

FILED DATE: 8/30/2019 3:21 PM 2013CH23386

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

FILED
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DOROTHY BROWN
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COOK COUNTY, IL
2013CH23386
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TOWNSHIP TRUSTEES OF SCHOOLS)	
TOWNSHIP 38 NORTH, RANGE 12)	
EAST,)	
)	No. 13 CH 23386
Plaintiff,)	
)	Judge Thomas R. Mulroy
vs.)	Commercial Calendar I
)	
LYONS TOWNSHIP HIGH SCHOOL)	
DISTRICT NO. 204,)	
)	
Defendants.)	

PLAINTIFF’S PRE-TRIAL MEMORANDUM

Plaintiff, Lyons Township Trustees of Schools, Township 38 North, Range 12 East (“Trustees”), by its undersigned counsel, THE QUINLAN LAW FIRM, LLC and MILLER, CANFIELD, PADDOCK AND STONE, P.L.C., submits the following for its Pre-Trial Memorandum:

Final Pre-Trial Conference: **September 4, 2019, 10:00 a.m.**

Trial: **September 9-11, 2019, 10:30 a.m.**

A. Brief Statement of the Case.

The Trustees are a body politic who appoints a Treasurer. The Treasurer provides financial services for a dozen school districts in Lyons Township. The Illinois School Code mandates that each school district pays its proportionate share of the Treasurer’s expenses of office (because neither the Trustees nor the Treasurer have a tax base). A former Treasurer, Robert Healy, embezzled over \$1 million in school funds. While investigating this, the Trustees discovered that Healy had also provided the Defendant with three types of unauthorized and unlawful financial benefits and filed suit with respect to those benefits. One of these benefits was the Defendant was over-allocated income from pooled investments. This Court’s grant of

partial summary judgment on the statute of limitations issue, however, eliminated this benefit from the trial of this matter, leaving the remaining two benefits, discussed below.

First, at the end of each fiscal year, pursuant to the School Code, the Treasurer sends out a pro-rata bill to each school district in the Township for their proportionate share of the Treasurer's expenses in that fiscal year. Defendants did not pay in Fiscal Years 2008 – 2012 and only made a partial payment for Fiscal Year 2013. The Defendant maintains that it and Healy entered into an agreement authorizing the Defendant's non-payment through Fiscal Year 2012. This purported agreement, however, would have required an intergovernmental agreement, but the governing boards of each party did not comply with the Intergovernmental Agreement Act. And even if an intergovernmental agreement had been reached, it would have existed for one fiscal year at the most. Defendant's non-payment also violated the School Code because it means the other school districts will be forced to pay more than their proportionate share to make up for the Defendant's non-payment – the other school districts will be forced to subsidize the Defendant. The purported agreement was not a perpetual license for Defendant to take advantage of Healy's unauthorized wrongdoing. The amount at issue is \$1,325,337.26 for Fiscal Years 2008 through 2013.

Second, the School Code also requires that each school district conduct and pay for its own annual audit. Every school district did this except for the Defendant. Healy instead included the Defendant's audit invoices as part of each year's pro-rata bill and treated them as expenses of the Treasurer's office. Their costs were thus allocated among all the school districts. This means that each of the other school districts paid for their own annual audit, and also paid for their proportionate share of the Defendant's annual audit – the other school districts were again forced to use their own local tax dollars to subsidize the Defendant. There is no evidence that Healy's

actions were ever authorized by the Trustees and, in any event, Healy's actions violated the School Code as they were not an expense of his office (they were an expense of only one district, the Defendant). The amount at issue is \$249,008.21 for Fiscal Years 2008 through 2012.

The Treasurer is presently the custodian of about \$40 million of the Defendant's funds. The Trustees seek a declaratory judgment authorizing the Treasurer to debit these funds to satisfy the amounts at issue, so that the other school districts in Lyons Township are not forced to have their tax dollars allocated to pay for the Defendant.

B. Trustees' Trial Exhibits.

The Trustees identify the following trial exhibits to which LT does not object:

Plaintiff's Trial Exhibits		
No.	Document Description	Source
1	May 23, 1988 letter from A. Klusendorf to J. Nekola	D204-00129 – 133
2	June 1, 1988 Trustees Board Meeting Notice, Agenda, and Minutes	REV0439.pdf
3	July 12, 1988 letter from R. Healy to J. Slater	REV0041.pdf
4	March 9, 1990 letter from R. Healy to J. Slater	REV0051.pdf
5	August 27, 1992 letter from R. Healy to L. Eich	REV0112.pdf
6	June 8, 1993 memo from D. Sellers to L. Eich	2016-08-23 Docs Prod. Revised Responses to Plaintiff's Second Set of Interrogatories Nos. 4, 6, 8 and 11.pdf (pgs. 88-90)
7	June 22, 1993 letter from R. Healy to D. Kelly	D204-00138 – 141
8	April 29, 1999 letter from R. Healy to L. Beckwith	D204-00146 – 154
9	August 18, 1999 letter from R. Healy to L. Beckwith	D204-00169 – 171
10	February 29, 2000 memo from L. Beckwith to R. Healy	D204-00176
11	March 22, 2000 District 204 Finance Committee Minutes	D204-00177
12	January 12, 2001 letter from R. Healy to D. Kelly	D204-00185 – 191
13	Trustees Meeting Minutes or Agenda for meetings held in 1993-1999 and selected material packet	TTO Packet 01041993.pdf (pgs. 2-5); TTO Packet 02151993.pdf (pg. 2); TTO Packet 04051993.pdf (pgs. 2-5); TTO Packet 06281993.pdf (pg. 2); TTO Packet 07131993.pdf (pgs. 2-4); TTO Packet 08311993.pdf (pg. 2); TTO Packet 10041993.pdf (pgs. 2-3); TTO Packet

		<p>11051993.pdf (pg. 2); TTO Packet 12091993.pdf (pg.2); TTO Packet Jan 3 1994.pdf (pgs. 2-3); TTO packet 04041994.pdf (pgs. 2-3); TTO Packet 06291994.pdf (pg. 2); TTO Packet 07181994.pdf (pgs. 2-5); TTO Packet 10171994.pdf (pgs. 2-3); TTO Packet 11221994.pdf (pg. 2); TTO Packet 01131995.pdf (pgs. 2-3); TTO Packet 02271995.pdf (pg. 2); TTO Packet 04031995.pdf (pgs. 2-3); TTO Packet 07281995.pdf (pg. 2); TTO Packet 11091995 Notice of mtg.pdf (pg. 2); TTO Packet 11091995.pdf (pg. 2); TTO Packet 12121995.pdf (pg. 2); TTO Packet 01251996.pdf (pgs. 4-5, 41-42); TTO Packet 02261996.pdf (pg. 2); TTO Packet 04151996.pdf (pgs. 3-4, 2); TTO Packet 06201996.pdf (pgs. 2-3); TTO Packet 07111996.pdf (pgs. 2-4); TTO Packet 10071996.pdf (pgs. 2-3); TTO Packet 12061996.pdf (pg. 2); TTO Packet 02041997.pdf (pgs. 2-3); TTO Packet 04211997.pdf (pgs. 2-3, 12); TTO Packet 07171997.pdf (pgs. 2-3); TTO Packet 10171997.pdf (pgs. 2-3); TTO Packet 11101997.pdf (pg. 2); TTO Packet 12051997.pdf (pg. 2); TTO Packet 01271998.pdf (pgs. 2-3, 16-18); TTO Packet 04291998.pdf (pgs. 2-4); Board Packet June 3 1998.pdf (pg. 2); TTO Packet 06241998.pdf (pg. 2); Board Packet August 11 1998_20150515143352.pdf (pgs. 2-3); Board Packet October 19 1998_20150515143622.pdf (pgs. 2-3); Board Packet February 2 1999_20150515143837.pdf (pgs. 2-3, 9-11); Board Packet April 15 1999_20150515143948.pdf (pg. 1); Board Packet May 28 1999_20150515144114.pdf (pgs. 2-3); Board Packet July 27 1999.pdf (pgs. 2-4); Board Packet December 9 1999_20150515144703.pdf (pgs. 4-5, 3)</p>
14	Trustees Meeting Minutes, Agenda, and material packet for March 21, 2000 meeting	Board Packet March 21 2000_20150515145452.pdf
15	Trustees Meeting Minutes or Agenda for meetings held in June 2000 – June 2013 and selected material packet	Board Packets June 26 2000_20150518144250.pdf (pgs. 2-3); Board Packet July 18 2000.pdf (pgs. 2-3); Board Packet October 2 2000_20150515151730.pdf (pgs. 2-3); Board Packet January 8 2001_20150515152011.pdf (pgs. 1-2, 13-15); Board Packet April 9 2001_20150515152133.pdf (pg. 2); Board Packet June 5 2001_20150515152641.pdf (pgs. 2-4); Board Packet July 19 2001_20150515152954.pdf (pg. 2); Board Packet August 30 2001_20150515154208.pdf

		<p>(pgs. 2-5); Board Packet December 6 2001_20150515154537.pdf (pgs. 3-5); Board Packet January 7 2002_20150515154924.pdf (pgs. 2-3); Board Packet April 1 2002_20150515155141.pdf (pgs. 2-3, 23-25); LTTO Minutes 7-11-02.pdf (pgs. 1-2); LTTO Minutes 1-23-03.pdf (pgs. 1-2); LTTO Minutes 4-3-03.pdf (pg. 1); Board Packet June 13 2003_20150518152727.pdf (pgs. 2-3); Board Packet October 1 2003_20150518153014.pdf (pgs. 2-3); Board Packet November 10 2003.pdf (pgs. 2-3); Board Packet December 2 2003.pdf (pgs. 2-3); Board Packet January 23 2004_20150518153628.pdf (pg. 1); Board Packet July 11 2002_20150515160119.pdf (pg. 18-19); Board Packet May 18 2004_20150518155757.pdf (pg. 4); Board Packet October 25 2004_20150518160048.pdf (pgs. 2-3); Board Packet April 27 2005_20150518161239.pdf (pgs. 2-3); Board Packet July 18 2005_20150518161917.pdf (pg. 1); Board Packet October 3 2005_20150518162635.pdf (pgs. 2-3); Board Packet January 10 2006_20150518163211.pdf (pgs. 2-3); Board Packet April 3 2006_20150518163537.pdf (pgs. 2-3); LTTO Minutes 6-22-06.pdf (pg. 1); Board Packet August 28 2006_20150518164110.pdf (pgs. 2-3); LTTO Minutes 12-11-06.pdf (pgs. 1-2); Meeting_Minutes_1-29-2007.pdf (pgs. 1-2); Board Packet July 23 2007_20150518165850.pdf (pg. 5); Meeting_Minutes_7-23-2007.pdf (pgs. 1-2); Special_Meeting_Minutes_8-20-2007.pdf (pg. 1); Meeting_Minutes_10-22-2007.pdf (pgs. 1-2); Meeting_Minutes_3-6-2008.pdf (pgs. 1-2); Meeting_Minutes_5-12-2008.pdf (pgs. 1-2); Meeting_Minutes_10-16-2008.pdf (pgs. 1-2); Meeting_Minutes_11-24-2008.pdf (pgs. 1-2); Meeting_Minutes_2-9-2009-1.pdf (pgs. 1-2); Board Packet April 20 2009_20150519090007.pdf (pg. 1); Board Packet May 18 2009_20150519090045.pdf (pg. 1); Board Packet October 5 2009_20150518172041.pdf (pg. 2); Meeting_Minutes_10-5-2009.pdf (pgs. 1-2); Meeting_Minutes_1-10-2010.pdf (pgs. 1-3); Meeting_Minutes_4-12-2010.pdf (pgs. 1-2); Meeting_Minutes_6-28-2010.pdf (pgs. 1-2); Meeting_Minutes_8-9-2010.pdf (pgs. 1-2); Meeting_Minutes_10-18-2010.pdf (pgs. 1-2); Meeting_Minutes_1-10-2011.pdf (pgs. 1-2); Meeting_Minutes_4-4-2011.pdf (pgs. 1-2); Meeting_Minutes_5-23-2011.pdf (pg. 1); Meeting_Minutes_7-11-2011.pdf (pg. 1-3); 2011-12-27_Minutes.pdf (pgs. 1-2); 2012-1-</p>
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		11_Minutes.pdf (pgs. 1-2); 2012-5-14_Minutes.pdf (pgs. 1-2); 2012-5-18_Special_Meeting_Minutes.pdf (pgs. 1-2); 2012-6-1_Special_Meeting_Minutes.pdf (pgs. 1-3); 2012-7-2_Special_Meeting_Minutes.pdf (pgs. 1-3); 2012-7-16_Special_Meeting_Minutes.pdf (pgs. 1-2); Minutes_of_the_Special_Meeting_August_6_2012.pdf (pgs. 1-2); 2012-9-1_Special_Meeting_Minutes.pdf (pgs. 1-2); Special_Meeting_Minutes_September_14_2012.pdf (pgs. 1-2); Board Packet December 21 2012_20150518174143.pdf (pgs. 2-4); Minutes_of_the_Regular_Meeting_November_1_2012.pdf (pgs. 1-5); Minutes_of_the_Special_Meeting_November_21_2012.pdf (pgs. 1-2); 2012-12-21_Special_Board_Minutes-1.pdf (pgs. 1-4); 2013-28-1_Regular_Meeting_Minutes.pdf (pgs. 1-3); 2013_Feb_25_Reg_Mtg_Minutes.pdf (pgs. 1-3); 2013_March_21_Special_Mtg_Minutes.pdf (pgs. 1-2); 2013_May_7_Special_Meeting_Minutes.pdf (pgs. 1-4); 2013_May_28_Special_Meeting_Minutes.pdf (pgs. 1-3); 2013_May_8_Organizational_Mtg_Minutes.pdf (pgs. 1-2); 2013_June_17_Special_Meeting_Minutes.pdf (pgs. 1-2); Minutes_June_25_2013.pdf (pgs. 1-5)
16	June 19, 2000 District 204 Board of Education Meeting Minutes, Agenda, and related Treasurer's Office Invoice Exhibit T	D204-00182-84; 2016-08-23 Docs Prod. Revised Responses to Plaintiff's Second Set of Interrogatories Nos. 4, 6, 8 and 11.pdf (pgs. 47-64)
17	District 204 Board of Education June Meeting Minutes, Agenda, and related Treasurer's Office Invoice Exhibit for 2001 – 2008	2001-06-18 District 204 Board Minutes.PDF; 2002-06-17 District 204 Board Minutes.PDF; 2003-06-16 District 204 Board Minutes.PDF; 2004-06-21 District 204 Board Minutes.PDF; 2005-06-20 District 204 Board Minutes.PDF; 2006-06-19 District 204 Board Minutes.PDF; 2007-06-18 District 204 Board Minutes.PDF; 2008-06-16 District 204 Board Minutes.PDF
18	Treasurer's Office Statement of Expenditures FY 2008	6 30 08 TTO Annual Recap Exp.pdf
19	Treasurer's Office Expense Code 1252031700 report and related invoices for FY 2008	Scanned FY2008 1252031700 Audit GL Detail.pdf
20	June 9, 2009 pro-rata letter and billing from R. Healy to D. Kelly for FY 2008	D204-00249 – 250
21	June 9 2009 memo from D. Sellers to R. Healy	D204-00251 – 253
22	June 10, 2009 memo from D. Kelly to District 204's Board of Education regarding FY 2008	D204-00254

	pro-rata bill	
23	June 19, 2009 District 204 Board of Education Meeting Minutes, Agenda, and related Treasurer's Office FY 2008 Invoice Exhibit T	2009-06-19 District 204 Board Minutes.PDF
24	Treasurer's Office Statement of Expenditures FY 2009	6 30 09 TTO Annual Recap Exp.pdf
25	Treasurer's Office Expense Code 1252031700 report and related invoices for FY 2009	Scanned FY2009 1252031700 Audit GL Detail.pdf
26	May 20, 2010 pro-rata letter and billing from R. Healy to T. Kilrea for FY 2009	D204-00255 – 256
27	June 14, 2010 memo from D. Sellers to R. Healy	D204-00257 – 261
28	June 14, 2010 memo from T. Kilrea to District 204's Board of Education regarding FY 2009 pro-rata bill	D204-00262
29	June 21, 2010 District 204 Board of Education Meeting Minutes, Agenda, and related Treasurer's Office FY 2009 Invoice Exhibit R	2010-06-21 District 204 Board Minutes.PDF
30	Treasurer's Office Statement of Expenditures FY 2010	6 30 10 TTO Annual Recap Exp.pdf
31	Treasurer's Office Expense Code 1252031700 report and related invoices for FY 2010	Scanned FY2010 1252031700 Audit GL Detail.pdf
32	Treasurer's Office Expense Code 125203172040 report and related invoices for FY 2010	FY2010(2) 125203172040 Audit GL Detail.pdf; Scanned FY2010 1252031700 Audit GL Detail.pdf (pgs. 4-5)
33	May 3, 2011 pro-rata letter and billing from R. Healy to T. Kilrea for FY 2010	D204-00263 – 264
34	June 1, 2011 memo from D. Sellers to R. Healy	D204-00265 – 267
35	June 1, 2011 memo from T. Kilrea to District 204's Board of Education regarding FY 2010 pro-rata bill	D204-00268
36	June 20, 2011 District 204 Board of Education Meeting Minutes, Agenda, and related Treasurer's Office FY 2010 Invoice Exhibit P	2011-06-20 District 204 Board Minutes.PDF
37	Treasurer's Office Statement of Expenditures FY 2011	6 30 11 TTO Annual Recap Exp.pdf
38	Treasurer's Office Expense Code 1252031700 report and related invoices for FY 2011	Scanned FY2011 1252031700 Audit GL Detail.pdf
39	Treasurer's Office Expense Code 125203172040 report and related invoices for FY 2011	Scanned FY2011 125203172040 Audit GL Detail.pdf
40	May 31, 2012 pro-rata letter and billing from R. Healy to T. Kilrea for FY 2011	D204-00269 – 270
41	June 13, 2012 memo from D. Sellers to R. Healy	D204-00271 – 280
42	June 12, 2012 memo from T. Kilrea to District 204's Board of Education regarding FY 2011 pro-rata bill	D204-00281
43	June 18, 2012 District 204 Board of Education	2012-06-18 District 204 Board

	Meeting Minutes, Agenda, and related Treasurer's Office FY 2011 Invoice Exhibit R	Minutes.PDF
44	Treasurer's Office Statement of Expenditures FY 2012	6 30 12 TTO Annual Recap Exp.pdf
45	Treasurer's Office Expense Code 1252031700 report and related invoices for FY 2012	Scanned FY2012 1252031700 Audit GL Detail.pdf
46	Treasurer's Office Expense Code 12520317204 report and related invoices for FY 2012	FY2012 12520317204 Audit GL Detail.pdf
47	May 30, 2013 pro-rata letter and billing from C. Bradley to T. Kilrea for FY 2012; June 7, 2013 supplementary memo and material for FY 2012 pro-rata billing from C. Bradley to All School District Superintendents	D204-00309 – 310; D204-00312 – 317
48	June 12, 2013 memo from D. Sellers to R. Healy	D204-00318 – 319
49	June 12, 2013 memo from T. Kilrea to District 204's Board of Education regarding FY 2012 pro-rata bill	D204-00320
50	Treasurer's Office Statement of Expenditures FY 2013	6 30 13 TTO Annual Recap Exp.pdf
51	April 30, 2014 pro-rata letter, billing, and Treasurer's Office reports from S. Birkenmaier to All School District Superintendents and Business Managers for FY 2013; May 1, 2014 supplementary email for FY 2013 pro-rata billing from S. Birkenmaier to All School District Superintendents and Business Managers	FY 2013 – Contents.pdf (pgs. 18-22 and 39-67); D204-00430
52	October 8, 2014 District 204 check for \$149,551 in partial payment for FY 2013 pro-rata bill and check requisition form	D204-00456; D204-00453
53	December 15 - 19, 2011 emails between D. Sellers and E. Hoster	RE: Bus Transportation Rates for 2011 – 12.pst
54	March 8, 2013 letter from M. Thiessen to M. Pera and attachments	REV0199.pdf
55	March 15, 2013 letter from M. Pera to All School Districts Superintendents	D204-00296 – 297
56	April 19, 2013 letter from M. Thiessen to M. Pera	D204-00306 – 308
57	December 30, 2013 letter from S. Birkenmaier to T. Kilrea and attachment	D204-00346 – 348
58	District 204 engagement letters with Virchow Krause & Company and Baker Tilly	D204-00574 – 653
59	Treasurer's Office reports for District 101's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	101 Acct Detail 1 2220 308 0 0 94-05.pdf; 101 Acct Detail 1 2560 308 0 0 94-05.pdf; 101 Acct Detail 1 2310 308 0 0 94-05.pdf; 101 Acct Detail 1 1250 308 0 0 94-05.pdf; 101 Acct Detail 1 6006 690 0 0 94-05.pdf; 101 Acct

		Detail 1 2310 340 0 0 94-05.pdf; 101 Acct Detail 1 2320 340 0 0 94-05.pdf; 101 AUDIT FY 06 C5 1 2310 308 0 0.pdf; 101 AUDIT VEND DETAIL FY06to12.pdf
60	Treasurer's Office reports for District 102's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	102 Acct Detail 1 2510 390 0 0 94-05.pdf; 102 Acct Detail 1 2310 317 0 0 94-05.pdf; 102 Acct Detail 81 3000 315 0 0 94-05.pdf (pgs. 1 & 45); 102 Acct Detail 1 2213 410 0 0 94-05.pdf; 102 AUDIT FY06 C5 1 2310 317 0 0.pdf; 102 AUDIT VEND DETAIL FY06-12.pdf
61	Treasurer's Office reports for District 103's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	103 Acct Detail 1 2510 317 0 0 94-05.pdf; 103 Acct Detail 1 2310 381 0 0 94-05.pdf; 103 Acct Detail 1 2310 317 0 0 94-05.pdf; 103 AUDIT C5 1 2310 317 0 0.pdf; 103 AUDIT FY06 C5 1 2310 317 0 0 & 1231031810.pdf; 103 AUDIT VEND DETAIL FY06-12.pdf
62	Treasurer's Office reports for District 104's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	104 Acct Detail 1 2310 317 1 0.pdf; 104 AUDIT FY06 C5 1 2310 317 0 0 & 1231031810.pdf; 104 AUDIT VEND DETAIL FY06-12.pdf
63	Treasurer's Office reports for District 105's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	105 Acct Detail 1 2311 317 0 0 94-05.pdf; 105 AUDIT FY06 C5 1 2311 317 0 0.pdf; 105 AUDIT VEND DETAIL FY06-12.pdf
64	Treasurer's Office reports for District 106's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	106 Acct Detail 1231031700 94-05.pdf; 106 Acct Detail 1125031800 94-05.pdf; 106 Acct Detail 12232031700 94-05.pdf; 106 Acct Detail 1231538500 94-05.pdf; 106 Acct Detail 12232031730 94-05.pdf; 106 Acct Detail 1231031100 94-05.pdf; 106 Acct Detail 1231538300 94-05.pdf; 106 Acct Detail 1231531100 94-05.pdf; 106 AUDIT FY06 C5 1 2310 317 0 0.pdf; 106 AUDIT Vendor Detail FY06-12.pdf
65	Treasurer's Office reports for District 107's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	107 Acct Detail 1 2520 31 7 0 0 94-05.pdf; 107 AUDIT FY06 C5 1 2520 317 0 0.pdf; 107 AUDIT VEND DETAIL FY06-12.pdf
66	Treasurer's Office reports for District 108's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	108 Acct Detail 1 2310 317 0 0 94-05.pdf; 108 AUDIT FY06 C5 1 2310 317 0 0.pdf; 108 Audit VEND DETAIL FY06-12.pdf
67	Treasurer's Office reports for District 109's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 – 2012	109 Acct Detail 1 2310 317 0 0 94-05.pdf; 109 AUDIT FY06 C5 1 2310 317 0 0.pdf; 109 Audit VEND DETAIL FY06-12.pdf
68	Treasurer's Office reports for District 217's expense codes related to William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 - 2012	217Acct Detail 1 2310 317 0 0 94-05.pdf; 217 Acct Detail 1 2310 317 0 41 94-05.pdf; 217 Acct Detail 1 2560 317 0 84 94-05.pdf; 217 Acct Detail 1 1250 317 0 30 94-05.pdf; 217 Acct Detail 1 2420 317 0 41 94-05.pdf; 217

		AUDIT FY06 C5 1 2310 317 0 0.pdf; 217 AUDIT VEND DETAIL FY06-12.pdf
69	Treasurer's Office reports for District 101's expense codes related to McGladrey & Pullen; William F. Gurrie & Co.; Virchow, Krause & Company; and Baker Tilly for FYs 1994 - 2012	2045 Acct Detail 1 2321 315 6 35000 94-05.pdf; 2045 Acct Detail 1 2321 315 0 35000 94-05.pdf; 2045 Acct Detail 1 2321 315 7 35000 94-05.pdf; 2045 Acct Detail 1 2324 3153 330 0 94-05.pdf; 2045 Acct Detail 1 2321 315 8 35000 94-05.pdf; 2045 Acct Detail 1 1207 315 0 35000 94-05.pdf; 2045 Acct Detail 1 2324 3153 110 0 94-05.pdf; 2045 Acct Detail 1 2641 3153 219 320 94-05.pdf; 2045 Acct Detail 1 2324 3153 999 310 94-05.pdf; 2045 Acct Detail 1 1207 3153 510 250 94-05.pdf; 2045 Acct Detail 1 2510 3153 105 110 94-05.pdf; 2045 Acct Detail 1 2510 3153 105 310 94-05.pdf; 2045 Acct Detail 1 2510 3111 105 110 94-05.pdf; 2045 Acct Detail 1 2510 3154 105 111 94-05.pdf; 2045 Acct Detail 1 2323 3153 105 310 94-05.pdf; 2045 Acct Detail 1 2323 3153 219 320 94-05.pdf; 2045 AUDIT FY06 C5 1 1207 3153 542 220.pdf; 2045 AUDIT FY06 C5 1 2480 3153 +.pdf; 2045 AUDIT VEND DETAIL FY06-12.pdf
70	April 29, 2015 pro-rata memo, billing, and Treasurer's Office reports from S. Birkenmaier to All School Districts for FY 2014	REV0458.pdf; REV0459.pdf; REV0460
71	May 23, 2016 pro-rata memo and billing from S. Birkenmaier to All School Districts for FY 2015	REV0466.pdf; REV0467.pdf
72	May 10, 2017 pro-rata memo and billing from S. Birkenmaier to All School Districts for FY 2016	2017-05-10 Birkenmaier School Districts Memo.pdf; 2017-05-10 Pro Rata Billing Fiscal Year Ending June 30, 2016.pdf
73	May 3, 2018 pro-rata memo and billing from S. Birkenmaier to All School Districts for FY 2017	2018-05-03 Birkenmaier School Districts Memo.pdf; Pro Rata Billing Fiscal Year Ending June 30, 2017.pdf
74	February 26, 2014 memo from Trustees regarding Lawsuits and Forensic Audit	D204-00358 – 359
75	March 24, 2016 email from S. Birkenmaier to Trustees	Lyons TTO Mail – Weekly update March 24, 2016.pdf
76	April 1, 2016 email from S. Birkenmaier to Trustees	Lyons TTO Mail – Weekly update April 1, 2016.pdf
77	Portion of May 24, 2016 communication from S. Birkenmaier to All School Districts in response to questions from District 105	2016-06-24 Birkenmaier Districts re D105 Questions.pdf (pgs. 5-10)
78	October 11, 2012 letter from K. Gawlas to G.E. Kubasiak to	2012-10-11 Legacy Professionals GEK.pdf
79	June 21, 2013 letter from K. Gawlas to G.E. Kubasiak	2013-06-21 Legacy Professionals GEK.pdf
80	Treasurer's Office's paper file for pro-rata billing FY 1999	FY June 30, 1999.pdf
81	Treasurer's Office's paper file for pro-rata billing	FY June 30, 2000.pdf

	FY 2000	
82	Treasurer's Office's paper file for pro-rata billing FY 2001	FY 2001 - Folder and Contents.pdf; FY 2001 - Pro Rata Green Bar Sheet.pdf
83	Treasurer's Office's paper file for pro-rata billing FY 2002	FY 2002 - Pro Rata.pdf; FY 2002 - Pro Rata Green Bar Worksheet.pdf
84	Treasurer's Office's paper file for pro-rata billing FY 2003	FY 2003 - Pro Rata.pdf; FY 2003 - Pro Rata Green Bar Worksheet.pdf
85	Treasurer's Office's paper file for pro-rata billing FY 2004	FY 2004 - Pro Rata.pdf; FY 2004 - Pro Rata Green Bar Worksheet.pdf
86	Treasurer's Office's paper file for pro-rata billing FY 2005	FY June 30, 2005.pdf
87	Treasurer's Office's paper file for pro-rata billing FY 2006	FY June 30, 2006.pdf
88	Treasurer's Office's paper file for pro-rata billing FY 2007	FY June 30, 2007.pdf
89	Treasurer's Office's paper file for pro-rata billing FY 2008	FY 2008 - Folder.pdf; FY 2008 - Folder (zoom).pdf; FY 2008 - Contents p1 of 2.pdf; FY 2008 - Content p2 of 2.pdf
90	Treasurer's Office's paper file for pro-rata billing FY 2009	FY 2009 - Folder.pdf; FY 2009 - Folder (zoom).pdf; FY 2009 - Contents p1 of 2.pdf; FY 2009 - Contents p2 of 2.pdf
91	Treasurer's Office's paper file for pro-rata billing FY 2010	FY 2010 - Folder and Contents.pdf
92	Treasurer's Office's paper file for pro-rata billing FY 2011	FY 2011 - Folder.pdf; FY 2011 - Contents.pdf
93	Treasurer's Office's paper file for pro-rata billing FY 2012	FY 2012 - Folder.pdf; FY 2012 - Inside Folder.pdf; FY 2012 - Contents.pdf
94	Treasurer's Office's paper file for pro-rata billing FY 2013	FY 2013 - Folder.pdf; FY 2013 - Contents.pdf

C. Witness List and Brief Summary of Direct Testimony.

The Trustees anticipate calling the following witnesses for direct examination:

1. **Michael Thiessen.** Mr. Thiessen is the current President of the Board of Trustees of Schools and has been a Trustee since mid-2012. Mr. Thiessen will explain the structure and operation of both the Trustees and the position of Treasurer. He will further testify regarding an internal investigation of former-Treasurer Robert Healy's conduct that led to both Mr. Healy's criminal conviction for embezzling over \$1 million, and the discovery that Mr. Healy had afforded Defendant unlawful and unapproved financial benefits, prompting this

lawsuit. Mr. Thiessen will testify that those unapproved benefits harm the Trustees, and the other school districts they serve, forcing those school districts to unlawfully fund Defendant. Mr. Thiessen will also testify regarding the Treasurer's expenses of office in the years at issue and explain why those are proper expenses of office. Mr. Thiessen will testify that the Treasurer is holding about \$40 million for Defendant and that declaratory relief will permit the Treasurer to transfer funds from Defendant to make whole the other school districts. Mr. Thiessen will testify, with respect to Defendant's counterclaim for breach of fiduciary duties, that the Treasurer properly applied the recovery of proceeds from Mr. Healy's fidelity bonds to the benefit of the school districts by reducing their outstanding liabilities.

2. **Dr. Susan Birkenmaier**. Dr. Birkenmaier is a former Treasurer, having served from October 2013 through June 2018. Dr. Birkenmaier will explain the structure and operation of the position of Treasurer. She may explain some of the business records introduced into evidence and how those records show that the Treasurer paid for Defendant's annual audit while all of the other school districts paid for their own audits. She will also explain how Defendant's non-payment of the Treasurer's annual invoices caused harm to all of the other school districts the Trustees and Treasurer serve, forcing those districts to improperly fund Defendant. Dr. Birkenmaier will also explain why the Treasurer's expenses of office are appropriate. Dr. Birkenmaier will testify concerning the recovery and use of proceeds from Mr. Healy's fidelity bonds and how those funds were properly applied to reduce outstanding liabilities of the school districts.

3. **Kelly Bradshaw**. Ms. Bradshaw is an accountant and independent contractor working in the Treasurer's office. She may explain some of the business records introduced into

evidence and how those records show that the Treasurer paid for Defendants's annual audit, while all of the other school districts paid for their own annual audits.

4. **Hon. Russell Hartigan (Ret.)**. Mr. Hartigan is a former Trustee. Mr. Hartigan will testify that during a March 2000 meeting of the Trustees he voted to "accept" a proposal made by Defendant's Business Manager to have the Treasurer pay for the salaries and benefits of three (3) of Defendant's employees. Mr. Hartigan will testify that by voting to "accept" the proposal he was not approving a contract with Defendant. He will also testify that, consistent with the meeting minutes for the next many years, he never voted to approve a contract with Defendant. Mr. Hartigan will also testify that he does not recall the Treasurer paying for the annual audits of all of the other school districts.

5. **Nancy Sylvester (limited to an offer of proof)**. The Trustees anticipate making an offer of proof as to the testimony of Nancy Sylvester. The Trustees disclosed Ms. Sylvester as an expert parliamentarian who would offer her opinion testimony on the meeting minutes of both parties, and their historical customs and usages as expressed through those meeting minutes. Judge Hall struck her expert disclosure on the basis that the Court did not believe that Ms. Sylvester's testimony was an appropriate subject of expert testimony. The Trustees propose to make an offer of proof at trial by submitting (a) an affidavit executed by Ms. Sylvester and provided previously to LT, and (b) a copy of Ms. Sylvester's discovery deposition transcript.

6. **Testimony by Deposition Designations**. The Trustees anticipate designating deposition testimony from the following evidence depositions, and will submit those designations at the Final Pre-Trial Conference:

a. **Dr. Elise Grimes**. Dr. Grimes is the former Superintendent of District 106, one of the districts at issue in this action.

b. **Dr. Lisa Beckwith.** Ms. Beckwith is a former Director of Business Services for Defendant.

c. **Harold Huang.** Mr. Huang is a former Director of Business Services for Defendant.

The Trustees reserve the right to call rebuttal witnesses.

D. Motions in Limine.

The Trustees have not filed any motions *in limine*.

E. Other Materials.

The Trustees will submit separately a trial brief with citation to relevant legal authority in advance of the Final Pre-Trial Conference.

Respectfully submitted,

LYONS TOWNSHIP TRUSTEES OF SCHOOLS
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By: /s/ Barry P. Kaltenbach
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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2019, I electronically filed PLAINTIFF'S PRE-TRIAL MEMORANDUM with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/Barry P. Kaltenbach