

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

TOWNSHIP TRUSTEES OF SCHOOLS)
TOWNSHIP 38 NORTH, RANGE 12)
EAST,)
)
Plaintiff,)
)
vs.)
)
LYONS TOWNSHIP HIGH SCHOOL)
DISTRICT NO. 204,)
)
Defendant.)

No. _____

2018CH23386
CALENDAR/ROOM 14
TIME 00:00
Declaratory Judgment

VERIFIED COMPLAINT FOR DECLARATORY RELIEF

Township Trustees of Schools Township 38 North, Range 12 East, for its Verified Complaint for Declaratory Relief against Lyons Township High School District No. 204 alleges:

PARTIES

1. 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 place of business in LaGrange Park, Cook County, Illinois.
2. 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 place of business in LaGrange, Cook County, Illinois.

VENUE

3. Venue is proper in this County under 735 ILCS 5/2-101 because the cause of action alleged herein arose out of transactions that occurred in Cook County.

GENERAL ALLEGATIONS

4. Pursuant to the Illinois School Code, 105 ILCS 5/8-1, the Lyons Township School Treasurer (the “Treasurer”) was appointed by the Board of Trustees of Township Trustees to act as the sole custodian of funds held on behalf of the school districts located within Lyons Township (the “Districts”), as well as two additional educational cooperatives and a medical self-insurance cooperative (collectively the “Participating Members”).

5. §5/8-4 of the Illinois School Code, 105 ILCS 5/8-4, provides in part: “ Eachtownship high school 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, which compensation and expenses 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 elementary school district or high school district.”

6. Under §5/8-4 of the Illinois School Code, each of the Participating Members, including District 204, is required to pay their proportionate share of the treasurer’s compensation and the expenses of the Lyons Township School Treasurer Office’s (“TTO”).

7. In accordance with §5/8-4 of the Illinois School Code, the amount owed by an individual Participating Member is ascertained by dividing the total amount of school funds handled by the Treasurer by the amount of funds held by the Treasurer that belong to the individual Participating Member (the “pro rata billings”).

8. Prior to fiscal year 1999 and in accordance with the Illinois School Code, the TTO determined District 204’s pro rata billings, submitted an invoice to District 204 for its pro rata share of the TTO’s expenses on annual basis and District 204 paid the full amount of the invoices submitted.

9. In each fiscal year between 2000 through 2012, the TTO determined the amount of District 204's pro rata billings and submitted an invoice to District 204 on an annual basis for the full amount of District 204's pro rata billings.

10. In fiscal years June 30, 2000 through June 30, 2002, the TTO determined the amount of District 204's pro rata billings on an annual basis and submitted annual invoices to District 204 for its pro rata billings that totaled \$538,430.74 and District 204 paid the TTO a total of \$98,185.75 for services reflected on those invoices.

11. Between fiscal year June 30, 2003 and fiscal year June 30, 2011, the TTO determined the amount of District 204's pro rata billings on an annual basis and submitted annual invoices to District 204 for its pro rata billings that totaled \$1,835,083.40

12. Between fiscal year June 30, 2003 and the present, District 204 failed to pay any portion of its share of the pro rata billings.

13. Between fiscal year June 30, 2000 and fiscal year June 30, 2013, the amount of District 204's unpaid pro rata billings totaled in excess of \$2,500,000.00.

14. The duties of the Treasurer include the allocation of interest earned on investments of funds held on behalf the Districts. During the period including the fiscal year ended June 30, 1995 through fiscal year ended June 30, 2012, District 204 was allocated and paid \$1,380,496.53 in principal and interest on investments that it was not entitled to receive.

15. During the fiscal years ended June 30, 2007 through June 30, 2012, Baker Tilly and/or its predecessor-in-interest were engaged to provide audit and other professional services for District 204 including, but not limited to, preparation of audited financial statements and independent auditor's reports.

16. Between 1993 and 2011 and at District 204's request, the TTO paid Baker Tilly \$473,174.85 for audit services rendered to District 204 that was owed by District 204 and not the TTO. The TTO has demanded that District 204 reimburse the TTO for the monies paid to Baker Tilly on behalf of District 204 but District 204 has failed and refused to do so.

17. District 204 has failed and refused to pay its pro rata share of the Treasurer's compensation and the TTO expenses.

18. District 204 has failed and refused to reimburse the TTO for monies the TTO advanced on behalf of District 204 to pay Baker Tilly's fees.

19. An actual controversy exists between Township Trustees and District 204 and, by the terms and provisions of §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.

WHEREFORE, Plaintiff, Township Trustees of Schools Township 38 North, Range 12 East, respectfully prays that this Court enter a declaratory judgment in its favor and against the Defendant, Lyons Township High School District No. 204 and that this Court make the following findings as a matter of law:

A. Under §5/8-4 of the Illinois School Code, Lyons Township High School District 204 is required to pay its pro rata share of the Treasurer's compensation and the TTO expenses;

B. Between 2000 and the present, Lyons Township High School District 204 has failed to pay its pro rata share of the Treasurer's compensation and the TTO expenses as required by §5/8-4 of the Illinois School Code;

C. Lyons Township High School District 204's unpaid share of the Treasurer's compensation and the expenses of the TTO for the years 2000 through 2011 is \$2,583,531.68;

D. Lyons Township High School District 204 is legally obligated to pay Plaintiff the sum of \$2,583,531.68 in payment of its pro rata share of the Treasurer's compensation and expenses incurred by the TTO during fiscal years 2000-2011.

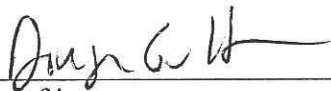
E. During the period including the fiscal year ended June 30, 1995 through fiscal year ended June 30, 2012, Lyons Township High School District 204 was allocated and paid \$1,380,496.53 of principal and interest on investments that it was not entitled to receive.

F. Lyons Township High School District 204 is legally obligated to pay Plaintiff the sum of \$1,380,496.53 in payment of principal and interest on investments paid during fiscal years 1995 through 2012 that it was not entitled to receive.

G. Lyons Township High School is legally obligated to pay the Township Trustees the sum of \$473,174.85 that was paid by the TTO for audit services rendered by Baker Tilly on behalf of District 204.

Respectfully submitted,

TOWNSHIP TRUSTEES OF SCHOOLS
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: 
One of its attorneys.

Gerald E. Kubasiak
Douglass G. Hewitt
KUBASIAK, FYLSTRA, THORPE & ROTUNNO, P.C.
Two First National Plaza
29th Floor
20 South Clark Street
Chicago, Illinois 60603
(312) 630-9600 (Phone)
(312) 630-7939 (Fax)
No. 48237

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Verified Complaint for Declaratory Relief are true and correct.

Dated: 10-14-13



Michael Thiessen

Subscribed and sworn to before me
this 14th day of October, 2013



Notary Public

