf, or District 204 would have pursued a separation from Township Trustees at that time.

28. Due to Township Trustees' lack of diligence, the students, staff, and community of District 204 face potentially devastating budget cuts and a corresponding loss of staff, extracurricular activities, and other vital services.

29. Laches may be imputed upon a governmental entity serving one public constituency that is suing another governmental entity serving a different public constituency.

30. Applying laches to Township Trustees' claims is proper and bars Township Trustees from obtaining any relief against District 204.

SECOND AFFIRMATIVE DEFENSE – STATUTE OF LIMITATIONS

31. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above, and paragraphs 22 through 30 of its First Affirmative Defense, as this paragraph 31 of its Second Affirmative Defense as though fully set forth herein.

32. All of Township Trustees' claims against District 204 are subject to the five-year catchall statute of limitations set forth in 735 ILCS 5/13-205.

33. Township Trustees failed to bring its claims against District 204 within the applicable limitations period. Applying the statute of limitations is proper and bars Township Trustees from obtaining any relief against District 204.

THIRD AFFIRMATIVE DEFENSE – ACCORD AND SATISFACTION

34. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 34 of its Third Affirmative Defense as though fully set forth herein.

35. Township Trustees and District 204 entered into a valid agreement in or around 1999 that supplanted any prior course of dealing.

36. Township Trustees accepted payments or setoffs from District 204 in accordance with the parties' agreement for more than a decade.

37. Township Trustees is legally barred from enforcing any right that is inconsistent with the parties' agreement.

38. Accord and satisfaction applies and bars Township Trustees from obtaining any relief against District 204.

FOURTH AFFIRMATIVE DEFENSE – RATIFICATION

39. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 39 of its Fourth Affirmative Defense as though fully set forth herein.

40. Township Trustees had complete knowledge of all material facts surrounding the agreement with District 204 described above.

41. Armed with that knowledge, Township Trustees engaged in a course of conduct over a period of more than a decade by which Township Trustees repeatedly demonstrated it had ratified the agreement with District 204. That ratification bars Township Trustees from obtaining any relief against District 204.

FIFTH AFFIRMATIVE DEFENSE – PROMISSORY ESTOPPEL

42. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 42 of its Fifth Affirmative Defense as though fully set forth herein.

43. By entering into the agreement with District 204 described above, Township Trustees made an unequivocal promise by its words and actions to proceed in accordance with the parties' agreement.

44. District 204 materially changed its position to its detriment as a result of Township Trustees' promise, including by modifying its annual budgets to reflect the parties' agreement. Those budgets affected thousands of students, hundreds of staff members, and many thousands of community members.

45. Had Township Trustees raised any challenge or objection to the parties' course of action described above, District 204 would have taken action to adjust its annual budgets and to shift directly to Township Trustees all services Township Trustees otherwise would have been obligated to perform on District 204's behalf, or District 204 would have pursued a separation from Township Trustees at that time.

46. Not requiring Township Trustees to abide by the parties' agreement would result in severe inequity and prejudice to District 204.

47. Promissory estoppel applies to bar Township Trustees from obtaining any relief against District 204.

SIXTH AFFIRMATIVE DEFENSE – EQUITABLE ESTOPPEL

48. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 48 of its Sixth Affirmative Defense as though fully set forth herein.

49. Township Trustees, through its words and actions, represented to District 204 that Township Trustees would abide by the terms of the parties' agreement discussed above.

50. Township Trustees was aware of all material facts surrounding the parties' agreement at the time the parties entered into the agreement.

51. Township Trustees concealed from District 204 the fact that Township Trustees intended to accept the value of District 204's services for more than a decade and later to attempt to bar District 204 from offsetting the value of its services against its purported share of Township Trustees' *pro rata* expenses and the auditing expenses discussed above.

52. Township Trustees also concealed from District 204 the fact that Township Trustees was knowingly making incorrect interest payments to member districts, including District 204.

53. Township Trustees acted intentionally and with the expectation that District 204 would act upon Township Trustees' representations.

54. District 204 acted upon Township Trustees' representations to District 204's detriment, including by modifying its annual budgets to reflect the parties' agreement.

55. Equitable estoppel applies to bar Township Trustees from obtaining any relief against District 204.

SEVENTH AFFIRMATIVE DEFENSE – WAIVER

56. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 56 of its Seventh Affirmative Defense as though fully set forth herein.

57. Township Trustees and District 204 had equal bargaining power.

58. By entering into the agreement with District 204 described above, and through the parties' course of conduct of more than a decade, Township Trustees knowingly and voluntarily relinquished its known rights to recovery against District 204.

59. Waiver applies to bar Township Trustees from obtaining any relief against District 204.

EIGHTH AFFIRMATIVE DEFENSE – UNCLEAN HANDS

60. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 60 of its Eighth Affirmative Defense as though fully set forth herein.

61. Township Trustees pray in part for equitable relief in this action.

62. Township Trustees, through its actions described above, is guilty of misconduct and bad faith toward District 204.

63. Township Trustees' misconduct and bad faith relates to the parties' disputes in this action.

64. Township Trustees' unclean hands bar it from receiving any equitable relief against District 204.

NINTH AFFIRMATIVE DEFENSE – SETOFF

65. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 65 of its Ninth Affirmative Defense as though fully set forth herein.

66. District 204 is entitled to a setoff against any judgment entered in this action in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

67. District 204 is also entitled to a setoff against any judgment entered in this action in the amount of Township Trustees' underpayment of investment interest to District 204. District 204 is also entitled to a judgment against Township Trustees for the value of the services District 204 provided that exceeded its share of *pro rata* expenses.

TENTH AFFIRMATIVE DEFENSE – UNJUST ENRICHMENT

68. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 68 of its Tenth Affirmative Defense as though fully set forth herein.

69. Township Trustees' retention of the services District 204 provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf is not legally justifiable.

70. District 204 reasonably expected to receive compensation for the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

71. Township Trustees had complete knowledge of the benefits District 204 was conferring on Township Trustees in the form of services District 204 provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

72. Township Trustees would be unjustly enriched to District 204's detriment if Township Trustees were permitted accept District 204's services without providing any compensation or offset.

73. Equity and good conscience require Township Trustees to make restitution to District 204 in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

ELEVENTH AFFIRMATIVE DEFENSE – QUANTUM MERUIT

74. District 204 adopts and incorporates by reference paragraphs 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 74 of its Eleventh Affirmative Defense as though fully set forth herein.

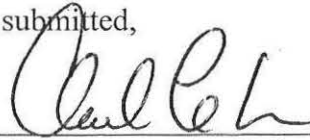
75. In the alternative, should Township Trustees contend the parties did not enter into an express contract or agreement as discussed above, Township Trustees made an implied promise to District 204 that it would compensate District 204 in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

76. Township Trustees is legally obligated to reimburse District 204 in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

WHEREFORE, defendant, LYONS TOWNSHIP HIGH SCHOOL DISTRICT 204, respectfully requests that this Honorable Court: (1) enter judgment in favor of District 204 and against plaintiff, TOWNSHIP TRUSTEES OF SCHOOLS TOWNSHIP 38 NORTH, RANGE 12 EAST; (2) award District 204 its costs; and (3) grant such further relief as the Court deems just and reasonable, or as otherwise permitted by law.

Respectfully submitted,

By:



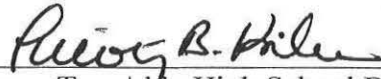
One of the Attorneys for Defendant,
LYONS TOWNSHIP HIGH SCHOOL DISTRICT
204

Charles A. LeMoine
cleoine@dykema.com
Rosa A. Tumialán
rtumialan@dykema.com
Stephen M. Mahieu
smahieu@dykema.com
Dykema Gossett PLLC
10 S. Wacker Drive, Suite 2300
Chicago, IL 60606
Telephone: (312) 876-1700
Facsimile: (312) 876-1155
Firm I.D. No. 42297

DRAFT; SUBJECT TO ATTORNEY-CLIENT AND WORK-PRODUCT PRIVILEGES

VERIFICATION

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



Lyons Township High School District 204

By: Dr. Timothy Kilrea

Its: Superintendent

Dated: 12/18/2014