

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

FILED
7/29/2019 2:05 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2013CH23386

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

5955419

**EXHIBITS TO
DEFENDANT LT'S MOTION FOR RECONSIDERATION OF
LT'S PARTIAL SUMMARY JUDGMENT MOTION
ON THE STATUTE OF LIMITATIONS ISSUE**

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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)

Defendants)

No. 13 CH 23386

Judge Sophia H. Hall
Calendar 14

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Township Trustees of Schools Township 38 North, Range 12 East ("TTO"), by its undersigned counsel, MILLER, CANFIELD, PADDOCK & STONE, PLC, for its Motion for Summary Judgment (the "Motion") against the defendant, Lyons Township High School District No. 204 ("LT"), states as follows:

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CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
CHANCERY DIV
ROBERTY BROWN

EXHIBIT 1

its unlawful financial benefits to the detriment of the other districts. Moreover, LT has asserted only generalized prejudice, alleging that it relied on the purported contract in formulating its budget and managing funds. (Ex. 21 at ¶55.) But even if the TTO had brought this lawsuit within a few years, LT still would have passed its annual budgets and managed its funds on an annual basis. The “prejudice” of which LT complains is really little more than an argument that it does not want to “give back” the unlawful benefits. The TTO is entitled to summary judgment on the first affirmative defense.

B. Second Affirmative Defense: Statute of Limitations.

For the reasons set forth in responding to LT’s motion for partial summary judgment on this issue, no limitations period applies to this case and the TTO is entitled to summary judgment on the second affirmative defense.

C. Third and Fourth Affirmative Defenses: Promissory Estoppel and Equitable Estoppel.

LT alleges promissory estoppel as its third affirmative defense and equitable estoppel as its fourth affirmative defense. LT does so only with respect to the first 2 claims; LT does not assert these doctrines as a defense as to the TTO’s over-allocation of interest claim. Although the doctrines are somewhat different, “similar considerations apply when these doctrines are asserted against public bodies.” *Matthews v. CTA*, 2016 IL 117638, ¶94. Illinois courts have consistently held that these doctrines “will not be applied to governmental entities absent extraordinary and compelling circumstances.” *Id.*

1. Promissory Estoppel.

With respect to promissory estoppel, it is an offensive doctrine. It is intended to permit a claim to succeed, under certain circumstances, “where the other elements of a contract exist (offer, acceptance, and mutual assent), but consideration is lacking.” *Id.* at ¶93. It is distinguished

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

Township Trustees

v.

Lynne Township HS

No. 13 CH 23386
Calendar 14

ORDER SETTING MOTION FOR HEARING

This cause coming to be heard on Plaintiff's/Defendant's motion for partial summary judgment
~~and Plaintiff's Motion for Summary Judgment.~~ IT IS HEREBY ORDERED:
(2)

1. The Defendant's Motion for Partial Summary Judgment is set for hearing on Aug 21, 2017 at 1030 a.m./p.m.

2. The Movant's Brief in support shall be filed on or before _____ 4234

Respondent's Response Brief shall be filed on or before _____ 4234

Movant's Reply Brief shall be filed on or before Aug 7, 2017 4234

3. Movant shall furnish the Court (Chambers 2301) with courtesy copies of all briefs and relevant pleadings on or before Aug 9, 2017 days before the hearing date). 4253

4. All filings are limited to no more than 15 pages.

5. (2) Plaintiff's Motion for Summary Judgment is entered and continued.

6. Order of June 26, 2017 setting briefing schedule is revoked.

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Atty Name: Jay R Hoffman
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Atty for: Df
Address: 20 W Chest St Suite 2500
City: Chicago IL 60602
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ENTERED

ENTERED
JUDGE SOPHIA H. HALL-0162

JUL 19 2017
Judge Sophia H. Hall
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

EXHIBIT 2

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

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

ORDER

This matter coming to be heard on Defendant Lyons Township High School's ("LT's") Motion for Partial Summary Judgment on the Statute of Limitations Issue, the matter being fully briefed and fully argued by both sides before the Court, IT IS ORDERED:

1. Defendant LT's Motion for Partial Summary Judgment, for the reasons that the Court stated in its oral ruling issued today in open Court, is denied *without prejudice to proofs to be presented at trial.*
2. This case is continued for a status hearing on March 20, 2018, at 9:30 a.m.
3. The ruling date set for March 16, 2018, at 11:00 a.m. is stricken.

By:

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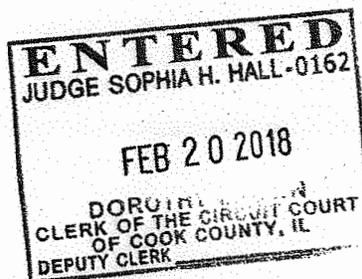


EXHIBIT 3

1 STATE OF ILLINOIS)
 2) SS:
 3 COUNTY OF C O O K)
 4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 5 COUNTY DEPARTMENT - CHANCERY DIVISION
 6 TOWNSHIP TRUSTEES OF SCHOOLS)
 7 TOWNSHIP NORTH, RANGE 12 EAST,)
 8)
 9 Plaintiff/Counter-Defendant,)
 10)
 11 vs.) No. 13 CH 23386
 12)
 13 LYONS TOWNSHIP HIGH SCHOOL)
 14 DIST. 204,)
 15)
 16 Defendant/Counter-Plaintiff.)
 17 _____)
 18 REPORT OF PROCEEDINGS at the motion of
 19 the above-entitled cause before the Honorable
 20 SOPHIA H. HALL, Judge of said Court, at the
 21 Richard J. Daley Center, Room 2301, on the 20th
 22 day of February, 2018, at the hour of 11:00 a.m.
 23 Reported By: Gina M. Callahan, CSR
 24 License No.: 084-003623

1 APPEARANCES:
 2 MILLER, CANFIELD, PADDOCK AND STONE, P.C.
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 17 On behalf of LTSD.
 18
 19
 20 **EXHIBIT 4**
 21
 22
 23
 24

1 THE COURT: Okay TTO versus Lyons.
 2 MR. HOFFMAN: Here, Judge. Jay Hoffman
 3 for the defendant LTSD.
 4 MR. KALTENBACH: Good morning. Barry
 5 Kaltenbach for plaintiff TTO and Gerald Kubasiak
 6 is also with me.
 7 THE COURT: Oh. He gave your name?
 8 MR. KUBASIKA: Yes.
 9 THE COURT: All right. The reason I
 10 called you in earlier is that I don't have a
 11 written opinion for you, but I do need to tell
 12 you what's going on with it, just so you have
 13 some idea where I think this is with respect to
 14 the Statute of Limitations.
 15 I'm going to deny the motion for
 16 Statute of Limitations without prejudice because
 17 I think there is some factual matters that may
 18 have a bearing on whether or not a Statute of
 19 Limitations will apply. And it may be that I
 20 just don't have that information and it is
 21 available somewhere else or not.
 22 So this was a motion for partial
 23 summary judgment of the Statute of Limitations
 24 issue. Usually that comes up in a Motion to

1 Dismiss, but I understand why it didn't happen.
 2 So again repeating, the Court denies
 3 the motion without prejudice.
 4 So the factual issues arise around how
 5 the tax collections are handled. You kind of
 6 leapt into the middle of this, so there is a lot
 7 about just how the money is handled piece by
 8 piece by piece.
 9 So the township, I gather, collects the
 10 taxes. I gather that. Not a great deal of
 11 conversation. I did look at the statute and
 12 maybe I missed it, but the township collects the
 13 taxes. And then the township trustees, the
 14 school trustees, they have a treasurer who is
 15 designated to do all the money handling. And
 16 pursuant to statute, there are various
 17 provisions about how the money that's collected
 18 is to be managed and how the items are
 19 distributed, more in a conclusory fashion
 20 they're supposed to do this. So here's where
 21 the questions come up.
 22 So dealing with the investment income,
 23 the investment income apparently is -- and I'm
 24 going to use this as an analogy because it



1 helped me. If the analogy doesn't fit what is
 2 happening actually, then let me know. But I
 3 think of the treasurer, and I'm going to talk
 4 about the trustees as like a bank. They are --
 5 and they have custody like a bank has of monies
 6 in their depositor's accounts.

7 So using that as the analogy, the bank,
 8 as custodian of the money, has no trusteeship
 9 duties as custodian and the depositors like --
 10 this is my understanding of it. And the
 11 depositors, like each of the districts, have
 12 their own bank account.

13 So any money which is to be distributed
 14 from the district's bank account is distributed
 15 pursuant to the order of the accountholder, the
 16 district's. And the fact that the treasurer --
 17 let's just use the treasurer for the trustees is
 18 a second signer on the account, it is just that
 19 because, I guess, there is a real bank that has
 20 the monies on deposit. Okay. So -- but the
 21 relationship between the treasurer and the
 22 districts is over accounts that are depositing
 23 into with the collections.

24 So then I'm asking myself how is the

5

1 money moved around? So apparently, the statute
 2 allows for the treasurer to take the agency
 3 accounts and put them into one big account to
 4 invest the monies, and then the treasurer will,
 5 as the income comes in on the combined
 6 investment account which contains the district's
 7 money that has already been distributed to the
 8 districts, then those monies are distributed. I
 9 don't know if there is any trusting around that.
 10 It doesn't -- and if it is a trust account, then
 11 it would have to be very specific that there is
 12 a trust.

13 Let me cut to the chase in a moment. I
 14 don't see anything that indicates that the
 15 treasurer is holding -- at this point holding
 16 any money in trust subject to the treasurer's
 17 discretion as to how they might spend things.
 18 It just seems to me the treasurer is moving the
 19 district's monies according to the statutory
 20 requirements. So I'm not seeing that.

21 So that means the issue of the Statute
 22 of Limitations, in my view, at this point is not
 23 going to be resolved by saying the Statute of
 24 Limitations doesn't apply because there is some

6

1 trust account happening.

2 All right. So now we get to what
 3 remains is whether there is a public interest
 4 exemption. Yes. And it would seem to me that
 5 there is a public interest exemption because,
 6 from what I can tell from how the monies are
 7 moving, because the district's -- and this case
 8 is kind of backwards in a way. But the monies
 9 in the district accounts or however they're
 10 being moved, the people have an interest in
 11 them. So it would seem that whatever is going
 12 to happen here, there is a public interest
 13 exemption. So it would seem that that doesn't
 14 apply based upon what I can see. The investment
 15 income is of interest, and that's a different
 16 kind of account. I don't know. More
 17 information has to be had about that.

18 Then the operating expenses. How are
 19 the operating expenses paid? It would seem that
 20 the distribution of the operating expenses are
 21 connected to the whether or not the audit
 22 payments to -- let me back up.

23 Moving to the audit expenses, the audit
 24 expenses seem -- of Lyons Township seem to come

7

1 out of the operating income. And so if the
 2 audit expenses were properly paid or not paid,
 3 it would affect the percentages that were being
 4 distributed from the operating income. Though
 5 these two pots of money are treated separately,
 6 they are connected, because I think that the
 7 only question here is because the audit expenses
 8 for Lyons Township is being paid out of -- is
 9 being paid as a part of the operating expenses
 10 of the treasurer's office, as such, then that
 11 affects the portion that everybody is paying to
 12 reimburse for the operating expenses.

13 I know this sounds a little confusing
 14 as I'm expressing this, but that's because it is
 15 not totally clear how the monies are traveling.
 16 And in any event, with respect to the elements
 17 of the public interest exception as is set up,
 18 those elements seem to be based on -- and they
 19 look like they are separate ones -- the effect
 20 of the interest on the public, the handling of
 21 that money does have an interest in the public
 22 in terms of the monies available to address the
 23 operation of the schools. Clearly, a connection
 24 there, unlike the so-called insurance premium

8



1 issue in the other case that was cited which was
 2 the King case, the Champaign County Forest
 3 Preserve District versus King. This is a
 4 different situation. And the King facts don't
 5 fit this one.

6 There is an obligation of the
 7 governmental unit to act on behalf of the
 8 public, it appears, and the extent to which the
 9 expenditure -- my understanding of that language
 10 is how much money is involved here. And that
 11 extent of expenditure is there is a lot of money
 12 involved here. So I think that the Statute of
 13 Limitations does not prevent the trustees from
 14 pursuing this.

15 Now, there are a lot of other questions
 16 in the cause of action that I think we still end
 17 up having to get to, but this was intended to
 18 narrow what's at stake. And based upon what's
 19 been presented here, I do not see a basis for it
 20 narrowing it.

21 MR. KUBASIAK: Thank you, your Honor.
 22 You probably don't have too many cases that go
 23 back to the 1800s that we have to reply upon.

24 THE COURT: And it was fascinating

9

1 looking at. And I looked at the -- spent a lot
 2 of time looking at the District 5, District 1
 3 case.

4 MR. KUBASIAK: Yes, yes.

5 THE COURT: And District 5 District 1 is
 6 really kind of different. It doesn't help in a
 7 sense, because it was a fight between District 5
 8 who already -- where the money had already
 9 been -- it was district --

10 MR. KALTENBACH: It was District 5's
 11 money but given to District 1.

12 THE COURT: It was District 5's money
 13 given to District 1. And I bet that even the
 14 judges who were deciding that one were having
 15 difficulty because the language was not totally
 16 clear, even in the way they wrote it.

17 MR. KALTENBACH: It is archaic.

18 THE COURT: Inartfully written is the
 19 word for it.

20 MR. HOFFMAN: So before the order, your
 21 Honor.

22 THE COURT: I'm going to deny it.

23 MR. HOFFMAN: Without prejudice.

24 THE COURT: Summary judgment for

10

1 application of the Statute of Limitations
 2 without prejudice.

3 MR. HOFFMAN: Without prejudice based
 4 upon -- well --

5 MR. KALTENBACH: The reasoning of the
 6 Court.

7 MR. HOFFMAN: Subject to proof being
 8 presented at trial.

9 MR. KALTENBACH: Well, without
 10 prejudice.

11 MR. HOFFMAN: Without prejudice.

12 THE COURT: So that takes care of that.
 13 (Whereupon, these were all the
 14 proceedings had at this time.)

11

1 STATE OF ILLINOIS)
 2) SS:
 3 COUNTY OF C O O K)
 4)

5 Gina Callahan, being first duly sworn,
 6 on oath says that she is a court reporter doing
 7 business in the City of Chicago; and that she
 8 reported in shorthand the proceedings of said
 9 hearing, and that the foregoing is a true and
 10 correct transcript of her shorthand notes so
 11 taken as aforesaid, and contains the proceedings
 12 given at said hearing.

13 *Gina Callahan*
 14 _____
 15 Gina Callahan, CSR
 16 LIC. NO. 084-003623

12



Vote To Decide Township School Trustees' Fate

November 05, 1995 | By Michael Martinez, Tribune Staff Writer.

Back in 1819, when Abe Lincoln was a mere 10-year-old boy, log cabins were commonplace and schoolhouses were only one room, the Illinois General Assembly created the offices of township school trustees and treasurer to handle school taxes.

The elected school trustees and their appointed treasurer monitored school funds and land holdings in each township, taking care of complicated finances, so local educators could concentrate on teaching.

In 1962, state lawmakers, thinking the township school positions were outmoded, abolished the offices throughout Illinois-except in suburban Cook County, where politics played a role in their preservation.

But now voters in two Cook County townships-Wheeling Township in the northwest suburbs and Leyden Township in the western suburbs-will have a chance to decided the issue on their own, as they will consider separate referendum proposals Tuesday to abolish their three-member boards of school trustees, which are volunteer posts, and their salaried treasurers.

In essence, they are being asked to cut out the middle man. Under state law, the 25 township school trustees in suburban Cook County hold the legal title to all school property located in the township, and they hire a treasurer to account for school funds, officials said.

Those urging voters to abolish the offices have the same general philosophy: Most suburban school districts now

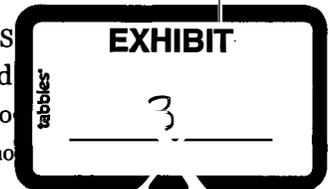
EXHIBIT 5

Related Articles

Township School Post Is Facing A Ballot Test (/1995-03-30 /news/9503300244_1_school-trustees-school-districts-school-funds) March 30, 1995

Old School Treasurer Setup Hit (/1994-10-09 /news/9410090209_1_school-trustees-school-funds-school-treasurer) October 9, 1994

Wheeling S Eliminated (/news/95110 trustees-scho



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have accountants and money managers to handle sophisticated financial matters on their own.

"This is very much like the buggy whip. At one time buggy whips were very useful, but they are no longer very useful," said John Ratliff, an accountant himself and a Township High School District 214 board member.

Though identical in philosophy, the two referendums are taking place under dramatically different circumstances. In Leyden Township, a treasurer was recently sent to prison for embezzlement, whereas in Wheeling Township, a cost-cutting reform effort is at work.

The Leyden Township referendum grew from a scandal in which the former school treasurer, James Schierhorn, and his wife, Jackie, were charged with stealing \$298,950 in school funds.

Last month, James Schierhorn pleaded guilty to theft and official misconduct and was sentenced to 4 years in prison. His wife pleaded guilty to theft by deception and was placed on probation for 3 years. They have returned \$250,000 of the money.

Tuesday's referendum in Leyden Township seems to face certain approval because an advisory referendum proposal on the same issue was overwhelmingly approved last April.

"I have no idea why it exists in this county, other than it is a political entity that handles millions and millions of dollars," said Jack Schoenholtz, superintendent of Leyden High School District 212.

"These township trustees have incredible amounts of money that they are dealing with, so they have some power Downstate (in Springfield). I'm sure they get invited to a lot of things by bankers," Schoenholtz said. "From what I can see, there is not a lot of close budgetary control, and there is not a lot of supervision."

The Leyden Township trustees and treasurer handle about \$65 million a year in tax collections, and the treasurer's office costs about \$350,000 a year to operate, said Carole Orze-Ellis of Franklin Park, a township school trustee who is not seeking re-election Tuesday. No candidate is running for her seat, she said.

"I think the office should stay for one simple reason," Orze-Ellis said. "I think there were some checks and balances in the office, because the trustees were able to catch the embezzlement."

districts)

November 9, 1995

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Cook County (/keyword /cook-county)

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"I feel the trustees are really aware of the situation, and it could help run the treasurer's office better," Orze-Ellis said.

In Wheeling Township, Ratliff, 43, of Mt. Prospect, contends the Wheeling Township trustees of schools and their treasurer are a costly, unnecessary layer of government.

But trustees and the treasurer, who handle a total of some \$150 million in school funds, strongly disagree and say a state law would require a far more expensive alternative in which each school district would have to hire its own school treasurer, if the proposal is approved.

In response, referendum supporters said District 214 and the four elementary schools systems-Wheeling-based District 21, Prospect Heights-based District 23, Arlington Heights-based District 25 and District 26 in the River Trails area of Mt. Prospect-already have personnel on staff or a school board member who would serve as treasurer.

Also, District 214 has said it would share its treasurer with the elementary districts, Ratliff said.

"At one time, school districts were very unsophisticated and couldn't handle their school affairs," Ratliff said. "Today they are very sophisticated. They all have professional business managers."

1 | 2 (/1995-11-05/news/9511050301_1_school-trustees-school-funds-

treasurer/2) | Next (/1995-11-05/news/9511050301_7_school-trustees-

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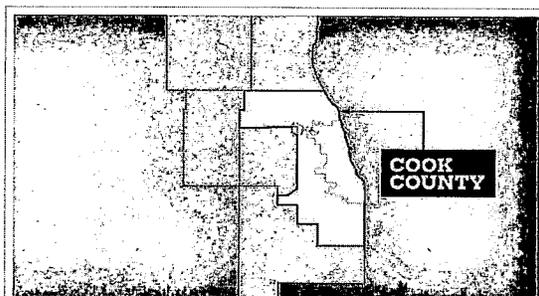
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Editorial: Who was watching in Lyons Township?

Asleep in a backwater office

September 08, 2013

Robert Healy held a government job that's a mystery to most taxpayers. He was the treasurer for the Lyons Township Trustees of Schools.



(http://www.trbimg.com/img-4f4406ad/turbine/chi-cook-county-map-image (Tribune illustration)/600/600x325)

What does this office do? It collects tax money from several west suburban school districts and invests it for them.

Couldn't the school districts invest their own money? Of course they could.

So Robert Healy drew a paycheck from taxpayers for a job that's a mystery to taxpayers.

Oh, and, according to Cook County prosecutors, he robbed the taxpayers blind.

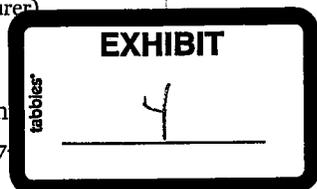
Healy has been charged with stealing more than \$1.5 million from the school districts over 23 years. Prosecutors say Healy started to pad his paychecks with unauthorized salary and benefits in 1989, not long after he got the job. They say he transferred money from school accounts to his personal bank account more than 100 times.

Related Articles

Alleged theft raises questions about little-known schools...
(/2013-08-29/news/ct-met-township-trustees-schools-20130829_1_school-districts-cheryl-witham-treasurer)
August 29, 2013

Ex-schools official charged with theft, misconduct
(/2013-08-16/news/ct-met-school-treasurer-20130816_1_districts-ex-schools-treasurer)
August 16, 2013

Township's Sch Jeopardy (/1997



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Healy answered to a three-member board of trustees that was asleep at the switch for a long time. The trustees eventually caught on that something was wrong, investigated Healy and notified the state's attorney's office. Healy, who resigned last year, was charged in August with theft of government property and official misconduct.

One of the maddening things is that the students, parents and taxpayers in those school districts didn't need Robert Healy and don't need the township school trustees. The office is an anachronism. It has been abolished elsewhere in the state, but survives in Cook County, where there are 13 of them.

Lyons Township High School District 204 has begged state lawmakers to free it from the legal requirement to work through the township school trustees, but a bill to help District 204 went nowhere this year in Springfield.

Healy's innocence or guilt will be determined by the courts. But the issues of waste and obsolescence in local government, that's a matter for everyone else.

Illinois has nearly 7,000 units of government, more than any other state. We're awash in local lighting districts and mosquito-abatement districts ... and township schools trustees. These obscure entities nickel and dime taxpayers with unnecessary salaries and benefits and, sometimes, create the opportunity for corruption. As the Tribune's Wes Venteicher and Matthew Walberg reported, two township school treasurers have pleaded guilty to stealing since 1995.

State law makes it difficult to get rid of these layers, even when the public demands it. Last year, voters in Evanston overwhelmingly approved an advisory referendum to dissolve their township, which overlaps the city's boundaries. It was a 2-to1 vote. No contest. Instead of taking the hint, government officials stalled. A consultant recommended half-measures. Nothing happened.

Gov. Pat Quinn signed a bill this year that will let the Evanston City Council place a binding resolution on a future ballot asking voters if they still want to do away with the township. That was welcome. So was the bill Quinn signed this year that will let the DuPage County Board dissolve some useless government units.

Start whacking. Nearly 7,000 units of government. Give taxpayers a break.

/news/9711040485_1_school-districts-school-treasurer-school-board)

November 4, 1997

Township School Job Is Questioned (/1995-02-10

/news/9502100384_1_treasurer-board-abolish)

February 10, 1995

Township School Post Is Facing A Ballot Test

(/1995-03-30

/news/9503300244_1_school-trustees-school-districts-school-funds)

March 30, 1995

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 Appeared on behalf of the
 13 Defendant.
 14
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 20 * * * * *
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1 Exhibit 13 Statement of Funds.....104
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1 (Witness sworn.)
 2 MR. HOFFMAN: Good morning.
 3 THE WITNESS: Good morning.
 4 MR. HOFFMAN: As you know, I am
 5 Jay Hoffman. I am the attorney for the defendant
 6 in this case. Sometimes we'll call it "LT," we may
 7 even call it "District 204" --
 8 THE WITNESS: Okay.
 9 MR. HOFFMAN: -- and you'll know who I
 10 mean, right?
 11 THE WITNESS: Yes.
 12 MR. HOFFMAN: Have you had your
 13 deposition taken before?
 14 THE WITNESS: No.
 15 MR. HOFFMAN: Welcome to the party.
 16 THE WITNESS: Thank you.
 17 MR. HOFFMAN: It's not as hard as it
 18 sounds because "I don't know" or "I don't remember"
 19 can be a correct answer, and so I just want you to
 20 tell me the information that's available to you as
 21 the representative of the plaintiff in this case
 22 which, if it's okay with you, I'll refer to as "the
 23 TTO."
 24 THE WITNESS: Absolutely.

1 MR. HOFFMAN: Would you mark this as
 2 Exhibit 1, please?
 3 (Whereupon, TTO Deposition
 4 Exhibit No. 1 was marked for
 5 identification.)
 6 WHEREUPON:
 7 DR. SUSAN BIRKENMAIER
 8 called as a witness herein, having been first duly
 9 sworn, was examined upon oral interrogatories and
 10 testified as follows:
 11 EXAMINATION
 12 By Mr. Hoffman:
 13
 14 Q Doctor, I'm handing you what I've
 15 marked as TTO Dep Exhibit 1.
 16 (Whereupon, document
 17 tendered.)
 18 BY MR. HOFFMAN:
 19 Q And you're familiar with this
 20 document; am I correct?
 21 (Whereupon, witness perusing
 22 document.)
 23 BY THE WITNESS:
 24 A I am now.

1 MR. KALTENBACH: Well, take a look at
 2 it.
 3 BY THE WITNESS:
 4 A Yes. This part, I have.
 5 BY MR. HOFFMAN:
 6 Q Okay. So you've seen Exhibit A which
 7 has the subject matters of the deposition that I'm
 8 taking of the TTO entity, right?
 9 A Yes.
 10 Q And you understand that you are the
 11 representative of the TTO designated to testify on
 12 the eight subject matters of Exhibit A, correct?
 13 A Yes.
 14 Q And let's go through the ground rules
 15 of the deposition real quickly even though you have
 16 a very fine lawyer, and I'm sure he did the same
 17 with you beforehand.
 18 If at any time you want to take a
 19 break, that's fine. We'll just answer the pending
 20 question, and we can take a break for any reason
 21 that you want.
 22 Is your cellphone off?
 23 A It's on silent.
 24 Q Okay. If you don't understand the

1 questions that I ask you, will you tell me that so
 2 I can ask you a better question?
 3 A Yes.
 4 Q And what did you do to prepare for
 5 your deposition today, please?
 6 A I had an opportunity to meet with
 7 Barry and Gerry Kubasiak just to have them explain
 8 to me what would occur, show me the list of items
 9 that I would be questioned about, and just general
 10 conversation about what to expect.
 11 Q Did you speak with anyone at the TTO
 12 regarding the deposition in order to prepare to
 13 testify?
 14 A Not specifically for that purpose.
 15 Q Did you talk to Mr. Theissen about his
 16 deposition in this case?
 17 A Very little.
 18 Q What do you mean by "very little"?
 19 A Just I knew that he was coming in to
 20 be deposed. We didn't talk about the details of
 21 it. We didn't talk about how it went or anything
 22 like that.
 23 Q Okay. Did you review any
 24 documentation in order to prepare yourself to

1 testify here today on behalf of the TTO?
 2 A Some.
 3 Q What documentation did you review?
 4 A Basically anything that was related to
 5 the eight topics that I was going to be asked
 6 about.
 7 Q Okay. So tell me what you looked at,
 8 please.
 9 MR. KALTENBACH: I can't give you the
 10 answer.
 11 THE WITNESS: Okay.
 12 MR. KALTENBACH: I will tell you it's
 13 not privileged, so you can -- If you recall what
 14 was looked at, you can tell him.
 15 BY THE WITNESS:
 16 A Can I take a look at the exhibit
 17 again --
 18 BY MR. HOFFMAN:
 19 Q Of course you may.
 20 A -- to help prompt me?
 21 Q Of course you may.
 22 (Whereupon, witness perusing
 23 document.)
 24

1 BY THE WITNESS:
 2 **A I have seen information on the annual**
 3 **audit costs and the payment of the audit costs; so**
 4 **Item 1 and 2, I have seen that. TTO's payment of**
 5 **certain costs of the business functions, I am**
 6 **familiar with that paperwork, maybe not every**
 7 **single one in every great detail.**
 8 **I've seen the claim regarding the**
 9 **LT pro rata payment. I've seen documentation on**
 10 **investment income to LT, payment to LT. I'm**
 11 **familiar with the section of the claim on the TTO's**
 12 **payment of investment income. I'm familiar with**
 13 **the Bob Healy lawsuit, although not in great**
 14 **detail. That occurred before I started my**
 15 **employment. And I am familiar with the surety bond**
 16 **claims.**
 17 BY MR. HOFFMAN:
 18 Q Okay. Thanks.
 19 What's your educational
 20 background, please?
 21 **A Going backwards?**
 22 Q Either way.
 23 **A Okay. I have a doctorate in**
 24 **educational leadership with a minor in curriculum**

1 **from Indiana University. I have a Superintendency**
 2 **License that was received through Western Illinois**
 3 **University's superintendent training program.**
 4 **I have a Chief School Business**
 5 **Official Endorsement that I received through**
 6 **Northern Illinois University's Chief School**
 7 **Business Official program. I have a master's**
 8 **degree in public affairs from Northern Illinois**
 9 **University, and I have a bachelor's degree in**
 10 **political science from Northern Illinois University**
 11 **also.**
 12 Q Okay. And tell me about your
 13 professional background prior to becoming the
 14 treasurer of the TTO, please?
 15 **A Okay. Immediately prior to becoming**
 16 **the treasurer, I was the superintendent for Lemont**
 17 **Elementary School District 113A. Prior to that, I**
 18 **was business manager for LaGrange Highlands**
 19 **District 106 in LaGrange, Illinois.**
 20 **Prior to that, I was the business**
 21 **manager for the Lockport Area Special Education**
 22 **Cooperative. Prior to that, I was the business**
 23 **manager for the LaGrange Area Department of Special**
 24 **Education. And prior to that, I spent ten years in**

1 **municipal government.**
 2 **Do you want me to go through that**
 3 **detail?**
 4 Q No.
 5 **A Okay.**
 6 Q When you say "the business manager for
 7 LaGrange," was that LADSE?
 8 **A LADSE, yes.**
 9 Q And, in Lockport, did you work
 10 under -- What was the position that you worked
 11 under Dr. Elise Grimes?
 12 **A At LaGrange Highlands 106 and I worked**
 13 **for Elise for eight months; after that, I worked**
 14 **for Arlene Armanetti and then Bob Dyer.**
 15 Q All right. Let's start with an easy
 16 one.
 17 MR. HOFFMAN: Mark this.
 18 (Whereupon, TTO Deposition
 19 Exhibit No. 2 was marked for
 20 identification.)
 21 BY MR. HOFFMAN:
 22 Q When did you become treasurer of the
 23 TTO?
 24 **A October of 2013.**

1 Q And you currently are treasurer of the
 2 TTO, correct?
 3 **A Yes.**
 4 Q Have you been a full-time employee for
 5 the entire time?
 6 **A No.**
 7 Q When did you -- Have you been a
 8 part-time employee for the entire time?
 9 **A For a portion of the time.**
 10 Q Okay. When did you become a part-time
 11 employee?
 12 **A July 1st of 2015.**
 13 Q Why did the TTO decide to have a
 14 treasurer that was part-time?
 15 **A You're asking for my opinion on that?**
 16 Q No. I'm asking for the TTO's opinion
 17 as an entity.
 18 MR. KALTENBACH: I'll object to the
 19 extent I don't think that was covered by the
 20 notice, so I don't think she is the spokesperson on
 21 that.
 22 But she can answer. I have no
 23 objection to her answering the question.
 24

1 BY MR. HOFFMAN:
 2 Q Do you know why the treasurer became
 3 part-time in 2015?
 4 A I can only tell you what I believe was
 5 the expectation of the trustee, school trustee.
 6 That was that I wanted to retire so that I could
 7 take my pension before there were any changes or
 8 pension reform that would adversely affect me.
 9 Given the state of things that
 10 were occurring at the TTO, we were going to be
 11 going through -- well, in addition to the lawsuit,
 12 we were also going to be going through a major
 13 transition of the financial software program, and
 14 we were going to be doing some staff transitioning.
 15 And so it was in everybody's best interest, I
 16 believe, to have continuity with my leadership.
 17 Q The TTO's office currently manages
 18 investment funds of about how much money?
 19 A Let me unpack that for you. There's
 20 about \$370 million that goes through the office
 21 in any given year. Of that, there's probably
 22 130 million that is in long-term investments, which
 23 is anything that's over two years.
 24 Other than that, the rest of it

1 is either in cash, which is immediately
 2 distributed, or in a short-time investment that
 3 would be less than two years.
 4 Q How are you, as a part-time employee,
 5 able to effectively manage all those
 6 responsibilities?
 7 A Okay. Well, the cash flow management,
 8 we have people assigned in our office to manage the
 9 money as it comes in. I make the decisions about
 10 whether the money is going -- where it's going on a
 11 short-term basis or if it's kept in a fluid
 12 account.
 13 We have a central depository,
 14 Amalgamated Bank, that collects most of the funds.
 15 Periodically, we do have some small amounts of
 16 funds that come in through other deposit accounts.
 17 In addition to that, we have a
 18 custodial bank that maintains a list of all of our
 19 investments, every investment, and they report that
 20 out to us on a monthly basis.
 21 In addition to that, with
 22 long-term investments, we have two investment
 23 advisor groups that manage our long-term
 24 investments.

1 Q When you say you're a part-time
 2 employee, what percentage of your time do you spend
 3 as a treasurer?
 4 A Well, I spend 100 percent of my time
 5 as treasurer. But if you're asking about my work
 6 schedule --
 7 Q Yes.
 8 A Okay. Under the Illinois Municipal
 9 Retirement Fund, I'm allowed to work 599 -- up to
 10 599 hours per year, and so that is distributed as
 11 needed and tracked via timesheet.
 12 Q And how many hours per year have you
 13 found yourself working since July of 2015?
 14 A Last year, I worked 597. This year,
 15 I'm also on track for 599.
 16 Q What's your primary state of
 17 residence?
 18 A Illinois; I'm required by School Code
 19 to live within the Township, and I live in
 20 Indian Head Park.
 21 Q Do you have another residence?
 22 A I have a retirement home.
 23 Q Where is that?
 24 A That's in Tennessee.

1 Q Let's take a look, please, at TTO
 2 Exhibit No. 2.
 3 (Whereupon, document
 4 tendered.)
 5 BY MR. HOFFMAN:
 6 Q This came from the documents TTO
 7 provided to us. It was in a file that was entitled
 8 "Month-End Report."
 9 So would you be kind enough to
 10 tell me what this document is and what it tells us?
 11 A I have never seen this document
 12 before. I am not familiar with it.
 13 Q Do you know what it is?
 14 A No.
 15 Q Do you know what month-end reports
 16 are?
 17 A I do.
 18 Q And what are month-end reports?
 19 A Month-end reports would be after you
 20 close out the financial transactions of every
 21 ending month, you would provide a monthly financial
 22 report that captures all the transactions that
 23 occurred in the month and the effect on the budget
 24 and fund balances.

1 Q This appears to suggest that month-end
2 reports are missing for various months during 1993
3 and 2013 by having an "N" instead of a "Y" on the
4 adjacent column to the month name.

5 A Okay.

6 Q Is that consistent with your
7 understanding as to the state of the TTO's records
8 for month-end reports during the 1993 to 2013
9 period?

10 A I couldn't verify that since I've
11 never seen this before and I'm not familiar.

12 Q Well, putting -- Aside from this
13 document itself, does the TTO have missing
14 month-end reports for this time period: "yes,"
15 "no," "I don't know"?

16 A I don't know.

17 Q Okay. What type of information would
18 be on the month-end reports if they were in
19 existence?

20 A The month-end report would typically
21 indicate to me the current state of the fund
22 balance. It would show the transactions of any
23 revenues that were received during the month and
24 the year-to-date.

1 It would also do the same for
2 expenditures, month and year-to-date expenditures.
3 It would show the ending fund balance or the
4 current ending fund balance.

5 Talking about the specific
6 reports, it might have a summary page that shows
7 the amount of taxes that were received. I mean,
8 but that's going to be a packet of information
9 that's provided. That's about it.

10 Q Am I correct that there are a number
11 of areas within the TTO's files that there are
12 missing documents during the 1993 to 2013 period?

13 A I don't have firsthand knowledge of
14 that. My understanding is there may be, but I
15 don't know what they are or why.

16 Q Why haven't you made an effort to
17 determine how complete the records of the TTO are
18 for the 1993 to 2013 time period?

19 A When I was hired, I was told that my
20 job was to work on moving forward in the
21 organization and helping the organization to be
22 prepared for its future work, and so I did not
23 spend the time looking at the historical records.
24

Q Well, the historical records are very

1 important for this lawsuit.

2 So who did spend the time looking
3 at the historical records? Was it your lawyers?

4 A I imagine that they have, but I would
5 think that they were collected through a variety of
6 people in the office. I think some of the
7 documents were probably pulled before I was even
8 hired.

9 Q Let's talk about the lawsuit that the
10 TTO filed against Bob Healy.

11 You're generally familiar there
12 was a lawsuit, right?

13 A I am familiar that there was one.

14 Q And the TTO obtained a judgment
15 against Bob Healy in the amount of about \$900,000,
16 correct?

17 A Yes.

18 Q Okay. And how much in attorney's fees
19 did the TTO spend to get that judgment about,
20 approximately?

21 A I don't recall.

22 Q You have no idea?

23 A A lot of that was done before I
24 started. I would have to go back and take a look.

1 Q How much did the TTO recover on that
2 lawsuit?

3 A Well, what we recovered via --

4 Q From Healy.

5 A Oh, from Healy?

6 Q Yes.

7 A I think it was about \$497, but, again,
8 that occurred before I started.

9 Q Okay. Let's take a look at --

10 MR. HOFFMAN: Le's mark this one.
11 (Whereupon, TTO Deposition
12 Exhibit No. 3 was marked for
13 identification.)

14 BY MR. HOFFMAN:

15 Q All right. I've marked as TTO Exhibit
16 3 an affidavit that you executed in connection with
17 this case in 2015. I'd like you to take a look at
18 that affidavit and refresh yourself as to its
19 contents, please.

20 (Whereupon, document
21 tendered.)

22 (Whereupon, witness perusing
23 document.)
24

1 BY MR. HOFFMAN:
 2 Q I'm not going to ask you any questions
 3 about the exhibits.
 4 A Oh, okay.
 5 Q So how much money did Bob Healy steal
 6 during his tenure at the TTO?
 7 A I'm not certain of the exact amount,
 8 but I -- And I want to make sure I understand.
 9 When you say "steal," there were two incidents of
 10 money taken from the Treasurer's Office. One was
 11 interest income, and one was salary, a cash payout
 12 for vacation and sick leave.
 13 Q Okay. How much money in interest
 14 income did Bob Healy steal?
 15 A I believe about a million dollars, but
 16 I'm not certain. It could have been 1.5. I'm
 17 sorry. I don't recall specifically.
 18 Q Who determined the amount of that
 19 theft?
 20 A That work was done before I got there,
 21 and I believe Kelly Bradshaw, our contract
 22 accountant, was the person who assembled those
 23 numbers.
 24 Q When you say that he stole money from

1 income interest, interest on what and who did it
 2 belong to?
 3 A Again, I'm not very familiar with the
 4 details, but what I understand was that there was
 5 interest income that was being sent -- being
 6 directed by Bob into personal accounts when it was
 7 being received from different investments, and I
 8 don't know who those brokers or companies might
 9 have been.
 10 Q This was money that belonged to the
 11 school districts, correct?
 12 A Yes.
 13 Q And did he make these transfers
 14 through wire transfers?
 15 A I don't know. I would assume that he
 16 directed through wire transfers.
 17 Q You also mentioned salary, theft
 18 involving salary, correct?
 19 A Yes.
 20 Q Was that salary as well as vacation
 21 and sick pay? Was that part of the same thing?
 22 A Not to my knowledge; to my knowledge,
 23 it was vacation and sick leave payout.
 24 Q So when you say "salary," you mean

1 vacation and sick leave payout, correct?
 2 A Yes.
 3 Q Okay. How much money did Healy steal
 4 in vacation and sick leave payouts?
 5 A I'm sorry. I --
 6 Q Approximately.
 7 A I'm not certain about that.
 8 Q You have no idea?
 9 A I don't recall.
 10 Q That's kind of an important point,
 11 isn't it?
 12 A Well --
 13 MR. KALTENBACH: Objection.
 14 Argumentative.
 15 You can answer.
 16 BY MR. HOFFMAN:
 17 Q Maybe it is a little.
 18 A It occurred before I started so, I
 19 mean, the settlement I think was in place before I
 20 even began at the TTO.
 21 Q Isn't it important, though, for you to
 22 understand, as the TTO's representative for this
 23 case, what happened during the period of Healy's
 24 tenure?

1 MR. KALTENBACH: Objection.
 2 Argumentative.
 3 You can answer, Dr. Birkenmaier.
 4 BY THE WITNESS:
 5 A I don't know that that's my
 6 responsibility to know that.
 7 BY MR. HOFFMAN:
 8 Q Whose responsibility is it?
 9 MR. KALTENBACH: Same objection.
 10 BY THE WITNESS:
 11 A I couldn't tell you. I mean, the man
 12 intended to deceive. I don't know that -- I mean,
 13 ultimately, the responsibility would be for, I
 14 would assume, probably the trustees in an oversight
 15 capacity. But Bob worked fairly independently as
 16 the treasurer. I couldn't say with any certainty.
 17 BY MR. HOFFMAN:
 18 Q All right. And that's because your
 19 focus from the trustees as the trustees directed
 20 you was to have a forward-looking focus, correct?
 21 A Absolutely.
 22 Q Okay. So let's talk about the
 23 recovery on the fidelity bonds and the amount, as
 24 is stated in Paragraph 7, if you'll look at that,

1 of your --
 2 **A Sure.**
 3 Q And that's your signature on the
 4 affidavit?
 5 **A Yes.**
 6 Q So the TTO recovered \$1,040,000 from
 7 fidelity bonds, correct?
 8 **A Yes, correct.**
 9 Q And the money that was recovered,
 10 whose money was it that was stolen that the
 11 fidelity bond money was partially replacing?
 12 **A Collectively, that money would have**
 13 **been part of the investment pool for all of the**
 14 **entities that are served by the TTO.**
 15 Q When you say "the investment pool,"
 16 that's the money of all of the districts within the
 17 TTO, correct?
 18 **A The districts and some agencies, yes.**
 19 Q Okay. Including District 204?
 20 **A Yes.**
 21 Q And they have a roughly 25 percent
 22 share of that investment pool, correct?
 23 **A It depends on the day, yes.**
 24 Q Okay.

1 **A But that's generally in the area.**
 2 Q Okay. So it says in this affidavit
 3 from June of 2015 that the money you recovered on
 4 the fidelity bonds has been set aside.
 5 Do you see that?
 6 **A I'm sorry. You're --**
 7 Q Paragraph 8.
 8 **A Paragraph 8, okay.**
 9 Q Do you see the money has been set
 10 aside as of June of 2015?
 11 **A Yes.**
 12 Q Okay. Where is that money now?
 13 **A Okay. Part of the money -- Well, all**
 14 **the money has been used to offset the costs of the**
 15 **TTO and thereby reducing the bills to all of the**
 16 **districts and agencies that pay the fees for the**
 17 **TTO services.**
 18 Q What allowed the TTO to use the
 19 recoveries on the bonds to offset the TTO's costs?
 20 MR. KALTENBACH: Objection. It calls
 21 for a legal conclusion from the witness.
 22 But you can answer, if you have
 23 personal knowledge, Dr. Birkenmaier.
 24 MR. HOFFMAN: No. She can answer

1 based on the knowledge of the TTO.
 2 BY MR. HOFFMAN:
 3 Q Go ahead. What allowed the TTO to do
 4 what it did?
 5 MR. KALTENBACH: Same objection.
 6 BY MR. HOFFMAN:
 7 Q You're here to testify as a
 8 representative of the TTO. So why don't you tell
 9 me?
 10 MR. KALTENBACH: Hold on a minute,
 11 Jay. Don't argue with the witness. I stated my
 12 objection. You can answer your question and get
 13 answers, but -- ask your questions and get answers.
 14 Don't argue with the witness or imply that my
 15 objection isn't valid or is valid.
 16 MR. HOFFMAN: Your objection is not
 17 valid because --
 18 MR. KALTENBACH: I don't care if you
 19 think it's valid or not.
 20 MR. HOFFMAN: -- she's here as a
 21 representative on that issue, and you saying she
 22 can answer -- instructing the witness to answer
 23 based on her personal knowledge is defeating the
 24 purpose of the notice.

1 So you're coaching the witness in
 2 an inappropriate way, and I wish you would not do
 3 that.
 4 MR. KALTENBACH: I'm not coaching the
 5 witness. Please identify where on the topic list
 6 it said she should be prepared to testify as to the
 7 legal basis for the TTO's right to do something.
 8 MR. HOFFMAN: I'm not required to list
 9 every question that I intend to ask on the subject
 10 matter, just the subject matter itself, which is,
 11 in fact, listed.
 12 BY MR. HOFFMAN:
 13 Q Dr. Birkenmaier, what, in your view as
 14 a representative of the TTO, allowed the TTO to
 15 take the \$1,040,000 it recovered on the fidelity
 16 bonds and use it to pay the TTO's costs?
 17 MR. KALTENBACH: Same objection.
 18 BY THE WITNESS:
 19 **A In my opinion, the proceeds that we**
 20 **received were used to offset the costs to the**
 21 **school districts and agencies. So a portion of the**
 22 **proceeds went towards the payment of litigation**
 23 **fees, which were never billed to the districts and,**
 24 **in addition, anything above that was used in -- to**

1 **offset the cost of the pro rata bills. And on each**
2 **pro rata bill that was sent out, it showed the**
3 **amount of revenue that was applied to reduce the**
4 **total cost of the pro rata billing to the districts**
5 **and agencies.**

6 BY MR. HOFFMAN:

7 Q How much of the \$1,040,000 was used to
8 pay legal costs about?

9 A **I'm sorry. I don't recall that at**
10 **this point. I would have to look that up. I mean,**
11 **I could tell you if I looked back to see what was**
12 **applied towards pro rata reduction.**

13 Q Well, when you say "legal costs," do
14 you mean the fees of the lawyers who are
15 representing you in this case?

16 A **Yes.**

17 Q Okay. And there have been statements
18 made by you and Mr. Theissen in the press about the
19 expenses at certain points, and one of them stated
20 that you'd spent in excess of \$900,000 on legal
21 fees in this case.

22 Does that help you to remember
23 the amount of money?

24 A **I'm sorry. I believe you were talking**

1 Q Correct. We're not talking about the
2 monies --

3 A **Okay. So to date --**

4 Q -- spent on Bob Healy's case.

5 A **-- currently the District 204 case is**
6 **over a million dollars.**

7 Q Okay. And when you say the -- How
8 much over a million dollars is it?

9 A **I don't know that right now.**

10 Q And when you say that some or all of
11 the \$1,040,000 from the bond recoveries have been
12 spent on litigation costs, do you mean the costs of
13 the Bob Healy case, or do you mean the costs of the
14 District 204 case, or do you mean both?

15 A **I mean the treasury bond proceeds were**
16 **applied to the losses incurred through Bob Healy's**
17 **actions. Nothing has been applied to the legal**
18 **fees for this case with District 204. Those costs**
19 **have been billed out to the districts.**

20 Q Including District 204?

21 A **Including District 204.**

22 Q What is the justification of the TTO
23 for asking District 204 to pay a portion of the
24 legal fees that you've incurred in order to sue

1 **about Bob Healy's case.**

2 Q No. I don't mean Bob Healy's -- I
3 asked you -- There was a \$900,000, approximately,
4 award for the TTO against Bob Healy; yes? But I'm
5 talking about a different \$900,000 figure; and that
6 is, what we have seen in the press is an estimate
7 of the -- how much in legal fees has the TTO spent
8 in this case?

9 A **I'm sorry. I need clarification.**

10 **Are we talking about the case**
11 **against Bob Healy?**

12 Q Okay. When I say "this case" -- Let
13 me be clear.

14 When I say "this case," I mean
15 the case that involves 204. Bob Healy is not a
16 party to this. So the case that we're here on
17 today --

18 A **Okay.**

19 Q The 204 case --

20 A **Uh-huh.**

21 Q -- how much money has the TTO spent on
22 that?

23 A **So moving away from Bob Healy's case**
24 **altogether --**

1 District 204?

2 A **School Code indicates that we bill to**
3 **each district based on a School Code-designated**
4 **formula any expenses incurred by the TTO.**

5 Q So in your testimony, the \$1,040,000
6 recovery in the bonds is all gone, correct?

7 A **Yes. That was applied to the losses**
8 **incurred through Bob Healy's actions, and it's**
9 **totally unrelated to this case.**

10 Q So how much in -- So when you say "the
11 losses incurred through Bob Healy's actions," are
12 you talking about the legal fees that were spent to
13 chase Bob Healy for money?

14 A **Yes.**

15 Q And how much was that --

16 A **Oh, that --**

17 Q -- approximately?

18 A **I'm sorry. That I'm not certain of.**
19 **Again, that occurred before I was hired.**

20 Q So what legal fees --

21 A **I'm assuming so.**

22 Q So what legal fees are you talking
23 about --

24 A **Only --**

1 Q -- in terms of the 1,040,000 being
 2 spent?
 3 A **Only in the recovery of losses because**
 4 **of Bob Healy's actions.**
 5 Q Okay. And recovery from whom and in
 6 what context?
 7 A **Recovery through the treasurer's**
 8 **bonds, the surety bonds.**
 9 Q So the money that you spent on legal
 10 fees from the bond recoveries were legal fees to
 11 get the bond recoveries?
 12 A **Yes, some.**
 13 Q Okay. And what were the other legal
 14 fees that you spent the bond recoveries on?
 15 A **Filing claim against Bob Healy to**
 16 **recover fees and to get the -- get whatever**
 17 **recovery we could of the claim that we were**
 18 **authorized to recover fees.**
 19 Q Any other legal fees?
 20 A **Not to my knowledge; they were very**
 21 **specific to Bob Healy's actions.**
 22 Q So the two sets of legal fees that
 23 came out of the bond recoveries were for the
 24 lawsuit against Healy and for the bond recovery --

1 A **Yes, and any --**
 2 Q -- legal work?
 3 A **Any additional revenues that were**
 4 **received were used to offset the annual TTO**
 5 **operating costs to reduce the bills to the**
 6 **district.**
 7 Q So how did you split the 1,040,000
 8 between the legal fees and the offsets that you're
 9 talking about, approximately?
 10 A **The million-forty was applied to the**
 11 **legal fees, plus the recovery of lost income,**
 12 **whether that would have been -- I mean, we didn't**
 13 **break it down to any great detail about where it**
 14 **was applied, but --**
 15 Q Well, that's what I'm asking you now.
 16 In other words, give me your best recollection --
 17 and I don't want specific numbers because I know
 18 you can't have them, but you've got a -- you
 19 recovered 1,040,000 --
 20 A **Yes.**
 21 Q -- on the bonds?
 22 A **Yes.**
 23 Q And you recovered about \$400 from
 24 Healy?

1 A **Yes.**
 2 Q Did you recover from anyone else?
 3 A **Not at this time, no.**
 4 Q Okay. The 1,040,000, how much of it
 5 went to fees and how much of it went to offsets to
 6 the districts, approximately?
 7 A **I'm sorry. I don't know that.**
 8 Q You have no idea?
 9 A **I would have to look that up. I don't**
 10 **recall --**
 11 Q You couldn't even --
 12 A **-- that.**
 13 Q -- ballpark it?
 14 A **I couldn't. I'm sorry.**
 15 Q Okay. That's fine.
 16 Now, in 2013, the TTO found money
 17 that was undistributed in interest income on its
 18 pooled investments, correct?
 19 A **I'm not sure what you mean we "found**
 20 **money."**
 21 Q Okay. In 2013, the TTO became aware
 22 that there were funds that were interest income
 23 that had not been distributed to the districts,
 24 correct?

1 A **I think it's difficult to just**
 2 **categorize it in that way because at the time that**
 3 **there was undistributed funds that were identified,**
 4 **we were uncertain as to why the funds were**
 5 **undistributed, and that required auditor assistance**
 6 **and accounting assistance to make a determination**
 7 **of the undistributed funds.**
 8 Q Okay. How much --
 9 A **I don't think you can just assume that**
 10 **that was an interest income specifically. There**
 11 **was money in the investment pool that was**
 12 **undistributed, but the purpose of that money or how**
 13 **it needed to be applied was unclear at that time.**
 14 Q Okay. And when -- Did it become clear
 15 at any future time?
 16 A **We believe that in this last audit**
 17 **that we were able to make a determination of the**
 18 **funds and, with greater clarity, have an**
 19 **understanding now of how those funds needed to be**
 20 **applied.**
 21 Q Okay. What did you learn, when did
 22 you learn it? Start there.
 23 A **Probably somewhere in the timeframe of**
 24 **about December of 2016, and, I'm sorry, because I**

1 **am not an accountant, I don't understand the**
 2 **technical portions of it and I would have to refer**
 3 **back to the income -- or back to the audit, but I**
 4 **know that also with market variation that that**
 5 **number can move.**
 6 Q Well, what did you -- So what did you
 7 learn?
 8 A **We had a greater clarity that the**
 9 **income that was there was not necessarily interest**
 10 **income, and the question became what -- how was**
 11 **that money intended to be used or what is the**
 12 **purpose of that money or why do we have that kind**
 13 **of an accumulation and, oftentimes, it's because of**
 14 **movement in the market and the value of investments**
 15 **and, again --**
 16 Q Well, how much money are we talking
 17 about?
 18 A **Again, that would vary from day to**
 19 **day, but I believe at the time, I think that number**
 20 **varied, and I think it could have been anywhere**
 21 **from a million seven up. And I'm sorry --**
 22 Q To what?
 23 A **I'm not certain and that's --**
 24 **Technically, I don't feel prepared to answer that**

1 **question --**
 2 Q Well --
 3 A **-- because I don't understand --**
 4 Q You're the treasurer --
 5 A **-- the accounting of it.**
 6 Q Wait a second.
 7 You're the treasurer of the TTO
 8 and the one who's the point person for these
 9 issues, and you're telling me that there's some
 10 amount of money but you don't know how much it is
 11 and you don't really know what it is, and I -- I'm
 12 having difficulty understanding what your testimony
 13 is and why you don't know.
 14 A **Right.**
 15 MR. KALTENBACH: Hold on. Objection.
 16 I don't believe that's a question. I think it's a
 17 statement. So I'm going to object on the basis
 18 it's not a question.
 19 And, Dr. Birkenmaier, you don't
 20 need to respond to his statements.
 21 I also object on the basis that
 22 it's argumentative.
 23 BY MR. HOFFMAN:
 24 Q Here's my question: There's some

1 issue with a large pool of money.
 2 What is the amount of -- I
 3 understand that money varies over time. I have
 4 accounts myself. But what amount of money are we
 5 talking about in terms of trying to figure out its
 6 purpose and what to do with it, the historical
 7 basis and what we do with it now? How much money
 8 is it, roughly?
 9 A **I would have to look in the audit to**
 10 **give you that number specifically.**
 11 Q I didn't ask for a specific number.
 12 A **Even a ballpark, I would have to --**
 13 Q I was very clear in my question that
 14 I'm asking for an approximate number.
 15 A **I would have to look at the audit to**
 16 **tell you that number.**
 17 Q Is it \$30 million?
 18 A **No.**
 19 Q Is it \$10 million?
 20 A **No.**
 21 Q Is it \$5 million?
 22 A **No.**
 23 Q Is it more like one to \$2 million?
 24 A **I don't know the answer.**

1 Q And where is this money physically?
 2 A **Any revenues that we have held are**
 3 **either in our brokerage accounts, our depository**
 4 **account, or in investments.**
 5 Q And what led the TTO to try to figure
 6 out what the historical origin of this money was?
 7 In other words, how did it come about that there
 8 was a question about what is this money and where
 9 did it come from?
 10 A **Through the audit process.**
 11 Q Okay. And what did you determine as
 12 to where this money came from and what it is?
 13 A **The determination was made by our**
 14 **auditors, and I would have to look that information**
 15 **up. I am not that familiar with accounting**
 16 **explanations to be able to explain to you why that**
 17 **money was there.**
 18 Q So what's going to, then, happen to
 19 this pool of money? What is the TTO going to do
 20 with it?
 21 A **First of all, the reason that's a**
 22 **difficult question to answer is, I don't know if**
 23 **that has to be applied towards something. I don't**
 24 **know if that will be distributed. Ultimately, at**

1 **the Treasurer's Office, we don't have a fund**
 2 **balance. We have a zero-based balance.**
 3 **And so the TTO is not keeping**
 4 **that money. If that money needs to be distributed,**
 5 **it will be distributed. If there needs to be**
 6 **accounting entries to account for that money, those**
 7 **accounting entries will be taken care of.**
 8 Q Well, who's going to make that
 9 decision and when is that going to be made?
 10 A **We would need the direction of our**
 11 **independent auditors to assist with that.**
 12 Q And when is that decision going to be
 13 made?
 14 A **I think that the decision to be made**
 15 **is -- you know, we just became familiar with this,**
 16 **and I think the question -- and, of course, keep in**
 17 **mind that this is a moving target. If we**
 18 **distribute and the market declines, then we may be**
 19 **in a position of attempting to recover funds.**
 20 **So there's always some money that**
 21 **is kept in a fluid situation so that we can meet**
 22 **whatever market conditions or cash flow needs or**
 23 **whatever we may have. So it's not a clean answer.**
 24 **I can't tell you that, and the answer could change**

1 **from day to day.**
 2 Q So you have no idea what the TTO is
 3 going to do with this pool of money right now
 4 sitting here today?
 5 A **Ultimately, any funds that we have**
 6 **that -- will be distributed. It's a question of --**
 7 Q When?
 8 A **I don't know when.**
 9 Q Well, I understand --
 10 A **I don't --**
 11 Q -- the concept of reserving money to
 12 change in market conditions.
 13 A **Sure.**
 14 Q But assuming that you did that, when
 15 is this money going to get distributed?
 16 MR. KALTENBACH: I'm going to object
 17 to --
 18 BY THE WITNESS:
 19 A **I can't tell you.**
 20 MR. KALTENBACH: Hold on.
 21 I'm going to object.
 22 MR. HOFFMAN: There's no pending
 23 question.
 24 MR. KALTENBACH: I'm just stating my

1 objection which she gave -- she answered as I began
 2 speaking.
 3 I'm objecting that it is beyond
 4 the scope of this deposition.
 5 MR. HOFFMAN: Okay.
 6 BY MR. HOFFMAN:
 7 Q Please take a look at Theissen Exhibit
 8 No. 8.
 9 (Whereupon, Theissen Exhibit
 10 No. 8, previously marked,
 11 was tendered to the witness.)
 12 BY THE WITNESS:
 13 A **Okay.**
 14 BY MR. HOFFMAN:
 15 Q Now, this is a document that we marked
 16 in Mr. Theissen's deposition. It's a
 17 September 15th, 2013 memo, so it's just before you
 18 arrived.
 19 A **Okay.**
 20 Q And it says in the third paragraph,
 21 ". . . in reviewing prior year financial
 22 statements, there appears to be some undistributed
 23 funds. We have been actively communicating with
 24 our new auditors regarding the possibility of

1 distributing these funds to the School Districts.
 2 We want a better understanding and their signoff on
 3 the issue before distributing these funds."
 4 Do you see that?
 5 A **I do.**
 6 Q Are those the same types of funds that
 7 we're talking about in terms of the auditors making
 8 some kind of study of this as recently as
 9 December 2016?
 10 A **Not being able to speak for the**
 11 **treasurer or the president of the trustees at the**
 12 **time, it would appear so.**
 13 Q Well, here. I'll let you speak for
 14 yourself.
 15 A **Okay.**
 16 (Whereupon, Theissen Exhibit
 17 No. 9, previously marked,
 18 was tendered to the witness.)
 19 BY MR. HOFFMAN:
 20 Q We've got Theissen Exhibit No. 9.
 21 This is a letter you wrote --
 22 A **Okay.**
 23 Q -- November 7th of 2013.
 24 A **Okay.**

1 Q And it says in the third paragraph.
 2 Once again, "As the Treasurer's Office" -- No. I'm
 3 sorry.
 4 In the second paragraph, it
 5 talks about the audit process, and it says,
 6 "... Miller Cooper determined that there is
 7 undistributed investment income held over from
 8 prior years."
 9 Do you see that?
 10 A I do.
 11 Q So earlier, you said you didn't think
 12 it was investment income.
 13 Isn't that exactly what it says
 14 here in your letter?
 15 A Yes.
 16 Q And so you've now, since writing this
 17 letter, determined that it may not be investment
 18 income?
 19 A That's correct.
 20 Q Okay. So --
 21 MR. KALTENBACH: I'm going to
 22 object --
 23 BY MR. HOFFMAN:
 24 Q -- what is your -- So what is your

1 understanding of what it is?
 2 MR. KALTENBACH: I'm going to object
 3 to this line of questioning, unless you want me to
 4 do it question by question, as being outside the
 5 scope of the notice, but I'm not going to instruct
 6 the witness not to answer.
 7 MR. HOFFMAN: Fine.
 8 BY THE WITNESS:
 9 A I can't tell you. Since this was
 10 written, there has been more work and more
 11 involvement from the auditors to take a look at
 12 this pool of undistributed funds and, I'm sorry,
 13 technically, I don't understand or know. I will
 14 take my direction from the auditors on that. I
 15 know that we have exercised caution to make sure
 16 that we don't distribute money prematurely that
 17 shouldn't be distributed.
 18 MR. HOFFMAN: Barry, the notice has to
 19 do with claims of overpaid interest income to
 20 District 204, and this is part and parcel of that.
 21 This involves interest income, payments that
 22 apparently were not made.
 23 BY MR. HOFFMAN:
 24 Q It says in your letter, "We are

1 therefore distributing \$500,000 in interest income
 2 from previous years."
 3 Do you see that?
 4 A I do.
 5 Q Is that what the TTO did?
 6 A Yes, it is.
 7 Q Okay. And it's \$500,000 of what
 8 amount at that time that you believed was in
 9 undistributed interest income?
 10 A I believe at that time -- and, again,
 11 I would have to verify this by looking it up --
 12 that it might have been 1.3 million at that point,
 13 1.2.
 14 Q So why did the -- I understand about
 15 the reserve for market changes.
 16 But why did the TTO, in November
 17 of 2013, decide to distribute only 500,000 out of
 18 approximately 1.3 million?
 19 A We distributed some of it. It was --
 20 We didn't know exactly what it was, and so we
 21 distributed what we felt that we could comfortably
 22 distribute.
 23 Q And what happened with the rest of the
 24 money?

1 A It's still sitting.
 2 Q Okay. And why didn't you tell the
 3 districts in your November 7, 2013 letter what the
 4 total amount was, and why did you only tell them
 5 what the amount was that you were distributing?
 6 A At any given time, that number could
 7 have changed.
 8 Q Is that why you didn't tell them that,
 9 because the number might have varied slightly based
 10 on interest levels?
 11 A Certainly, and another reason was
 12 because we were uncertain what it was.
 13 Q Well, where in this letter did you
 14 express an uncertainty as to what the amount was?
 15 A I think the only place I probably
 16 would have said that is in Paragraph -- let's
 17 see -- Paragraph 2 where it said, "Prior years
 18 audits did not distinguish or identify the
 19 undistributed interest income."
 20 Q So you're aware that in the annual
 21 audits of the TTO prior to 2007, there were line
 22 items for the amounts of interest income
 23 distributed to the districts and the amounts that
 24 were not distributed?

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1 **A I'm sorry. Can you repeat that?**
 2 Q Actually, you know what? I'll show
 3 you those audits later.
 4 **A Okay.**
 5 Q And it will be easier to --
 6 **A Okay.**
 7 Q -- talk about in the context of the
 8 actual audits.
 9 So I'm clear, this amount of
 10 money that we're talking about in your November
 11 2013 letter, this is the same account or the same
 12 pool of money that is still being discussed and
 13 debated at the TTO and at its auditors as to what
 14 to do with it, correct?
 15 **A Yes.**
 16 Q Okay. And why has that taken over
 17 three years to do?
 18 **A I think it's just taken time to go**
 19 **that far back into the records and try to establish**
 20 **the links. The recordkeeping and auditing has**
 21 **evolved over the years, and so it's just taken time**
 22 **to get that done.**
 23 Q But how come after three years, you're
 24 unable to tell me what the amount is, what it's

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1 from, and what the TTO intends to do with it?
 2 MR. KALTENBACH: Argumentative.
 3 BY MR. HOFFMAN:
 4 Q That's my question.
 5 MR. KALTENBACH: Objection.
 6 Argumentative.
 7 BY MR. HOFFMAN:
 8 Q You can answer.
 9 **A I think that I've tried to explain**
 10 **that to you, that that number can vary. And**
 11 **without any certainty of what the purpose of the**
 12 **funds were, we're not comfortable distributing that**
 13 **income.**
 14 Q All right. We've been going about
 15 45 minutes.
 16 Do you want to keep rolling --
 17 **A Sure.**
 18 Q -- or do you want to take a break?
 19 You're okay?
 20 **A Yes.**
 21 Q All right. Tell me about the
 22 reconciliation work that the TTO does for the
 23 districts.
 24 **A Can you be more specific about that?**

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1 **Are you talking about revenues? Are you talking**
 2 **about expenditures? Are you talking about**
 3 **month-ends?**
 4 Q What do you think "reconciliation
 5 work" means?
 6 **A It's -- It can be all of the above.**
 7 **So reconciliation would be an accounting of -- and**
 8 **verification to ensure that all financial**
 9 **transactions are recorded correctly and that**
 10 **there's supporting documentation for those**
 11 **transactions, and then reconciliation would be**
 12 **investigating any differences.**
 13 Q In the context of 204, does that
 14 involve making sure that the TTO's records and
 15 District 204's records match up?
 16 **A Yes.**
 17 Q Okay. And whose responsibility is it
 18 to do the reconciliation work?
 19 **A The TTO has assumed that**
 20 **responsibility. According to School Code, each**
 21 **quarter, school districts and the Treasurer's**
 22 **Office are expected to reconcile and make certain**
 23 **that if there's any differences in the records that**
 24 **those are worked through.**

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1 Q Is this process also known as
 2 balancing?
 3 **A Yes, it can be.**
 4 Q During your tenure, have the outside
 5 auditors of the TTO ever been involved in
 6 reconciliation or balancing work?
 7 **A Let me ask for clarification on that**
 8 **question.**
 9 **If there is a difference that is**
 10 **noted by the auditors, they will advise us that**
 11 **they need the supporting documentation, and we will**
 12 **go back and provide that to them.**
 13 **So on a monthly basis, the TTO**
 14 **would do the reconciliation work. When we turn**
 15 **that over to the auditors, if they find something**
 16 **that needs to be followed up on or some sort of**
 17 **discrepancy or something that needs to be**
 18 **explained, then they would work with us on that and**
 19 **collect that information.**
 20 Q Is it the responsibility of the TTO to
 21 pay the auditors for the work the auditors do on
 22 reconciliation and balancing?
 23 MR. KALTENBACH: I'll object to the
 24 extent it might call for a legal conclusion.

1 You can answer.

2 BY THE WITNESS:

3 A If it's in conjunction with the annual

4 audit, yes; it would be part of the process, and

5 that is based on whatever their annual audit work

6 fee is.

7 BY MR. HOFFMAN:

8 Q Okay. So that's the -- Okay. Fair

9 enough.

10 And then prior to 2013 and your

11 arrival, is it correct that the TTO's -- Strike

12 that.

13 Are you aware from looking at

14 historical records prior to your arrival that

15 Baker Tilly performed reconciliation and balancing

16 work for the TTO during the time period that's

17 relevant to this lawsuit?

18 A Not specifically, no.

19 Q Okay. Your claim -- The TTO's claim

20 against District 204 in this case with respect to

21 Baker Tilly's fees are for the costs of the annual

22 audits, correct?

23 A So far as I know, yes.

24 Q Okay. And so that doesn't include any

1 work that Baker Tilly did on reconciliation or

2 balancing, does it?

3 A You're talking about the period before

4 I started my employment?

5 Q Yes.

6 A I am not that familiar with the

7 details of the work that they did.

8 Q Well, this is the deposition of the

9 TTO, and the TTO has a claim for approximately a

10 half a million dollars against District 204 for the

11 Baker Tilly fees --

12 A Oh, okay.

13 Q -- that were incurred from 1993 to

14 2012, I believe.

15 Are you aware of that?

16 A I am.

17 Q Okay. And so that's why I'm asking

18 you questions about it even though it's before your

19 time.

20 A I'm sorry. I did not make that

21 connection.

22 Q Okay. So the claim in this case of

23 about a half a million dollars that the TTO has

24 against District 204 relating to Baker Tilly

1 invoices and the invoices of Baker Tilly's

2 predecessor firms, that's for annual audit work,

3 correct?

4 A Yes.

5 Q Okay. So that claim does not include

6 work that Baker Tilly did for reconciliation and

7 balancing work, correct, because that was the TTO's

8 responsibility, right?

9 A So far as I would expect, yes.

10 Q Okay.

11 A Could they have --

12 Q Let me --

13 A I want to make sure that I'm clear on

14 this, though. It's possible that they may have

15 assisted with reconciliation in some form that I'm

16 not familiar with. I mean, typically, an auditor

17 will sit down and ask you to explain why there's

18 differences in amounts or changes year over year,

19 so I want to make sure that we're talking about the

20 same thing.

21 Q Well, let me ask you this: Do you

22 have any knowledge as to what reconciliation or

23 balancing work Baker Tilly performed for the TTO?

24 Because that all comes before your time.

1 A I can't speak specifically to the

2 TTO's audit work. I'm sorry. I can't.

3 Q During that time period?

4 A Correct.

5 Q Okay. Fair enough.

6 So you don't know from going back

7 and doing any sort of investigation exactly what

8 types of accounting work Baker Tilly did during

9 that time period, correct?

10 A Not in any great detail.

11 Q All right. Let's take a look at this

12 exhibit which we'll mark, please.

13 (Whereupon, TTO Deposition

14 Exhibit No. 4 was marked for

15 identification.)

16 (Whereupon, document

17 tendered.)

18 BY MR. HOFFMAN:

19 Q Doctor, would you look at TTO

20 Deposition Exhibit No. 4 and confirm this is a

21 letter that you sent to Dr. Kilrea on or about

22 November 21st, 2014, please?

23 (Whereupon, witness perusing

24 document.)

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1 BY THE WITNESS:
 2 **A That's my signature.**
 3 BY MR. HOFFMAN:
 4 Q And this is a letter that you sent to
 5 Dr. Kilrea on or about November 21st of 2014?
 6 **A Um-hmm.**
 7 Q "Yes"?
 8 **A Yes.**
 9 Q Okay. Just as a -- I know you haven't
 10 been deposed before, so the "um-hmms" and "un-uns"
 11 are very --
 12 **A It needs to be words.**
 13 Q -- difficult for Kelly Ann here to
 14 write down. So "yes" or "no" is much more
 15 preferable.
 16 **A Absolutely.**
 17 Q All right. And you see in
 18 Paragraph 2, it says, "Reconciliation work is
 19 performed for all districts as required in School
 20 Code."
 21 **A Um-hmm.**
 22 Q Right?
 23 **A Yes.**
 24 Q And that's a correct statement of --

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1 **A That is a correct statement.**
 2 Q -- how it works?
 3 **A Um-hmm.**
 4 Q Okay. "Yes"?
 5 **A Yes.**
 6 Q Okay. We are going to talk a little
 7 bit about the -- You understand that Baker Tilly
 8 used to be known as Virchow Krause and used to be
 9 known before that as William F. Gurrie, correct?
 10 **A Yes.**
 11 Q Okay. So when I call the firm "Baker
 12 Tilly," you'll understand that I mean the three
 13 iterations of the firm; yes?
 14 **A Okay.**
 15 Q Okay. Now, you're aware that during
 16 the time period relevant to this lawsuit, that
 17 Baker Tilly sent to the TTO the invoices for the
 18 annual audit for District 204, correct?
 19 **A Yes.**
 20 Q They were physically sent to the TTO,
 21 right?
 22 **A Yes.**
 23 Q And what is your understanding as to
 24 why Baker Tilly did that?

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1 **A I don't have an understanding of why**
 2 **they did that.**
 3 Q Do you think that that's important?
 4 MR. KALTENBACH: Objection.
 5 Argumentative.
 6 BY MR. HOFFMAN:
 7 Q You can answer.
 8 **A The only thing that I can tell you**
 9 **from personal experience, when I was at LaGrange**
 10 **106, I always had a copy of the -- the audit costs.**
 11 Q But isn't it a fact that the TTO,
 12 during the time period relevant to this lawsuit,
 13 was knowingly and deliberately paying the audit
 14 costs for District 204?
 15 **A That is my understanding.**
 16 Q What is your understanding based on?
 17 **A I have printed out the reports from**
 18 **our financial computer system that show how**
 19 **payments were posted for all of the school**
 20 **districts.**
 21 Q What do you understand as to why the
 22 TTO was paying for these costs?
 23 **A I don't have any understanding of why**
 24 **they would be paying for the cost of 204's audit**

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1 **because every other districts' audit fees were**
 2 **charged to their district accounts.**
 3 Q Did you think it was important for you
 4 to figure out why District 204, in your testimony,
 5 was being treated differently during this time
 6 period than the others?
 7 MR. KALTENBACH: Objection.
 8 Argumentative.
 9 BY MR. HOFFMAN:
 10 Q Than the other districts.
 11 **A I would have no idea why.**
 12 Q Did you talk to anybody at the TTO
 13 about this issue?
 14 **A Not in any detail other than an**
 15 **awareness that the payments were being made out of**
 16 **TTO funds.**
 17 Q Who did you talk to at the TTO about
 18 this issue?
 19 **A My assistant, Lauralee Conway.**
 20 Q Okay. And what did she tell you about
 21 why the TTO was paying for District 204's annual
 22 audits?
 23 **A I don't believe she knows why they**
 24 **were paying for it either.**

1 Q Did she tell you -- And you talked to
 2 her back when about this? When did this
 3 conversation take place, approximately?
 4 A **We've had conversations over the**
 5 **years, probably when I got there and read the**
 6 **lawsuit that was -- the claim that was being filed**
 7 **against District 204, just as recently as a couple**
 8 **of months ago when she and I were working on**
 9 **looking through records to show that each district**
 10 **had paid their own invoice with the exception of**
 11 **204.**
 12 Q Okay. And how many months ago did you
 13 go back to look at the payments to --
 14 A **November.**
 15 Q November of 2016?
 16 A **Yes.**
 17 Q Okay. And you and Lauralee
 18 Connelly --
 19 A **Conway.**
 20 Q Excuse me. I'm sorry.
 21 A **Sure.**
 22 Q Let me start over.
 23 In November of 2016, you and
 24 Lauralee looked at the records of payments made for

1 Baker Tilly audits for the other districts' audits,
 2 correct?
 3 A **Yes.**
 4 Q Okay. And what did you find out?
 5 A **We found that the charges for annual**
 6 **audit fees for all of the other districts were**
 7 **charged against the district, the specific district**
 8 **funds, the respective district funds.**
 9 Q Okay. And why did you conduct that
 10 investigation in November of 2016?
 11 A **I believe that we were asked to find**
 12 **supporting documentation about the origin of**
 13 **payment.**
 14 Q Okay. And who asked you?
 15 A **I think that that was part of the**
 16 **discovery items that were done. In addition to**
 17 **that, one of the superintendents from one of the**
 18 **districts advised that he had copies of the**
 19 **invoices that he received and paid out of his**
 20 **district funds --**
 21 Q Okay.
 22 A **-- that were available to us, if we**
 23 **wanted them.**
 24 Q Which district was that?

1 A **District 108, Willow Springs.**
 2 Q Okay. And how much of the
 3 documentation in terms of your search that you did
 4 in November of 2016 -- how much of the
 5 documentation was available versus missing?
 6 A **The documentation that showed the**
 7 **postings to each of the individual district's sets**
 8 **of accounts was available in our computer system,**
 9 **and I personally pulled that information out.**
 10 **If you're asking about the**
 11 **invoices, I'm not sure. We went down to**
 12 **District 108. We received copies of the invoices**
 13 **that they had. We received copies of any contracts**
 14 **that they had for providing audit services**
 15 **specifically with the auditors.**
 16 Q Okay. And did Lauralee tell you why
 17 the TTO paid for District 204's audits?
 18 A **No.**
 19 Q Did you ask her?
 20 A **I don't specifically remember asking**
 21 **her, but I can tell you that I do recall that she**
 22 **did not know why.**
 23 Q Did you ask anybody else at the TTO as
 24 to why the TTO was paying for District 204's

1 audits?
 2 A **No, not that I can recall.**
 3 Q Did you ever contact Judge Russell
 4 Hartigan, who was a trustee of the TTO during the
 5 time period we're talking about?
 6 A **No.**
 7 Q Why not?
 8 A **I don't know him.**
 9 Q Why didn't you think it was -- And
 10 there's another living trustee, Donna Milich.
 11 Have you ever contacted her about
 12 anything?
 13 A **No.**
 14 Q Why didn't you contact the two living
 15 trustees to get their recollections on this or any
 16 other issue in this case?
 17 MR. KALTENBACH: Objection.
 18 Argumentative, assumes facts.
 19 You can answer.
 20 BY THE WITNESS:
 21 A **I didn't feel that was my place.**
 22 BY MR. HOFFMAN:
 23 Q Okay.
 24 A **I don't know these individuals.**

1 Q Whose place do you think it was?
 2 MR. KALTENBACH: Objection.
 3 Argumentative.
 4 BY MR. HOFFMAN:
 5 Q Whose place do you think it was?
 6 A **At that point, I believe that it would**
 7 **be something that would come up during the lawsuit.**
 8 Q Okay. So it was your lawyer's
 9 responsibility, as far as you saw it?
 10 A **I don't know that it was their**
 11 **responsibility, but I assumed that we would be**
 12 **required to provide some documentation about it.**
 13 Q Well, I'm not talking just about
 14 documentation. I'm talking about why certain
 15 things happened 20 years ago, and it doesn't seem
 16 like you made any effort, as the treasurer, to go
 17 back and talk to either the prior treasurer or the
 18 trustees.
 19 So my question is why not?
 20 A **My job is make sure that I take care**
 21 **of the current operations of the Township --**
 22 Q Have you ever --
 23 A **-- Treasurer's Office?**
 24 Q -- spoken with Bob Healy about what he

1 did during his tenure in any respect?
 2 A **Only when I was a business manager.**
 3 Q Okay.
 4 A **Not since he's left the TTO.**
 5 Q And in your conversations with
 6 Bob Healy when you were business manager, did any
 7 of those conversations have to do with payment for
 8 District 204's audits?
 9 A **No.**
 10 Q Were you aware when you were a
 11 business manager at another district that the TTO
 12 was paying for District 204's audits?
 13 A **No.**
 14 Q Did Bob Healy tend to provide a lot of
 15 information or disclosures to the districts during
 16 the time he was treasurer?
 17 A **No.**
 18 Q What was your experience with
 19 Bob Healy's supplying of information or
 20 documentation from your perspective as a business
 21 manager?
 22 A **Are you asking across the board?**
 23 Q Across the board.
 24 A **The information that we received out**

1 **of Bob's office was, we received our financial**
 2 **reports, any -- we would receive a pro rata bill**
 3 **from him annually that didn't necessarily have any**
 4 **supporting documentation. We would receive our**
 5 **interest income via journal entry.**
 6 Q Did the interest income journal entry
 7 provide enough documentation for you to be able to
 8 determine whether the amount of money that was paid
 9 to your district in interest income was, in fact,
 10 the amount that you should have received?
 11 A **No.**
 12 Q Why not?
 13 A **I don't know.**
 14 Q I mean, what was missing? Why
 15 couldn't you tell if the interest income number was
 16 right when you got it from Healy?
 17 A **Well, we didn't have access to the**
 18 **financial records or the amount of interest that**
 19 **was earned, market conditions. There was -- There**
 20 **was no documentation. That was his work to do.**
 21 Q Did you ever express to Bob Healy at
 22 any time your concern about lack of information or
 23 documentation about your district's investments?
 24 A **Not that I recall specifically.**

1 Q Are you aware that 204 repeatedly
 2 tried to get more information on investments from
 3 Bob Healy?
 4 A **I am now; but at the time that I was a**
 5 **business manager in another district, I was not.**
 6 Q Did you ever have any discussions with
 7 Dr. Dennis Kelly when you were at LADSE about the
 8 issue of investment income and the information that
 9 the districts were getting from Healy on investment
 10 income?
 11 A **None that I recall.**
 12 MR. KALTENBACH: It's been a little
 13 over an hour. Do you want to take a --
 14 MR. HOFFMAN: Let's do it.
 15 MR. KALTENBACH: -- quick break?
 16 (Whereupon, a brief recess
 17 was had from 11:19 a.m. to
 18 11:27 a.m.)
 19 MR. HOFFMAN: Let's go back on the
 20 record.
 21 BY MR. HOFFMAN:
 22 Q One of the things that we should cover
 23 before we get too far in the deposition is that, as
 24 your lawyer probably already told you, it's

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1 important for you not to guess or make assumptions
 2 in the course of this deposition.
 3 What I'm asking for is actual
 4 knowledge of you and the TTO on the issues we're
 5 discussing.
 6 Do you understand that?
 7 **A I do.**
 8 Q Okay. Let's talk a little more about
 9 the claim that the TTO has in this case for the
 10 return of money related to payment of Baker Tilly
 11 audit fees. All right?
 12 **A Okay.**
 13 Q So do you have any knowledge
 14 whatsoever as to why the TTO paid for
 15 District 204's audits for certain years?
 16 MR. KALTENBACH: Objection. Asked and
 17 answered.
 18 You can answer.
 19 BY MR. HOFFMAN:
 20 Q You can answer again.
 21 **A No.**
 22 Q Okay. And you did see in the files of
 23 the TTO a document showing that the TTO knew it was
 24 getting bills for District 204's audits and paid

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1 them knowing what they were for, right?
 2 **A I have seen evidence of that, yes.**
 3 Q Okay. And so there's no question here
 4 that somehow the TTO accidentally paid these
 5 invoices, right?
 6 **A I don't think it was an accident.**
 7 Q Okay. Well, then I won't bother
 8 showing you the documentation --
 9 **A Okay.**
 10 Q -- that we're talking about.
 11 Are you also aware from seeing
 12 documentation in the TTO's files that Bob Healy
 13 told District 204 that the TTO was paying for the
 14 audits of all of the districts?
 15 **A I don't know that.**
 16 Q Okay. Let's take a look at a document
 17 which we'll mark here.
 18 (Whereupon, TTO Deposition
 19 Exhibit No. 5 was marked for
 20 identification.)
 21 (Whereupon, document
 22 tendered.)
 23 BY MR. HOFFMAN:
 24 Q This was an April 29, 1999 letter from

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1 Bob Healy to Lisa Beckwith at District 204.
 2 Do you see that?
 3 **A I do.**
 4 Q And you know who Lisa Beckwith is?
 5 **A I do.**
 6 Q Did you read her deposition testimony
 7 in this case?
 8 **A No.**
 9 Q Did you read any of the deposition
 10 transcripts of depositions taken in this case
 11 before coming here today?
 12 **A I have seen Bob Healy's.**
 13 Q Did you read the whole --
 14 **A I didn't read it.**
 15 Q Why didn't you read all of Bob Healy's
 16 testimony?
 17 **A It wasn't offered to me to read.**
 18 Q Okay. Let's turn to Page 6 of what
 19 has been marked as TTO Deposition No. 5.
 20 **A Okay.**
 21 Q And it says under "Annual Audit," "The
 22 trustees hire and pay for the audit of the school
 23 districts" -- plural -- "and the Treasurer's office
 24 in Lyons Township."

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1 Do you see that?
 2 **A I do.**
 3 Q Do you know why Bob Healy made this
 4 representation to District 204?
 5 **A I do not.**
 6 Q Do you believe that it was factually
 7 inaccurate at the time he made it?
 8 **A I would have no way to know.**
 9 Q So it may or may not have been the
 10 case in 1999 that the TTO hired and paid for the
 11 audits of the school districts, plural?
 12 **A I don't have firsthand knowledge of**
 13 **that.**
 14 Q And --
 15 **A Because you're asking me in reference**
 16 **to this statement. Is that correct?**
 17 Q Well, the statement is a statement of
 18 fact. It's saying the trustees -- meaning the
 19 TTO --
 20 **A Yes.**
 21 Q -- hire and pay for the audit of the
 22 school districts; yes? Do you see that?
 23 **A Yes, I do.**
 24 Q And my question is -- You've never

1 seen this letter before, right?
 2 **A I have seen this letter before --**
 3 Q Okay.
 4 **A -- but not at that time.**
 5 Q When did you see this letter?
 6 **A When we were pulling records for**
 7 **discovery.**
 8 Q Okay. And is the statement in this
 9 letter that Bob Healy wrote which says, "The
 10 trustees hire and pay for the audit of the school
 11 districts" a true or untrue statement, or you don't
 12 know?
 13 **A I can read what was written.**
 14 Q Yes.
 15 **A Do I have firsthand knowledge that**
 16 **this was an accurate statement? No.**
 17 Q Okay. Who would know?
 18 **A I would assume Bob Healy or Lisa**
 19 **Beckwith, who wrote the letter.**
 20 Q Okay. Now, I did tell you about three
 21 minutes ago not to make assumptions. Right?
 22 **A Yes.**
 23 Q Okay. So can you answer that question
 24 without making assumptions?

1 **A Can you repeat the question?**
 2 Q Who would know whether Healy's
 3 statement in this 1999 letter that says "The
 4 trustees hire and pay for the audit of the school
 5 districts" -- who would know whether or not that is
 6 true?
 7 **A I don't know.**
 8 Q Okay. I'm going to show you another
 9 letter. This was marked as Conway Exhibit No. 2
 10 already, and I'm just going to refer you to a
 11 specific portion of it. It's a January 12, 2001
 12 letter from Bob Healy to Dr. Dennis Kelly.
 13 (Whereupon, Conway Exhibit
 14 No. 2, previously marked,
 15 was tendered to the witness.)
 16 BY MR. HOFFMAN:
 17 Q On the page that's Bates numbered 189
 18 in the corner, it says under "Annual Audit," "The
 19 trustees hire and pay for the audit of the school
 20 districts and the Treasurer's office in Lyons
 21 Township."
 22 Do you see that?
 23 **A Yes.**
 24 Q Is your testimony about this statement

1 from 2001 the same as your testimony about Healy's
 2 statement that he made, which is identical, in the
 3 1999 letter? Then I won't have to ask you all the
 4 same questions.
 5 **A Can you repeat that question?**
 6 Q Okay. The statement that Healy made
 7 in this 2001 letter, which says --
 8 **A That we just --**
 9 Q -- "The trustees" -- I'm sorry.
 10 **A This letter (indicating)?**
 11 Q The 2001 letter that's in front of
 12 you --
 13 **A Okay.**
 14 Q -- in Conway Exhibit No. 2 --
 15 **A Okay.**
 16 Q -- it says, "The trustees hire and pay
 17 for the audit of the school districts and the
 18 Treasurer's office in Lyons Township."
 19 **A Okay.**
 20 Q Was that statement true as of
 21 January 12th, 2001?
 22 **A No.**
 23 Q Why do you say "no"?
 24 **A In 2001?**

1 Q Right, 2001, just like the Kubrick
 2 movie.
 3 **A Oh, January of 2001. I'm sorry. I**
 4 **could not answer that.**
 5 Q And why can't you answer that?
 6 **A I was not in the Township at that**
 7 **time.**
 8 Q Okay. And you don't have sufficient
 9 familiarity with the records of the TTO in 2001 to
 10 be able to answer that question, correct?
 11 **A Correct.**
 12 MR. KALTENBACH: I'm going to -- Hold
 13 on. I'm going to object.
 14 MR. HOFFMAN: Just a second. She just
 15 answered.
 16 MR. KALTENBACH: And I'm --
 17 MR. HOFFMAN: Did you get it?
 18 THE REPORTER: Yes.
 19 MR. HOFFMAN: Okay.
 20 MR. KALTENBACH: Great. And I'm
 21 getting my objection in.
 22 MR. HOFFMAN: That's fine. I just
 23 want to make sure we got the answer.
 24 MR. KALTENBACH: That's fine.

1 MR. HOFFMAN: Say what you want to
 2 say.
 3 MR. KALTENBACH: I object on the basis
 4 I believe this information was already asked of the
 5 witness, and she answered with respect to prior
 6 testimony.
 7 MR. HOFFMAN: Okay. Thanks. That's
 8 an interesting objection. I'm not sure what
 9 category that falls under other than coaching, but
 10 thanks so much.
 11 MR. KALTENBACH: Asked and answered; I
 12 don't --
 13 MR. HOFFMAN: It wasn't answered
 14 because I've never shown her this letter before.
 15 MR. KALTENBACH: That doesn't mean she
 16 didn't answer the subject matter.
 17 MR. HOFFMAN: All right. Nice try.
 18 BY MR. HOFFMAN:
 19 Q Okay. The complaint filed in this
 20 case in talking about the audit fees makes a
 21 reference to part of the School Code. Let me just
 22 get the right page in front of me.
 23 Okay. Paragraph 48 of the
 24 pending complaint of the TTO, which I'd be happy to

1 show you -- although you're familiar with the
 2 complaint, right?
 3 A **The current complaint?**
 4 Q Yes.
 5 A **Yes.**
 6 Q Okay. So Paragraph 48 talks about
 7 Article 3, Section 7 of the School Code, and it
 8 says that that legal provision, quote, "Requires
 9 that each school district have an audit of its
 10 accounts completed at least once a year," et
 11 cetera, et cetera.
 12 Are you familiar with that
 13 provision of the School Code?
 14 A **Yes.**
 15 MR. HOFFMAN: Okay. Let's mark it.
 16 (Whereupon, TTO Deposition
 17 Exhibit No. 6 was marked for
 18 identification.)
 19 (Whereupon, document
 20 tendered.)
 21 BY MR. HOFFMAN:
 22 Q Dr. Birkenmaier, I'm showing you TTO
 23 Exhibit No. 6. It's a copy of Section 5/3-7 of the
 24 School Code that's referred to in Paragraph 48 of

1 the amended complaint, and this is the part of the
 2 School Code, you believe, that requires
 3 District 204 and all of the other school districts
 4 to have an annual audit performed, correct?
 5 A **That's what you're telling me, yes.**
 6 Q Well, is --
 7 A **Based on what I've seen, but I haven't**
 8 **read this.**
 9 Q Okay. Well, you said you were
 10 familiar with the legal provision, and this is the
 11 legal provision, so --
 12 A **I want to clarify. I'm familiar with**
 13 **the requirement that we do an annual audit.**
 14 Q Right.
 15 A **I would not say that I am familiar**
 16 **with the legal requirement --**
 17 Q Okay.
 18 A **-- in great detail.**
 19 Q Fair enough.
 20 Is there any requirement in the
 21 School Code that requires District 204 to pay for
 22 its own audit?
 23 MR. KALTENBACH: I'm going to object
 24 to the extent it calls for the witness to make a

1 legal conclusion.
 2 BY MR. HOFFMAN:
 3 Q You can answer.
 4 A **I would say based on my knowledge of**
 5 **what's in there, it has no indication of who pays**
 6 **for an audit, just that one must be completed.**
 7 Q Okay. Fair enough.
 8 Is there any legal requirement
 9 that applies to the TTO or to you, as a treasurer,
 10 that prohibits the TTO from paying for
 11 District 204's audits?
 12 MR. KALTENBACH: Objection. Calls for
 13 a legal conclusion.
 14 You can answer.
 15 BY THE WITNESS:
 16 A **I wouldn't understand what the legal**
 17 **requirement would be. My understanding -- I don't**
 18 **have that level of understanding about who pays.**
 19 BY MR. HOFFMAN:
 20 Q Okay. So you're not aware sitting
 21 here today of any part of the School Code or other
 22 law that would, as far as you know, prohibit the
 23 TTO from paying for District 204's audits, correct?
 24 MR. KALTENBACH: Same objection.

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1 BY THE WITNESS:
 2 **A I don't believe it's referred to or**
 3 **discussed, so I will say no.**
 4 MR. HOFFMAN: All right. Let's mark
 5 this.
 6 (Whereupon, TTO Deposition
 7 Exhibit No. 7 was marked for
 8 identification.)
 9 (Whereupon, document
 10 tendered.)
 11 BY MR. HOFFMAN:
 12 Q All right. I've marked as exhibit --
 13 TTO Deposition Exhibit 7 a letter that I got from
 14 Gretchen Kubasiak at your law firm attaching a
 15 series of printouts. This also came with a disk of
 16 electronic documents.
 17 And the letter says that "These
 18 documents concern audit payments that we intend to
 19 rely on. We requested these documents from our
 20 client with respect to your client's assertion that
 21 our client paid for all districts' audits.
 22 Included in these documents are ones we received
 23 voluntarily from District 108 regarding their audit
 24 payments."

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1 Do you see that?
 2 **A I do.**
 3 Q Is that the documentation you were
 4 testifying about earlier that you pulled at your
 5 lawyer's request?
 6 **A Yes.**
 7 Q And you pulled that in November
 8 of 2016?
 9 **A Yes.**
 10 Q Okay. Do you know why it took until
 11 the end of February 2017 to -- for the lawyers to
 12 send these documents on to us?
 13 MR. KALTENBACH: I object. It's
 14 beyond the scope.
 15 You can answer.
 16 BY MR. HOFFMAN:
 17 Q You can answer.
 18 **A I'm not familiar if this information**
 19 **was requested earlier. The reason that we went in**
 20 **and did such a detailed pulling of documents was**
 21 **District 204 offered up that they had documentation**
 22 **that showed that they paid their own fees.**
 23 Q Well, the last page of this document,
 24 TTO 7, has the District 108 information, right?

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1 That's the file --
 2 **A Yes.**
 3 Q -- for District 108?
 4 And let's look at the prior page,
 5 one before the end, and this file is for "Audit GL
 6 Detail Invoices."
 7 Do you see that?
 8 **A I do.**
 9 Q And this is the TTO's general ledger,
 10 correct? When it says "GL," that means "general
 11 ledger," right?
 12 **A Is it appropriate to assume here?**
 13 MR. KALTENBACH: I'm going to object.
 14 I think there's a compound question there, so I'm
 15 not sure --
 16 MR. HOFFMAN: Okay.
 17 BY MR. HOFFMAN:
 18 Q Do you have any understanding of what
 19 the "Audit GL Detail Invoices" are?
 20 **A I understand what they are. There's**
 21 **nothing that's referenced here that would indicate**
 22 **to me whose they are.**
 23 Q Okay. Do you know why these files
 24 only go back to 1998?

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1 **A I don't.**
 2 Q Is there anyone other than you at the
 3 TTO who sends documentation to your lawyers when
 4 they request it, let's say, in the past six months,
 5 or are you the point person for sending documents
 6 to the lawyers?
 7 **A Kelly Bradshaw.**
 8 Q Kelly Bradshaw is the person who does
 9 that?
 10 **A She would also. I would. I don't**
 11 **know if Lauralee necessarily would be a frontline**
 12 **for that. She might send something on my behalf.**
 13 Q Okay. The documents from the --
 14 MR. HOFFMAN: Let's mark this.
 15 (Whereupon, TTO Deposition
 16 Exhibit No. 8 was marked for
 17 identification.)
 18 (Whereupon, document
 19 tendered.)
 20 BY MR. HOFFMAN:
 21 Q Deposition Exhibit No. 8 is a printout
 22 of the documents we just saw a hard copy of the
 23 file and PDF listing of. It's for the Audit GL
 24 Detail. This is what the actual documents are.

1 **A Okay.**
 2 Q And so it's TTO Exhibit No. 8.
 3 **A Okay.**
 4 Q Are these printouts for -- Well, what
 5 are these printouts?
 6 **A Well, the --**
 7 Q What are these? What are we looking
 8 at?
 9 **A The first page would be the detail of**
 10 **all the transactions that were made by the**
 11 **Treasurer's Office. I can tell you from this that**
 12 **it's for the period of '97 through '98 made to**
 13 **William Gurrie as the vendor.**
 14 Q Right.
 15 **A These are the TTO expenditures.**
 16 Q And why does this only go back to the
 17 1998 fiscal year?
 18 **A This indicates to me that this is one**
 19 **fiscal year. I don't know --**
 20 Q This is the first one, as you can see
 21 from the list of -- As you can see from the list
 22 that came with the production, this is the first
 23 one, and so I printed it out so you could see what
 24 they look like.

1 My question is, how come they
 2 start in the 1998 fiscal year and don't go back any
 3 further?
 4 **A I don't know.**
 5 Q Are the documents missing from the
 6 TTO's files for the 1997 and earlier fiscal years
 7 for the general ledger printouts?
 8 **A I don't know that.**
 9 MR. HOFFMAN: Let's mark this.
 10 (Whereupon, TTO Deposition
 11 Exhibit No. 9 was marked for
 12 identification.)
 13 (Whereupon, document
 14 tendered.)
 15 BY MR. HOFFMAN:
 16 Q I'm showing you TTO Exhibit No. 9.
 17 **A All right.**
 18 Q This is a printout from the document
 19 production we just referenced, and it's just a
 20 portion of it. These were all the printouts that
 21 had to do with 104.
 22 And so my question to you is,
 23 does the column in the middle on the first page
 24 that says "104" -- does that mean that it relates

1 to District 104?
 2 **A Yes.**
 3 Q Okay. And do you see over time that
 4 the look of these printouts -- there's a run from
 5 1993 through 2005. Then there's a run from 2005 to
 6 2006. Then there's a run from 2006 to 2012.
 7 Why are there three different
 8 sets of documents for this general ledger printout
 9 for District 204?
 10 **A Probably based on the way that they're**
 11 **archived.**
 12 Q They're archived differently, and so
 13 you need to go in the system and run different
 14 reports for different years?
 15 **A Absolutely.**
 16 Q And do you see in the last -- the
 17 third to last page, the final set of printouts,
 18 there is an account number for 1-2310-317-1-0?
 19 **A Yes.**
 20 Q What does that mean?
 21 **A Well, "1" would indicate the fund that**
 22 **the bill is being paid out of, and that means**
 23 **education fund. And that's set up based on the tax**
 24 **levy structure, so we know that those are education**

1 **tax levy funds.**
 2 **"2310" would indicate the**
 3 **function, so 2310 -- And I have to refer back here**
 4 **to tell you. 2310 would indicate that it is the**
 5 **Board of Education function within the school**
 6 **District.**
 7 **"317" would be the object code**
 8 **number, and that would relate specifically to the**
 9 **fact that these are audit fees.**
 10 Q What's "318"?
 11 **A "318" is legal fees.**
 12 Q Okay.
 13 **A And you can see that --**
 14 Q Why are there legal fees or anything
 15 from 318 included in this printout that was
 16 provided to us?
 17 **A I think the reason that it was**
 18 **provided is that because William F. Gurrie is**
 19 **listed as a vendor, and it was charged to the**
 20 **"legal fee" line, which could indicate that it was**
 21 **something directly related to a legal service or**
 22 **that it was a misplaced payment that would have had**
 23 **to require a journal entry to collect later.**
 24 Q Well, do you know?

1 **A I don't know for certain. I would**
 2 **have to look at the detail on the documentation to**
 3 **support it. Typically, if I could look through**
 4 **here, I might be able to explain it, but I can't**
 5 **just from looking at this alone.**
 6 **Q** We're going to look at a document that
 7 was previously marked as Theissen Exhibit No. 13.
 8 (Whereupon, Theissen Exhibit
 9 No. 13, previously marked,
 10 was tendered to the witness.)
 11 BY THE WITNESS:
 12 **A Okay.**
 13 BY MR. HOFFMAN:
 14 **Q** It's from March 8, 2013.
 15 That's before your time as
 16 treasurer, correct?
 17 **A Yes.**
 18 **Q** Okay. And you see that there's a
 19 statement of audit and accounting fees for
 20 District 204 for the years 2006 to 2012, right?
 21 **A Yes.**
 22 **Q** Okay. And even though you weren't
 23 there at the time, I'm asking, as TTO's
 24 representative, why was the initial claim from the

1 TTO to District 204 for these audits fees limited
 2 to the 2006 to 2012 time period?
 3 **A I don't know.**
 4 MR. KALTENBACH: I'm going to object
 5 as to vague. That's fine.
 6 BY THE WITNESS:
 7 **A I don't know.**
 8 BY MR. HOFFMAN:
 9 **Q** Isn't it correct that Baker Tilly's
 10 documents on its invoicing that the TTO asked for
 11 and got from Baker Tilly at some point only went
 12 back to 2006?
 13 **A I don't know.**
 14 MR. HOFFMAN: I'll be right back.
 15 (Whereupon, there was a
 16 brief interruption.)
 17 BY MR. HOFFMAN:
 18 **Q** Okay. Theissen Exhibit No. 4 is the
 19 deposition of Kelly Bradshaw taken in this case.
 20 I'm going to show you her testimony on Page 33.
 21 Your counsel can look over your shoulder.
 22 (Whereupon, Theissen Exhibit
 23 No. 4, previously marked,
 24 was tendered to the witness.)

1 BY THE WITNESS:
 2 **A On Page 33?**
 3 BY MR. HOFFMAN:
 4 **Q** Correct.
 5 **A Okay.**
 6 **Q** So Ms. Bradshaw testified that
 7 Baker Tilly had invoices from at least 2006 on and
 8 maybe sometime prior to that, but she did not know.
 9 **A Can you help me understand where**
 10 **you're at in this document, what line?**
 11 **Q** Sure. Page 33, Lines 2 through 15.
 12 **A Oh, okay.**
 13 **Q** Why don't you read that testimony?
 14 (Whereupon, witness perusing
 15 document.)
 16 BY MR. HOFFMAN:
 17 **Q** My question to you is, does that
 18 testimony of Ms. Bradshaw help refresh your memory
 19 as to how far back Baker Tilly's invoices were kept
 20 and provided to the TTO?
 21 **A I'm sorry. Can you hold that question**
 22 **for a minute while I finish reading?**
 23 **Q** Sure. Go ahead.
 24 **A Thank you.**

1 **Q** I'll start over.
 2 **A Okay. Thanks.**
 3 (Whereupon, witness perusing
 4 document.)
 5 BY THE WITNESS:
 6 **A Okay.**
 7 BY MR. HOFFMAN:
 8 **Q** So does Ms. Bradshaw's testimony about
 9 how far back Baker Tilly's copies of invoices went
 10 help refresh your memory on the subject of how far
 11 back did Baker Tilly's invoices go when the TTO
 12 asked to get them?
 13 **A That doesn't help me.**
 14 **Q** Okay. So you have no idea how far
 15 back Baker Tilly's invoices go, right?
 16 **A I did not look at the Baker Tilly**
 17 **invoices back that far. That would have been work**
 18 **she would have worked on.**
 19 **Q** How far back did the TTO's copies of
 20 invoices go for its payments for District 204's
 21 audits?
 22 **A I don't know.**
 23 **Q** There were many years in which the TTO
 24 did not have copies of invoices for these costs,

1 correct?
 2 **A I don't know.**
 3 Q So you have no idea why in Theissen's
 4 letter, Exhibit No. 13, the claim only went back to
 5 2006?
 6 **A No.**
 7 MR. KALTENBACH: I'll object as vague.
 8 BY MR. HOFFMAN:
 9 Q Let's take a look at --
 10 MR. KALTENBACH: Hold on.
 11 Can you pause for a minute so I
 12 have a chance to state my objection?
 13 THE WITNESS: I'm sorry.
 14 MR. KALTENBACH: That's okay.
 15 MR. HOFFMAN: Let's mark this.
 16 (Whereupon, TTO Deposition
 17 Exhibit No. 10 was marked for
 18 identification.)
 19 (Whereupon, document
 20 tendered.)
 21 BY MR. HOFFMAN:
 22 Q The document that I marked as TTO
 23 Deposition Exhibit No. 10 is a document that comes
 24 from the files produced to us in this case. It

1 appears to be a printout that runs through
 2 August 31st, 2013, that provides backup or at least
 3 correlates with the amount --
 4 **A Okay.**
 5 Q -- that is in Mr. Theissen's letter,
 6 Theissen Exhibit 13. I'll show that to you, so you
 7 understand the same thing that I understand.
 8 (Whereupon, document
 9 tendered.)
 10 BY THE WITNESS:
 11 **A Okay.**
 12 BY MR. HOFFMAN:
 13 Q And you see that the amounts are the
 14 same; yes?
 15 **A Yes.**
 16 Q Are you familiar with this document,
 17 TTO Deposition Exhibit No. 10?
 18 **A I don't recall seeing this before.**
 19 Q Do you know why this is limited to the
 20 2006 to 2012 period noting that this was created
 21 during the time you were treasurer?
 22 **A No. And I didn't begin as treasurer**
 23 **until October of 2013.**
 24 Q Oh, I'm sorry. My mistake. Never

1 mind.
 2 And you've never seen this in the
 3 files of your --
 4 **A I have not, no.**
 5 MR. HOFFMAN: Let's mark this as 11
 6 and this as 12.
 7 (Whereupon, TTO Deposition
 8 Exhibit No. 11 and TTO
 9 Deposition Exhibit No. 12 were
 10 marked for identification.)
 11 (Whereupon, documents
 12 tendered.)
 13 BY MR. HOFFMAN:
 14 Q All right. I'm going to provide you
 15 with two tables of charts. These appear to be a
 16 list of audit fees for which the TTO is making a
 17 claim in this case. The first one, which has the
 18 larger font and has a grand total of 473,000 and
 19 change, is TTO Deposition Exhibit No. 11.
 20 The second one with the smaller
 21 font has a grand total of 511,068.60, which also
 22 corresponds to the amount stated in the amended
 23 complaint.
 24 **A Okay.**

1 Q I just want to make sure that you
 2 understand what I understand, and there's no hiding
 3 of the ball here.
 4 **A Okay.**
 5 Q So are you familiar with these
 6 printouts?
 7 **A I have not seen this before until you**
 8 **just handed it to me.**
 9 Q Is this Kelly Bradshaw's work, to the
 10 best of your knowledge?
 11 **A I don't know.**
 12 Q Well, who did this? Who created these
 13 charts?
 14 **A I don't know.**
 15 Q Are these charts the basis for the
 16 claim that the TTO has made in this case for
 17 repayment of audit fees from District 204?
 18 **A I don't have firsthand knowledge of**
 19 **that.**
 20 Q You really don't know what that is?
 21 **A I can understand what it is by looking**
 22 **at it.**
 23 Q Okay.
 24 **A I know that the --**

1 Q That's good.
 2 A -- \$511,000 number is a number I am
 3 familiar with.
 4 Q Right. That's the amount of the
 5 claim, right?
 6 A Yes.
 7 Q Okay. So this is the backup which
 8 details all the invoices that add up to the 511,000
 9 number, correct? Yes?
 10 A Are you asking me if it appears that
 11 way?
 12 Q Yes.
 13 A Yes.
 14 Q I mean, you are the treasurer of the
 15 TTO and --
 16 A Yes.
 17 Q -- you're the designated
 18 representative here, so --
 19 A It would appear that way.
 20 Q Okay. Great. Terrific.
 21 And you see in the -- Do you know
 22 why the claim amount increased in this case from
 23 473,000 to 511,000?
 24 A If I look through it, I might be able

1 to explain that.
 2 Q Well, presumably, there are a few more
 3 invoices that got thrown on that added up to a
 4 bigger number. I think I can figure that out.
 5 A Okay.
 6 Q What I'm asking is, do you know of
 7 any -- Why did the claim amount increase in this
 8 case? What happened to make it increase?
 9 A I believe your explanation would be
 10 the appropriate explanation.
 11 Q Well, who went back and looked through
 12 what records to find additional invoices to add on
 13 to your claim?
 14 A Kelly Bradshaw.
 15 Q And at whose direction?
 16 A I don't know.
 17 Q When did that take place?
 18 A I don't know.
 19 Q Okay. And you have no idea when these
 20 documents were created?
 21 A There is no reference date, no.
 22 Q Okay. Do you see on the bottom
 23 right-hand -- or excuse -- the far right-hand
 24 column of TTO Exhibit No. 11, it says, "Invoice

1 Copy." And for the first 20 or so entries, it says
 2 "No"?
 3 Do you see that?
 4 A I do.
 5 Q Does that correctly reflect that the
 6 TTO does not have the actual invoices from the
 7 Baker Tilly firm for District 204's audits for
 8 those time periods?
 9 A I don't know.
 10 Q Well, do they or don't they? With
 11 respect -- Without regard to this document, does
 12 the TTO have a copy of the invoices sent from
 13 Baker Tilly to the TTO for District 204's audits
 14 for the 1993 through 1995 time period?
 15 A If you're asking me --
 16 THE WITNESS: Okay.
 17 MR. KALTENBACH: If you want to
 18 consult with me on if it's privileged or not, we
 19 can discuss that.
 20 THE WITNESS: No.
 21 MR. KALTENBACH: But otherwise --
 22 Okay.
 23 BY THE WITNESS:
 24 A If you're asking me to speculate that

1 we have these or don't have these, I cannot
 2 speculate. I can only tell you, I don't know
 3 because I don't have firsthand knowledge of these
 4 documents.
 5 BY MR. HOFFMAN:
 6 Q Okay. And you see that the answer
 7 for -- Well, the answer for "No" for "Invoice Copy"
 8 went from "No" into the next document, it says
 9 "GL," which is "general ledger," correct?
 10 A Yes.
 11 Q And so is it true that the TTO is
 12 relying on general ledger entries for some of the
 13 audit costs that it's claiming in this case?
 14 A It would appear that they were
 15 recorded in the general ledger, yes.
 16 Q Do you know why the TTO appears to be
 17 missing records from its files?
 18 A No.
 19 Q Are you aware of a flood that occurred
 20 or that Bob Healy claimed occurred at the TTO's
 21 offices?
 22 A I have heard that, but I don't know
 23 anything about it.
 24 Q What have you heard about it?

1 **A I heard that there was a flood that**
 2 **damaged records.**
 3 Q When was that?
 4 **A I don't know.**
 5 Q Who told you that?
 6 **A Lauralee.**
 7 Q When did she tell you that?
 8 **A When I first started.**
 9 Q Okay. And what did she say -- What
 10 records were lost as a result of the flood?
 11 **A We didn't have a detailed conversation**
 12 **about that.**
 13 Q Didn't you think it was important to
 14 know what records were missing from your files --
 15 MR. KALTENBACH: Object --
 16 BY MR. HOFFMAN:
 17 Q Didn't you think it was important to
 18 know what records were missing from your files?
 19 **A Okay.**
 20 MR. KALTENBACH: Objection.
 21 Argumentative.
 22 BY MR. HOFFMAN:
 23 Q Didn't you think it was important to
 24 know what documents were missing from the TTO's

1 files?
 2 MR. KALTENBACH: Objection.
 3 Argumentative. You've asked it twice.
 4 MR. HOFFMAN: I haven't gotten an
 5 answer.
 6 MR. KALTENBACH: Because I objected.
 7 MR. HOFFMAN: Because you keep
 8 interrupting.
 9 MR. KALTENBACH: I'm objecting.
 10 BY MR. HOFFMAN:
 11 Q Go ahead. You can answer.
 12 MR. KALTENBACH: You can answer based
 13 on my objection. Go ahead.
 14 BY THE WITNESS:
 15 **A No.**
 16 BY MR. HOFFMAN:
 17 Q Why didn't you think it was important?
 18 **A Historical documents didn't have**
 19 **relevance to the current operation.**
 20 Q Well, they do have relevance to this
 21 lawsuit, don't they?
 22 **A Understood.**
 23 Q And you're seeking \$4.6 million from
 24 District 204 based on things that happened in the

1 past, some as far back as 20 years ago, aren't you?
 2 **A Yes.**
 3 Q And so isn't it important to have an
 4 understanding as to what documents the TTO does and
 5 doesn't have from that relevant time period?
 6 **A I understand that when there was a**
 7 **flood that they salvaged as much of the**
 8 **documentation as they could by drying it out. If**
 9 **the documents don't exist, I don't know why. And I**
 10 **don't question why they were lost or what was lost**
 11 **because they're historical documents, and they were**
 12 **not relevant to the operations when I was there.**
 13 MR. HOFFMAN: Let's mark this, please.
 14 (Whereupon, TTO Deposition
 15 Exhibit No. 13 was marked for
 16 identification.)
 17 (Whereupon, document
 18 tendered.)
 19 BY MR. HOFFMAN:
 20 Q TTO Exhibit No. 13 is another set of
 21 documents that came from the production that we
 22 received in this case from the TTO.
 23 **A Okay.**
 24 Q These appear to be a series of general

1 ledger printouts or portions of general ledger
 2 printouts that relate to amounts for your claim
 3 against the TTO as to audits fees.
 4 Is that what this looks like to
 5 you?
 6 **A Yes.**
 7 Q Okay. And who provided this -- who
 8 provided this -- I'm sorry.
 9 Who was the person who selected
 10 these particular items to capture in a report to
 11 form the basis of the TTO's claim?
 12 **A I'm not certain.**
 13 Q So you don't know who did this work
 14 that's reflected in TTO Exhibit No. 13, do you?
 15 **A I'm not --**
 16 MR. KALTENBACH: Objection. Vague.
 17 You can answer.
 18 BY THE WITNESS:
 19 **A I'm not certain.**
 20 BY MR. HOFFMAN:
 21 Q Okay. Do you know the parameters for
 22 which -- Now, the work was done, it says in the
 23 upper left-hand corner, on May 11th of 2015.
 24 Do you see that?

1 **A I do.**
 2 Q And that was during the time you were
 3 treasurer, right?
 4 **A Yes.**
 5 Q Okay. And so do you remember having
 6 any discussions with Kelly Bradshaw or anybody
 7 else, Lauralee, whoever it might have been, around
 8 that time about going back through the general
 9 ledger entries for the TTO and finding things that
 10 might be related to the annual audits of
 11 District 204?
 12 **A I know that we've been pulling**
 13 **documents for a long time.**
 14 Q Okay. But specific with respect to
 15 the District 204 annual audits and these general
 16 ledger entries, do you know who was assigned that
 17 job and what they were told to do with respect to
 18 that job?
 19 **A I don't recall.**
 20 Q Okay. And so when you look at the
 21 first page of TTO Deposition Exhibit No. 13, there
 22 is a listing for -- the first one says "Business
 23 Services" -- it says "S-e-r," but that's short for
 24 "Business Services," correct?

1 **A Yes.**
 2 Q And it says, "Annual Audi," A-u-d-i,
 3 but we can make sense of that and say it's "Annual
 4 Audit," right?
 5 **A Yes.**
 6 Q Okay. So that's something that the
 7 TTO believes was for the annual audit of
 8 District 204, correct?
 9 **A Yes.**
 10 Q Okay. And then you see the second --
 11 Now, that's an entry dated July 1 of 1993, correct?
 12 **A Correct.**
 13 Q And the second entry is basically the
 14 same, although the amount is different.
 15 The third entry is for July 15th
 16 of 1993.
 17 Do you see that?
 18 **A I do.**
 19 Q And then it also says "Business
 20 Services Annual Audit"; but unlike the last two
 21 entries, there's no reference to District 204 in
 22 the "Business Services" column, correct?
 23 **A Correct.**
 24 Q Okay. So how did somebody know that

1 that \$8,000 charge had to do with District 204 and
 2 not the TTO or some other entity's audit?
 3 **A I don't know.**
 4 Q We see from the chart that we looked
 5 at in TTO Deposition Exhibit No. 11 and 12 that the
 6 1993 general ledger entries didn't have supporting
 7 invoices.
 8 And so how does the TTO know that
 9 this \$8,000 charge was for District 204's audits in
 10 light of that fact?
 11 **A I don't know.**
 12 Q There's another listing on this for
 13 September 15th of 1993 and, like the last one we
 14 just looked at, there's no indication this has
 15 anything to do with District 204.
 16 How does the TTO know that this
 17 has to do with District 204's audits?
 18 **A I don't know.**
 19 Q There's another listing for
 20 November 15, 1993, the second entry, with that
 21 date, and instead of "District 204" in the prior
 22 entry, it says "All," and it's for \$800.
 23 Do you see that?
 24 **A I do.**

1 Q How does the TTO know that that entry
 2 has to do with District 204's annual audit?
 3 **A I don't know.**
 4 Q Why if this related to "all" something
 5 would this amount then be specific to District 204?
 6 **A I could only answer that based on**
 7 **practice, not on certainty with my personal**
 8 **knowledge.**
 9 Q Okay. Now, let's take a look at the
 10 entry for May 13th, 1994.
 11 **A Okay.**
 12 Q It says, "District 204 Balancing."
 13 **A Okay.**
 14 Q "Yes"?
 15 **A Yes. I see that.**
 16 Q Why does -- Why does the TTO take the
 17 position that this invoice for balancing work was
 18 actually for the District 204 annual audit?
 19 **A You're asking me why the TTO has this**
 20 **listed as annual audit work?**
 21 Q Right. And if you see, if you look at
 22 TTO Deposition Exhibit No. 12 which has the
 23 \$511,000 claim figure that adds up to --
 24 **A Okay.**

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1 MR. KALTENBACH: Make sure that's
 2 correct.
 3 BY MR. HOFFMAN:
 4 Q -- [continuing] that adds up to the
 5 amount of the claim, do you see here -- just a
 6 second -- do you see here where my thumb is
 7 (indicating) that there's an entry for 5/13/1994
 8 for District 204 balancing?
 9 A Yes.
 10 Q And that that is a part of the
 11 ultimate claim for \$511,000 contained in the
 12 complaint?
 13 A Yes. I see that.
 14 Q And my question is, why is an invoice
 15 that's clearly marked as balancing part of your
 16 claim for fees that you're seeking to recover for
 17 District 204's annual audits?
 18 A Are you asking for my opinion?
 19 Q I'm asking for your testimony as the
 20 designated representative of the TTO.
 21 A Balancing would be part of the annual
 22 audit.
 23 Q Okay. We talked earlier about
 24 balancing being part of the TTO's responsibilities

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1 in connection with reconciliation work.
 2 Why is your testimony different
 3 now?
 4 A I don't think my testimony is
 5 different.
 6 Q Explain why balancing work is not the
 7 responsibility of the TTO. You said that -- You
 8 said earlier that balancing work was the
 9 responsibility of the TTO and that the auditors,
 10 from time to time, helped out with that function.
 11 A Yes.
 12 Q So why would you seek in this case to
 13 recover an amount of money that had to do with
 14 balancing work?
 15 A If balancing -- If there were numbers
 16 that the auditors discovered that did not match and
 17 they needed to do the research to understand why
 18 they didn't match, that may be referred to as
 19 balancing.
 20 Q Well, you say "it may be," but you
 21 don't have a copy of the invoice. All you have to
 22 go on is the general ledger entry as reflected in
 23 Exhibit No. 12.
 24 So aside from your speculation as

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1 to what it might mean, what exactly is that charge
 2 for \$2,343 that you're asking District 204 to pay
 3 you back for?
 4 A I would have to see the documents, and
 5 I'd have to understand the work papers. I'm
 6 telling you that, based on my experience, my
 7 professional experience, that this could be part of
 8 the annual audit.
 9 Q It could be, but you're not sure?
 10 A Unless I see the source documents, no.
 11 Q And when you say "the source
 12 documents," you mean the bill from Baker Tilly?
 13 A Not necessarily; it might require
 14 something more than that. I may have to see the
 15 work papers.
 16 Q Okay. Has anybody looked at the work
 17 papers to make sure that this is a proper part of
 18 your claim?
 19 A I don't know that we'd have those work
 20 papers. They may be the auditor's work papers. I
 21 do not know what the source documents would be.
 22 Q There is also a claim for -- There's
 23 an entry on TTO Exhibit No. 13 dated March 3, 1994.
 24 A Yes.

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1 Q And it says it's for audit, and it's
 2 in the amount \$4,655, right?
 3 A Yes.
 4 Q How do you know that that's the audit
 5 of District 204 that we're talking about here?
 6 A I don't know.
 7 Q And isn't it true that the entry --
 8 Let me just make sure I've got my numbers right.
 9 Give me one second.
 10 A Sure.
 11 (Whereupon, counsel perusing
 12 document.)
 13 BY MR. HOFFMAN:
 14 Q I don't want to run through every page
 15 of this document.
 16 So is it fair to say if I asked
 17 you the same sorts of questions with respect to
 18 other years that are set forth in TTO Deposition
 19 Exhibit No. 13, your answers would be the same,
 20 which is that you don't have any information about
 21 particular entries in this document?
 22 MR. KALTENBACH: I'm going to object
 23 as to vague and that it mischaracterizes.
 24 You can answer, Dr. Birkenmaier.

1 BY THE WITNESS:
 2 A Based on the description that's
 3 provided and absent the source documents to
 4 understand fully what the charges are, at this
 5 time, in this room, I could not tell you.
 6 BY MR. HOFFMAN:
 7 Q Now, you also have printouts for the
 8 318 category, which is Legal Fees, correct, if you
 9 turn to Page 3 of Exhibit 13?
 10 A Yes.
 11 Q And you see that the very last entry
 12 dated June 30, 1994, for William F. Gurrie --
 13 A Yes?
 14 Q -- has a reference for District 204,
 15 and it says "Business Services, Legal Services."
 16 Do you see that?
 17 A I do.
 18 Q Did William F. Gurrie provide legal
 19 services, to your knowledge?
 20 A Not to my knowledge.
 21 Q Okay. Do you know why this entry and
 22 there's a number of other entries like it for
 23 William F. Gurrie are listed under Source Code 318?
 24 A I do not.

1 Q Are those entries included in the
 2 TTO's claim in this case or you don't know?
 3 A I don't know.
 4 Q Do you see on TTO Exhibit No. 12,
 5 which contains the amount that TTO is seeking to
 6 recover in this case on this issue -- do you see
 7 that there are a number of descriptions for
 8 "Business Services, Legal Services" listed in the
 9 "Description" column?
 10 A I do.
 11 Q Do you know why those exist?
 12 A I do not.
 13 Q Do you know what type of work
 14 William F. Gurrie was performing when the
 15 description placed in the general ledger for the
 16 TTO was listed as "Business Services, Legal
 17 Services"?
 18 A I do not.
 19 Do you want that back?
 20 Q You can place it right here
 21 (indicating).
 22 A Okay.
 23
 24

1 (Whereupon, TTO Deposition
 2 Exhibit No. 14 was marked for
 3 identification.)
 4 BY MR. HOFFMAN:
 5 Q Dr. Birkenmaier, I'm handing you TTO
 6 Exhibit No. 14.
 7 (Whereupon, document
 8 tendered.)
 9 BY MR. HOFFMAN:
 10 Q This is a document that came from the
 11 files that were produced to us. I didn't print out
 12 the whole series of printouts that date back to
 13 March 9th of 2015 according to the date in the
 14 upper left-hand column.
 15 A Okay.
 16 Q This is just the first set of
 17 printouts for the first few years involved in the
 18 TTO's claim.
 19 A Okay.
 20 Q Have you seen this document before,
 21 please?
 22 A Not that I recall.
 23 Q Okay.
 24 A It's possible.

1 Q And do you see that somebody went
 2 through and apparently made some -- Oh, what is
 3 this document?
 4 A This would be the Statement of Fund
 5 Accounts.
 6 Q Which I know it says that at the top.
 7 A Right.
 8 Q What does that mean?
 9 A It would identify any expenditures
 10 that were made.
 11 Q From which fund and on what basis?
 12 A I cannot specifically tell that this
 13 was distributed among funds. The only thing that I
 14 can tell you is that it appears to only be the
 15 education fund based on the account number at the
 16 top of this document.
 17 Q When you say "the education fund,"
 18 that's Fund No. 100?
 19 A No. That's Fund 1. "2520" would be
 20 the business services. "317" would be audit
 21 services up on the very top line where it says
 22 "Account."
 23 Q Oh, I see. Thank you. Got it.
 24 A In addition to that, if you flip to

1 **the next page where it says the low and high**
 2 **parameters --**
 3 Q Yes.
 4 A -- it shows that it was run from
 5 **July 1st, '93, to 10/31 of 1996 with a single**
 6 **account that would be audit services in fiscal**
 7 **services in the education fund.**
 8 Q What does the column that says "100"
 9 mean?
 10 A **That means that that is the general**
 11 **ledger that the expenditure was posted to.**
 12 Q And what is 100?
 13 A **The TTO.**
 14 Q Okay. And who made the selections
 15 indicated by the arrows on the right?
 16 A **I don't recall. I don't think I know.**
 17 Q Thank you.
 18 MR. HOFFMAN: We're at 12:20. Why
 19 don't we check and see if your food is here? And
 20 we'll knock it out.
 21 THE WITNESS. Thank you. I appreciate
 22 that.
 23
 24

1 (Whereupon, a lunch recess
 2 was had from 12:20 p.m. to
 3 12:58 p.m.)
 4 BY MR. HOFFMAN:
 5 Q Let us shift gears to the issue
 6 involving the TTO's claim in this case for what it
 7 views as unpaid pro rata expenses --
 8 A **Okay.**
 9 Q -- and LT's response that the parties
 10 had agreed to have the TTO funds for business
 11 functions of LT.
 12 You're familiar with that issue;
 13 yes?
 14 A **I am familiar with their claim.**
 15 Q Okay. And you're here to testify for
 16 the TTO on that issue, correct?
 17 A **All right. Terrific.**
 18 MR. HOFFMAN: Let's mark this, please.
 19 (Whereupon, TTO Deposition
 20 Exhibit No. 15 was marked for
 21 identification.)
 22 (Whereupon, document
 23 tendered.)
 24

1 BY MR. HOFFMAN:
 2 Q All right. TTO Deposition Exhibit
 3 No. 15, Dr. Birkenmaier --
 4 A **All right.**
 5 Q -- is a recent article in which you
 6 are quoted.
 7 A **Yes.**
 8 Q Have you seen this before?
 9 A **I have.**
 10 Q And it says here on the second page,
 11 "TTO officials argue that the March 21, 2000 vote
 12 is inconclusive and that the meaning of the word
 13 'accept' is unclear."
 14 Is that a correct statement --
 15 A **I'm sorry. Where are you?**
 16 Q I'm sorry, in the middle of the page.
 17 A **Middle of the page.**
 18 Q Do you see at the top of the page,
 19 there's a reference to the March 21, 2000 meeting
 20 of the Lyons TTO Board?
 21 A **I do, yes. Okay. So you're going**
 22 **down to my quote?**
 23 Q It says up above that the three-member
 24 board voted two to nothing to, quote, "accept the

1 proposal given to the Lyons Township Trustees of
 2 Schools by Cook County High School District 204,"
 3 end quote, according to the minutes of the meeting.
 4 Do you see that?
 5 A **I do see that.**
 6 Q Okay. And you're familiar with that
 7 meeting and the minutes from that meeting, aren't
 8 you?
 9 A **I am.**
 10 Q Okay. This case was filed in 2013,
 11 and you became the treasurer in October of 2013.
 12 When did you first review the
 13 minutes of the TTO board meeting from March 21,
 14 2000?
 15 A **I don't recall the specific date.**
 16 Q Was it back around the time the
 17 lawsuit was filed, or was it more recently, like in
 18 the last few months?
 19 A **It hasn't been in the last few months,**
 20 **but it wasn't initially when I was hired either.**
 21 Q Okay. So was it more like 2016?
 22 A **If I was going to guess, I would say**
 23 **it was somewhere in my tenure, maybe 2015. I don't**
 24 **know.**

1 Q Okay.

2 A **I can't be specific.**

3 Q Okay. And who at the TTO was charged

4 with the task of trying to go back and look at the

5 minutes and other documents of the TTO to get a

6 handle on this issue?

7 A **There were a variety of people. I**

8 **would do some of the work, and I believe Lauralee**

9 **did some of the work. Kelly has done some of the**

10 **work. More recently, we've had other staff.**

11 Q Now, it says, "TTO officials argue

12 that the March 21, 2000 vote is inconclusive."

13 Is that a correct statement of

14 the TTO's position?

15 A **Yes.**

16 Q And it also says, "and that the

17 meeting of the word 'accept' is unclear."

18 Is that a correct statement of

19 the --

20 A **Yes.**

21 Q -- TTO's position?

22 "Yes"?

23 A **Yes.**

24 Q Okay. And what is it about the

1 March 21, 2000 vote that the TTO believes to be

2 inconclusive?

3 A **Okay. There's no documentation that**

4 **is set forth in an intergovernmental agreement or**

5 **any sort of formal agreement. There is no action**

6 **that was taken by the LT Board of Education.**

7 **The specific minutes say**

8 **"accept," which can have multiple meanings as**

9 **opposed to a more definitive use of the word**

10 **"approve."**

11 **In addition to that, the minutes**

12 **also reflect that there were additional questions**

13 **that needed to be answered and issues that had to**

14 **be researched.**

15 Q Does the parties' 12-year course of

16 dealing with respect to the payment for the

17 TTO's -- the TTO's payment of LT's business

18 expenses have any impact on your view as to the way

19 in which the March 21, 2000 meeting minutes should

20 be interpreted?

21 MR. KALTENBACH: I'll object to the

22 extent it may call for a legal conclusion.

23 But you can answer,

24 Dr. Birkenmaier.

1 BY THE WITNESS:

2 A **Can you ask that question again? I'm**

3 **not sure I'm following you clearly.**

4 BY MR. HOFFMAN:

5 Q Okay. You understand that from 2000

6 to 2012, the parties, meaning the TTO and LT, had a

7 course of dealing by which the TTO provided

8 pro rata invoices, and LT responded with a

9 memorandum setting forth the costs of their

10 business services and any net payment that might be

11 due offsetting the second against the first?

12 A **I am aware of those documents.**

13 Q Yes. And are you aware of any time

14 between 2000 and 2012 that anybody associated with

15 the TTO ever said in words or substance to LT, "We

16 do not accept this statement of the cost of your

17 business services, and we won't pay it"?

18 A **I have no knowledge of that.**

19 Q Does the course of dealing of the

20 parties in any way influence how you look at the

21 March 21st, 2000 minutes and attempt to decide what

22 they mean?

23 MR. KALTENBACH: Same objection.

24 You can answer, Dr. Birkenmaier.

1 BY THE WITNESS:

2 A **No.**

3 BY MR. HOFFMAN:

4 Q Why not?

5 A **Again, the word "accept" doesn't**

6 **indicate to me that it was a conclusive action.**

7 Q Okay. And it would have to use the

8 word "approve" in order to be conclusive to you,

9 correct?

10 A **That would be the appropriate**

11 **practice, yes.**

12 Q Okay. Why would -- When I deposed

13 Mr. Theissen, he said it was his view that "accept"

14 meant "acknowledge the receipt of."

15 Are you aware of that testimony?

16 A **I'm not aware of his testimony.**

17 Q Are you aware that it is

18 Mr. Theissen's position that the word "accept" as

19 used in the March 21st, 2000 minutes means that the

20 TTO was acknowledging the receipt of a proposal?

21 A **Yes. I'm aware of that.**

22 Q Is that the TTO's position or just

23 Mr. Theissen's?

24 A **I believe it's the TTO's position.**

1 Q Okay. And are you aware of any other
 2 instance at any time between 2000 and 2012 that the
 3 trustees of the TTO ever held a vote on whether or
 4 not they should acknowledge the receipt of a
 5 proposal?
 6 A **Not to my knowledge.**
 7 Q Wouldn't that seem a little strange to
 8 vote two to nothing to acknowledge the receipt of
 9 something that they already had?
 10 A **Are you asking for my opinion?**
 11 Q Yes.
 12 A **No.**
 13 Q Why do you think that's not unusual?
 14 A **I think that, oftentimes, you can take**
 15 **a concept and you can follow through and realize**
 16 **that it's not a good concept and just abandon the**
 17 **pursuit.**
 18 Q Okay. And in this particular
 19 instance, what evidence do you have, if any, that
 20 the TTO decided not to pursue this agreement with
 21 LT and abandoned it or didn't think it was a good
 22 agreement, as you just said?
 23 A **Well, I think there's multiple things**
 24 **that occurred. No. 1, the things that were**

1 **identified in that set of minutes, meaning**
 2 **follow-up with the workers' comp issue, insurance**
 3 **issues, employee evaluations, the fact that the**
 4 **pro rata invoices to all of the districts on an**
 5 **annual basis did not include any of the costs that**
 6 **LT was proposing be absorbed into the TTO**
 7 **operation; I think all of those factors --**
 8 Q What do you mean by the last one you
 9 just said?
 10 A **The letter from Lisa Beckwith**
 11 **indicated that they were proposing that they**
 12 **would -- that the TTO would pay for the cost of**
 13 **business service operations.**
 14 Q Right. And --
 15 A **And there's no evidence that that was**
 16 **ever undertaken at the TTO.**
 17 Q What do you mean "undertaken," that
 18 there never an actual --
 19 A **There was never any --**
 20 Q -- payment made?
 21 A **There was no payment made and the**
 22 **cost, if it had been a cost to the TTO, would have**
 23 **been reflected in the TTO expenditures and,**
 24 **therefore, would have been reflected in the**

1 **pro rata bills that went out to all of the**
 2 **districts.**
 3 Q Was the amounts that the TTO paid for
 4 LT's business services included within the TTO's
 5 expenses?
 6 A **Not to my knowledge; there were no**
 7 **payments to LT for services.**
 8 Q How do you know that they weren't
 9 included?
 10 A **Because when you would receive the**
 11 **pro rata bill, it wasn't -- every year, it was**
 12 **consistent. There was no indication -- and since**
 13 **I've been there, I've seen that there was no**
 14 **evidence where those TTO costs would have been**
 15 **added on top of.**
 16 Q You went back and looked at the
 17 pro rata files, the files at the TTO relating to
 18 receipt of payments for the pro rata expenses,
 19 right?
 20 A **Yes.**
 21 Q And you saw that, in some instances,
 22 the TTO had acknowledged receipt of partial payment
 23 and checked off District 204's partial payment or
 24 net payment in some of the years that we're talking

1 about.
 2 You did see that, correct?
 3 A **I'm familiar with one year.**
 4 Q Okay.
 5 A **The very first year, I think I recall**
 6 **that. I believe it was 1999.**
 7 Q Do you recall a year in which -- The
 8 first year --
 9 A **Or maybe 2000.**
 10 Q -- of this agreement is 2000.
 11 A **Okay, perhaps.**
 12 Q And what did you see in that respect?
 13 A **I saw that there was a partial payment**
 14 **of about \$59,000.**
 15 Q And you saw that it was checked off by
 16 the TTO?
 17 A **As received?**
 18 Q Well, what do you -- There was a
 19 checkmark next to it?
 20 A **I mean, it was listed that it was**
 21 **received and that it was paid, and it was logged as**
 22 **paid.**
 23 Q Do you see any year in which someone
 24 wrote something like "Bob said it was okay" --

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1 **A I have not.**

2 Q -- where there was no payment?

3 **A I have not.**

4 Q If someone made a notation like that,

5 what would that mean to you? I'll show it to you

6 later.

7 **A I don't know what it would mean.**

8 Q Okay. Did you read the testimony

9 taken in this case of Judge Hartigan, who was a

10 trustee and who voted at the March 21st, 2000 board

11 meeting?

12 **A I think -- I believe I saw that.**

13 Q Okay. And what did you -- What, to

14 your understanding, did Mr. -- or actually, I

15 should say "Judge Hartigan" say?

16 **A That I would need to see the**

17 **documentation. I don't recall that specifically.**

18 Q Did it have any significance to you in

19 terms of what the trustee who voted in favor of

20 that said happened at the meeting?

21 **A Based on my recollection of what I saw**

22 **in the minutes, but not in the transcript, it**

23 **indicated to me that there were follow-up things**

24 **that needed to be taken care of and researched.**

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1 Q Okay. But I'm talking about the

2 transcript of his testimony.

3 What did --

4 **A You would have to show me that**

5 **transcript. I'm sorry. I don't recall it.**

6 Q Sure. It's Theissen Exhibit 7.

7 (Whereupon, Theissen Exhibit

8 No. 7, previously marked,

9 was tendered to the witness.)

10 BY THE WITNESS:

11 **A Okay. Thank you.**

12 BY MR. HOFFMAN:

13 Q So would that -- So given that he was

14 the trustee of the TTO and given that you read his

15 testimony -- Right?

16 **A I didn't read it. I kind of --**

17 Q Did your lawyer show --

18 **A -- have seen --**

19 Q -- you part of it?

20 **A Parts of it, yes.**

21 Q So with that, what's your

22 understanding based on your review of what your

23 former trustee said about that meeting?

24 **A I would need some help referring to**

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1 **that.**

2 **Can you help me with where to**

3 **find that?**

4 Q Go ahead. Do your best.

5 You'd have to read the whole

6 thing in order to see what he said?

7 **A No, no, no. I'm looking for -- You're**

8 **asking me about the March 20th action?**

9 Q You are asserting a claim against --

10 You, the TTO, is asserting a claim against LT for

11 millions of dollars --

12 **A Yes.**

13 Q -- relating to this issue --

14 **A Yes.**

15 Q -- right?

16 **A Yes.**

17 Q And I'm asking you whether your

18 position is in any way affected by the testimony of

19 the trustee who voted at that meeting along with

20 another trustee who's dead.

21 So the sole living trustee who

22 voted at that critical meeting, I'm asking you

23 whether your position is impacted in any way by

24 what he said at the deposition?

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1 **A And I will be happy to answer that as**

2 **soon as I can take a look and see what the**

3 **deposition says because I do not recall the details**

4 **of that.**

5 Q So if you don't know what the details

6 are, how can you -- how could this have any impact

7 on your position?

8 MR. KALTENBACH: Objection.

9 Argumentative.

10 BY THE WITNESS:

11 **A You asked me based --**

12 BY MR. HOFFMAN:

13 Q No, no, no. I'm asking --

14 **A -- on the testimony --**

15 MR. HOFFMAN: Fine.

16 BY MR. HOFFMAN:

17 Q Go ahead.

18 **A You asked me based on the testimony --**

19 Q Yes.

20 **A -- of Judge Hartigan, and I'm saying**

21 **to you I --**

22 Q No. That's not what I asked you.

23 **A I'm sorry.**

24 Q Let me ask you a better --

1 **A I must have misunderstood.**
 2 Q Let me ask you a better, clearer
 3 question.
 4 **A Okay.**
 5 Q We know that Judge Hartigan is the
 6 only living trustee who voted at that 2000 meeting.
 7 **A Okay.**
 8 Q Right?
 9 **A I don't know, but you told me. I**
 10 **belive you.**
 11 Q Well, Joseph Nekola is the other one,
 12 and he's dead.
 13 **A Okay.**
 14 Q You don't know that Joseph Nekola is
 15 dead?
 16 **A I never knew Joseph Nekola. I do know**
 17 **he's dead.**
 18 Q Well, I never knew Joseph Nekola
 19 either, but I did an internet search, and I found
 20 out that he's dead.
 21 **A Okay.**
 22 Q Are you telling me that you, until
 23 this moment, were not aware --
 24 **A I have heard that he --**

1 Q -- that Joseph Nekola was dead?
 2 **A I've heard that he has passed.**
 3 Q Okay. Well, those reports are
 4 accurate.
 5 **A Okay. Thank you.**
 6 Q So the only person at that meeting who
 7 voted who's alive is Russell Hartigan.
 8 **A Okay.**
 9 Q And he testified in this case.
 10 **A Okay.**
 11 Q And I'm asking you whether the TTO's
 12 position on what happened at that meeting is in any
 13 way impacted or affected by his testimony in this
 14 case? That's a "yes" or "no" question. I'm not
 15 asking what he's testified to.
 16 I'm asking whether your position
 17 is affected, guided, shaped, or in any way based on
 18 or impacted by his testimony?
 19 MR. KALTENBACH: I'm going to object.
 20 I think that level of detail may be beyond the
 21 scope.
 22 But you can answer the question,
 23 Dr. Birkenmaier.
 24

1 BY THE WITNESS:
 2 **A I am not driven by my perspective on**
 3 **this based on Judge Hartigan's testimony or**
 4 **interpretation.**
 5 BY MR. HOFFMAN:
 6 Q Why is that?
 7 **A Because the evidence that I've seen**
 8 **and the claim that we've put forward, I believe**
 9 **that there's enough substance to support the**
 10 **current interpretation of my trustees and myself.**
 11 Q So in your view, it doesn't matter
 12 what Judge Hartigan said about the meeting; you've
 13 got other facts and information that you view as
 14 critical?
 15 **A I don't know what Judge Hartigan said.**
 16 **That's why I asked to see the testimony.**
 17 Q Let me go back to TTO Exhibit No. 15,
 18 please, Dr. Birkenmaier.
 19 **A Okay.**
 20 Q And on Page 2 in the middle, you're
 21 quoted as saying, quote, "The language that our
 22 board has in their minutes says that the proposal
 23 they presented was accepted, so the interpretation
 24 of the word accept is what is at crux of the

1 disagreement, I believe," quote.
 2 Is that an accurate quotation
 3 from you? Did you say that?
 4 **A Yes.**
 5 Q Okay. And we've already said that the
 6 TTO believes that the meaning of word "accept" is
 7 unclear.
 8 So what are the two different
 9 interpretations, or maybe there are more than two
 10 interpretations, of what you believe the word
 11 "accept" could mean in this context?
 12 **A You're asking for my opinion on the**
 13 **word "accept," what I believe the meanings could**
 14 **be?**
 15 Q I'm not asking for your opinion. I'm
 16 not asking for a "could be."
 17 **A Okay.**
 18 Q I'm asking for the TTO's position as
 19 to the meaning of the word "accept," and you've
 20 testified that the TTO believes that the meaning of
 21 word "accept" is unclear and that the word
 22 "approved" would be --
 23 **A Sure.**
 24 Q -- clearer, but, because it's

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1 "accept," it's unclear. And when I see "unclear,"
 2 I think that means it could be subject to different
 3 meanings --
 4 **A Yes.**
 5 Q -- right?
 6 MR. KALTENBACH: Okay. I was going to
 7 say I'm going to object. I think that was a long
 8 question, and I'm not sure if it was compound or
 9 not, but --
 10 BY MR. HOFFMAN:
 11 Q So yes?
 12 MR. KALTENBACH: -- I think the
 13 witness seemed to understand it.
 14 MR. HOFFMAN: Did she answer?
 15 THE REPORTER: Yes.
 16 MR. HOFFMAN: Okay.
 17 MR. KALTENBACH: That's fine.
 18 BY MR. HOFFMAN:
 19 Q Terrific.
 20 And so what are the different --
 21 **A I'm sorry. I answered "yes" to the**
 22 **question of multiple meanings.**
 23 Q Yes.
 24 **A Yes. Okay.**

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1 Q And so what are those multiple
 2 meanings in the TTO's view as to the word "accept"
 3 as used in the 2000 minutes?
 4 **A It means to receive. This is my**
 5 **personal understanding. The other meanings could**
 6 **be to be resigned to, to be tolerant. I mean, to**
 7 **accept, in this particular context, I would say it**
 8 **means to receive.**
 9 **If it was intended to say "I**
 10 **approve," we specifically, as a best practice, use**
 11 **the word "as approved" when there is an action that**
 12 **is endorsed and followed.**
 13 Q So when you say "it's a best practice"
 14 and "we" using of the word "approved," what do you
 15 mean?
 16 **A When I say "it's a best practice," I**
 17 **believe that across the board as an administrator,**
 18 **as a superintendant, as a business manager, if a**
 19 **board approves something, then I know I have their**
 20 **endorsement to move forward on it.**
 21 **If we accept something, that may**
 22 **just mean that we're taking it under consideration.**
 23 **We're receiving something.**
 24 Q And you've never seen any instance in

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1 any other minutes of the TTO board in which they
 2 used the word or phrase "accept" or some form of
 3 that word, correct?
 4 **A Not that I recall.**
 5 Q Okay. Let me show you a document that
 6 previously was marked as Theissen Exhibit No. 12.
 7 (Whereupon, Theissen Exhibit
 8 No. 12, previously marked,
 9 was tendered to the witness.)
 10 BY MR. HOFFMAN:
 11 Q It's an August 19th letter from Healy
 12 to Beckwith.
 13 Have you seen that document
 14 before?
 15 **A Yes.**
 16 Q Okay. And so you're familiar with the
 17 five proposals that Healy laid out in this letter?
 18 **A Yes.**
 19 Q What is your understanding as to why
 20 Healy was making these proposals?
 21 **A I believe that he was laying out**
 22 **responses and options to the request from the high**
 23 **school.**
 24 Q What is that belief based on?

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1 **A The way that they're laid out and the**
 2 **variety of options that are provided; and it also**
 3 **says based on the understanding of the board's**
 4 **concerns.**
 5 Q Okay. You don't have any information
 6 about this letter other than what you read in the
 7 letter, correct?
 8 **A Correct.**
 9 Q You've never spoken with Lisa Beckwith
 10 or with Bob Healy about this letter, have you?
 11 **A No.**
 12 Q Did you read Dr. Beckwith's testimony
 13 given in this case?
 14 **A No.**
 15 Q And is there a reason you thought her
 16 testimony -- Is there a reason you didn't read her
 17 testimony? Did you think it wasn't important?
 18 **A It wasn't given to me as an**
 19 **opportunity to read it.**
 20 Q Okay. And you see there are five
 21 proposals laid out?
 22 **A I do.**
 23 Q Based on the information that's been
 24 produced in this case, do you have any

1 understanding as to which of the proposals the
 2 parties focused their efforts on following the
 3 issuance of this letter?
 4 **A When you say "parties," I'm assuming**
 5 **that there might be different focuses and**
 6 **approaches on the information that's laid out.**
 7 Q Let me ask you a better question.
 8 **A Okay.**
 9 Q Based on the five proposals listed in
 10 the August 18, 1999 letter, and all of the
 11 information that's available to us in this case to
 12 look at what happened in this time period, do
 13 you -- what is your understanding as to which of
 14 the five proposals the TTO and LT moved forward
 15 with in some manner?
 16 MR. KALTENBACH: I object as to
 17 foundation and the form of the question.
 18 You can answer.
 19 BY MR. HOFFMAN:
 20 Q You can answer.
 21 **A Okay. I would not indicate that any**
 22 **of these were necessarily followed.**
 23 Q With respect to Proposal No. 2, isn't
 24 that the proposal that led to the issuance of

1 Dr. Beckwith's February 29th, 2000 memorandum
 2 listing the positions involved and the business
 3 functions that she proposed the TTO would assume?
 4 MR. KALTENBACH: Same objection.
 5 BY THE WITNESS:
 6 **A I was going to say, can you ask me**
 7 **that question again? I'm not sure I'm following**
 8 **you.**
 9 BY MR. HOFFMAN:
 10 Q Sure. You're familiar with the
 11 subsequent -- You know that there were subsequent
 12 meeting between LT and the TTO and that there was a
 13 memorandum that Lisa Beckwith sent to Bob Healy in
 14 February of 2000 listing various positions and a
 15 cost associated with the business functions --
 16 **A Okay.**
 17 Q -- right?
 18 **A Yes.**
 19 Q "Yes"?
 20 **A Yes.**
 21 Q Okay. And so whether or not you feel
 22 that there was a final agreement reached, and it
 23 seems like you don't, will you agree that LT and
 24 the TTO, after the date of this letter, were

1 discussing Proposal No. 2, the funding by the TTO
 2 of some of the district functions?
 3 **A If you're asking what I believe --**
 4 Q Yes.
 5 **A -- I believe that 204 chose to pursue**
 6 **Proposal No. 2. I don't know that that was**
 7 **necessarily accepted by anybody else other than**
 8 **204.**
 9 Q Okay. And when and how did 204 accept
 10 that proposal?
 11 **A I have no idea. I haven't seen any**
 12 **evidence that they did have any formal action to**
 13 **accept that.**
 14 Q Is it your position on the June 2000
 15 LT board minutes at which the LT board was
 16 presented with a proposal of LT on this issue -- is
 17 your position that that did not constitute an
 18 acceptance by the LT board?
 19 **A I couldn't speak to that.**
 20 Q Why can't you speak to that?
 21 **A I don't know what they were thinking.**
 22 Q Okay. So would it be fair to say that
 23 LT would be in a better position to tell you what
 24 their board did in 2000 with respect to this issue?

1 **A Ask me that question again, please.**
 2 Q So is it fair to say that LT and the
 3 people who were there at the time, like Todd
 4 Shapiro, who was the president of the board, and
 5 Lisa Beckwith, who was the business manager, would
 6 be in a better position to tell us what action LT's
 7 board took in June of 2000 with respect to the
 8 business functions agreement?
 9 MR. KALTENBACH: Objection as to form
 10 and foundation.
 11 BY MR. HOFFMAN:
 12 Q You can answer.
 13 MR. KALTENBACH: You can answer.
 14 BY THE WITNESS:
 15 **A I'm not really sure how to answer**
 16 **that. I mean, I think that they could tell me that**
 17 **they accepted, as you said, a proposal to provide**
 18 **this cost information to the TTO. Whether that**
 19 **constituted an approval of an agreement, I would**
 20 **not draw that conclusion.**
 21 BY MR. HOFFMAN:
 22 Q Why not?
 23 **A Because there's no formal**
 24 **documentation that says that there was an agreement**

1 **or that it had been approved by the LT board.**
 2 Q Okay. Have you read the testimony of
 3 Todd Shapiro, the president of LT's board, that was
 4 taken in this case?
 5 A **I have not.**
 6 Q Was that because no one gave it to you
 7 to read?
 8 A **Correct.**
 9 Q Did you ever -- Even though nobody's
 10 given you the documents, given that you're the
 11 representative of the TTO, did you ever ask to get
 12 the testimony that was taken in this case by key
 13 witnesses?
 14 A **No.**
 15 Q Why not?
 16 A **I don't believe that that's my place**
 17 **to be doing that. I think that that's the**
 18 **attorney's role.**
 19 Q Okay.
 20 (Whereupon, TTO Deposition
 21 Exhibit No. 16 was marked for
 22 identification.)
 23 BY MR. HOFFMAN:
 24 Q Doctor, I'm handing you TTO Deposition

1 Exhibit No. 16.
 2 (Whereupon, document
 3 tendered.)
 4 BY THE WITNESS:
 5 A **Okay.**
 6 BY MR. HOFFMAN:
 7 Q This was part of the production we
 8 received from the TTO, and these contain excerpts
 9 from a series of what looks like manila files for
 10 pro rata --
 11 A **Okay.**
 12 Q -- for the various districts.
 13 Is that what this document is?
 14 A **It looks like it to me.**
 15 Q Okay.
 16 A **The first two state that's what it is.**
 17 Q Right. We talked about this a little
 18 bit earlier.
 19 You see that there are a series
 20 of checkmarks for the 1999 pro rata payments on the
 21 first page?
 22 A **I see that.**
 23 Q And then on the second page, you see
 24 there's a listing of the net payment of about

1 \$39,000 for District 204?
 2 A **I do see that.**
 3 Q Okay. And then also included in that
 4 file was the May 29th, 2001 letter from Healy to
 5 Dennis Kelly with the amount of pro rata, as well
 6 as the February 29th, 2000 memo from Lisa Beckwith
 7 to Bob Healy on the payment of LT's business
 8 functions.
 9 Do you see that?
 10 A **I see that.**
 11 Q Okay. Can you tell me why the 2001
 12 letter and the February 29th, 2000 letter were in
 13 the pro rata -- Strike that question.
 14 Can you tell me why
 15 Lisa Beckwith's February 29, 2000 memo was
 16 contained in the TTO's pro rata file for the year
 17 2000?
 18 A **I cannot.**
 19 Q Did you ever talk to anybody at the
 20 TTO regarding that issue?
 21 A **Of why it was kept there?**
 22 Q Correct.
 23 A **No.**
 24 Q Well, your position is that there was

1 no agreement to -- for the TTO to pay LT's business
 2 function costs, right?
 3 A **Yes.**
 4 Q Okay. And so why then would this
 5 written memorandum on that issue be included within
 6 the pro rata file, which also reflects a net
 7 payment to the TTO?
 8 A **Not only do I not know why it would be**
 9 **there, I would not know when it would have been put**
 10 **in there.**
 11 Q So are you testifying that this --
 12 that somebody might have snuck back into this file
 13 years later and put the February 29th, 2000 memo in
 14 the file?
 15 A **No. I'm not indicating that at all.**
 16 **Somebody may have just included it in there as part**
 17 **of the evidence of what occurred that year.**
 18 Q Okay. Are you aware of -- Have you
 19 ever seen a single shred of paper to suggest that
 20 anybody at the TTO ever contacted LT and said, "We
 21 didn't get full payment of the 2000 pro rata. You
 22 can't make a net payment. You have to give us the
 23 entire amount of the pro rata expense"?
 24 A **I have not seen anything other than**

1 **this letter that you're showing me that says the**
 2 **District's share is \$165,000.**
 3 Q Right. But --
 4 **A I haven't seen any other documentation**
 5 **that says that --**
 6 Q Do you have any understanding as to
 7 why, through the year 2012, the TTO never, ever
 8 disputed the net payment or the netting out of the
 9 two things we're talking about, the pro rata
 10 expenses and the cost of business functions?
 11 **A No.**
 12 Q Is that in any way significant to you,
 13 that that course of --
 14 **A That I don't have knowledge of why**
 15 **that occurred?**
 16 Q Yes. I mean, don't you think that
 17 12-year course of dealing has some significance
 18 here?
 19 **A No, I don't. I mean, that's -- What**
 20 **their operational practices are are not my current**
 21 **concerns.**
 22 Q So the way in which the TTO did things
 23 in 2000 and 2001 are not important for you in
 24 deciding the way things should have been done in

1 2000 and 2001, correct?
 2 **A What I am saying is that I think that**
 3 **the people who were responsible for the operation**
 4 **made the decisions about what was relevant and what**
 5 **wasn't, and I'm not in a position to second-guess**
 6 **their actions or intentions.**
 7 Q And those are people at the TTO we're
 8 talking about, right?
 9 **A Yes.**
 10 Q Let's take a look at the second to
 11 last page, and this is in the -- I'm sorry. Strike
 12 that.
 13 Let's take a look at the pro rata
 14 folder -- Yeah. Let's look at the second to last
 15 page, which has the pro rata billing folder for
 16 2010.
 17 **A Okay.**
 18 Q And you see there's a statement or
 19 there's a listing in a row for District 204.
 20 There's amounts stated for \$215,973.48, correct?
 21 **A I see that.**
 22 Q And you know that there was a billing
 23 in the amount of about 215,000 for pro rata from
 24 the TTO and --

1 **A Okay.**
 2 Q -- that there was a memorandum for
 3 that year, for 2010, from LT to the TTO for the
 4 cost of business functions which wiped that out
 5 through an offset, right? You understand that
 6 that's what happened in 2010?
 7 **A I don't know that that's an offset.**
 8 Q Well, you're aware that -- you're
 9 aware -- Let me start over. Let's see if we can
 10 make this more understandable.
 11 You're aware that, for 2010, the
 12 TTO sent a pro rata expense bill to LT in the
 13 amount of about \$215,000, right?
 14 **A Based on what you're showing me here,**
 15 **yes.**
 16 Q Well, based on anything, isn't that
 17 what happened? Don't you know what happened --
 18 MR. KALTENBACH: Hold on. Compound --
 19 BY MR. HOFFMAN:
 20 Q --in 2010?
 21 MR. KALTENBACH: Compound and
 22 argumentative.
 23 BY MR. HOFFMAN:
 24 Q You know what the facts are in this

1 case, correct?
 2 **A I know --**
 3 MR. KALTENBACH: Argumentative.
 4 BY MR. HOFFMAN:
 5 Q Correct?
 6 MR. KALTENBACH: Same objection.
 7 BY THE WITNESS:
 8 **A Yes.**
 9 BY MR. HOFFMAN:
 10 Q Yes. So in 2010, the TTO sent a
 11 pro rata bill of about 215,000, and then LT sent
 12 one of its series of memos saying what the costs of
 13 their business functions were in an amount that
 14 equaled or exceeded the 215,000 amount, correct?
 15 **A If that's what you're telling me, yes.**
 16 **I have -- Yes. Okay.**
 17 Q Well, do you need me to tell you that,
 18 or do you not know?
 19 **A You're asking me to draw a conclusion**
 20 **from a piece of paper that you gave me here.**
 21 Q No, no, no. I'm not asking about the
 22 piece of paper.
 23 **A Okay.**
 24 Q I'm asking you, do you know what

1 happened in 2010 with respect to the pro rata
 2 expense billing --
 3 **A I would --**
 4 Q -- as a matter of fact?
 5 **A -- assume that they sent a memo, but**
 6 **I'm not seeing evidence of that.**
 7 Q Well, you've seen a memo in each and
 8 every year from 2000 to 2012, correct?
 9 **A I believe so.**
 10 Q Right. There is one for every year?
 11 **A Okay.**
 12 Q Yes?
 13 **A Okay.**
 14 Q Okay. And so do you know what it
 15 means when we see on this document, TTO Deposition
 16 Exhibit 16, where there's a checkmark next to the
 17 amount of the pro rata billing and it says, "Bob
 18 said okay"? Do you know what that means?
 19 **A No.**
 20 Q Okay. Do you know who wrote that?
 21 **A No.**
 22 Q Do you know who Bob is?
 23 **A I do.**
 24 Q Would that be Bob Healy?

1 **A Yes.**
 2 Q Okay. At the time, in 2010, do you
 3 have any knowledge as to whether the TTO believed
 4 that it was owed \$215,000 by LT and that that
 5 amount had not been properly accounted for?
 6 **A I want to break that down. I am aware**
 7 **that they billed two hundred fifteen and believed**
 8 **that they were owed that amount. I cannot attest**
 9 **to the other part of the question.**
 10 Q Okay. So in terms of what the TTO did
 11 in 2010, not today here in this lawsuit, but in
 12 2010 --
 13 **A Okay.**
 14 Q -- have you ever seen any evidence to
 15 suggest that the TTO, in 2010, believed that it was
 16 due and owing \$215,000 without any respect to, you
 17 know, setoffs or anything like that?
 18 **A The only evidence I have is this**
 19 **amount here that said, "You owe" -- "204 owes**
 20 **\$215,000." That's the only evidence I would have.**
 21 Q Okay. And it also says, "Bob said
 22 okay."
 23 Do you know what Bob was saying
 24 "okay" to there?

1 **A I do not.**
 2 MR. HOFFMAN: Let's mark this.
 3 (Whereupon, TTO Deposition
 4 Exhibit No. 17 was marked for
 5 identification.)
 6 (Whereupon, document
 7 tendered.)
 8 BY MR. HOFFMAN:
 9 Q All right. This should be an easy
 10 one.
 11 Tell me what TTO Exhibit No. 17
 12 is, please.
 13 **A This is a listing of the history of**
 14 **the pro rata billing to District 204 from fiscal**
 15 **year '96 through fiscal year '13, the amount that**
 16 **was billed, the amount that was paid, and any**
 17 **amount that is unpaid to date.**
 18 Q Okay. And who prepared this document?
 19 **A Kelly Bradshaw.**
 20 Q And the \$2,628,807 million figure
 21 that's at the bottom of the "Receivable" column is
 22 the amount of money that the TTO is claiming it's
 23 owed in this lawsuit for this particular issue,
 24 correct?

1 **A Through FY3.**
 2 Q Right, correct. Through FY13. Yes?
 3 **A Through FY13, yes.**
 4 Q Okay.
 5 **A It's been amended, I believe, since**
 6 **then with additional bills.**
 7 Q Let's see about that. We're going to
 8 look at Bradshaw Exhibit No. 4, which is the
 9 amended complaint.
 10 (Whereupon, Bradshaw Exhibit
 11 No. 4, previously marked,
 12 was tendered to the witness.)
 13 BY MR. HOFFMAN:
 14 Q So I want you to take a look at that,
 15 and you can tell me what amount in this complaint,
 16 which is the current complaint that's on file for
 17 the TTO, the TTO is seeking to recover with respect
 18 to its pro rata expense billing.
 19 (Whereupon, witness perusing
 20 document.)
 21 BY MR. HOFFMAN:
 22 Q If it helps you, I'm looking at
 23 Paragraph 35.
 24 **A Thank you.**

1 Q You're welcome.
 2 (Whereupon, witness perusing
 3 document.)
 4 BY THE WITNESS:
 5 A Okay.
 6 MR. KALTENBACH: Just for the record,
 7 I think you said this is the complaint. This is
 8 the answer to the complaint, but --
 9 MR. HOFFMAN: It contains the
 10 complaint.
 11 MR. KALTENBACH: Just so there's not
 12 confusion later and we're trying to piece it
 13 together.
 14 BY THE WITNESS:
 15 A Okay. **This says the years 2000**
 16 **through 2013.**
 17 BY MR. HOFFMAN:
 18 Q Yep.
 19 A **The numbers are the same.**
 20 Q Right.
 21 A **What I am saying to you is that, in**
 22 **addition, FY14 and FY5 would have been added to**
 23 **this amount since this document.**
 24 Q Well, you said "to your claim." This

1 is the document that -- This document we're looking
 2 at, Bradshaw Exhibit No. 4 --
 3 A Okay.
 4 Q -- this is the claim of the TTO which
 5 is set forth in the context of our answer to it.
 6 And where in here is there any reference to the
 7 fiscal year 2014 or 2015 pro rata invoices? I know
 8 there's --
 9 A **There's nothing in here.**
 10 Q Excuse me.
 11 A **Um-hmm.**
 12 Q I know it's an open issue between the
 13 parties.
 14 A Okay.
 15 Q But I don't see it as part of the
 16 claim you made in this case.
 17 A Okay.
 18 Q And I want you to tell me if I'm
 19 wrong.
 20 A **I believe that there was a filing**
 21 **after December of 2014, but I may be mistaken.**
 22 MR. HOFFMAN: Okay. Barry, because
 23 this is an issue that involves pleadings, I don't
 24 see the 2014 or 2015 pro rata billing expenses part

1 of your claim in this case.
 2 MR. KALTENBACH: I --
 3 MR. HOFFMAN: Am I wrong?
 4 MR. KALTENBACH: I don't think -- You
 5 know, I'd have to go back and check. I think this
 6 is our most recent complaint.
 7 MR. HOFFMAN: It is.
 8 MR. KALTENBACH: I don't think --
 9 THE WITNESS: Okay.
 10 MR. KALTENBACH: -- there was another
 11 one, so I don't think we are seeking recovery of
 12 the deficit amount from 204 as part of this
 13 pleading.
 14 MR. HOFFMAN: Okay.
 15 BY MR. HOFFMAN:
 16 Q Does your counsel's statement help to
 17 clarify your view of --
 18 A Yes.
 19 Q -- what it is that you're seeking in
 20 this case?
 21 A Yes.
 22 Q So TTO Deposition Exhibit No. 17 is a
 23 complete statement of the amounts that the TTO is
 24 seeking with respect to pro rata expenses at this

1 time in this case?
 2 A Okay.
 3 Q Yes?
 4 A Yes.
 5 Q Okay. Terrific.
 6 Let's take a look at the fiscal
 7 year 2006.
 8 A **On this sheet?**
 9 Q On Exhibit No. 17.
 10 A Okay.
 11 Q And what does it say there on the far
 12 right-hand corner under the column "Invoice Copy"?
 13 A **"Missing our bill."**
 14 Q Okay. And what does that mean?
 15 A **It means they were not able to find**
 16 **the paper copy.**
 17 Q Okay. Do you know why that is?
 18 A **I do not.**
 19 Q Is that typical of the challenges that
 20 you've faced in terms of going back and trying to
 21 get records from the old days?
 22 A **I wouldn't say that it's typical but,**
 23 **occasionally, it will happen.**
 24 **Do you want this one back?**

1 **(Whereupon, document**
 2 **tendered.)**
 3 BY MR. HOFFMAN:
 4 Q Thank you very much.
 5 (Whereupon, Conway Exhibit
 6 No. 3, previously marked,
 7 was tendered to the witness.)
 8 BY MR. HOFFMAN:
 9 Q So Conway Exhibit No. 3 is a
 10 collection of memoranda. I'm not going to ask you
 11 a lot of detailed questions about it.
 12 **A Okay.**
 13 Q But these are -- Do you remember we
 14 talked from memos going from LT to the TTO from
 15 2000 to 2012 listing out the business functions
 16 expenses?
 17 **A Yes.**
 18 Q Okay. Have you seen these memorandum
 19 before, which are collected in Conway Exhibit
 20 No. 3?
 21 **A I have seen many. I don't know that**
 22 **I've seen all, but, yes; I am -- You're talking**
 23 **about this cover (indicating)?**
 24 Q I'm not talking about the cover.

1 **A Okay.**
 2 Q The cover is the first memorandum.
 3 You've see this before, February 29th of 2000.
 4 **A I have.**
 5 Q This is the document that was attached
 6 to the TTO's minutes dated March 21st, 2000,
 7 correct?
 8 **A Yes.**
 9 Q This is the proposal that was --
 10 **A Yes.**
 11 Q -- not only discussed at the meeting,
 12 but actually in the hands of the trustees?
 13 **A Yes.**
 14 Q Okay. And this was also the
 15 memorandum that was attached to the June 2000 board
 16 minutes for LT, correct?
 17 **A I don't know about LT, but I would say**
 18 **yes, that this is -- I know that this was part of**
 19 **the TTO's minutes.**
 20 Q Okay. So you don't know whether or
 21 not LT's board, in June of 2000, was presented with
 22 a copy of this February 29th, 2000 memorandum?
 23 **A I haven't -- I have not seen the**
 24 **minutes.**

1 Q Oh, you haven't?
 2 **A I don't -- No.**
 3 Q Okay.
 4 **A I don't think I have.**
 5 MR. KALTENBACH: I can't help you.
 6 BY THE WITNESS:
 7 **A I don't think I have. I may have. I**
 8 **don't recall that.**
 9 BY MR. HOFFMAN:
 10 Q And so what you have here is, if you
 11 turn the page, there's a 2000 memo, there's a 2001
 12 memo --
 13 **A Yes.**
 14 Q -- there's a 2002 memo --
 15 **A Yes.**
 16 Q -- and so on and so forth all the way
 17 for each and every year --
 18 **A Okay.**
 19 Q -- through 2012? Yes?
 20 **A All right. Yes.**
 21 Q Have you seen these documents before?
 22 **A I have -- Like I said, I've seen some**
 23 **of these. I don't necessarily recall seeing all of**
 24 **these. I don't recall seeing, like, invoices. I'm**

1 **not sure that I've seen every memo --**
 2 Q Okay. But you --
 3 **A -- that's come through, but I'm**
 4 **familiar with the format.**
 5 Q Have you ever seen any document in the
 6 TTO's files through the 2012 year in which anyone
 7 at the TTO ever took any issue with the memorandums
 8 in Conway Exhibit No. 3?
 9 **A Have I ever seen any memos? Yes.**
 10 **Have they taken issue with it? I'm not sure what**
 11 **you mean.**
 12 Q What memos are you talking about?
 13 **A You asked me if I've seen these --**
 14 Q No, no. I didn't ask you that. Let
 15 me ask you a better question --
 16 **A Okay.**
 17 Q -- because you weren't answering my
 18 question.
 19 **A Okay.**
 20 Q In the files of the TTO --
 21 **A Yes?**
 22 Q -- through the year 2012 --
 23 **A Yes?**
 24 Q -- have you ever seen any documents in

1 which anyone at the TTO took issue with these LT
 2 memos which are collected in Conway Exhibit No. 3?
 3 **A When you say "take issue with," are**
 4 **you saying refuting, accepting, or --**
 5 Q Either claiming that they wouldn't pay
 6 these amounts, complaining about the amounts,
 7 anything -- anything responding to these
 8 memorandum?
 9 **A No.**
 10 Q Okay. Terrific.
 11 **A Okay.**
 12 MR. KALTENBACH: Do you need a --
 13 THE WITNESS: I'm sorry.
 14 BY MR. HOFFMAN:
 15 Q All right. I am moving on to another
 16 subject, so if you want to take a minute --
 17 **A No. I'm fine. Thank you.**
 18 MR. KALTENBACH: I'm fine too.
 19 MR. HOFFMAN: Are you good?
 20 MR. KALTENBACH: I didn't make a note
 21 of when we started after lunch.
 22 MR. HOFFMAN: I did. 12:58.
 23 MR. KALTENBACH: Okay. Fair enough.
 24 MR. HOFFMAN: So we've been --

1 THE WITNESS: I'm sorry.
 2 MR. HOFFMAN: -- going --
 3 THE WITNESS: 40 minutes, 50 minutes.
 4 MR. HOFFMAN: Okay. Let's roll.
 5 Sounds good.
 6 BY MR. HOFFMAN:
 7 Q Let's talk a little bit about the
 8 claims in the complaint, and I'm going to hand you
 9 back Bradshaw Exhibit No. 4, which is --
 10 **A Okay.**
 11 **(Whereupon, document**
 12 **tendered.)**
 13 BY MR. HOFFMAN:
 14 Q -- LT's answer and affirmative
 15 defenses to the claim. But as you can tell, the
 16 answers are set out in bold, and the claim that the
 17 TTO makes is in regular face. Yes?
 18 **A I see that, yes.**
 19 Q Okay. Terrific.
 20 The TTO asked for a declaratory
 21 judgment, as you can see on Page 16 where it says,
 22 "The Township Trustees seek a declaratory
 23 judgment." Yes?
 24 **A I'm not quite --**

1 **(Whereupon, witness perusing**
 2 **document.)**
 3 BY THE WITNESS:
 4 **A Yes. Got it.**
 5 BY MR. HOFFMAN:
 6 Q I do understand you're not a lawyer,
 7 and so I am not asking you for a legal conclusion,
 8 but I'm trying to get information about the claim
 9 that the TTO is asserting on several issues and
 10 what it's based on.
 11 **A Okay.**
 12 Q But it may be the answer is, "I don't
 13 know. Talk to my lawyer." And if that's the
 14 answer, you can give me that answer. Fair enough?
 15 **A Sure.**
 16 Q Okay. So what is the legal basis for
 17 the TTO's claim for the return of approximately
 18 \$500,000 of audit fee payments?
 19 MR. KALTENBACH: I will object as it's
 20 calling for a legal conclusion.
 21 Subject to that, Dr. Birkenmaier,
 22 you can answer.
 23 MR. HOFFMAN: It doesn't call for a
 24 legal conclusion. I asked her if she knows what

1 legal claim is being made. I mean, something like
 2 breach of contract or fraud or some legal theory
 3 that would support it because, to me, it's unclear.
 4 BY MR. HOFFMAN:
 5 Q So I'm asking you, do you know?
 6 **A I --**
 7 MR. KALTENBACH: Hold on.
 8 I think it's -- Objection.
 9 Compound question and calls for a legal conclusion.
 10 You can answer.
 11 MR. HOFFMAN: Fine.
 12 BY THE WITNESS:
 13 **A I'm not aware of what legal theory**
 14 **would apply.**
 15 BY MR. HOFFMAN:
 16 Q Okay. And if I asked you the same
 17 question for the \$1.5 million claim for repayment
 18 of interest income, would your answer be the same?
 19 **A Yes, it would.**
 20 Q And if I asked you the same question
 21 regarding the claim for the payment of \$2.6 million
 22 in pro rata expenses, would your answer be the
 23 same?
 24 **A Yes. I have no idea what legal theory**

1 would apply.
 2 Q Okay. That makes two of us.
 3 Let's turn to Paragraph 44 of
 4 this complaint and answer. It says, "In fiscal
 5 years 1995 through 2012, the Treasurer erroneously
 6 allocated \$1,574,636.77 in interest on investments
 7 to District 204."
 8 Do you see that?
 9 A I do.
 10 Q Okay. How did that happen?
 11 A Based on my understanding, there are
 12 emails that indicate that additional funds were
 13 given to District 204 outside of the regular
 14 quarterly interest distribution.
 15 Q What are the dates of those
 16 invoices -- emails, rather?
 17 A I'm sorry. I don't recall that
 18 without referring to the emails.
 19 Q Okay. Well, we can look at them.
 20 A Sure.
 21 Q Your lawyer has used with Bob Healy a
 22 back-and-forth that took place in 2006 between
 23 Healy and Sellers.
 24 Does that help you to remember

1 what emails you're talking about?
 2 A I'm familiar generally with that, yes.
 3 Q Okay. And those are the only emails
 4 that we've seen in any of the productions that or
 5 any of the depositions exhibits that your counsel
 6 has used.
 7 Are there any other emails you're
 8 aware of?
 9 A No.
 10 Q Okay. And I'd be happy to show you
 11 those documents, and I intend to do that --
 12 A Okay.
 13 Q -- but they're dated 2006.
 14 And is it also correct that the
 15 TTO's claim -- Well, as you can see on
 16 Paragraph 44, the claim for alleged overpayment of
 17 interest goes back to 1995, right?
 18 A Yes. I see that.
 19 Q So other than the 2006 emails that
 20 you're talking about, how did the treasurer
 21 erroneously allocate over a million and a half
 22 dollars in interest on investments to District 204?
 23 A I would -- Without seeing the actual
 24 documentation, it would -- I would conclude that

1 there were journal entries that were outside of the
 2 norm of the quarterly distribution that indicate
 3 that that money would have been posted to their
 4 account.
 5 Q Do you have any understanding as to
 6 how or why that took place?
 7 A I don't.
 8 Q Does the TTO have any understanding as
 9 to how or why the treasurer erroneously allocated
 10 one and a half million dollars plus in interest on
 11 investments to District 204?
 12 A Not to my knowledge.
 13 MR. KALTENBACH: There's not a
 14 question pending; so if you want to take a minute
 15 to chat, we can do that.
 16 THE WITNESS: Can I ask a question?
 17 BY MR. HOFFMAN:
 18 Q You want to step outside with your
 19 lawyer?
 20 A Yes, please.
 21 (Whereupon, the witness and
 22 her counsel exited the
 23 conference room.)
 24 (Brief pause.)

1 (Whereupon, the witness and
 2 her counsel entered the
 3 conference room.)
 4 BY MR. HOFFMAN:
 5 Q After having spoken with your attorney
 6 outside the room, is there anything else you want
 7 to say?
 8 A Yes. I was familiar with the fact
 9 that in Bob Healy's testimony, he had indicated
 10 that those payments to LT that shows excess
 11 interest were advances, and I just recently learned
 12 that.
 13 Q Did you also see in Healy's testimony
 14 that he said he never overpaid interest to any
 15 district and that, if he ever advanced money to a
 16 district, he would always take it back in a
 17 subsequent year?
 18 MR. KALTENBACH: Objection.
 19 Mischaracterization.
 20 MR. HOFFMAN: That's exactly what he
 21 said.
 22 BY MR. HOFFMAN:
 23 Q Go ahead. You can answer.
 24 A I've never seen anything like that.

1 Q And you have or have not read Healy's
 2 testimony?
 3 A **I have not read it. I've seen**
 4 **portions of it.**
 5 Q The portions that the lawyers showed
 6 you?
 7 A **Yes.**
 8 Q So they showed you something in which
 9 Bob Healy said that he made advances to districts?
 10 Yes?
 11 A **To District 204.**
 12 Q Okay. And that from that testimony,
 13 you conclude that District 204 got more money than
 14 it should have because it got an advance or
 15 advances from the TTO on interest, right?
 16 A **Can you ask that question again,**
 17 **please?**
 18 Q Sure.
 19 MR. HOFFMAN: Read it back.
 20 (Whereupon, the record was
 21 read as requested.)
 22 BY THE WITNESS:
 23 A **Not from the testimony; the evidence**
 24 **was that there were journal entries that show that**

1 **additional revenue was received by District 204 for**
 2 **interest income.**
 3 BY MR. HOFFMAN:
 4 Q What do you mean "not from the
 5 testimony"? You just talked about the testimony,
 6 and now you're saying "not from the testimony."
 7 A **What I said was that the testimony**
 8 **provided new information to me that Bob considered**
 9 **those advances on interest income, but I did not**
 10 **draw the conclusion about interest payments from**
 11 **his testimony. They were merely clarifying his**
 12 **intent.**
 13 Q Let's take a look at Bob Healy's
 14 testimony on Page 64.
 15 A **I need the testimony, please.**
 16 **(Whereupon, document**
 17 **tendered.)**
 18 BY MR. HOFFMAN:
 19 Q If you see -- Beginning on Line 8:
 20 "QUESTION: "Was there ever a time
 21 when you paid either LT or any other
 22 district more than they were entitled
 23 to get of their investment income?
 24 "ANSWER: I do not think -- I do not

1 recall doing that.
 2 "QUESTION: Was there ever a time when
 3 there was an accidental overpayment to
 4 all the districts possibly in 2007?
 5 "ANSWER: Might have been; if I had my
 6 income estimate was wrong, it would
 7 have happened, but I would have had to
 8 make up for it in the future."
 9 Do you see that testimony?
 10 A **I do see that.**
 11 Q Have you seen it before today?
 12 A **No.**
 13 Q "QUESTION: And when you say 'made up
 14 for it,' you mean by reducing the
 15 interest payment in subsequent years?
 16 "ANSWER: Right. In other words, they
 17 got money early. That's how you look
 18 at it.
 19 "QUESTION: In that instance, would
 20 that be an overpayment that would have
 21 been made across the board to all of
 22 the districts?
 23 "ANSWER: Yes. I would assume so
 24 because we paid out according to that

1 distribution."
 2 Have you seen that testimony
 3 before today?
 4 A **Not before today.**
 5 Q Does that testimony have any impact on
 6 your view of what happened here with respect to
 7 interest?
 8 A **It just creates questions.**
 9 Q And what questions does it create?
 10 A **Was it ever recovered and the evidence**
 11 **that I have would indicate that it was not.**
 12 Q And what evidence is that?
 13 A **Any income distributions that have**
 14 **been posted.**
 15 MR. KALTENBACH: I'm going to use that
 16 later, so . . .
 17 BY MR. HOFFMAN:
 18 Q Okay. I'm showing you Healy Exhibit
 19 No. 4.
 20 (Whereupon, Healy Exhibit
 21 No. 4, previously marked,
 22 was tendered to the witness.)
 23
 24

1 BY THE WITNESS:
 2 A Okay.
 3 BY MR. HOFFMAN:
 4 Q Is this the -- This is the memo you
 5 were talking about earlier, the one that the TTO
 6 believes is significant with respect to payment of
 7 interest, right? It's two emails dated August 1st
 8 and August 2nd of 2006.
 9 A Let me read this, please.
 10 Q Sure. Take your time.
 11 (Whereupon, witness perusing
 12 document.)
 13 BY THE WITNESS:
 14 A Okay.
 15 BY MR. HOFFMAN:
 16 Q Okay. So this is the email that -- or
 17 emails that you were talking about earlier --
 18 A Yes.
 19 Q -- that the TTO finds significant with
 20 respect to interest payments, right?
 21 A Yes.
 22 Q Okay. And why do you -- having just
 23 read these, what do these -- how do these support
 24 the TTO's claim in your view?

1 A Okay. It indicates to me that
 2 additional funds were given to the high school.
 3 Q Okay. And how much in additional
 4 funds?
 5 A At that -- In this specific email --
 6 Q Yes.
 7 A -- it says an additional 280,000.
 8 Q Okay. And, in fact, do the records
 9 that the TTO has in its possession indicate a
 10 payment to LT in 2006 of an amount of interest that
 11 was excessive by 280,000?
 12 A I would have to go back and look at
 13 that specifically. I don't recall off the top of
 14 my head.
 15 Q So you feel that this memo supports
 16 the view that there was an overpayment of interest,
 17 but you don't know whether this amount you say was
 18 overpaid based on the emails correlates to the TTO
 19 records?
 20 A I'm saying I can't verify that without
 21 seeing the other documents.
 22 (Whereupon, TTO Deposition
 23 Exhibit No. 18 was marked for
 24 identification.)

1 (Whereupon, document
 2 tendered.)
 3 BY MR. HOFFMAN:
 4 Q Okay. I'm showing you what's been
 5 marked as TTO Deposition Exhibit No. 18 --
 6 A Do you want this one back
 7 (indicating)?
 8 Q Yes.
 9 (Whereupon, document
 10 tendered.)
 11 BY MR. HOFFMAN:
 12 Q Thank you very much.
 13 TTO Exhibit 18 are emails -- at
 14 the top, an email dated July 24th, 2006, from David
 15 Sellers to Bob Healy and a previous email that
 16 Healy forwarded dated July 20th of 2006.
 17 A Okay.
 18 Q Have you ever seen this document
 19 before?
 20 A I believe so.
 21 Q Okay. And is it fair to say -- And
 22 this email preceded the email we were just talking
 23 about by about a week --
 24 A Okay.

1 Q -- correct?
 2 A Yes.
 3 Q Okay. And in this email, am I correct
 4 that David Sellers is asking Bob Healy about the
 5 results that he's getting and comparing that to the
 6 ISDLAF results which are included in the materials
 7 he's forwarding ing to Bob?
 8 A Okay.
 9 Q Fair enough?
 10 A Yes.
 11 Q And do you know what the "ISDLAF"
 12 means?
 13 A I do.
 14 Q And what is it?
 15 A Illinois School District Liquid Asset
 16 Fund.
 17 Q Okay. And do you see anything in
 18 Mr. Sellers' email that we're looking at here in
 19 TTO Exhibit No. 18 in which Sellers is asking on
 20 behalf of LT for any special treatment or any
 21 advance of interest?
 22 A Let me read this, please.
 23 Q Sure. Take your time.
 24

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1 (Whereupon, witness perusing
 2 document.)
 3 BY THE WITNESS:
 4 A All right. Can you give me your
 5 question again?
 6 MR. HOFFMAN: Read it back, please.
 7 (Whereupon, the following was
 8 read from the record as
 9 requested: "QUESTION: Okay.
 10 And do you see anything in
 11 Mr. Sellers' email that we're
 12 looking at here in TTO Exhibit
 13 No. 18 in which Sellers is
 14 asking on behalf of LT for any
 15 special treatment or any
 16 advance of interest?")
 17 BY THE WITNESS:
 18 A No.
 19 BY MR. HOFFMAN:
 20 Q Let's take a look a Theissen Exhibit
 21 No. 10.
 22 (Whereupon, Theissen Exhibit
 23 No. 10, previously marked,
 24 was tendered to the witness.)

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1 BY MR. HOFFMAN:
 2 Q This is a document that I showed to
 3 Mike Theissen which came from the TTO's files at
 4 his deposition about ten days ago.
 5 A Okay.
 6 Q Have you seen this document before?
 7 A I have.
 8 Q Okay. What is your understanding of
 9 what this document is?
 10 A It appears to me that these would be
 11 journal entries to make adjustments post-audit.
 12 Q Okay. And because it says on the
 13 second page "Audit Adjustment-Interest," correct?
 14 A Yes.
 15 Q Okay. And do you have any knowledge
 16 other than this document and what it says as to the
 17 transaction that's reflected in this document? Do
 18 you know what I'm saying?
 19 A No. I'm sorry.
 20 Q Do you understand the question?
 21 So I'm trying to figure out --
 22 We're both looking at the same document?
 23 A Yes.
 24 Q My question is, do you know anything

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1 about the transactions -- And you see on the second
 2 page, there is a request for posting entry for the
 3 Lyons Township School Treasurer, correct?
 4 A Yes.
 5 Q And that is -- This is a handwritten
 6 document that then gets input into the computer
 7 system at the TTO --
 8 A Yes.
 9 Q -- correct?
 10 A Correct.
 11 Q That's what an entry is; it's a
 12 journal entry in the general ledger, correct?
 13 A Yes.
 14 Q Okay. And so other than what it says
 15 in this document and the attached documents here,
 16 have you spoken with the auditors from 2011, have
 17 you spoken with anybody at the TTO, or have you
 18 seen any records other than what are attached to
 19 Theissen Exhibit No. 10 that bear upon this
 20 transaction or this --
 21 A No.
 22 Q -- entry? Okay.
 23 So all of the knowledge you have
 24 about the transaction described in Theissen Exhibit

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1 No. 10 is from what's in this document, correct?
 2 A Yes.
 3 Q Okay. And so having looked at this on
 4 Page 2, you see that at the top, it says,
 5 "one-sided"; yes?
 6 A Yes.
 7 Q Okay. And what does that mean?
 8 A It means that there's not an
 9 offsetting entry on another line.
 10 Q All right. And you see that there's a
 11 negative figure of \$1,512,451.00, correct?
 12 A Yes.
 13 Q And we know it's a negative because of
 14 the brackets that appear on either side of the
 15 number, right?
 16 A Yes.
 17 Q Okay. And the description here is
 18 "Audit Adjustment." "ADJ," you think it means
 19 "Audit Adjustment" -- yes --
 20 A Yes.
 21 Q -- dash "interest"?
 22 A Yes.
 23 Q And you believe that interest means
 24 the investment income interest earned on pooled

1 investments, right?

2 **A Yes.**

3 Q And so what is the account listed up

4 above, which is 1-999999?

5 **A The "1" would indicate that it's the**

6 **education funds. The "999" -- Now, see, this is a**

7 **different kind of an account number because it's**

8 **marked "AST," which signifies to me that it's an**

9 **asset account, so the naming is different than it**

10 **would be for a revenue or expenditure.**

11 **"999" typically would indicate**

12 **that it's a miscellaneous account. "1013" would**

13 **indicate specifically the revenue asset line that**

14 **it would be posted against.**

15 Q So this indicates that the assets or

16 money held by District 204 was reduced in the

17 amount of just over a million and a half dollars at

18 this time, correct?

19 **A No. And I'm not an accounting expert**

20 **but, typically, when it's a revenue, it's included**

21 **in brackets to indicate that it's a revenue as**

22 **opposed to an expenditure.**

23 Q Well, what is this transaction then?

24 MR. KALTENBACH: I'll object as being

1 beyond the scope.

2 You can answer.

3 BY MR. HOFFMAN:

4 Q What is this transaction? It's a

5 million and a half dollar adjustment --

6 MR. KALTENBACH: Hold --

7 MR. HOFFMAN: Let me finish my

8 question before you jump all over it.

9 MR. KALTENBACH: I'm referring to her.

10 BY MR. HOFFMAN:

11 Q This document talks about a one-sided,

12 one and a half million dollar adjustment for

13 interest after an audit for District 204.

14 So what is this and why was it

15 done?

16 MR. KALTENBACH: Hold on.

17 I'm going to object to being a

18 compound question. I'm going to object as being

19 beyond the scope of the deposition given the level

20 of detail.

21 You can answer the question

22 subject to those objections, Dr. Birkenmaier.

23 BY MR. HOFFMAN:

24 Q What is this and why was it done?

1 **A I don't have enough accounting**

2 **expertise to be able to answer that question.**

3 Q So you don't know?

4 **A I don't know.**

5 Q Okay. And having seen this prior to

6 your deposition, did you make any effort to look

7 back at the records of the TTO to try to figure out

8 why District 204's funds were being adjusted by a

9 million and a half dollars for interest in June

10 of 2011?

11 **A No.**

12 Q Why not?

13 MR. KALTENBACH: Objection.

14 Argumentative.

15 Go ahead.

16 BY MR. HOFFMAN:

17 Q Why didn't you look into this?

18 **A Because that work would have been done**

19 **long before I was employed.**

20 Q Well, your --

21 **A And I would have no reason to go back**

22 **and check previous work.**

23 Q Well, wouldn't your reason to go back

24 include the fact that the TTO is making a claim for

1 what it believes to be excessive interest paid to

2 LT from 1995 through 2012 in the amount of about a

3 million and a half dollars?

4 **A I don't think you can make the**

5 **assumption that the \$1.5 million is the total**

6 **amount. If I recall, you had indicated interest**

7 **income between a period of time, so you would not**

8 **necessarily find this in a single entry.**

9 Q Well, I don't know what this was done

10 and why it was done. This is in the TTO's files.

11 Have you ever seen anything in

12 any of the TTO documentation indicating that, in

13 June of 2011, LT was informed that there was a one

14 and a half million dollar adjustment made to its

15 account for an audit adjustment relating to

16 interest?

17 **A No.**

18 Q Do you think that that might be

19 significant in some way in this case?

20 **A I don't know.**

21 Q Do you see on the first page of this

22 document -- That would be the first page

23 (indicating)?

24 **A Uh-huh.**

1 Q On the first page of this document,
 2 there's a listing for various other districts?
 3 A I do see that.
 4 Q Well, the "100" is the TTO.
 5 What's the "999" account?
 6 A That would be the health insurance
 7 cooperative.
 8 Q Okay. And then you see there's a
 9 reference to "Lo."
 10 Is that Lauralee Conway?
 11 A Yes.
 12 Q Okay. And it says "talk to Bob"?
 13 A Yes.
 14 Q And on the right, it says, "Lo, adjust
 15 balances, talk to Jim White."
 16 Is that Jim White from Baker
 17 Tilly?
 18 A Yes.
 19 Q Okay. And do you know what any of
 20 that means, who is being told to do what on Page 1?
 21 Other than what we're reading here -- you and I are
 22 reading the same thing -- do you have any knowledge
 23 as to what all that is discussing or who's supposed
 24 to do what?

1 A I have no way to discern the order,
 2 but, obviously, it indicates to me that Lauralee
 3 would be the person who would be inputting these
 4 changes, and so she needs to talk to the auditor
 5 and to the treasurer to make sure that the
 6 allocation is correct.
 7 Q Well, Lauralee Conway is a current
 8 employee of the TTO, correct?
 9 A She is, yes.
 10 Q And so is there any reason you didn't
 11 ask her to explain this document to you?
 12 A Yes, because it's historical data.
 13 Q Well, it's historical data, but isn't
 14 it significant to the historical period involved in
 15 your claim in this case, meaning 1995 to 2012?
 16 A Yes; but it's just reassigning funds.
 17 Q How do you know that?
 18 A Because the first line indicates that
 19 you've got a debit of \$1.7 million, and it shows
 20 that you also have a credit of 1.7, and it shows
 21 where you're placing those funds.
 22 Q So where did the funds go from and to?
 23 A It appears that it came out of the TTO
 24 account and went into the various accounts that are

1 listed below the health insurance, District 102,
 2 District, 204, and LADSE.
 3 Q Do you see on the far right side next
 4 to the "District 204" row, it says "2010
 5 adjustment, but self-corrected in 2011."
 6 Do you know what that means?
 7 A I would only be able to speculate that
 8 it could have been --
 9 Q I don't want you to speculate --
 10 A Okay. Then I don't --
 11 Q -- and I already told you not to do
 12 that.
 13 A Then I don't know specifically what
 14 that note would mean.
 15 Q Whose handwriting is that?
 16 A I don't know.
 17 Q Is that Bob's?
 18 A I don't know.
 19 Q Okay. Have you made any effort to ask
 20 anybody at the TTO what that information might mean
 21 there?
 22 A No.
 23 MR. KALTENBACH: Are you doing okay?
 24 THE WITNESS: I am. Thank you.

1 BY MR. HOFFMAN:
 2 Q All right. Between 1995 and 2012,
 3 which is the time period involved in the TTO claim
 4 with respect to interest in this case --
 5 A Um-hmm.
 6 Q "Yes"?
 7 A Yes.
 8 Q -- [continuing] did the TTO regularly
 9 pay out to the districts either the entire amount
 10 or nearly the amount of interest that the TTO
 11 earned on the pooled investment fund?
 12 A I don't know.
 13 Q Why do you not know that?
 14 A I don't know what the total amounts
 15 were that were earned.
 16 Q Well, you're claiming that in this
 17 case that LT got overpaid interest, right?
 18 A Yes.
 19 Q And so isn't it important to know
 20 whether the amount of interest that the TTO paid
 21 out each year correlated to the amount of interest
 22 that they actually earned in every year?
 23 A No.
 24 Q Why is that not important?

1 **A What I have seen evidence of is a**
 2 **listing that said this was how much money was**
 3 **distributed.**
 4 Q And that evidence came from Healy's
 5 handwritten notes, correct?
 6 **A Correct.**
 7 Q And isn't it a fact that that amount
 8 of money to be distributed that was listed in
 9 Healy's handwritten notes was always an even
 10 number?
 11 **A Yes.**
 12 Q Okay. And isn't it also a fact that
 13 Healy testified in his deposition that those
 14 numbers in his handwritten notes were conservative
 15 and preliminary numbers and that the accurate
 16 numbers about the amounts to be paid were set forth
 17 in the TTO's general ledger?
 18 **A Yes.**
 19 Q And do you have any reason to dispute
 20 that testimony that Mr. Healy gave concerning the
 21 meaning of his handwritten notes?
 22 **A I don't.**
 23 Q And, in fact, Kelly Bradshaw's
 24 analysis, which I'm happy to show you and I intend

1 to show you -- and if you want to see it right now,
 2 let me know -- but what she did, in part, was
 3 compare the amount of money that Healy wrote in his
 4 notes to be distributed and compared that to the
 5 general ledger amount and viewed the first thing as
 6 what should have been paid and the second thing as
 7 what was actually paid --
 8 **A Okay.**
 9 Q -- correct? Is that her --
 10 **A I would assume so.**
 11 Q That's her -- Well, I don't want you
 12 to assume anything. We had a little talk about
 13 that.
 14 **A Yes.**
 15 Q So --
 16 **A It's true. You'll have to show me in**
 17 **the document.**
 18 Q -- do you understand what Kelly
 19 Bradshaw did?
 20 **A Yes.**
 21 Q Okay. What did Kelly Bradshaw do?
 22 What did her analysis on \$1.5 million in overpaid
 23 interest analyze --
 24 **A The amount --**

1 Q -- when she analyzed it?
 2 **A The amount of money that was posted as**
 3 **interest income to the 204 account versus what was**
 4 **written on Bob's sheets.**
 5 Q Okay. And what was written on Bob's
 6 sheets was the what should have been paid; and then
 7 what was in the general ledger postings was what
 8 was paid?
 9 **A Correct.**
 10 Q The difference between that was either
 11 an over or an underpayment, correct?
 12 **A Correct.**
 13 Q Okay. So Bradshaw did not look back
 14 to see how much interest the TTO actually earned by
 15 looking at statements from banks or financial
 16 institutions that held investments for the TTO; am
 17 I right?
 18 **A I don't know.**
 19 Q Does the TTO have source documents
 20 that are sufficient for somebody to go back and
 21 look at them and figure out that in 1997, for
 22 example, here's how much the TTO actually earned in
 23 investment income --
 24 MR. KALTENBACH: I'm going to --

1 BY MR. HOFFMAN:
 2 Q -- on the pooled investments?
 3 MR. KALTENBACH: I'm going to object
 4 to the extent it calls for a legal conclusion and
 5 it's beyond the scope also. That's going to be the
 6 subject of expert testimony.
 7 BY MR. HOFFMAN:
 8 Q You know, you're getting a little
 9 coaching here, but can you answer the question?
 10 **A We've turned over -- So far as I know,**
 11 **we've turned over all the investment documents that**
 12 **we had.**
 13 Q Yeah, and here's my question: Do
 14 those investment documents provide enough
 15 information, are they complete enough and accurate
 16 enough and reliable enough so that somebody can
 17 look at those documents and go back and confirm for
 18 each year that's relevant here how much money the
 19 TTO actually earned in investment income?
 20 MR. KALTENBACH: Same objection and as
 21 to form.
 22 BY THE WITNESS:
 23 **A To the best of my knowledge, yes.**
 24

1 BY MR. HOFFMAN:
 2 Q Yes?
 3 A Yes.
 4 Q Okay. Then why didn't you have Kelly
 5 Bradshaw go back and look at those source documents
 6 to figure out how much income was actually earned
 7 on the investments instead of using a number that
 8 was a round number that was written in Healy's
 9 handwritten notes?
 10 A I believe there's an assumption in the
 11 question that you're asking that all of the income
 12 that was received is interest income for
 13 distribution, and the complexity of investments
 14 would not necessarily indicate that all of that
 15 money would be distributable.
 16 Q Okay. So why was the amount of money
 17 reflected in source documents not all
 18 distributable?
 19 A I'm not certain what Bob's approach to
 20 distribution would be.
 21 Q Well, why aren't you? That's a
 22 critical part of this case.
 23 A I think that that --
 24 MR. KALTENBACH: Objection.

1 Argumentative.
 2 MR. HOFFMAN: It's not argumentative.
 3 BY MR. HOFFMAN:
 4 Q Go ahead.
 5 A I think that that's where the
 6 discretion of the investor and the types of
 7 investments and the movement of the marketplace
 8 comes to bear.
 9 Q Well, were Bob's -- Looking back on it
 10 and having the knowledge of the historical record,
 11 did Bob Healy essentially make arbitrary decisions
 12 as to how much money to give to the district?
 13 A I couldn't characterize it that way
 14 because I don't know.
 15 Q Well, in some years, isn't it true
 16 that he gave the districts way more money than the
 17 TTO earned and, in some years, he gave them way
 18 less? And by "way," I mean, millions of dollars.
 19 A I don't know.
 20 Q Okay. Well, let's find out.
 21 A Okay.
 22 Q Are you familiar with the audit
 23 reports of the TTO --
 24 A Yes.

1 Q -- for the years that we're talking
 2 about here?
 3 A Yes.
 4 MR. KALTENBACH: Will this be 19?
 5 MR. HOFFMAN: Let's go ahead and mark
 6 it, sure.
 7 (Whereupon, TTO Deposition
 8 Exhibit No. 19 was marked for
 9 identification.)
 10 (Whereupon, document
 11 tendered.)
 12 BY MR. HOFFMAN:
 13 Q All right. We've marked as
 14 Deposition -- TTO Deposition Exhibit 19 all of the
 15 audit reports for the TTO from 1995 through 2013.
 16 A Okay.
 17 Q And these come from, not surprisingly,
 18 the TTO's production to us in this case.
 19 A Correct.
 20 Q So let -- And you're familiar with
 21 these documents, right?
 22 A I am.
 23 Q Okay. So let's just pick a year in
 24 the middle here --

1 A Okay.
 2 Q -- and go with 2003.
 3 A Okay.
 4 Q Would you tell me with respect to the
 5 general fund at the TTO --
 6 A Hold on a second. I'm not quite with
 7 you yet. I'm still at 2002.
 8 Q Okay. Take your time.
 9 (Whereupon, witness perusing
 10 document.)
 11 BY THE WITNESS:
 12 A Okay.
 13 BY MR. HOFFMAN:
 14 Q I can tell you, I'm looking at -- just
 15 to -- I'm looking at Page 4 of Exhibit B of the
 16 audit, but you can look at any page you want
 17 because --
 18 A Okay.
 19 Q -- you're the treasurer, and I'm not.
 20 A Okay.
 21 Q I would ask only that you kind of keep
 22 these documents straight (indicating).
 23 A Sure. Happy to.
 24 Q Thanks.

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1 And so on Page 4, there is an
 2 exhibit that relates to the general fund and a
 3 statement of revenues, expenditures, and changes in
 4 fund balance for the year-ended June 30, 2003.
 5 Do you see that?
 6 **A I do.**
 7 Q And there is a line item here for
 8 receipts which says "Interest on Investments-Net of
 9 Distributions to School Districts," and there's an
 10 amount stated of \$3,256,195.
 11 Do you see that?
 12 **A I do.**
 13 Q Okay. And what does that number
 14 represent?
 15 **A I am not certain.**
 16 Q Isn't it obvious that that means that
 17 the TTO paid out interest on investments to school
 18 districts in the 2000 year and, after doing so, had
 19 just over \$3 million in interest income left?
 20 **A I'm not certain.**
 21 Q So are you telling me today that you
 22 don't understand what the audit statements of the
 23 TTO mean?
 24 **A I'm telling you that I'm not certain**

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1 **what this specific line captures.**
 2 Q Well, okay.
 3 Let's look at a different year,
 4 which I think is even more obvious.
 5 **A Okay.**
 6 Q Maybe that would help you.
 7 **A Okay.**
 8 Q All right. Let's turn to the 2004
 9 year --
 10 **A Okay.**
 11 Q -- if could you, please.
 12 **A Sure. Same page?**
 13 Q No. Let's look at Page 6 to start.
 14 (Whereupon, witness perusing
 15 document.)
 16 BY THE WITNESS:
 17 **A Okay.**
 18 BY MR. HOFFMAN:
 19 Q And you see when it talks about the
 20 financial analysis of the TTO funds?
 21 **A Yes.**
 22 Q And it talks about the prior year the
 23 fund balance at the TTO was about negative 95,000,
 24 and then it decreased to negative 2.7 million?

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1 **A Yes.**
 2 Q Okay. And then right below it, it
 3 says, quote, "The decrease was primarily attributed
 4 to the larger amount of investment earnings paid
 5 out to member districts."
 6 Do you see that?
 7 **A I do.**
 8 Q And let's, then, just to quantify
 9 that, turn to Page 12 of the financial
 10 statements --
 11 **A Okay.**
 12 Q -- which, again, have the general fund
 13 statement. And you see it says -- Under "Receipts"
 14 for the general funds, it says "Earnings on
 15 Investments" \$3.7 million, approximately?
 16 **A I do see that.**
 17 Q And it says "Earning on Investments
 18 Paid Out to School Districts" --
 19 **A Yes.**
 20 Q -- just over 6 million?
 21 **A Yes.**
 22 Q So in the 2004 year, the TTO paid out
 23 about \$2.3 million in interest more than it earned
 24 in that year --

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1 **A I see that --**
 2 Q -- to school districts?
 3 **A -- yes.**
 4 Q Do you know how and why that happened?
 5 **A I will be speculating if I give you an**
 6 **answer to that.**
 7 Q I don't want your speculation. I want
 8 facts.
 9 **A Then I'm going to say I don't have**
 10 **enough detail to answer that question.**
 11 Q Okay. And what detail would you need
 12 in order to be able to answer that question?
 13 **A I would need to know when the last**
 14 **distribution of interest went out. I would need to**
 15 **know what the timing of interest from the previous**
 16 **year is and when that was received in.**
 17 **I would need to basically**
 18 **understand the timing of this, and I cannot draw**
 19 **that conclusion from this -- these numbers.**
 20 Q Wouldn't the TTO pay interest that it
 21 earned and attribute those payments to the year in
 22 which the interest was actually earned in terms of
 23 the distributions?
 24 Are you saying that the -- Are

1 you claiming that the money that was earned by the
2 TTO doesn't correlate with the payments that it
3 made?

4 **A I'm saying that there is an overlap**
5 **between fiscal years that, typically, at least**
6 **currently, our practice is that the last**
7 **calculation of interest is based on the May and**
8 **April fund balances and that it doesn't take into**
9 **account the June balances. So it's possible that**
10 **there was something in transit at the end of the**
11 **fiscal year. It depends on how these records are**
12 **kept, if these are on an accrual basis, modified**
13 **accrual basis, or a cash basis of accounting.**

14 Q But the bottom line is, you don't
15 know?

16 **A I would not be certain without being**
17 **able to go back and consult with the auditors and**
18 **look at documents, no.**

19 Q Well, you can't go back and consult
20 with the auditors because they're from Baker Tilly,
21 and the TTO threatened to sue Baker Tilly, right?

22 **A Yes.**

23 Q And so, currently, there is a
24 standstill agreement in place between the TTO and

1 Baker Tilly whereby any claims that the TTO has
2 against Baker Tilly are put on hold pending further
3 developments, right?

4 **A Correct.**

5 Q Okay. So there's no way for you to
6 pick up the phone and call somebody at Baker Tilly
7 and ask them questions about the work that they did
8 for the TTO, is there?

9 **A No.**

10 Q So how can you explain why or can you
11 even begin to explain why, in 2004, the TTO paid
12 out earnings on investments to school districts of
13 almost double what they recorded as earnings made
14 for that year? And I'm not talking about
15 speculation. I'm talking about actual knowledge.

16 **A I cannot answer that.**

17 Q Don't you think it's important to
18 understand how interest was paid out to the
19 districts when you're making a claim against the
20 TTO -- or excuse me -- a claim against LT for a
21 million and a half dollars during this same time
22 period?

23 MR. KALTENBACH: Objection.
24 Argumentative.

1 BY THE WITNESS:

2 **A I understand the payment. How the**
3 **money was received and recorded, I don't understand**
4 **the details of that.**

5 BY MR. HOFFMAN:

6 Q So if I asked you about all of the
7 different entries in the TTO's annual audit
8 statements with respect to earnings on investments
9 and earnings paid out to school districts and why
10 the numbers are different, would your answer be "I
11 don't know"?

12 **A My answer would be it would be based**
13 **on the assumptions that the work that was presented**
14 **was done correctly.**

15 Q Well --

16 **A So I don't know.**

17 Q You're assuming that the work that
18 Baker Tilly did on these audits from 1995 through
19 2012 were done correctly?

20 **A I have no reason not to believe that.**

21 Q Well, then, why did the TTO threaten
22 to sue them and enter into a standstill agreement
23 with them?

24 **A I don't --**

1 MR. KALTENBACH: Objection.
2 Argumentative.

3 MR. HOFFMAN: Why? It's a fair
4 question.

5 MR. KALTENBACH: You don't need to
6 comment on my objections. I just stated it.

7 BY MR. HOFFMAN:

8 Q Go ahead. You can answer.

9 If the position of the TTO is
10 that the audits were done right from 1995 through
11 2012 by Baker Tilly, why did the TTO threaten to
12 sue Baker Tilly?

13 **A First --**

14 MR. KALTENBACH: I'm going to object
15 as being beyond the scope of this notice. I'm also
16 going to object as being argumentative.

17 MR. HOFFMAN: Sure.

18 BY MR. HOFFMAN:

19 Q You can answer.

20 **A Any conversations with Baker Tilly**
21 **regarding their work or how it's impacted in this**
22 **lawsuit were done before I was hired on as the**
23 **treasurer.**

24 Q What does the TTO say that Baker Tilly

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1 did that was wrong in this case such that they
 2 threatened to sue them?
 3 MR. KALTENBACH: Same objections as
 4 before.
 5 BY MR. HOFFMAN:
 6 Q Maybe you don't know.
 7 A **I'm not sure I understand the full**
 8 **scope, so I cannot answer that.**
 9 Q Well, do you have any understanding
 10 whatsoever? Because these are documents prepared
 11 by Baker Tilly. They're important to the case.
 12 They talk about earnings on investments. They talk
 13 about investments paid out to the districts.
 14 They're directly relevant to your claim during this
 15 time period relating to interest payments.
 16 So my question to you is, is it
 17 the position of the TTO that all of the figures and
 18 all the information and everything associated with
 19 this -- these annual statements for audit in
 20 Exhibit TTO Deposition 19 were all accurate and
 21 correct?
 22 MR. KALTENBACH: Same objection as to
 23 scope.
 24

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1 BY THE WITNESS:
 2 A **I don't know.**
 3 BY MR. HOFFMAN:
 4 Q So given that the TTO has actually
 5 threatened to sue Baker Tilly, is it fair to say
 6 that the TTO has some concerns about whether these
 7 audit statements are accurate and reliable?
 8 MR. KALTENBACH: Same objection.
 9 Asked and answered.
 10 BY MR. HOFFMAN:
 11 Q "Yes," "No," either --
 12 MR. KALTENBACH: Argumentative.
 13 BY MR. HOFFMAN:
 14 Q -- these --
 15 MR. KALTENBACH: Jay, let me state my
 16 objection. Let me just state it, and then you can
 17 move on.
 18 Objection. Asked and answered,
 19 beyond the scope, and argumentative.
 20 BY THE WITNESS:
 21 A **I don't know that your statement is**
 22 **accurate.**
 23 BY MR. HOFFMAN:
 24 Q Okay. Let me -- Because I don't

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1 understand your testimony, I'm going to go back
 2 over this.
 3 I'm trying to figure out whether
 4 I can rely on the figures in these Baker Tilly
 5 audit statements as to earnings on investments and
 6 earnings on investments paid out to school
 7 districts or not.
 8 And my question to you is, do you
 9 have any reason to doubt the accuracy of those
 10 figures on those points in these audit statements?
 11 MR. KALTENBACH: Objection as to
 12 beyond the scope.
 13 You could answer.
 14 BY MR. HOFFMAN:
 15 Q Just answer the question.
 16 A **I have no reason to doubt the**
 17 **accuracy.**
 18 Q Fine.
 19 MR. HOFFMAN: By the way, Barry, you
 20 know, I know you feel it's your duty to help out
 21 here, but keep in mind that I'm also taking the
 22 individual deposition of Dr. Birkenmaier in
 23 addition to deposing her --
 24 MR. KALTENBACH: I understand.

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1 MR. HOFFMAN: -- on behalf of the TTO,
 2 so enough with the constant objections, please.
 3 MR. KALTENBACH: Hold on a minute.
 4 BY MR. HOFFMAN:
 5 Q So --
 6 MR. KALTENBACH: No. Hold on a minute
 7 because you make a statement, Jay.
 8 MR. HOFFMAN: You're guiding the
 9 witness. It's enough already.
 10 MR. KALTENBACH: Jay --
 11 MR. HOFFMAN: Knock it off.
 12 MR. KALTENBACH: Jay, respectfully,
 13 you have cross-examined your witnesses I've been
 14 deposing while I'm still deposing them. Okay? So
 15 stating "Objection. Scope" is not guiding the
 16 witness, and it is a proper objection.
 17 MR. HOFFMAN: You're suggesting to the
 18 witness that she shouldn't know things and
 19 shouldn't testify to things, and it is not proper.
 20 And it's an individual deposition as well as -- and
 21 let the court reporter know -- that this is both
 22 the deposition of the TTO and of Dr. Birkenmaier,
 23 and the cover page should so reflect that.
 24 MR. KALTENBACH: It is. I agree.

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1 MR. HOFFMAN: Fine.

2 MR. KALTENBACH: "Objection. Scope"

3 is proper.

4 Why don't we take a short break

5 right now?

6 MR. HOFFMAN: Fine

7 (Whereupon, a brief recess

8 was had from 2:28 p.m. to

9 2:36 p.m.)

10 MR. HOFFMAN: Back on the record.

11 BY MR. HOFFMAN:

12 Q Just one additional point on these

13 annual audits, there are entries or a net entry

14 relating to the amount of interest earned and the

15 amount of interest paid to the districts in the

16 years 1995 through 2007 and then, in the 2008 TTO

17 audit report, that amount or that information

18 completely disappears.

19 A Okay.

20 Q Do you want me to show you that or --

21 A Sure.

22 Q Okay.

23 A Sure.

24 Q All right. Well, here's 2007.

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1 (Whereupon, document

2 tendered.)

3 MR. KALTENBACH: I mean, if you just

4 want to put a page of yours in front of her, that's

5 fine by me, rather than --

6 BY MR. HOFFMAN:

7 Q Here's 2007, the general fund

8 statement (indicating).

9 A Okay.

10 Q And what does that tell you about the

11 interest earned and interest paid out for the 2007

12 year?

13 A Well, it tells me 8.9 million was

14 earned, 7.9 was distributed, and there was a

15 million dollars that was undistributed.

16 Q Do you know why there was a million

17 dollars that was undistributed --

18 A I don't.

19 Q -- in that year, in 2007?

20 A I don't.

21 Q Well, we started this whole discussion

22 today dealing with information that you became

23 aware of in 2013 and are still grappling with now

24 about unpaid interest.

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1 And so have you gone back to

2 these annual reports like the one we're looking at

3 in 2007 and tried to make sense of why the amounts

4 earned and the amounts paid out to the districts

5 were different?

6 A Say that again. I mean, I --

7 MR. HOFFMAN: Read it back.

8 BY THE WITNESS:

9 A I understand the premise --

10 MR. HOFFMAN: Read it back.

11 BY THE WITNESS,

12 A -- but what was the question?

13 (Whereupon, the record was

14 read as requested.)

15 BY THE WITNESS:

16 A No.

17 BY MR. HOFFMAN:

18 Q Why not?

19 A The audit captures what occurred, not

20 why.

21 Q Okay. And how would you figure out

22 the why?

23 A You'd have to -- As I mentioned

24 earlier, you'd have to go back to either the source

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1 documents or understand the conditions that were in

2 place at the time. It's possible the way that it's

3 captured, there could have been a change to the

4 Governmental Accounting Standards Board footnotes

5 that required different ways of reporting.

6 I would -- I don't know until I

7 would have to immerse myself in going back and try

8 to reconstruct, and that's why I said I would need

9 to see work papers, if they're available.

10 Q But wasn't there a need to go back and

11 immerse yourself given that in 2013 and even still

12 to this day, there is an open issue about

13 undistributed investment income at the TTO?

14 A The audits captured what occurred, not

15 what's intended, not what might have occurred, not

16 what not occurred in the future. This is a record

17 of what occurred.

18 Q Right. And if what occurred was that

19 all of the districts were uniformly overpaid in one

20 year or all the districts were uniformly overpaid

21 in one year based on the information in the annual

22 audit statements, wouldn't that be significant to

23 you?

24 A Not necessarily.

1 Q Why not?

2 A **As I mentioned earlier, I would need**

3 **to understand the circumstances under what occurred**

4 **and why.**

5 Q Well, how are you going to figure out

6 what occurred and why from 1995 to 2012 when

7 Healy's in prison and you can't talk to Baker

8 Tilly?

9 A **I understand what you're saying. I'm**

10 **just saying to you that I could not come to a**

11 **conclusion merely by looking at the audit reports.**

12 **I would need additional information.**

13 Q I don't think you answered my

14 question, with all due respect, Dr. Birkenheimer --

15 Birkenmaier. I don't think you answered --

16 A **See, I told you. I get that all the**

17 **time, but that's okay. Go ahead. I'm sorry.**

18 Q That was my only slipup in three and

19 half hours.

20 MR. KALTENBACH: On the way over,

21 she goes, "Sometimes people refer to me as "Dr.

22 Birkenheimer."

23 BY MR. HOFFMAN:

24 Q I apologize.

1 A **No, no. It's okay. It's okay.**

2 MR. HOFFMAN: Read the question back.

3 BY MR. HOFFMAN:

4 Q Because I don't believe you answered

5 the question.

6 A **Okay.**

7 **(Whereupon, the following was**

8 **read from the record as**

9 **requested: "QUESTION: Well,**

10 **how are you going to figure out**

11 **what occurred and why from 1995**

12 **to 2012 when Healy's in prison**

13 **and you can't talk to Baker**

14 **Tilly?")**

15 BY THE WITNESS:

16 A **I'm not going to figure out why.**

17 BY MR. HOFFMAN:

18 Q Now, let's take a look at the -- Let's

19 take a look at what now is called the "Governmental

20 Fund" in the 2008 audit, and there's a listing for

21 receipts and, unlike in past years, poof, the

22 amounts of investment earnings and the amounts of

23 investment distributions are miraculously gone.

24 Do you see that?

1 A **I do.**

2 Q Okay. Do you have any explanation as

3 to why that information stopped being included in

4 2008 and in all subsequent audits?

5 A **No.**

6 Q Mr. Theissen said it had something to

7 do with changes in accounting standards.

8 Do you have any knowledge as to

9 that?

10 A **That is one possibility.**

11 Q I didn't ask you whether it was

12 possible. I asked you if you had any knowledge

13 about that.

14 A **Are you asking me do I know that that**

15 **is why?**

16 Q Yes.

17 A **I do not know that that is why.**

18 Q Okay. To this day, the TTO's

19 financial statements do not state the amount of

20 interest that the TTO earned on the pooled

21 investments and the amount of distributions made to

22 the districts on those investments; am I correct?

23 A **So as far as I know, that is correct.**

24 Q And why is that information not

1 provided currently in the TTO's annual audit

2 reports?

3 MR. KALTENBACH: Objection. It's

4 beyond the scope and relevance.

5 You can answer.

6 BY THE WITNESS:

7 A **First of all, I'm not certain about**

8 **your question. Your question -- Can you repeat**

9 **that question to me, please?**

10 BY MR. HOFFMAN:

11 Q Sure. You said that current -- The

12 reports that we have here through 2013 and those

13 annual audit statements don't have information in

14 them about the interest earned on investments and

15 the interest paid out to the districts on

16 investments, right?

17 A **Yes, yes.**

18 Q Okay. And am I correct that that is

19 also the case with more recent audits or audit

20 statements for the TTO? Right?

21 A **Yes.**

22 Q Okay. And so my question is, why

23 doesn't the TTO ask its auditors to include that

24 information in its current audit statements?

1 Meaning -- When I say "this information," I mean
 2 the amount of money that it earned on investments
 3 and the amount of money paid from those earnings to
 4 the districts.
 5 **A I don't know.**
 6 Q Don't you think that's important
 7 information for the districts to have?
 8 **A I believe that the auditors represent**
 9 **the numbers that are recorded in accordance with**
 10 **the governmental standard, Governmental Accounting**
 11 **Board Standards.**
 12 Q Well, is there any standard that would
 13 prohibit the TTO's auditors from providing that
 14 information?
 15 **A I don't know. I know that the**
 16 **Governmental Accounting Standards Board**
 17 **establishing methods of reporting and criteria so**
 18 **there is consistency from one governmental agency**
 19 **to another.**
 20 Q So I guess my question is still, why
 21 don't the TTO's current audits tell -- why don't
 22 they state the total amount of investment earnings
 23 and the amounts paid out to districts?
 24 MR. KALTENBACH: Objection. Asked and

1 answered.
 2 MR. HOFFMAN: But I haven't gotten an
 3 answer yet.
 4 BY THE WITNESS:
 5 **A I would have to refer to an expert in**
 6 **accounting to answer that question.**
 7 BY MR. HOFFMAN:
 8 Q Well, you're the treasurer.
 9 **A But I am not --**
 10 Q You can --
 11 **A -- an expert in accounting.**
 12 Q Right. But are you telling me that
 13 the -- it may be an improper piece of information
 14 to be included in an audit statement?
 15 **A No.**
 16 MR. KALTENBACH: Objection.
 17 Argumentative.
 18 THE WITNESS: Sorry.
 19 BY MR. HOFFMAN:
 20 Q And I'm not saying -- You know, I'm
 21 not saying I'm trying to figure out what the bare
 22 minimum is because I'm not asking you whether the
 23 audit report complies with any particular standards
 24 or not.

1 I'm asking you why isn't this
 2 information that you would want to include in the
 3 audit statement for the benefit of everybody who
 4 reads it so they can know what's going on at the
 5 TTO?
 6 **A I can't answer that because I'm not an**
 7 **expert in accountancy.**
 8 MR. HOFFMAN: Let's mark another
 9 exhibit, please.
 10 (Whereupon, TTO Deposition
 11 Exhibit No. 20 was marked for
 12 identification.)
 13 BY MR. HOFFMAN:
 14 Q We talked about Bradshaw's analysis
 15 with respect to the 204 interest payments, correct?
 16 **A Yes.**
 17 Q What analysis, if you know, did the
 18 TTO do with respect to interest payments made to
 19 other districts during 1995 to 2012?
 20 **A I believe it was the same activity,**
 21 **comparing what was paid versus what was recorded to**
 22 **be paid.**
 23 Q So when I look at -- Let's take a look
 24 at Bradshaw's analysis as it reflects the work she

1 did on District 204.
 2 **A Okay.**
 3 Q And this is Bradshaw Exhibit No. 3.
 4 (Whereupon, Bradshaw Exhibit
 5 No. 3, previously marked,
 6 was tendered to the witness.)
 7 BY THE WITNESS:
 8 **A Okay.**
 9 BY MR. HOFFMAN:
 10 Q There's actually an earlier version of
 11 this with different numbers that she made mistakes
 12 on, and she said she went back and corrected this
 13 and came out with something called an "interest
 14 allocation to" --
 15 **A Yes.**
 16 Q -- "spreadsheet" which was produced to
 17 us on February 19th of 2016, actually.
 18 **A Okay.**
 19 MR. HOFFMAN: It only took about a
 20 year and half to get that.
 21 MR. KALTENBACH: I think it took a
 22 little bit longer to get documents from your own
 23 client.
 24

1 BY MR. HOFFMAN:
 2 Q Are you familiar with -- Are you
 3 familiar this document, Bradshaw Exhibit 3?
 4 A **Yes.**
 5 Q Okay. You've seen this before?
 6 A **Yes.**
 7 Q And did you work with Kelly when she
 8 was putting this together? Because her testimony
 9 was she worked with Mike Theissen and Clyde
 10 Bradshaw, so --
 11 A **Clyde Bradley.**
 12 Q Bradley, excuse me.
 13 A **Yes.**
 14 Q I don't have any reason to believe she
 15 worked with you on it; but if she did, I want to
 16 know that.
 17 A **No.**
 18 Q Okay. So you didn't work with Kelly
 19 at the time she created this, right?
 20 A **No.**
 21 Q So this was prepared already -- Was it
 22 prepared by the time you arrived at the TTO?
 23 A **The original document, yes.**
 24 Q Okay. Terrific.

1 And this compares the information
 2 in Healy's handwritten notes to the information in
 3 the general ledger of the TTO, correct?
 4 A **That's my understanding.**
 5 Q Okay. And there's also this
 6 additional third point which goes back and looks at
 7 allocation percentages and adjusts Healy's numbers
 8 to reflect a further set of adjustments, correct?
 9 Maybe you can state it better
 10 than I can. So there's a direct comparison between
 11 Healy's numbers and the general ledger numbers in
 12 the first column here (indicating), right?
 13 A **Yes.**
 14 Q Okay. And then what's your
 15 understanding as to that middle column, "Additional
 16 Differences related to System Reports versus RH
 17 Figures Used"?
 18 A **I am not certain.**
 19 Q You don't know what that is?
 20 A **I don't.**
 21 Q And there's a \$97,000 difference, and
 22 you can't tell me what the basis of that is, can
 23 you?
 24 A **I cannot.**

1 Q Okay. Let me ask you this question:
 2 I understand -- So this \$1.5 million figure at the
 3 bottom right corresponds to the amount that's set
 4 forth in your current complaint --
 5 A **Okay.**
 6 Q -- correct? I mean, I'll tell you
 7 that it does.
 8 A **Okay.**
 9 Q Yes?
 10 A **Sure.**
 11 Q Okay. So my question is, is this
 12 \$1.5 million figure in Bradshaw Exhibit No. 3 -- is
 13 that the current position of the TTO as to the
 14 amount of overpaid interest to LT during the
 15 relevant time period, or has the TTO changed its
 16 position in any way since producing that document?
 17 A **I'm not aware of any changes.**
 18 Q Okay. And the TTO has retained an
 19 accounting expert in this case, correct?
 20 A **Correct.**
 21 Q And we don't have the report yet and
 22 that's not due yet.
 23 Do you know who the accountants
 24 are?

1 MR. KALTENBACH: I'm going to object.
 2 I think -- I think that's privileged information
 3 unless and until such time as we actually
 4 disclose -- make a disclosure of them.
 5 MR. HOFFMAN: So she doesn't have to
 6 tell -- You're not going to let her tell me, even
 7 if she knows, who the accountants are. It's
 8 privileged?
 9 MR. KALTENBACH: I mean, it would
 10 seem --
 11 MR. HOFFMAN: Is that a fact?
 12 MR. KALTENBACH: I think --
 13 MR. HOFFMAN: Do you have a retainer
 14 agreement?
 15 MR. KALTENBACH: I'm sure that we do.
 16 MR. HOFFMAN: I bet you do.
 17 BY MR. HOFFMAN:
 18 Q Do you know who -- Don't answer who.
 19 Don't tell me who.
 20 Do you know who the accountants
 21 are that the TTO has retained to serve as their
 22 experts in this case?
 23 A **Yes.**
 24 MR. HOFFMAN: So, Barry, are you

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1 instructing her not to answer if I ask who those
 2 people are?
 3 MR. KALTENBACH: It seems to me that
 4 that --
 5 MR. HOFFMAN: Just "yes" or "no";
 6 don't beat around the bush.
 7 MR. KALTENBACH: Jay, you know what?
 8 I don't casually instruct a witness not to answer.
 9 MR. HOFFMAN: Okay.
 10 MR. KALTENBACH: And so I'd like to
 11 flesh this out.
 12 MR. HOFFMAN: Fair enough.
 13 MR. KALTENBACH: It seems to me that
 14 that would be privileged information until the time
 15 comes that we disclose them.
 16 So do you disagree that that's
 17 privileged?
 18 MR. HOFFMAN: I'm not here to debate
 19 you. I just need a "yes" or "no."
 20 MR. KALTENBACH: I will instruct the
 21 witness not to answer on the basis that I think it
 22 may well be privileged, and counsel is not going to
 23 dispute me on that.
 24 MR. HOFFMAN: I don't agree with your

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1 position, but I'm not going to argue with you about
 2 it. That's not what we're here for.
 3 BY MR. HOFFMAN:
 4 Q Okay. So do you know -- So I'm just
 5 trying to get a feel for -- I've got a million and
 6 a half dollar claim stated in this document, and
 7 you've got an expert report coming.
 8 Do you have any knowledge as to
 9 whether the expert is engaged in any different type
 10 of analysis that might produce some kind of
 11 different number here such that I can ask you about
 12 it today, or is the expert just going to verify and
 13 support this?
 14 MR. KALTENBACH: I'm going to --
 15 Dr. Birkenmaier, I think that
 16 intrudes upon what is now privileged information.
 17 I think what the expert is doing and their
 18 conclusions will be put forth in a report that
 19 Mr. Hoffman will be served with.
 20 So I'm going to instruct you not
 21 to answer that question on the basis of privilege.
 22 BY MR. HOFFMAN:
 23 Q Okay. Are you aware that there
 24 were -- that in the course of doing this interest

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1 analysis that Ms. Bradshaw did that she encountered
 2 periods of time for which there was missing data?
 3 A Yes.
 4 Q Okay. And what is your understanding
 5 as to why the TTO's files were missing data
 6 relating to interest payments?
 7 A I don't know.
 8 Q And how much missing data was there;
 9 do you know?
 10 A I don't know.
 11 Q Okay. That's something Ms. Bradshaw
 12 would know.
 13 What did she do when she ran
 14 across quarters with no data?
 15 A I don't know.
 16 Q So I asked you before about other
 17 districts.
 18 Are you telling me that there's
 19 an analysis like the Bradshaw Exhibit No. 3
 20 analysis for District 204 that exists for the other
 21 districts there to check and make sure whether they
 22 didn't get too much or too little interest?
 23 A I don't know the level of detail for
 24 other districts.

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1 Q Okay. Because I've never seen
 2 anything; so I'm asking you what documentation
 3 exists with respect to any analyses the TTO
 4 conducted as to other districts and the interest
 5 amounts they received?
 6 A I don't know.
 7 (Whereupon, document
 8 tendered.)
 9 BY MR. HOFFMAN:
 10 Q Okay. Have you seen TTO Deposition
 11 Exhibit 20 before, please, Doctor?
 12 A I don't recall this.
 13 Q Okay. This was from the TTO files
 14 produced to us in this case.
 15 A Okay.
 16 Q It appears to be an analysis of taking
 17 the \$1.5 million that you claim LT got that was too
 18 much and then spreading it out over the other
 19 districts on a pro rata basis.
 20 Is that what this looks like to
 21 you?
 22 A It appears that way.
 23 Q Okay. And who did this? Who created
 24 this document; do you know?

1 **A I don't know.**
 2 Q Okay. And doesn't this document
 3 assume that all of the other districts got paid the
 4 right amount of interest in all of the years at
 5 issue?
 6 **A I don't know what assumptions**
 7 **were used to create this.**
 8 Q Okay. Well, did all of the other
 9 districts get paid the right amount of interest
 10 from 1995 through 2012 other than District 204?
 11 **A To the best of my knowledge, but I**
 12 **cannot say that with 100 percent certainty.**
 13 Q And when you say they got the right
 14 amount, is that based on Healy's handwritten notes,
 15 or is it based on some other source for determining
 16 how much interest the district should have
 17 received?
 18 **A I don't know.**
 19 Q So you just -- Somebody at some point
 20 just told you that everything was fine with the
 21 other districts other than District 204 with
 22 respect to interest payments, right?
 23 **A Generally, yes.**
 24 Q Okay. And who told you that?

1 **A Kelly.**
 2 Q Okay. When?
 3 **A I couldn't tell you. It was early on**
 4 **in my time there, but I could not be specific about**
 5 **a date.**
 6 Q Somewhere in the 2013 to 2014 range?
 7 **A I would say probably yes.**
 8 Q Okay.
 9 **A More like 2014.**
 10 Q Okay. I have no more questions.
 11 MR. KALTENBACH: I just have a few.
 12 EXAMINATION
 13 By Mr. Kaltenbach:
 14
 15 Q Dr. Birkenmaier, do you recall --
 16 First of all, is it fair to say that part of your
 17 preparation for today's deposition also included
 18 knowledge you gained without necessarily being
 19 knowledge specifically to prepare yourself for
 20 today?
 21 MR. HOFFMAN: Objection. Leading.
 22 BY THE WITNESS:
 23 **A I was going to say you have to say**
 24 **that again.**

1 BY MR. KALTENBACH:
 2 Q You have a body of knowledge
 3 concerning a lot of the issues we've discussed,
 4 correct?
 5 **A Yes.**
 6 Q Is all of that derived solely from
 7 your preparation to testify today?
 8 **A No.**
 9 Q Okay. In connection with your
 10 preparation today, do you recall if you reviewed
 11 the complaint that the Township Trustees filed
 12 against Robert Healy?
 13 **A Yes.**
 14 Q Okay. Do you recall if you reviewed a
 15 copy of the judgment that was entered against
 16 Robert Healy?
 17 **A Yes.**
 18 Q Do you recall the document showing how
 19 much was recovered from Bob Healy's bank account?
 20 **A I didn't see a specific document other**
 21 **than what was in the -- in the claim.**
 22 Q Okay. Do you --
 23 MR. HOFFMAN: I'd like to see that. I
 24 haven't -- By the way, if you're going to talk

1 about money recovered from his bank account, I
 2 haven't -- I don't believe I've seen that.
 3 MR. KALTENBACH: That was the 497 she
 4 mentioned.
 5 MR. HOFFMAN: Yeah; I know. I haven't
 6 seen any documentation on that that I know of, if
 7 it was produced. I just went back through the
 8 documents.
 9 MR. KALTENBACH: I mean, it's in the
 10 court file somewhere.
 11 BY THE WITNESS:
 12 **A I haven't seen a document. I've just**
 13 **seen it referred to.**
 14 MR. HOFFMAN: I'm just saying, you're
 15 talking about it here. It wasn't produced in the
 16 case. It sounds like it's something you have at
 17 your fingertips. I'm asking you for it.
 18 BY MR. KALTENBACH:
 19 Q Dr. Birkenmaier, I believe you
 20 testified that you personally pulled and reviewed
 21 financial records regarding the TTO's payment of
 22 audits for member districts.
 23 Do you recall that?
 24 **A Yes.**

1 Q And was it your testimony that those
 2 records reflected that the TTO paid for the audits
 3 of District 204?
 4 A Yes.
 5 Q Okay. And by "paid for," I don't mean
 6 processed checks. I mean, the money was actually
 7 paid out of the TTO's operating account.
 8 A Yes.
 9 Q Okay. So with that knowledge, your
 10 answer remains yes, correct?
 11 A Yes, yes.
 12 Q And I believe you also testified
 13 regarding your review of financial records as to
 14 whether or not the TTO paid for the audits of other
 15 districts other than 204.
 16 Do you recall that testimony?
 17 A I do recall that, yes.
 18 Q And the summary -- or your testimony
 19 was that the TTO did not pay for the audits of
 20 other districts, correct?
 21 A Correct.
 22 Q Okay. The TTO did process checks for
 23 payment --
 24 A Yes.

1 Q -- of the audits --
 2 A Yes.
 3 Q -- of other districts, correct?
 4 A Yes.
 5 Q Okay. I'm going to show you what had
 6 been marked as Exhibit No. 5, which is an
 7 April 29th, 1999 letter to Dr. Beckwith from
 8 Bob Healy.
 9 Do you recall looking at this?
 10 A I do.
 11 Q And you've seen this both today, and
 12 you've seen this before today --
 13 A Yes.
 14 Q -- correct?
 15 A Yes.
 16 Q Okay. And on the top of the sixth
 17 page, Mr. Healy writes a couple sentences under the
 18 heading "Annual Audit."
 19 Do you recall looking at those
 20 earlier today?
 21 A I do.
 22 Q Could you read that first sentence,
 23 please, out loud?
 24 A Sure. "The trustees hire and pay for

1 the audit of the school districts and the
 2 Treasurer's office in Lyons Township."
 3 Q Do you recall Mr. Hoffman asking you a
 4 question about whether you had any reason to doubt
 5 whether that sentence was accurate or not?
 6 A I do.
 7 Q Okay. And do you recall what your
 8 response was?
 9 A I believe I said I didn't.
 10 Q Okay.
 11 A Now that I'm looking at this again,
 12 I'm concerned with the structure of the sentence.
 13 Q Can you explain what your concern is?
 14 A Sure. "The trustees hire and pay for
 15 the audit of the school districts." Okay.
 16 So the treasurer hired the
 17 auditor, they processed the payment, but the actual
 18 pay -- where they paid the cash for the audit would
 19 apply only to LT, not the other districts.
 20 So the second sentence, "This
 21 office has assumed the cost of Lyons Township High
 22 School's audit," that is correct, but this -- the
 23 way this sentence, now that I see it, is packed
 24 it's both true and not true.

1 Q Okay. Because --
 2 A Because the Township -- I'm sorry.
 3 Q Because the Township did pay for the
 4 cost of 204's audit, so it paid for one of the
 5 districts, correct?
 6 MR. HOFFMAN: Objection. Leading.
 7 BY MR. KALTENBACH:
 8 Q You can answer the question.
 9 A Okay. Yes, based on -- The second
 10 statement here in this paragraph is true; but the
 11 first statement, the hiring of the auditors for for
 12 the school districts collectively is correct. The
 13 payment of the audit, we pay -- we process the
 14 payment of all of the audits, but we actually paid
 15 cash for LT's audit. I'm sorry I didn't catch that
 16 before.
 17 Q And you did not pay cash for the
 18 payment of the other districts other than LT,
 19 correct?
 20 A No. And that was the documents that I
 21 downloaded that we looked at earlier.
 22 Q And that you testified you personally
 23 reviewed those?
 24 A Yes.

1 Q Okay. Thank you. I have no further
 2 questions.
 3 MR. HOFFMAN: Okay. We're done.
 4 THE WITNESS: Okay.
 5 THE REPORTER: Signature?
 6 MR. KALTENBACH: We'll reserve.
 7 I'll talk to you about what that
 8 means.
 9 THE WITNESS: Okay.
 10 MR. HOFFMAN: It means you can read it
 11 later and see whether your answers were written
 12 down correctly by this young lady.
 13 THE WITNESS: Okay.
 14 THE REPORTER: Are you ordering the
 15 transcript?
 16 MR. HOFFMAN: Yes. I'm going to get a
 17 ptx and a mini pdf.
 18 MR. KALTENBACH: What's the -- I'll
 19 do just a pdf.
 20 What's the turnaround you're
 21 going to do on that?
 22 THE REPORTER: Regular delivery is in
 23 ten business days.
 24 MR. KALTENBACH: We'll expedite it.

1 THE REPORTER: When do you need it; a
 2 week or sooner than that?
 3 MR. KALTENBACH: If you can do a week
 4 from today, that's fine.
 5 THE REPORTER: Okay.
 6
 7 (FURTHER DEPONENT SAITH NOT.)
 8
 9 (Deposition concluded at
 10 3:03 p.m.)
 11
 12
 13
 14
 15
 16 * * * * *
 17
 18
 19
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 21
 22
 23
 24

1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF C O O K)
 3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT - CHANCERY DIVISION
 4
 TOWNSHIP TRUSTEES OF SCHOOLS)
 5 TOWNSHIP 38 NORTH, RANGE 12 EAST)
)
 6 Plaintiff,)
)
 7 -vs-) No. 13 CH 23386
)
 8 LYONS TOWNSHIP HIGH SCHOOL,) Hon. Sophia H. Hall
 DISTRICT 204,)
 9)
 Defendants.)
 10)
 11)
 12 I, DR. SUSAN BIRKENMAIER, being first
 13 duly sworn, on oath, say that I am the deponent in
 14 the aforesaid deposition, that I have read the
 15 foregoing transcript of my deposition, consisting
 16 of Pages 1 through 246, taken on February 27, 2017,
 17 at the aforesaid place and that the foregoing is a
 18 true and correct transcript of my testimony so
 19 given.
 20
 DR. SUSAN BIRKENMAIER
 21
 SUBSCRIBED AND SWORN TO
 22 before me this day
 of , A.D., 2017.
 23
 24 Notary Public

1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF C O O K)
 3 I, KELLY ANN POTTS, Certified Shorthand
 4 Reporter in and for the County of Cook, State of
 5 Illinois, do hereby certify that on
 6 February 27, 2017, discovery deposition of DR.
 7 SUSAN BIRKENMAIER and the discovery deposition of
 8 the Plaintiff pursuant to a Rule 206(a)(1) Notice,
 9 was taken before me, reported stenographically and
 10 was thereafter reduced to typewriting under my
 11 direction.
 12 The said deposition was taken at
 13 20 North Clark Street, Suite 2500, Chicago,
 14 Illinois, and there were present counsel as
 15 previously set forth.
 16 The said witness, DR. SUSAN BIRKENMAIER,
 17 was first duly sworn to tell the truth, the whole
 18 truth, and nothing but the truth, and was then
 19 examined upon oral interrogatories.
 20 I further certify that the foregoing is
 21 a true, accurate, and complete record of the
 22 questions asked of and answers made by said
 23 witness, DR. SUSAN BIRKENMAIER, at the time and
 24 place hereinabove referred to.

1 The signature of the witness, DR. SUSAN
2 BIRKENMAIER, was reserved by agreement of the
3 parties.

4 The undersigned is not interested in the
5 within case, nor of kin or counsel to any of the
6 parties.

7 WHEREUPON, I set my hand pursuant to the
8 Illinois Shorthand Reporters Act of 1984 on this
9 6th day of March, A.D., 2017.

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KELLY ANN POTTS, CSR
CSR No. 084-003558

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)

Defendants)

No. 13 CH 23386

Judge Sophia H. Hall
Calendar 14

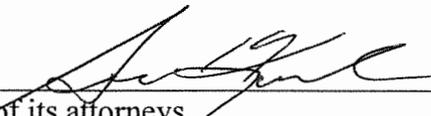
NOTICE OF FILING

TO: Charles A. LeMoine
Rosa M. Tumialán
Stephen M. Mahieu
Dykema Gossett PLLC
10 S. Wacker Drive, Suite 2300
Chicago, IL 60606

PLEASE TAKE NOTICE that on October 24, 2014, I have filed with the Clerk of the Circuit Court of Cook County, Illinois, the following: **Verified Amended Complaint for Declaratory Relief**, a copy of which is hereby attached and served on you.

Respectfully submitted,

TOWNSHIP TRUSTEES OF SCHOOLS
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: 
One of its attorneys.

Gerald E. Kubasiak
Barry P. Kaltenbach
Gretchen M. Kubasiak
KUBASIAK, FYLSTRA, THORPE & ROTUNNO, P.C.
20 South Clark Street, 29th Floor
Chicago, Illinois 60603
(312) 630-9600 (Phone)
(312) 630-7939 (Fax)
Firm No. 48237

EXHIBIT 7

FILED DATE: 7/29/2019 2:05 PM 2013CH23386

PROOF OF SERVICE

The undersigned, an attorney, certifies that copies of the following documents:

Verified Amended Complaint for Declaratory Relief

has been served upon:

Charles A. LeMoine
clemoine@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

as follows:

- by personal service on October 24, 2014 before 4:00 p.m.
- by U.S. mail, by placing the same in an envelope addressed to them at the above address with proper postage prepaid and depositing the same in the U.S. Postal Service collection box at 20 S. Clark Street, Chicago, Illinois, on October 24, 2014 before 4:00 p.m.
- by facsimile transmission from 20 S. Clark Street, Suite 2900, Chicago, Illinois to the [above stated fax number/their respective fax numbers] from my facsimile number (312) 630-7939, consisting of ____ pages on October 24, 2014 before 4:00 p.m., the served [party/parties] having consented to such service.
- by Federal Express or other similar commercial carrier by depositing the same in the carrier's pick-up box or drop off with the carrier's designated contractor on October 24, 2014 before the pickup/drop-off deadline for next-day delivery, enclosed in a package, plainly addressed to the above identified individual[s] at [his/her/their] above-stated address[es], with the delivery charge fully prepaid.
- by _____, on October 24, 2014 before 4:00 p.m., the served [party/parties] having consented to such service.



Gerald E. Kubasiak, attorney

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. 13 CH 23386

Hon. Sophia H. Hall
Calendar 14

VERIFIED AMENDED COMPLAINT FOR DECLARATORY RELIEF

Plaintiff, Township Trustees of Schools Township 38 North, Range 12 East, by its undersigned counsel, KUBASIAK, FYLSTRA, THORPE & ROTUNNO, P.C., for its Verified Amended Complaint for Declaratory Relief against the defendant, Lyons Township High School District No. 204, states as follows:

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.

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.

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.

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.

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.

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.

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

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

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.

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.”

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.

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

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.”

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.

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.

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”

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.

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.

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.

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.

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.

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.

**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.

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."

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."

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.

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.

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.

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.

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

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.

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.

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.

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.

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.

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.

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.

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.”

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.”

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.

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

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.

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

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.

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.

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.

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.

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.

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.

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.

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

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.

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.

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.

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

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.

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.

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.

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.

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.

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 Section 8-4 of the School Code, District 204 is required to pay its *pro rata* share of the Treasurer's compensation and expenses;

B. Between 2000 and 2013, District 204 has failed to pay its *pro rata* share of the Treasurer's compensation and expenses as required by Section 8-4 of the School Code; District 204's unpaid share of its *pro rata* share of the Treasurer's compensation and expenses for fiscal years 2000 through 2013 is \$2,628,807, or such other amount as may be proven at trial;

C. The Township Trustees are authorized to have the Treasurer debit \$2,628,807, or such other amount as may be proven at trial, from an Agency Account holding funds allocable to

District 204, or from funds otherwise allocated to District 204, in payment of District 204's *pro rata* share of the Treasurer's compensation and expenses incurred during fiscal years 2000 through 2013;

D. In the fiscal years 1995 through 2012, District 204 was erroneously allocated \$1,574,636.77, or such other amount as may be proven at trial, of interest on investments to which it was not entitled

E. The Township Trustees are authorized to reallocate the \$1,574,636.77 erroneously allocated to District 204 and properly allocate that sum amongst the districts;

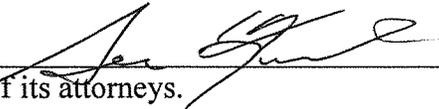
F. District 204 is obligated to pay \$511,068.60, or such other amount as may be proven at trial, in audit expenses that were incurred by the audits that District 204 performed and that was paid by the Treasurer from the Treasurer's General Fund;

G. The Township Trustees are authorized to have the Treasurer debit \$511,068.60, or such other amount as may be proven at trial, from an Agency Account holding funds allocable to District 204, or from funds otherwise allocated to District 204, in payment of District 204's audit expenses; and

H. Such other findings as may be equitable and appropriate.

Respectfully submitted,

TOWNSHIP TRUSTEES OF SCHOOLS
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: 
One of its attorneys.

Gerald E. Kubasiak
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(312) 630-9600 (Phone)
(312) 630-7939 (Facsimile)
Firm No. 48237
Service by e-mail will be accepted.

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: 10-21-14

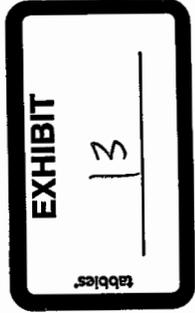


Michael Thiessen, on behalf of Plaintiff

VENDOR DETAIL
WILLIAM F. GURRIE
VIRCHOW KRAUSE
BAKER TILLY VIRCHOW KRAUSE
FISCAL 1994-2012

ACCOUNT NUMBER	CHECK DATE	DESCRIPTION	TYPE	CHECK NO	AMOUNT	INV DATE	INV NUMBER	204 BILL	INV COPY
1-2520-317-0-0	7/1/1993	BUSINESS SER ANNUAL AUDI	E	73619	1,475.00	5/31/1993	DIST. 204	204	GL
1-2520-317-0-0	7/1/1993	BUSINESS SER ANNUAL AUDI	E	73619	1,205.00	3/31/1993	DIST. 204	204	GL
1-2520-317-0-0	11/15/1993	BUSINESS SER ANNUAL AUDI	E	82813	2,970.00	10/31/1993	DIST. 204	204	GL
1-2520-317-0-0	12/15/1993	BUSINESS SER ANNUAL AUDI	E	91175	1,250.00	11/30/1993	DIST.204	204	GL
1-2520-317-0-0	2/7/1994	PROF SERVICES # 204	C	86028	1,540.00			204	GL
1-2520-317-0-0	4/15/1994	DIST 204	E	90298	4,285.00	3/31/1994		204	GL
1-2520-317-0-0	5/13/1994	DIST 204 BALANCING	E	94599	2,343.00	4/30/1994	DIST 204	204	GL
1-2520-317-0-0	6/15/1994	BUSINESS SER ANNUAL AUDI	E	96496	989.00	5/31/1994	DIST. 204	204	GL
1-2520-318-0-0	6/30/1994	BUSINESS SER LEGAL SERV	E	97924	73.00	4/30/1994	DIST #204	204	GL
1-0000-000-0-0	6/30/1994	REIMB AUDIT EXP	M	JE	15,715.00	6/27/1994		204	YES
1-2520-318-0-0	8/31/1994	BUSINESS SER LEGAL SERV	E	101494	441.00	6/30/1994	DIST 204	204	GL
1-2520-317-0-0	9/30/1994	BUSINESS SER ANNUAL AUDI	E	104232	8,700.00	8/31/1994	DIST. 204	204	GL
1-2520-318-0-0	1/31/1995	BUSINESS SER LEGAL SERV	E	113456	290.00	12/31/1994	SOC SEC #204	204	GL
1-2520-317-0-0	4/12/1995	FLEX & SCHLRSHP	E	119940	75.00	3/28/1995	204	204	GL
1-2520-317-0-0	8/11/1995	FORM 5500-CR	E	127635	350.00	7/21/1995	DIST 204	204	GL
1-2520-317-0-0	8/11/1995	SCHOOL LEVY/TAX CAP	E	127635	160.00	6/30/1995	DIST 204	204	GL
1-2520-317-0-0	9/15/1995	BUSINESS SERANNUAL AUDI	E	129585	7,500.00	8/31/1995	DIST 204	204	GL
1-2520-317-0-0	11/30/1995	BUSINESS SERANNUAL AUDI	E	136511	2,500.00	10/31/1995	DIST 204	204	GL
1-2520-317-0-0	11/30/1995	BUSINESS SERANNUAL AUDI	E	136511	1,500.00	9/30/1995	DIST 204	204	GL
1-2520-318-0-0	12/11/1995	BUSINESS SERLEGAL SERV	E	136567	430.00	10/31/1995	DIST 204	204	GL
1-2520-317-0-0	6/28/1996	BUSINESS SERANNUAL AUDI	E	151793	4,800.00	5/31/1996	DIST 204	204	GL
1-2520-317-0-0	7/15/1996	BUSINESS SERANNUAL AUDI	E	152370	7,200.00	6/30/1996	DIST 204	204	GL
1-2520-317-0-0	10/11/1996	BUSINESS SERANNUAL AUDI	E	158295	1,600.00	9/30/1996	DIST 204	204	GL
1-2520-317-0-0	10/31/1996	BUSINESS SERANNUAL AUDI	E	160108	7,000.00	8/31/1996	DIST. 204	204	GL
1-2520-317-0-0	11/14/1997	BUSINESS SERANNUAL AUDI	E	188826	6,150.00	10/31/1997		204	YES
1-2520-317-0-0	1/7/1998	BUSINESS SERANNUAL AUDI	E	193313	3,150.00	12/31/1997	DIST 204	204	YES
1-2520-317-0-0	7/22/1998	BUSINESS SERANNUAL AUDI	E	13405	5,200.00	7/10/1998	DIST 204	204	YES
1-2520-318-0-0	11/30/1998	BUSINESS SERLEGAL SERV	E	24092	4,000.00	10/31/1998	DIST 204	204	YES
1-2520-318-0-0	12/11/1998	BUSINESS SERLEGAL SERV	E	24913	4,000.00	11/30/1998	Jun-98	204	YES
1-2520-318-0-0	1/15/1999	AUDITS DIST 204	E	26891	1,200.00	12/31/1998	EOY JUNE 98	204	YES

EXHIBIT 8



FILED DATE: 7/29/2019 2:05 PM 2013CH23386

ACCOUNT NUMBER	CHECK DATE	DESCRIPTION	TYPE	CHECK NO	AMOUNT	INV DATE	INV NUMBER	204 BILL	INV COPY
1-2520-317-0-0	7/15/1999	BUSINESS SERANNUAL AUDI	E	41029	2,475.00	6/30/1999	DIST 204	204	YES
1-2520-317-0-0	7/30/1999	BUSINESS SERANNUAL AUDI	E	42139	4,450.00	7/20/1999	DIST 204	204	YES
1-2520-317-0-0	9/15/1999	BUSINESS SERANNUAL AUDI	E	44411	6,000.00	9/3/1999	AUDIT 6/99	204	YES
1-2520-317-0-0	10/29/1999	BUSINESS SERANNUAL AUDI	E	49743	4,105.00	10/12/1999	204 JUNE 99	204	YES
1-2520-317-0-0	11/10/1999	BUSINESS SERANNUAL AUDI	E	49927	1,431.00	10/29/1999	YR END D204	204	YES
1-2520-317-0-0	4/28/2000	AUDIT DIST 204	E	63508	172.70	4/11/2000	550	204	YES
1-2520-317-0-0	4/28/2000	AUDIT DIST 204	E	63508	936.25	1/31/2000	47	204	YES
1-2520-317-0-0	5/15/2000	DIST 204	E	63940	5,762.00	5/4/2000	702	204	YES
1-2520-317-0-0	8/30/2000	AUDIT DIST 204	E	71994	3,880.00	8/15/2000	1116	204	YES
1-2520-317-0-0	10/13/2000	AUDIT DIST 204	E	75155	3,500.00	10/3/2000	1303	204	YES
1-2520-317-0-0	11/15/2000	AUDIT DIST 204	E	78213	4,000.00	11/2/2000	1411	204	YES
1-2520-317-0-0	4/30/2001	AUDIT DIST 204	E	15652	3,000.00	4/11/2001	2386	204	YES
1-2520-317-0-0	7/16/2001	AUDIT DIST 204	E	21778	5,000.00	7/5/2001	2853	204	YES
1-2520-317-0-0	9/28/2001	AUDIT FOR DISTRICT #204	E	27284	4,400.00	9/19/2001	3180	204	YES
1-2520-317-0-0	9/28/2001	CONVERSION OF GASB 34/#204	E	27284	2,500.00	7/18/2001	2906	204	YES
1-2520-317-0-0	9/28/2001	CASH BASIS MODIFIED ACCRUAL #204	E	27284	4,900.00	7/18/2001	2906	204	YES
1-2520-317-0-0	7/15/2002	SD #204 ACCRUAL BASIS ACCT 6/30/02	E	1991	1,750.00	7/15/2002	5024	204	YES
1-2520-317-0-0	7/15/2005	LTHS YR ENDING 6/30/05	E	92513	6,500.00	6/30/2005	11215	204	YES
1-2520-317-0-0	10/15/2002	AUDIT YEAR ENDED 6/30/02 #12040	E	8059	11,600.00	10/3/2002	5489	204	YES
1-2520-317-0-0	10/31/2002	YEAR END 6/30/02 CLIENT 12040	E	10900	4,200.00	10/18/2002	5547	204	YES
1-2520-317-0-0	1/15/2003	CONVERSION OF GASB 34 REPORTING MODEL	E	16591	593.75	12/20/2002	5855	204	YES
1-2520-317-0-0	9/30/2005	SD #204 YR ENDING 6/30/05	E	98006	8,000.00	6/16/2005	11615	204	YES
1-2520-317-0-0	10/31/2005	SD #204 YR ENDING 6/30/05	E	100678	12,300.00	10/17/2005	11714	204	YES
1-2520-317-0-0	11/30/2005	SD #204 YR ENDING 6/30/05	E	103089	6,500.00	11/15/2005	11898	204	YES
1-2520-317-0-0	1/13/2006	SD #204 YR ENDING 6/30/05	E	106478	3,448.69	12/23/2005	12155	204	YES
1-2520-317-0-0	2/15/2006	YR ENDING 6/30/04 FOR SD #204	E	109087	1,017.50	1/31/2006	12422	204	YES
1-2520-317-0-0	6/15/2006	AUDIT FOR SD #204 6/30/06	E	118129	7,500.00	5/31/2006	13152	204	YES
1-2520-317-0-0	7/14/2006	SD #204 AUDIT 6/30/06	E	120731	4,120.00	6/23/2006	VK187966	204	YES
1-2520-317-0-0	8/30/2006	SERVICES FOR 6/30/06 AUDIT	E	123698	17,855.00	8/21/2006	VK194698	204	YES
1-2520-317-0-0	8/30/2006	SERVICES FOR 6/30/06 AUDIT	E	123698	11,695.00	8/24/2006	VK195240	204	YES
1-2520-317-0-0	9/29/2006	AUDIT 6/30/06 FOR DIST. 204	E	126472	4,255.00	9/20/2006	VK198739	204	YES
1-2520-317-0-0	3/15/2007	SD #204 YR END 6/30/06	E	12967	3,510.00	2/23/2007	VK222390	204	YES
1-2520-317-0-0	4/16/2007	AUDIT FOR 6/30/06	E	14979	2,295.00	3/28/2007	VK231123	204	YES
1-2520-317-0-0	5/15/2007	SD #204 6/30/07 AUDIT	E	17295	317.50	4/27/2007	VK245219	204	YES
1-2520-317-0-0	7/16/2007	LTHS 204 AUDIT FOR 6/30/07	E	22211	10,950.00	6/29/2007	VK261182	204	YES
1-2520-317-0-0	9/13/2007	AUDIT FOR 6/30/07	E	25736	1,250.00	8/29/2007	VK268304	204	YES
1-2520-317-0-0	10/30/2007	AUDIT FOR SD #204 6/30/07	E	30328	19,990.00	10/30/2007	VK274450	204	YES

ACCOUNT NUMBER	CHECK DATE	DESCRIPTION	TYPE	CHECK NO	AMOUNT	INV DATE	INV NUMBER	204 BILL	INV COPY
1-2520-317-0-0	10/30/2007	SD #204 AUDIT SERVICES	E	30328	10,445.00	10/25/2007	VK275728	204	YES
1-2520-317-0-0	11/30/2007	AUDIT FOR 6/30/07	E	32980	3,910.00	11/15/2007	VK280894	204	YES
1-2520-317-0-0	12/28/2007	AUDIT FOR 6/30/07	E	37263	5,985.00	12/21/2007	VK284839	204	YES
1-2520-317-0-0	2/14/2008	FINAL BILL FOR AUDIT 6/30/07	E	13061	485.00	1/31/2008	VK291691	204	YES
1-2520-317-0-0	5/9/2008	TIME & EXPENSE FOR #204 MEETING	E	19524	855.10	4/29/2008	VK317005	204	YES
1-2520-317-0-0	6/13/2008	SD #204 AUDITED ENDING 5/31/08	E	22713	1,930.00	5/28/2006	VK325962	204	YES
1-2520-317-0-0	7/15/2008	2ND BILL FOR 2008 AUDIT	E	25092	9,000.00	6/30/2008	VK331461	204	YES
1-2520-317-0-0	8/15/2008	2008 AUDITED FINANCIAL STMTS	E	26623	7,900.00	7/31/2008	VK335759	204	YES
1-2520-317-0-0	10/15/2008	AD #204 AUDIT FOR 6/30/08	E	31249	11,872.76	9/30/2008	VK343587	204	YES
1-2520-317-0-0	11/14/2008	SERVICES ENDING 10/31/08	E	34305	8,942.44	10/29/2008	VK347810	204	YES
1-2520-317-0-0	12/15/2008	SD #204 AUDIT 11/30/08	E	36609	5,654.80	11/25/2008	VK353915	204	YES
1-2520-317-0-0	1/6/2009	AUDIT FOR 12/31/08	E	37974	5,267.55	12/22/2008	VK356942	204	YES
1-2520-317-0-0	3/13/2009	AUDIT ENDING 2/28/09	E	43064	1,050.00	2/26/2009	VK368671	204	YES
1-2520-317-0-0	8/17/2009	AUDIT FOR 6/30/09 ENDING 7/31/09	E	54389	8,500.00	7/28/2009	BT406802	204	YES
1-2520-317-0-0	9/15/2009	SD #204 PERIOD ENDING 8/31/09	E	56338	6,500.00	9/1/2009	BT412949	204	YES
1-2520-317-0-0	10/14/2009	AUDIT ENDING 9/30/09 FOR JUNE	E	58632	22,000.00	9/28/2009	BT414879	204	YES
1-2520-317-0-0	11/13/2009	AUDIT FOR 10/31/09	E	61513	10,000.00	10/28/2009	BT420286	204	YES
1-2520-317-0-0	12/15/2009	AUDIT FOR PERIOD ENDING 11/30/09	E	64026	4,000.00	12/15/2009	BT424391	204	YES
1-2520-317-0-0	1/5/2010	AUDIT ENDING 12/	E	65070	1,500.00	12/29/2009	BT428814	204	YES
1-2520-317-0-0	5/28/2010	AUDIT SD #204 ENDING 4/30/10	E	75778	7,000.00	4/27/2010	BT455209	204	YES
1-2520-317-204-0	10/15/2010	AUDIT ENDING 9/30/10 FOR 6/30/10	E	85599	23,500.00	9/29/2010	BT482616	204	YES
1-2520-317-204-0	11/16/2010	SD #204 AUDIT ENDING 10/31/10	E	88601	2,000.00	10/29/2010	BT489027	204	YES
1-2520-317-204-0	12/14/2010	SD #204 AUDIT ENDING 11/30/10	E	126632	5,000.00	11/29/2010	BT492203	204	YES
1-2520-317-204-0	1/4/2011	AUDIT ENDING 12/18/10 SD #204	E	127733	3,625.00	12/22/2010	BT495134	204	YES
1-2520-317-204-0	2/15/2011	AUDIT ENDING 1/31/11 FOR 6/30/10	E	130609	750.00	1/28/2011	BT500082	204	YES
1-2520-317-204-0	3/15/2011	AUDIT FOR SD #204 ENDING 2/28/11	E	132615	395.56	2/25/2011	BT505086	204	YES
1-2520-317-204-0	7/15/2011	SD #204 AUDIT ENDING FOR 6/30/11	E	141908	6,700.00	7/15/2011	BT535498	204	YES
1-2520-317-0-0	11/15/2011	PROFESSIONAL SERV 10-31 THRU 6-30-	E	150247	29,800.00	10/28/2011	BT551560	204	YES
1-2520-317-0-0	1/13/2012	BUSINESS SERAUDIT WORK TTO	E	3635	2,500.00	12/22/2011	BT560281	204	YES
1-2520-317-0-0	6/12/2012	AUDIT WORK TTO	E	13933	9,750.00	5/22/2012	BT596768	204	YES

511,068.60

District 204
Interest Allocation Analysis
Summary of Differences by Fiscal Year

Fiscal Year	RH Calculation vs General Ledger +/- \$1,000 per Quarter
FY1995	5,000.34
FY1996	
FY1997	44,903.13
FY1998	(95,052.36)
FY1999	
FY2000	2,499.65
FY2001	
FY2002	
FY2003	
FY2004	
FY2005	127,611.74
FY2006	420,744.00
FY2007	827,163.47
FY2008	127,863.26
FY2009	246,711.45
FY2010	
FY2011	(240,001.56)
FY2012	(40,001.08)
	<u>\$ 1,427,442.04</u>

EXHIBIT 9



Lyons Township Trustees of Schools
Interest Allocation
Compare System Reports to GL and RH calculations
Selected quarters with no missing data

Summary fund balance report

District	Fiscal Year	Date	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z			
			204 FB per RH	Total Avg FB	Percent	FB per Reports	Total Avg FB per Reports	Percent based on Reports	Income	Calculated Interest Allocation	Calculated Interest Allocation per Reports	Allocation per TTD GL	Difference RH to TTD GL	Difference Reports to TTD GL	Combinative GL Diff	Difference District FB	Difference Total Avg FB														
204	FY2008	1/31/2008	27,275,390	138,360,794	19.71%	27,275,390	138,362,390	19.71%	1,000,000	197,132.36	197,130.09	197,855.00	722.64	724.91			(1,595.60)														
204	FY2009	6/30/2009	42,768,413	199,101,607	21.48%	42,768,413	199,475,079	21.44%	1,800,000	386,652.55	385,928.62	693,364.00	246,711.45	247,435.38			(9,540.93)														
204	FY2009	1/31/2009	34,416,572	171,141,749	20.10%	34,416,573	171,218,888	20.10%	750,000	150,824.85	150,756.90	150,846.00	21.15	89.10			(77,139.22)														
204	FY2010	6/30/2010	50,973,820	255,890,334	19.92%	50,973,820	255,890,530	19.92%	1,750,000	348,603.18	348,602.92	348,602.00	(0.26)	(0.26)			(196.18)														
204	FY2010	1/31/2010	28,887,593	144,200,754	20.03%	28,887,593	144,096,283	20.03%	750,000	150,246.75	150,355.68	150,247.00	0.25	(108.68)			(108.68)														
204	FY2011	6/30/2011	48,216,829	257,109,900	18.74%	48,216,829	257,129,906	18.74%	4,000,000	765,012.86	764,952.16	565,012.00	(200,000.86)	(199,940.16)			(20,000.16)														
204	FY2011	1/31/2011	24,795,502	160,926,622	15.40%	24,795,502	160,926,627	15.40%	500,000	77,039.78	77,039.78	77,040.00	0.22	0.22			(0.22)														
204	FY2012	6/30/2012	48,277,595	240,031,526	20.11%	48,277,596	241,103,133	20.02%	1,750,000	351,977.89	350,413.50	336,977.00	(15,000.89)	(13,436.50)			(1,071,606.82)														
204	FY2012	1/31/2012	36,050,979	196,957,796	18.33%	36,050,979	197,720,433	18.23%	750,000	137,279.33	136,749.82	137,279.00	(0.39)	529.18			(762,637.48)														
204	FY2012	10/31/2012	30,555,222	185,940,608	16.44%	30,555,222	185,940,608	16.44%	750,000	123,674.88	123,674.87	123,645.00	0.12	0.15			(7,751.75)														
															97,070.12																

\$ 206,468,890.98
 \$ 34,098,428.16

Lyons Township Trustees of Schools
 Interest Allocation
 Compare RH calculation to General Ledger
 Selected quarters with +/- \$1,000 difference

District	Fiscal Year	Date	FB per RH	Total Avg FB	Percent	Income	Calculated Interest Allocation	Allocation per TIO GL	Difference	Comments	if then #1	if then #2
204	FY1995	4/30/1995	26,166.716	97,676.882	26.90%	950,000	255,566.87	260,577.00	5,000.13		1	FALSE
204	FY1997	6/30/1997	28,440,940	135,711,903	20.957%	3,750,000	785,881.87	830,785.00	44,903.13		1	FALSE
204	FY1998	6/30/1998	38,626,585	154,228,090	25.045%	4,000,000	1,001,804.15	1,003,907.00	2,102.85		1	FALSE
204	FY1998	4/30/1998	34,917,593	158,222,988	25.233%	1,500,000	379,732.32	383,927.00	4,194.68		1	FALSE
204	FY1998	1/31/1998	40,930,769	148,975,942	27.475%	2,250,000	618,181.90	516,352.00	(101,829.90)		1	FALSE
204	FY2000	6/30/2000	39,255,271	169,505,904	23.159%	3,000,000	694,759.35	697,259.00	2,499.65		1	FALSE
204	FY2005	6/30/2005	29,374,456	119,618,372	24.557%	2,400,000	589,363.43	774,496.55	185,133.12		1	FALSE
204	FY2005	1/30/2005	47,410,948	164,329,365	28.869%	750,000	216,517.97	231,112.00	17,594.03		1	FALSE
204	FY2005	1/31/2005	38,665,241	139,691,395	27.679%	750,000	207,592.82	213,805.00	6,212.18		1	FALSE
204	FY2006	6/30/2006	43,210,459	179,765,988	24.037%	1,700,000	408,639.97	567,439.00	128,819.03		1	FALSE
204	FY2006	7/31/2006	N/A	N/A	N/A	-	-	260,422.00	260,422.00		1	FALSE
204	FY2007	4/30/2007	35,317,232	165,502,907	21.339%	1,500,000	320,020.32	445,090.32	125,000.00		1	FALSE
204	FY2007	1/31/2007	40,046,346	184,912,943	21.657%	1,000,000	216,568.65	341,568.00	124,999.35		1	FALSE
204	FY2007	10/31/2006	37,532,750	177,013,804	21.215%	1,000,000	212,145.98	337,121.00	124,999.02		1	FALSE
204	FY2007	7/31/2006	no data	no data	no data	-	-	452,165.00	452,165.00		1	FALSE
204	FY2008	4/30/2008	33,532,277	161,082,033	21.001%	1,210,000	264,136.73	292,000.00	27,863.27		1	FALSE
204	FY2008	11/30/2007	29,343,382	140,710,301	20.832%	1,000,000	208,557.55	308,557.55	100,000.00		1	FALSE
204	FY2009	6/30/2009	42,768,413	199,101,607	21.481%	1,800,000	386,652.55	633,364.00	246,711.45		1	FALSE
204	FY2011	6/30/2011	48,216,829	252,109,900	19.125%	4,000,000	765,012.86	565,012.00	(200,000.86)		1	FALSE
204	FY2011	4/30/2011	34,401,616	189,955,669	18.116%	800,000	144,921.70	104,921.00	(40,000.70)		1	FALSE
204	FY2012	6/30/2012	48,277,595	240,031,526	20.113%	1,750,000	351,977.89	336,977.00	(15,000.89)		1	FALSE
204	FY2012	4/30/2012	40,479,660	209,812,794	19.550%	900,000	172,852.19	147,552.00	(25,300.19)		1	FALSE

1,477,566.65

3/30/2017 11:31

Lyons Township Trustees of Schools
Interest Allocation
Compare System Reports to GI and RH calculations

District	Fiscal Year	Date	204 FB per RH	Total Avg FB Percent	FB per Reports	Total Avg FB per Reports	Percent based on Reports	Income	Calculated Interest Allocation	Calculated Interest per Reports	Allocation per TTD GL	Difference RH to TTD GL	Difference Reports to TTD GL	Completed by Diff	Difference District FB	Difference Total Avg FB	Comments	Data Available for system report compare
204	FY2012	6/30/2012	48,277.595	20.113%	48,277.595	20.113%	20.024%	1,750,000	351,977.89	350,413.50	356,977.00	(15,000.89)	(13,486.50)		(0.66)	(1,074,606.82)		x
204	FY2012	6/30/2012	196,957.796	18.306%	36,050.979	18.306%	18.233%	750,000	137,279.33	136,749.82	137,279.00	(0.23)	523.18		(0.21)	(762,637.48)		x
204	FY2011	6/30/2011	48,216.829	19.124%	48,216.829	19.124%	19.124%	4,000,000	765,012.86	764,952.16	765,012.00	0.22	0.22		(0.46)	(5.18)		x
204	FY2011	6/30/2011	160,926.627	15.408%	24,795.502	15.408%	15.408%	500,000	77,089.78	77,089.78	77,040.00	0.22	0.22		(0.15)	(196.18)		x
204	FY2010	6/30/2010	50,923.820	19.920%	50,973.820	19.920%	19.920%	1,750,000	348,603.18	348,602.92	348,602.00	0.24	0.24		(0.51)	(6.95)		x
204	FY2010	6/30/2010	144,096.283	20.047%	28,887.593	20.047%	20.047%	750,000	150,246.75	150,355.68	150,247.00	0.25	108.68		(0.98)	104,470.94		x
204	FY2009	6/30/2009	42,768.413	21.440%	42,768.413	21.440%	21.440%	1,800,000	386,652.55	385,928.62	385,928.00	0.21	0.21		(0.59)	(7.00)		x
204	FY2009	6/30/2009	171,218.888	20.101%	34,416.573	20.101%	20.101%	750,000	150,824.85	150,756.90	150,845.00	21.15	89.10		(0.70)	(77,199.22)		x
204	FY2008	6/30/2008	44,020.982	21.718%	44,020.982	21.718%	21.718%	2,877,000	624,831.84	624,831.82	624,831.00	0.84	0.82		(0.42)	(7.87)		x
204	FY2008	6/30/2008	138,360.794	19.713%	27,275.990	19.713%	19.713%	1,000,000	197,132.36	197,130.09	197,855.00	72.64	724.31		(0.43)	(1,595.60)		x
204	FY2007	6/30/2007	43,210.453	21.911%	43,083.138	21.911%	22.283%	3,600,000	788,805.08	801,502.99	788,805.00	(0.08)	(12,497.99)		(0.53)	(83,008.93)		x
204	FY2007	6/30/2007	184,912.943	21.657%	40,046.347	21.657%	21.657%	1,000,000	216,568.65	216,503.69	216,569.00	124,999.35	125,064.31		(0.98)	(55,483.86)		x
204	FY2006	6/30/2006	156,876.156	25.392%	39,818.807	25.392%	25.392%	750,000	190,459.28	190,460.00	190,440.00	0.72	72.12		(0.66)	(19.65)		x
204	FY2006	6/30/2006	129,551.760	28.382%	37,134.400	28.382%	28.091%	700,000	198,674.80	196,656.55	198,675.00	0.20	2,038.45		(0.06)	(2,353.45)		x
204	FY2005	6/30/2005	119,618.372	24.574%	51,732.426	24.574%	28.805%	2,400,000	589,363.43	691,508.43	774,496.55	185,133.12	83,188.12		(0.43)	(8,820.84)		x
204	FY2005	6/30/2005	139,691.395	27.679%	35,440.017	27.679%	25.873%	750,000	207,592.82	194,046.74	207,592.00	0.22	13,554.26		(0.59)	(13,419.96)		x
204	FY2004	6/30/2004	189,913.895	29.845%	55,189.374	29.845%	29.143%	3,000,000	880,357.22	874,286.70	880,357.00	0.22	6,070.30		(0.22)	542,345.31		x
204	FY2004	6/30/2004	169,588.986	23.377%	39,644.793	23.377%	23.75%	1,000,000	233,769.85	233,751.36	233,769.00	0.85	17.64		(0.06)	(13,419.96)		x
204	FY2003	6/30/2003	162,899.243	22.926%	36,370.128	22.926%	22.329%	3,750,000	837,242.10	837,378.15	837,242.00	(0.95)	(108.68)		(0.73)	(499.73)		x
204	FY2003	6/30/2003	148,921.891	20.666%	30,775.601	20.666%	20.666%	650,000	134,326.36	134,326.36	134,327.00	0.64	0.55		(0.10)	14,502.20		x
204	FY2002	6/30/2002	171,514.746	23.767%	37,891.080	23.767%	22.763%	6,550,000	1,509,210.36	1,445,463.17	1,509,210.00	(0.36)	63,746.83		(0.36)	5,057,128.41		x
204	FY2002	6/30/2002	162,899.243	21.241%	31,682.612	21.241%	21.260%	500,000	106,204.24	106,299.52	106,204.00	(0.24)	(95.52)		(0.24)	133,708.03		x
204	FY2001	6/30/2001	160,223.912	23.406%	37,501.662	23.406%	23.406%	3,800,000	889,419.78	889,419.66	889,420.00	0.22	0.34		(0.22)	(21.08)		x
204	FY2001	6/30/2001	155,091.030	21.721%	39,674.900	21.721%	21.721%	1,500,000	325,820.90	325,820.85	325,821.00	0.10	0.15		(0.10)	(27.55)		x
204	FY2000	6/30/2000	169,505.904	23.159%	39,255.271	23.159%	23.159%	3,000,000	684,759.35	684,759.35	684,759.00	0.69	0.69		(0.69)	0.04		x
204	FY2000	6/30/2000	147,749.785	22.629%	33,434.128	22.629%	22.629%	1,500,000	339,433.26	339,433.26	339,433.00	(0.26)	(0.26)		(0.26)	(0.02)		x
204	FY1999	6/30/1999	156,917.191	23.545%	35,690.814	23.545%	23.545%	2,875,000	674,909.27	653,918.74	674,909.00	(0.27)	22,990.26		(0.27)	(499.97)		x

204	FY1999	2/28/1999	33,565,522	140,041,980	23.968%	33,565,522	140,107,592	23.957%	1,250,000	299,602.32	299,462.02	299,602.00	139.98	(0.32)	(0.02)	(65,611.98)
	FY1999	6/30/1999	38,626,588	154,228,050	25.045%	37,222,130	154,589,729	24.078%	4,000,000	1,001,804.15	963,120.39	1,003,907.00	40,786.61	2,102.85	1,404,454.85	(561,638.83)
	FY1999	1/31/1999	40,980,769	148,975,942	27.475%	40,980,769	147,668,979	27.718%	2,500,000	616,181.90	623,653.19	516,352.00	(107,501.19)	(101,829.90)	-	1,506,962.36
	FY1999	6/30/1999	28,440,940	135,711,503	20.957%	27,214,733	137,492,175	19.802%	3,750,000	785,881.87	742,586.29	830,785.00	44,903.13	44,903.13	1,226,206.36	(1,720,272.85)
	FY1999	1/31/1999	27,678,819	125,904,946	21.984%	27,678,819	126,505,031	21.880%	1,350,000	295,782.67	295,374.86	296,783.00	1,408.14	0.39	-	(600,085.63)
	FY1999	6/30/1999	28,489,390	118,940,361	23.952%	27,874,872	118,940,262	23.436%	2,100,000	502,988.80	492,156.57	502,989.00	10,832.43	0.20	613,518.04	(0.90)
	FY1999	1/31/1999	24,912,378	96,625,650	25.782%	24,912,378	96,855,920	25.721%	800,000	206,258.84	205,768.55	206,259.00	490.45	0.16	-	(230,229.66)
	FY1999	6/30/1999	29,576,100	113,049,704	26.162%	28,738,349	112,735,848	25.492%	1,650,000	431,673.53	420,614.00	431,677.00	11,063.00	3.47	837,751.06	313,854.41
	FY1999	1/31/1999	29,145,605	94,984,904	30.701%	29,145,605	94,984,054	30.701%	800,000	245,604.97	245,607.17	245,600.00	72.89	0.01	-	849.84
	FY1999	6/30/1999	29,927,778	85,642,629	34.959%	missing data	missing data	#VALUE!	700,000	244,573.82	#VALUE!	244,574.00	#VALUE!	#VALUE!	#VALUE!	#VALUE!
	FY1999	1/31/1999	29,267,366	84,106,199	34.798%	missing data	missing data	#VALUE!	625,000	217,488.17	#VALUE!	217,538.00	#VALUE!	(130.17)	#VALUE!	#VALUE!
	FY1999	6/30/1999	1,427,938.51						1,427,938.51							
	FY1999		1,809,771.05						1,809,771.05							

Lyons Township School Treasurer Analysis
 Quarterly Interest Allocation Analysis SD#204
 Fiscal Year 2012-2000
 Lyons Township Trustees of Schools
 Interest Allocation
 Compare System Reports to GL and RH calculations

3/30/2017 11:32

District	Fiscal Year	Date	204 FB per RH	Total Avg FB	Percent	Income	Calculated Interest Allocation	Allocation per TIO GL	Difference	Comments	if Then <	if then >
204	FY2012	6/30/2012	48,277,595	240,031,526	20.113%	1,750,000	351,977.89	336,977.00	(15,000.89)		1	FALSE
204	FY2012	6/30/2012	49,479,660	209,812,724	23.150%	900,000	172,831.19	147,332.00	(25,500.19)		1	FALSE
204	FY2012	1/31/2012	36,050,979	196,957,796	18.304%	750,000	137,279.33	137,279.00	(0.33)		FALSE	FALSE
204	FY2012	10/31/2011	30,555,222	185,340,603	16.453%	750,000	123,544.38	123,545.00	-0.62		FALSE	FALSE
204	FY2011	6/30/2011	48,216,829	252,109,900	19.125%	4,000,000	765,012.86	565,012.00	(200,000.86)		1	FALSE
204	FY2011	4/30/2011	34,201,616	189,955,899	18.016%	300,000	144,524.70	104,924.00	(39,600.70)		1	FALSE
204	FY2011	1/31/2011	24,795,502	160,926,622	15.408%	500,000	77,039.78	77,040.00	0.22		FALSE	FALSE
204	FY2011	10/31/2010	32,388,678	190,862,409	16.970%	500,000	84,818.22	84,818.00	(0.22)		FALSE	FALSE
204	FY2010	6/30/2010	50,973,820	255,890,334	19.920%	1,750,000	348,603.18	348,602.00	(1.18)		FALSE	FALSE
204	FY2010	4/30/2010	49,996,733	222,230,010	19.342%	300,000	116,037.79	116,038.00	-0.21		FALSE	FALSE
204	FY2010	1/31/2010	28,887,593	144,200,754	20.033%	750,000	150,246.75	150,247.00	-0.25		FALSE	FALSE
204	FY2009	6/30/2009	42,768,413	199,101,607	21.481%	1,800,000	386,652.55	633,364.00	246,711.45		FALSE	1
204	FY2009	4/30/2009	36,287,271	178,709,100	20.312%	650,000	127,492.57	127,493.00	-0.43		FALSE	FALSE
204	FY2009	1/31/2009	34,416,572	171,141,749	20.110%	750,000	150,824.85	150,846.00	21.15		FALSE	FALSE
204	FY2009	10/31/2008	47,804,663	154,182,478	18.022%	300,000	144,253.82	144,253.00	(0.82)		FALSE	FALSE
204	FY2008	6/30/2008	44,020,982	202,691,919	21.718%	2,877,000	624,831.84	624,831.00	(0.84)		FALSE	FALSE
204	FY2008	4/30/2008	38,562,271	181,032,933	21.302%	1,200,000	264,566.73	292,000.00	27,433.27		FALSE	1
204	FY2008	1/31/2008	27,275,390	138,360,794	19.713%	1,000,000	197,132.36	197,855.00	722.64		FALSE	1
204	FY2008	10/31/2007	29,343,382	140,740,901	20.824%	1,000,000	203,527.55	308,547.55	100,000.00		FALSE	1
204	FY2007	6/30/2007	43,210,453	197,206,681	21.911%	3,600,000	788,805.08	788,805.00	(0.08)		FALSE	FALSE
204	FY2007	4/30/2007	35,917,232	165,902,907	21.639%	1,500,000	320,090.32	425,030.32	125,000.00		FALSE	1
204	FY2007	1/31/2007	40,046,346	184,912,943	21.657%	1,000,000	216,568.65	341,568.00	124,999.35		FALSE	1
204	FY2007	10/31/2006	37,552,750	177,018,804	21.205%	1,000,000	212,145.88	337,445.00	124,999.12		FALSE	1
204	FY2007	7/31/2006	no data	no data	no data	no data	no data	452,165.00	452,165.00		FALSE	1
204	FY2006	6/30/2006	43,210,453	179,765,938	24.057%	1,700,000	408,629.97	537,449.00	128,819.03		FALSE	1
204	FY2006	4/30/2006	39,818,907	156,817,335	25.392%	750,000	190,439.28	190,440.00	0.72		FALSE	FALSE
204	FY2006	1/31/2006	38,067,800	146,826,992	25.915%	1,000,000	260,152.99	260,153.00	-0.01		FALSE	FALSE
204	FY2006	10/31/2005	36,769,528	129,551,760	28.382%	700,000	198,674.80	198,675.00	-0.20		FALSE	FALSE
204	FY2006	7/31/2005	N/A	N/A	N/A	N/A	N/A	260,422.00	260,422.00		FALSE	1
204	FY2005	6/30/2005	29,374,456	119,618,372	24.557%	2,400,000	589,363.43	774,496.55	185,133.12		FALSE	1
204	FY2005	4/30/2005	47,440,448	216,132,955	28.369%	1,750,000	216,517.97	224,412.00	7,894.03		FALSE	1
204	FY2005	1/31/2005	38,665,241	139,691,395	27.679%	750,000	207,592.82	213,805.00	6,212.18		FALSE	1
204	FY2005	10/31/2004	2,087,066	217,238,236	29.787%	750,000	223,402.58	223,402.00	(0.58)		FALSE	FALSE
204	FY2004	6/30/2004	55,730,719	189,913,996	29.345%	3,000,000	880,357.22	880,357.00	(0.22)		FALSE	FALSE

District	Fiscal Year	Date	204 FB per RH	Total Avg FB	Percent	Income	Calculated Interest Allocation	Allocation per TFO GL	Difference	Comments	if Then <	if then >
204	FY2004	4/30/2004	29,629,360	171,099,936	28.94%	1,000,000	288,477.02	288,477.00	(0.02)		FALSE	FALSE
204	FY2004	1/31/2004	39,644,793	169,588,986	23.377%	1,000,000	233,769.85	233,769.00	(0.85)		FALSE	FALSE
204	FY2004	11/30/2003	28,047,556	167,797,487	20.555%	1,000,000	203,546.22	203,546.00	(0.22)		FALSE	FALSE
204	FY2003	6/30/2003	36,369,628	162,899,243	22.326%	3,750,000	837,242.10	837,242.00	(0.10)		FALSE	FALSE
204	FY2003	4/30/2003	no data	no data	no data	no data	no data	no data			FALSE	FALSE
204	FY2003	1/31/2003	30,775,601	148,921,931	20.66%	650,000	134,326.36	134,327.00	0.64		FALSE	FALSE
204	FY2003	9/30/2002	26,835,708	140,160,834	19.183%	750,000	143,908.09	143,908.00	(0.09)		FALSE	FALSE
204	FY2002	6/30/2002	40,764,068	171,514,746	23.767%	6,350,000	1,509,210.36	1,509,210.00	(0.36)		FALSE	FALSE
204	FY2002	4/30/2002	34,571,684	150,845,730	22.919%	1,250,000	286,292.00	286,292.00	0.00		FALSE	FALSE
204	FY2002	1/31/2002	31,682,612	149,158,893	21.241%	500,000	106,204.24	106,204.00	(0.24)		FALSE	FALSE
204	FY2001	10/31/2001	26,158,707	135,952,700	19.562%	600,000	115,957.00	115,957.00	0.00		FALSE	FALSE
204	FY2001	6/30/2001	37,501,662	160,223,912	23.406%	3,800,000	889,419.78	889,420.00	0.22		FALSE	FALSE
204	FY2001	4/30/2001	33,917,424	150,907,615	20.61%	2,000,000	452,209.51	452,209.00	(0.51)		FALSE	FALSE
204	FY2001	1/31/2001	33,674,900	155,031,030	21.721%	1,500,000	325,820.90	325,821.00	0.10		FALSE	FALSE
204	FY2001	10/31/2000	28,230,408	141,531,575	21.155%	1,000,000	215,233.99	215,234.00	0.01		FALSE	FALSE
204	FY2000	6/30/2000	39,255,271	169,505,904	23.159%	3,000,000	694,759.35	697,259.00	2,499.65		FALSE	1
204	FY2000	4/30/2000	34,108,881	150,465,154	22.566%	1,500,000	399,284.51	399,835.00	0.49		FALSE	FALSE
204	FY2000	1/31/2000	33,434,128	147,749,785	22.629%	1,500,000	339,433.26	339,433.00	(0.26)		FALSE	FALSE
204	FY2000	10/31/1999	28,688,885	127,247,266	22.538%	1,000,000	228,430.79	228,430.00	(0.79)		FALSE	FALSE
204	FY1999	6/30/1999	36,945,517	156,916,691	23.545%	2,875,000	676,909.27	676,909.00	(0.27)		FALSE	FALSE
204	FY1999	4/30/1999	33,465,465	141,242,639	23.672%	1,500,000	355,025.26	355,035.00	0.26		FALSE	FALSE
204	FY1999	2/28/1999	33,565,522	140,041,980	23.968%	1,250,000	299,602.32	299,602.00	(0.32)		FALSE	FALSE
204	FY1999	10/31/1998	27,365,710	119,901,624	22.821%	1,500,000	343,607.92	343,608.00	0.08		FALSE	FALSE
204	FY1998	6/30/1998	38,626,585	154,228,090	25.045%	4,000,000	1,001,804.15	1,003,907.00	2,102.85		FALSE	1
204	FY1998	4/30/1998	34,947,593	138,222,938	25.338%	1,500,000	379,232.82	383,927.00	4,694.18		FALSE	1
204	FY1998	1/31/1998	40,930,769	148,975,942	27.475%	2,250,000	618,181.90	516,352.00	(101,829.90)		FALSE	1
204	FY1998	10/31/1997	32,132,226	126,297,427	25.442%	1,000,000	254,477.11	254,477.00	(0.11)		FALSE	FALSE
204	FY1997	6/30/1997	28,440,940	135,711,903	20.957%	3,750,000	785,881.87	830,785.00	44,903.13		FALSE	1
204	FY1997	4/30/1997	25,170,014	121,549,939	20.747%	1,100,000	228,216.76	228,217.00	0.24		FALSE	FALSE
204	FY1997	1/31/1997	27,678,819	125,904,946	21.984%	1,350,000	296,782.67	296,783.00	0.33		FALSE	FALSE
204	FY1997	10/31/1996	25,669,269	113,805,587	22.555%	900,000	207,998.81	207,998.00	(0.81)		FALSE	FALSE
204	FY1996	6/31/1996	28,488,390	118,940,261	23.952%	2,100,000	502,988.80	502,989.00	0.20		FALSE	FALSE
204	FY1996	4/30/1996	25,509,200	101,295,145	24.986%	1,100,000	299,829.53	299,829.00	(0.53)		FALSE	FALSE
204	FY1996	1/31/1996	24,912,378	96,625,690	25.782%	800,000	206,258.84	206,259.00	0.16		FALSE	FALSE
204	FY1996	10/31/1995	22,167,052	85,461,916	25.961%	1,100,000	235,565.99	235,565.00	(0.99)		FALSE	FALSE
204	FY1995	6/31/1995	29,576,100	113,049,704	26.162%	1,650,000	431,673.53	431,677.00	3.47		FALSE	1
204	FY1995	4/30/1995	26,166,713	97,267,682	26.902%	950,000	255,566.67	260,567.00	5,000.33		FALSE	1
204	FY1995	1/31/1995	29,145,605	94,934,904	30.701%	800,000	245,604.97	245,680.00	75.03		FALSE	FALSE
204	FY1995	10/31/1994	28,223,524	81,506,959	34.208%	750,000	256,566.42	256,566.00	(0.42)		FALSE	FALSE
204	FY1994	6/31/1994	29,922,778	85,642,629	34.939%	700,000	244,573.82	244,574.00	0.18		FALSE	FALSE

District	Fiscal Year	Date	204 FB per RH	Total Avg FB	Percent	Income	Calculated Interest Allocation	Allocation per TTO GL	Difference	Comments	if Then <	if then >
204	FY1994	1/31/1994	29,267,366	84,106,199	34.798%	625,000	217,488.17	217,358.00	(130.17)		FALSE	FALSE
204	FY1994	10/31/1993	27,230,503	78,341,522	34.757%	625,000	217,230.85	217,230.00	0.15		FALSE	FALSE
									1,478,062.51	NET	FALSE	1
									381,832.54	SUM OF REDUCTIONS IN INTEREST	FALSE	1
									1,859,895.05	POTENTIAL OVERAGE	FALSE	1

MINUTES OF THE REGULAR MEETING OF THE
BOARD OF LYONS TOWNSHIP TRUSTEES OF SCHOOLS
TUESDAY, MARCH 21, 2000

The meeting of the Lyons Township Trustees of Schools was held in the office of the Township School Treasurer, 930 Barnsdale Road, La Grange Park, Illinois, Tuesday, March 21, 2000 at 11:00 A.M.

President, Joseph Nekola called the meeting to order at 11:00 A.M.

ROLL CALL: Present - Russell Hartigan, Joseph Nekola.
Absent - Donna Milich

Also present was Treasurer and Ex-Officio, Clerk, Robert G. Healy,.

A motion was made by Russell Hartigan seconded by Joseph Nekola to approve the minutes from the regular quarterly meeting of December 9, 1999 and the official post election organizational meeting for the Lyons Township School Trustees of December 9, 1999.

ROLL CALL: Ayes - Russell Hartigan, Joseph Nekola
Nays - None

A motion was made by Russell Hartigan seconded by Joseph Nekola to approve the monthly reports for September, October, and November 1999.

ROLL CALL: Ayes - Russell Hartigan, Joseph Nekola
Nays - None.

The trustees instructed Healy to get approval on any legal bill in excess of \$1,000.00 prior to the check being issued.

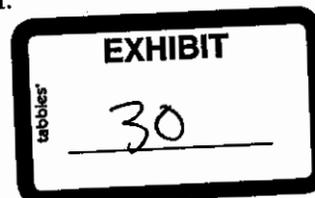
A motion was made by Joseph Nekola seconded by Russell Hartigan to approve the Treasurer's office quarterly expenses.

ROLL CALL: Ayes - Russell Hartigan, Joseph Nekola
Nays - None

Healy notified the board that there are upcoming property transfers in the works for three different districts. The board advised Healy to obtain authorization/resolution at a subsequent meeting.

Healy submitted to the Trustees the proposal from District 204 stating this office absorb certain payroll, accounts payable and computer processing expenditures by District 204. As these costs would be incurred by the Treasurer's office if Lyons Township High School were to totally utilize the facilities of the Treasurer's office. These costs would certainly be incurred. A point to be clarified is to make sure that workman's compensation is covered. A further recommendation by Trustee Hartigan is that the trustees be given an evaluation of the employee's performance for those aforementioned personnel employed at the high school.

EXHIBIT 10



A motion was made by Russell Hartigan seconded by Joseph Nekola to accept the proposal given to the Lyons Township Trustees of Schools by Cook County High School District #204.
ROLL CALL: Ayes - Joseph Nekola, Russell Hartigan
Nays - None

Treasurer Healy updated the Trustees regarding the Scholarship Fund. The Trustees reviewed correspondence from Michael E. Olsen, P. C. and articles of incorporation of the LTST Scholarship Fund Corporation. Treasurer Healy will be in further contact with Mr. Olsen regarding a time line and review of the corporation status.

Treasurer Healy advised the board of the Trustees Seminar to be held May 19 - 21, 2000 at Pheasant Run in St. Charles, Illinois. Will need to know who will be attending the seminar in the near future.

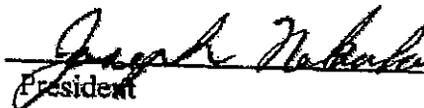
A motion was made by Russell Hartigan seconded by Joseph Nekola to approve the \$405,000.00 Working Cash bond for High School District #217.
ROLL CALL: Ayes - Joseph Nekola, Russell Hartigan
Nays - None

Treasurer Healy informed the Trustees that the office of the Cook County Treasurer has continued to deviate from prior years distribution patterns. Repeated discussions by the Cook County Treasurer's association with Treasurer Pappas and her staff seem to be of no avail. Multiple unanswered questions about procedures and financial back up seem to have taken a back burner with the Cook County Treasurer.

A motion was made by Russell Hartigan seconded by Joseph Nekola to adjourn.
All trustees signified acceptance by saying "aye". Motion carried.

The meeting adjourned at 12:15 P.M.


Clerk


President

FILED DATE: 7/29/2019 2:05 PM 2013CH23386

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

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

Plaintiff-Counter Defendant,)

v.)

LYONS TOWNSHIP HIGH SCHOOL DIST. 204,)

Defendant-Counter Plaintiff.)

Case No. 13 CH 23386

Hon. Sophia H. Hall

RECEIVED
CIRCUIT COURT OF COOK COUNTY
CHANCERY DIVISION
JAN 14 2015

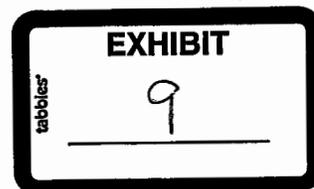
**TOWNSHIP TRUSTEES' REPLY TO
DISTRICT 204'S FIRST AMENDED AFFIRMATIVE DEFENSES**

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

1. During the period of time relevant to this case, from 1992 through 2012, LT and the TTO had a difficult and, at times contentious, relationship. LT had little faith or trust in the competence and integrity of the TTO to perform its statutorily mandated functions. The TTO objected to providing meaningful information and supporting documentation to LT concerning the investment funds that the TTO managed, the expenses that the TTO incurred, and the many questions that LT and other member districts raised about the TTO's operations.

Reply: Township Trustees lacks sufficient knowledge with respect to the allegations in the first two sentences. Township Trustees does not know District 204's mindset. Township Trustees denies the last sentence.

EXHIBIT 11



33. The TTO's payment for each of LT's annual audits, through its payment of the multiple invoices for each of the annual audits, was knowing and intentional.

Reply: Township Trustees admits that the payments were knowing and intentional, *i.e.*, payment was not accidentally made. Township Trustees denies that the parties ever reached an agreement whereby Township Trustees entered into an agreement to make the payments and denies that it authorized paying for District 204's annual audit. Township Trustees affirmatively notes that the Illinois School Code requires that District 204 pay for its own annual audit and that all of the other school districts paid for their own annual audits.

34. Each year from 1992 through 2012, the Trustees of the TTO voted several times during each year to approve the expenditures of the TTO, which expenditures included the TTO's payments for the annual audits of LT.

Reply: Township Trustees admits that the Trustees voted to approve expenditures, which such expenditures included payment of District 204's annual audits. Township Trustees deny that the Trustees ever voted specifically to approve payment of District 204's annual audits. Rather, the Trustees approved expenditures on a more generalized level. Township Trustees denies any remaining allegations within paragraph 34.

35. During the period 1992 through 2012, the TTO repeatedly represented to LT — both in writing and in oral communications — that the TTO was paying the annual audit costs not just for LT, but also for the other member districts of the TTO (“the Other Districts”).

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

By: 
One of Its Attorneys

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

Verification

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

Juan B. Gutierrez 4/27/17
Date

28849643.2\154483-00001

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

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

Plaintiff-Counter Defendant,)

v.)

LYONS TOWNSHIP HIGH SCHOOL DIST. 204,)

Defendant-Counter Plaintiff.)

Case No. 13 CH 23386

Hon. Sophia H. Hall

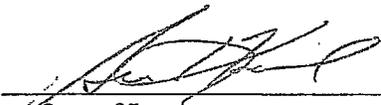
NOTICE OF FILING

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

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

Respectfully,

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

By: 

One of Its Attorneys

Gerald E. Kubasiak
Barry P. Kaltenbach
Gretchen M. Kubasiak
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Firm No. 44233

2017 APR 28 PM 11:32

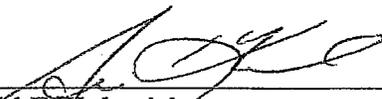
PROOF OF SERVICE

The undersigned, an attorney, certifies that a copy of the following document, **Township Trustees' Reply to District 204's First Amended Affirmative Defenses**, has been served upon:

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

as follows:

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



Gerald E. Kubasiak, attorney

Township Trustees of Schools

TOWNSHIP 38 NORTH, RANGE 12 EAST

P.O. BOX #1246
830 BARNSDALE ROAD
LA GRANGE PARK, ILLINOIS 60526-9346

BOARD OF SCHOOL TRUSTEES
Joseph Nekola, President
Donna A. Milich, Trustee
Russell W. Hartigan, Trustee

ROBERT G. HEALY
TOWNSHIP SCHOOL TREASURER
Telephone: Area 708-352-4480
Fax: 708-352-4417

April 29, 1999

Dr. Lisa Beckwith, Business Manager
Lyons Township High School
100 S. Brainard Avenue
LaGrange, IL 60525

Dear Dr. Beckwith:

You have requested an analysis of the duties and responsibilities of the Lyons Township School Treasurer's Office, and the specific services provided by the office as mandated by the School code (105 ILCS 5/1-1, et seq.).

Statutory Duties and Responsibilities

Most of the provisions pertaining to the Township Treasurers are found in Article 8 of the School Code of the School Code, 105 ILCS 5/1-1, et seq. Those provisions unequivocally demonstrate the responsibilities of the Township Treasurer in accounting for and controlling the funds of all school districts within the Township.

Article 8 of the School Code expressly provides for numerous duties and responsibilities of the township school treasurer relative to the accounting and control of the funds for all school districts within the township. The statutory duties and responsibilities, in par, are as follows:

Section 8-1 requires that the township school treasurer shall attend all meetings of the trustees of schools and shall act as the ex-officio clerk for the board of trustees. The treasurer is required to maintain records of the meetings for public perusal. In addition to its regular meetings, the trustees of schools conducts meetings pertaining to boundary changes (annexations, disconnections, consolidations, etc.). By resolution, the Lyons Township School Treasurer acts as the hearing officer for all meetings pertaining to boundary changes.

EXHIBIT 12



FILED DATE: 7/29/2019 2:05 PM 2013CH23386

Section 8-2 requires that the school treasurer execute a surety bond insuring the faithful performance of his duties.

Section 8-5 requires the trustees of schools to provide the township treasurer with a cash book, a loan book, a district account book and a journal. The township treasurer is required to keep his accounts in the manner directed by the State Board of Education, the Regional Superintendent of Schools or the Trustees of Schools. In the cash book, the treasurer is required to "enter in separate accounts all moneys received and paid out, with the amount, date, from whom, to whom and on what account received or paid out; or, if loaned, the date, to whom, and the amount." The information from the cash book is then used to post information in the district account book, which requires the posting of "all receipts and expenditures on account of any district, with the amount, date, from or to whom, and from what source and for what purposes."

Section 8-6 of the School Code requires that the school treasurer "shall have custody of the school funds and shall keep in a cash book separate balances," entering the balance, total of all moneys received in each fund, and the total of the orders countersigned or checks signed. He is also required to extend the balance at least monthly and then reconcile the balance of the school funds with accounting or bookkeeping departments of the various districts

Section 8-7 states, without qualification, that the township treasurer "shall be the only lawful custodian of all school funds and shall demand receipt for and safely keep, according to law, all bonds, mortgages, notes, moneys, effects, books and papers belonging to any school district or township, as the case may be, which he serves as treasurer."

Section 8-8 requires that the township treasurer invest all funds and establishes the parameters of an investment policy. Notably, the investment policy for a township treasurer leaves substantial discretion in the treasurer's office regarding the investment of funds.

Section 8-9 and 8-10 authorizes the township treasurer to execute mortgages pertaining to school district property and to initiate legal proceedings in the event of default.

Under Section 8-13, the township treasurer is required to deliver a statement showing condition of the township funds to the county superintendent on or before June 30 each year. He is also required to provide the annual statement of affairs for each district within the township.

Section 8-14 requires that the township treasurer prepares and submits a biannual statement showing the investment proceeds and other income received and the distribution of funds on hand.

Section 8-15 requires that the school treasurer furnish a monthly reconciliation to the board of trustees verifying the receipt and distribution of funds. The school treasurer is required to comply with any lawful demands of the board of trustees or school board regarding any fund balances.

Section 8-16; requires the treasurer to pay out funds of any school district "only upon an order of the school board signed by the president and clerk or secretary or by a majority of the board...". The only exception to this is in the payment of social security taxes, which may be made upon a certification by the clerk or secretary in the amount of the obligation only. Sections 10-18 and 10-20.19 of the School Code provide further details as to the procedure to be followed in submitting orders for payment. The form of order is specifically provided for in Section 10-18. Section 10-20.19 however, 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 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.

Section 8-17 of the School Code contains a specific enumeration of the duties of the treasurer, some of which reiterate some of the previously defined duties, and others which merely clarify the general statements of duties. Insofar as financial matters are concerned, the township treasurer is obliged to return the certificate of tax levy made by each school board in his township and to collect the full amount of taxes levied by the school boards.

School Districts Served by the Lyons Township School Treasurer

Cook County School District #101 (Western Springs)
Cook County School District #102 (Brookfield, LaGrange, LaGrange Park)
Cook County School District #102.3 Headstart
Cook County School District #102.5 Multi-District
Cook County School District #103 (Lyons, McCook)
Cook County School District #104 (Summit, Bedford Park)
Cook County School District #105 (LaGrange, Hodgkins, Countryside, McCook)
Cook County School District #106 (LaGrange Highlands, Indian Head Park)
Cook County School District #107 (Burr Ridge, Willow Springs, Countryside)
Cook County School District #108 (Willow Springs)
Cook County School District #109 (Hickory Hills, Bridgeview, Justice)
Cook County High School District #217
Cook County High School District #204
LaGrange Area of Special Education (LADSE)
Du Page District #69 Puffer Hefty (Downers Grove)
Lyons Township Elementary Medical Self Insurance Pools

Business Functions Specifically Performed

This office provides for multiple financial services to the township school districts. This is accomplished by utilizing a central mainframe computer system, which the individual schools/school districts use to perform daily business functions. The computer is used on a regular basis by more than 275 users. Please keep in mind that there is one group of people (computer operators & programmers) utilizing one computer, which is simultaneously serving several offices throughout the township. All individual business functions provided by this office are utilized by all school districts with the only exception being school district #204. Below is a breakdown by major category.

Accounts Payable. The Lyons Township School Treasurer's office produces the accounts payable check for the school district. This function includes, but is not limited to, maintaining and producing purchase orders, preparation of 1099's, accounting relating to vendors, all fiscal and calendar financial reports, maintaining a data base pertaining to vendors and other aspects of the duties performed by this office. The foregoing functions are prepared in conjunction with a multitude of duties and reports mandated by statute.

Budget. This office maintains a computer database used by all the school districts regarding their budgets. The specific reports which are generated include but are not limited to the annual LEA reports, budget validations, report writers, source of funds, and a variety of miscellaneous reports.

Payroll. The payroll department in the treasurer's office is responsible for working with all the above mentioned school districts to produce approximately 475 separate payrolls per year for approximately 4500 employees. This can be translated into producing upwards of 7000 payroll checks per month involving five different banking institutions. Please keep in mind that each and every check must be and is accounted for at all times. The balancing and production of a payroll can be a complex service and becomes even further complicated by dealing with so many different district procedures within the 15 different offices. Some of the reports and monthly payments to be produced include and are not limited to Illinois Municipal Retirement Fund, Payroll Report, The T.R. S. teachers report, FICA, 941's, employee directories,

An annual payroll function is the timely production of W-2s (3500 - 4000).

The direct deposit function is a service provided to all the districts in Lyons Township by this office. There is a separate procedure, which allows us to process the Lyons Township High School employee's direct deposit checks. This is done on a timely basis and does involve follow up work and/or investigation when problems occur. Another service provided to the school districts is to electronically transmit all Federal, FICA, and Medicare payments to the Federal government. This is mandated to our school districts because of the size and the amount of payments. This is done on a timely basis for all school districts.

Employee Attendance. A business service, which all districts utilize, is the tracking of employees on the computer. The software allows the school districts to keep a record of all teachers and other employees. Individual reports are accessible to the individual district business offices. Some of the available reports are the teacher service record, employee's history, seniority list, census, etc.

General Ledger and Reconciliation. This office produces monthly financial reports for all the school districts served by this office. Because of the large number of school boards, it is necessary for the reports to be produced in a timely fashion for their board meetings. Monthly reports are sent to each school board which include, but are not limited to, the following items: Summary of Fund Balance, Function Summary Reports, Real Estate Tax Receipts and Distributions, Statement of Position, Budget Reports, and Receipt and Disbursement Reports. Several copies may be produced.

Bank Reconciliations. Due to the large volume of checks produced by the school districts both in payroll and accounts payable, it is imperative that this be closely monitored. This service is provided to all the school districts. A monthly "tying out" or reconciliation is performed to keep districts up to date on its current financial position.

Reconciling two separate sets of books, as in the case of Lyons Township High School, has become an extremely complicated and time-consuming endeavor. This office has assumed some of the functions pertaining to the reconciliation, which were previously handled by the district's business office. This added responsibility is performed for no other district under the jurisdiction of the Lyons Township Trustees of Schools.

The above mentioned financial services are provided to all of the districts in Lyons Township by this office with the exception of Lyons Township High School. On July 1, 1988, Lyons Township High School assumed these responsibilities in house with the complete knowledge of any and all costs of their actions. Lyons Township High School knew fully well that this office would continue to provide the other 14 districts with full service. Below are some of the services which Lyons Township High School continues to utilize.

Other Services Provided.

Annual Publication. This office meets all legal requirements for the publication of the complete financial reports for each school district within the township.

Land Acquisition and Disposition. The Trustees of Schools acts as the sole custodian of any and all school property.

This may include the acquisition or sale of any property by a school district. Although, limited in activity, this function becomes more complex and expensive when the appraisal of school property enters into consideration. For example, this office hired an appraiser to appraise Lyons Township High Schools land last year at a cost of over \$14,000.00.

Annual Audit. The trustees hire and pay for the audit of the school districts and the Treasurer's office in Lyons Township. This office has assumed the cost of Lyons Township High School's audit, even though the functions were in house.

Receipts. This office is responsible for the receipt of all state and federal monies and notification of the districts. Other forms of monies received could be interest, tax receipts, real estate taxes, personal property replacement taxes, etc.

Tax Objections. An annual function of this office is to fight the tax protests filed by taxpayers within the township who think they are overcharged, and are willing and able to fight their tax bill (i.e., Railroads, Dominick, Jewel, UPS) This office hires an attorney to represent all of the school districts in Lyons Township, thereby saving the districts the time and headaches associated with this.

De-annexation/Annexation. When the regional board of superintendents was done away with by the legislature, the duties and responsibilities went to the school trustees. The trustees became responsible for the approval or denial of a claim by a resident or group of residents to leave a particular school district and go to another one. Although rare, it is a very time consuming and complex situation when it arises. A few years ago Lyons Township High School and School District 101 were involved in such a case with the Hinsdale property. It would be a low estimate that this office spent \$30, 000.00 or more defending the denial to leave Lyons Township.

Centrex. This office maintains in conjunction with AT&T two Centrex telephone systems by use in two groups of elementary school districts within the township. Up until very recently all districts with the exception of Lyons Township High School participated in this cost saving venture. Lyons Township High School has its own Centrex system and chose not to become a part of the system at the Treasurer's office.

Insurance Trust. This office is a member of the Lyons Township Elementary Self-Insurance Pool plan. This is a self-insurance pool by school district for medical insurance purposes. This office acts as central accountant and bill payer for primary services. Other participants are District 88, Districts 101, 102, 103, 105, 106, 107, and 108.

Investment of School Funds. The most important function which I perform for Lyons Township High School is to invest the funds of the school district. My goal is to maximize returns within the confines of low risk tolerance. The funds are managed in a prudent manner as it relates to such issues as rate of return, investment vehicles, liquidity and diversification among individual investments.

Except for cash in certain restricted and special funds, the Lyons Township School Treasurer will consolidate balances from all funds to maximize investment earnings. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

Structuring the maturity dates on all securities maintained in the investment portfolio to secure a maximum rate of return while meeting the cash requirements for ongoing operations requires careful monitoring of the portfolio and the expenses of each school district.

Since all possible cash demands cannot be anticipated, the portfolio consists partially of securities with active secondary or resale markets. Return on the investment is of secondary importance compared to the safety and liquidity objectives. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. As chief investment officer to the trustees of schools, it is my responsible to establish and maintain an internal control structure designed to insure the assets of not only Lyons Township High School, but fourteen other school districts are protected from loss, theft or misuse. An aspect of this is that all investments are held and accounted for to indicate ownership by the Lyons Township School Treasurer. As sole custodian of the district funds I am responsible for the accounting, record keeping, custodial safekeeping, confirmations of transactions, wire-transfers and any bank agreements.

The primary reason that Lyons Township High School has been the recipient of the higher rate of return on investments is that it benefits from the pooling of its funds with the other school districts in the area. Below the receipts for the year ended June 30, 1998:

DISTRICT	FUND HANDLED	PERCENTAGE
101	11,013,122.16	3.8632
102	20,907,596.36	10.9790
103	15,133,296.45	7.9469
104	12,127,331.18	6.3684
105	10,123,096.63	5.3159
106	7,339,123.52	3.8540
107	8,962,137.53	4.7062
108	2,359,493.14	1.2390
109	20,381,133.98	10.7026
204	61,817,929.55	26.7514
LADSE	9,999,867.51	5.2512
217	20,952,854.41	11.0029
DENTAL	171,355.00	.0899
MEDICAL	3,674,163.94	1.9293
TOTAL	\$204,962,501.36	100.0000

Below are the available figures for the current year as of March 31, 1999.

DISTRICT	FUNDS HANDLED	PERCENTAGE
101	7,586,311.26	4.65
102	19,174,433.62	11.73
103	18,407,636.78	11.26
104	10,523,025.73	6.44
105	9,490,202.77	5.81
106	6,118,100.88	3.75
107	6,546,665.42	4.01
108	2,259,295.14	1.39
109	15,214,662.83	9.31
204	39,545,187.44	24.19
LADSE	7,341,909.11	4.50
217	18,485,041.33	11.31
MEDICAL	2,783,840.43	1.65
TOTAL	\$163,476,312.84	100.00

As the Treasurer for Lyons Township Schools for the last decade, I have continued to out perform the Illinois Liquid Asset Fund, all short-term (Three to Five Year Range) Treasury securities and the State Treasurer's Investment Pool. The assets of Lyons Township out performed many of the neighboring school districts and at the same time no funds have ever been jeopardized.

Special Services Provided to School District 204.

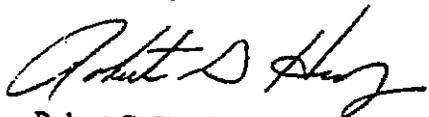
- Hand delivery of weekly and monthly financial statements
- Produce monthly magnetic computer tapes for 3 accounts
- Daily cash/coin delivery to both north and south campus cafeterias
- Cash /coin available for school buy back program
- Provide supplies when requested — coin bags, ties, etc.
- Deposits are delivered each day by external courier.
- Purchase of all Accounts Payable Checks
- Purchase of all Payroll Checks
- Purchase of all Imprest Fund and Miscellaneous Checks.

FILED DATE: 7/29/2019 2:05 PM 2013CH23386

The Lyons Township School Treasurer's Office serves the taxpayers by achieving economies of scale through consolidating and implementing the financial affairs and obligations of the individual school districts. Far from being an anachronism, the modern trend for units of local government is towards consolidating or centralizing functions to achieve both cost savings and efficiency. Respectfully, regardless of whether or not Lyons Township High School believes it receives the full value of services from the Lyons Township Treasurer's office, given the autonomous financial functions it performs, the provisions of 105 ILCS 5/8-4 requires that all school districts pay their proportionate share of the expenses of the Treasurer's Office. The contribution formula is prescribed by statute and allows for no variation. The situation at hand is analogous to a resident who sends his children to parochial schools, but is nonetheless required to pay that portion of his real estate tax bill earmarked for public school education.

If you have any questions or comments after reviewing the foregoing, please do not hesitate to call.

Respectfully,



Robert G. Healy
Lyons Township School Treasurer

RGH/grm

CC: Mr. Joseph Nekola, President
Mrs. Donna A. Milich, Trustee
Mr. Russell W. Hartigan, Trustee

1 APPEARANCES:
 2
 3 MILLER CANFIELD
 4 BY: MR. BARRY P. KALTENBACH
 5 225 West Washington Street
 6 Suite 2600
 7 Chicago, Illinois 60606
 8 312.460.4251
 9 Kaltenbach@millercanfield.com,
 10
 11 On behalf of the Plaintiff;
 12
 13 HOFFMAN LEGAL
 14 BY: MR. JAY HOFFMAN
 15 20 North Clark Street
 16 Suite 2500
 17 Chicago, Illinois 60602
 18 312.899.0899,
 19 On behalf of the Defendant.
 20
 21
 22
 23
 24

1 (Witness was duly
 2 sworn.)
 3 RUSSELL HARTIGAN,
 4 called as a witness herein, after having been
 5 first duly sworn, was examined and testified as
 6 follows:
 7 THE WITNESS: I do.
 8 EXAMINATION
 9 BY MR. HOFFMAN:
 10 Q. Would you please state your name for
 11 the record.
 12 A. **Russell W. Hartigan. H-A-R-T-I-G-A-N.**
 13 Q. And, sir, what is your place of
 14 business and what is your business address?
 15 A. **I'm an elected Judge of Cook County,**
 16 **Circuit Court Judge, and I'm currently assigned**
 17 **to the Fifth Municipal District, Bridgeview,**
 18 **Illinois.**
 19 Q. What types of cases do you hear?
 20 A. **Civil jury the last few years.**
 21 Q. The gentleman sitting next to you,
 22 Barry Kaltenbach, is he your lawyer for
 23 purposes of this deposition here today?
 24 MR. KALTENBACH: Yes.

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 14 (NOT ATTACHED)
 15 (Retained by Attorney Hoffman)
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1 THE WITNESS: Okay. I was unclear, but I
 2 think yes.
 3 BY MR. HOFFMAN:
 4 Q. Sir, I know as a judge and former
 5 attorney, you're very familiar with the
 6 litigation process. Nevertheless, I want to
 7 ask you whether you've ever had your deposition
 8 taken before?
 9 A. **I don't believe so. I've done a**
 10 **number of depositions but never sat on the**
 11 **other side.**
 12 Q. I guess there's a first for
 13 everything.
 14 Sir, I will do my very best to
 15 ask questions that make sense, that are
 16 understandable and clear. If for any reason
 17 you do not understand my question, will you be
 18 kind enough to let me know that? Otherwise I
 19 will assume you did understand it.
 20 A. **Sure.**
 21 Q. The court reporter, as you know, can
 22 only take down yeses and nos and verbal
 23 answers, so nods of the head and uh-uh or uh-uh
 24 are all bad for us. Agreed?

1 **A. Agreed.**
 2 Q. If at any time you want to take a
 3 break, please inform me, you will be allowed to
 4 do so.
 5 Do you need anything in the way
 6 of coffee, water?
 7 **A. I've got it.**
 8 Q. Terrific.
 9 Sir, by now you are familiar that
 10 there is a lawsuit for which we are here. It
 11 was filed by the plaintiff in this case which
 12 goes by a few different names. Some people
 13 call it the Treasurer's Office, some people
 14 call it the Township Trustees, some people call
 15 it the TTO. Which do you feel most comfortable
 16 with?
 17 **A. Probably the Township Trustees, I**
 18 **think, of Schools.**
 19 Q. Township Trustees of Schools. How
 20 about if I shorten that to TTO?
 21 **A. That's fine.**
 22 Q. The defendant in this case is the
 23 Lyons Township High School District 204, some
 24 people call that Lyons, some people call that

1 LT, some people call it District 204. What are
 2 you most comfortable with?
 3 **A. 204 or LT, either way. I hear it both**
 4 **ways.**
 5 Q. Thank you. When were you -- when did
 6 you first become aware of the existence of this
 7 lawsuit?
 8 **A. Probably maybe month and a half ago.**
 9 **Possibly two months.**
 10 Q. How did you become aware of the
 11 lawsuit, sir?
 12 **A. I got a call from the attorney**
 13 **regarding the fact that there may possibly be a**
 14 **deposition forthcoming. And I might have read**
 15 **something in the paper, local paper, too, but I**
 16 **can't recall that at this time. There might**
 17 **have been an article in the paper.**
 18 Q. So you got a call from an attorney for
 19 the TTO, correct?
 20 **A. Right.**
 21 Q. And do you recall who that was?
 22 **A. You or your partner.**
 23 MR. KALTENBACH: I can't tell you. I can't
 24 give you the answer.

1 THE WITNESS: Yeah.
 2 BY MR. HOFFMAN:
 3 Q. And did you meet with Barry Kaltenbach
 4 or anybody else representing the TTO in
 5 preparation for this deposition?
 6 **A. I did. It was a brief meeting.**
 7 Q. Whom did you meet with?
 8 **A. Barry.**
 9 Q. And when did that occur?
 10 **A. God, a couple of weeks ago. And your**
 11 **partner was there, too.**
 12 Q. Was that Mr. Kubasiak?
 13 **A. Yeah.**
 14 Q. Gerald?
 15 **A. Yes.**
 16 Q. Did they show you any documents in
 17 connection with this lawsuit?
 18 **A. I don't recall that. I think maybe**
 19 **you had sent me some documents.**
 20 Q. Yes. And you got a letter from me as
 21 well as some attached documentation, correct?
 22 **A. Correct.**
 23 Q. Along with a subpoena?
 24 **A. Yeah.**

1 Q. And you were testifying here pursuant
 2 to that subpoena; am I right, sir?
 3 **A. Correct.**
 4 Q. Did you review the documents that I
 5 sent you?
 6 **A. You know, I can't say I reviewed them**
 7 **line item by line item. I have a pretty heavy**
 8 **call. And I skimmed them is probably the best**
 9 **way to say it.**
 10 Q. Did those documents help refresh your
 11 memory about the issues involved in this
 12 lawsuit?
 13 **A. A little bit.**
 14 Q. And so am I correct that up until
 15 about two months ago, you had not gotten any
 16 communications from either people at the TTO or
 17 attorneys representing the TTO asking you about
 18 issues involved in this case?
 19 **A. No, only what I may have read in the**
 20 **paper is all I can recall.**
 21 Q. And there's an issue where the
 22 question and the answer may not have matched
 23 up. I asked if I was correct that you hadn't
 24 gotten communications as I described to you and

1 then you answered no.
 2 **A. No.**
 3 Q. So let me ask you a question that's
 4 better.
 5 Prior to two months ago, did you
 6 get any communications of any kind from anyone
 7 at the TTO or attorneys representing the TTO
 8 about the matters involved in this lawsuit?
 9 **A. No.**
 10 Q. Thank you.
 11 Have you had -- when, sir, did
 12 you serve as a trustee of the TTO?
 13 **A. That's a good question.**
 14 Q. Thank you. Would it help you to
 15 remember, sir, if I showed you --
 16 **A. I think I can recall vaguely.**
 17 Q. Okay.
 18 **A. I think I was appointed, perhaps, in**
 19 **the late '90s. And I believe I ran unopposed.**
 20 **And I think it's a six-year term. So I am**
 21 **thinking it may be late '90s, '96 maybe, when I**
 22 **got appointed to fill a vacancy and then I ran.**
 23 **I may be off on these years, but I ran in like**
 24 **'98 for a six-year term.**

1 Q. Assuming that the six-year term you
 2 described ended in 2004, did you run for a
 3 subsequent term?
 4 **A. No.**
 5 Q. So as best you can recall, you were
 6 trustee of the TTO from 1996 to 2004?
 7 **A. Somewhere like that, yeah.**
 8 MR. HOFFMAN: Let's mark this document as
 9 Hartigan Exhibit 1, please.
 10 (WHEREUPON, said
 11 document was marked as
 12 Hartigan Exhibit No. 1
 13 for Identification.)
 14 BY MR. HOFFMAN:
 15 Q. Sir, in an effort to speed up this
 16 deposition, I'm showing you a candidate profile
 17 from 2012 from the Daily Herald, and I believe
 18 this is from when you were running as -- for a
 19 Circuit Court judicial vacancy.
 20 Would you be kind enough to take
 21 a look at the bio portion of this document and
 22 tell me if that information in it is correct.
 23 **A. Appears to be correct.**
 24 Q. Okay. And there's a number of

1 positions noted in terms of civic involvement
 2 and elected offices held, and obviously you
 3 gave a lot of your time and effort to your
 4 community. Would you be kind enough to tell me
 5 which of these is your service as a trustee of
 6 the TTO?
 7 **A. I don't follow you. It says elected**
 8 **offices held.**
 9 Q. Right. And so did you serve -- let's
 10 talk about the different positions you've held,
 11 because it looks like you were --
 12 **A. I can help you on that. The Trustee**
 13 **of Schools was the first elected position for**
 14 **me and then I think followed by the township**
 15 **and the village.**
 16 Q. So you were a Trustee of Schools, in
 17 other words a TTO, then you became Trustee of
 18 Lyons Township, and then you became trustee --
 19 did you say the village?
 20 **A. Right.**
 21 Q. And that was the village of what, sir?
 22 **A. Western Springs.**
 23 Q. Did you hold all of those positions
 24 simultaneously at some point?

1 **A. I think one of them I might have.**
 2 **Perhaps it might have been the township**
 3 **trustee, perhaps.**
 4 Q. And you're also on Board of Governors
 5 for the Illinois State Bar Association as well?
 6 **A. Right, that's a volunteer position.**
 7 Q. It says here elected Lyons Township
 8 School Trustee 1998 through 2005. Is that
 9 information correct?
 10 **A. I would hope so. I would think so.**
 11 Q. Okay. It looks like you were on quite
 12 a few boards and other legal and civic
 13 organizations. Did you find that you had
 14 enough time to devote to your position as
 15 trustee of the TTO?
 16 **A. Well, with that it meets only**
 17 **quarterly; it wasn't really a real**
 18 **time-consuming-type job.**
 19 Q. Tell me, sir, what you did in
 20 connection with that job?
 21 **A. Showed up at meetings, looked**
 22 **over -- usually they had a listing of the banks**
 23 **who had funds deposited with them. The**
 24 **meetings were fairly brief. I wouldn't think**

1 **they lasted more than a half hour.**
 2 Q. What did you understand your
 3 responsibility for oversight to be?
 4 **A. Well, basically it was to -- well, you**
 5 **had the money that was invested, would go to**
 6 **the banks for -- and through the treasurer**
 7 **would be put into safe funds. There's**
 8 **also -- we dealt with personnel, the checks of**
 9 **personnel of the various school districts**
 10 **issuing them, besides the funds and depositing**
 11 **those and investing those. I think there's**
 12 **also school land that they had to come to us if**
 13 **there was any sale of the land or any boundary**
 14 **change.**
 15 Q. Did you also review and approve the
 16 expenses of the TTO?
 17 **A. I believe so. I'm not totally sure.**
 18 **It's been over sixteen years.**
 19 Q. Now, sir, I have to mention to you
 20 that in this lawsuit, my client, District 204,
 21 has been sued based on events that go back as
 22 far as 1994.
 23 So while I understand that a lot
 24 of these subject matters we're talking about

1 here today occurred a long time ago, that's
 2 because the lawsuit stretches back that far.
 3 Do you understand that?
 4 **A. Yes.**
 5 Q. And you will do your best to provide
 6 me with your full recollection as best you can.
 7 **A. Whatever I recall.**
 8 Q. Okay.
 9 MR. HOFFMAN: Mark this as No. 2.
 10 (WHEREUPON, said
 11 document was marked as
 12 Hartigan Deposition
 13 Exhibit No. 2 for
 14 Identification.)
 15 BY MR. HOFFMAN:
 16 Q. Sir, I'm handing you a document which
 17 is a printout of an Illinois statute, it's 105
 18 ILCS 5/5-20. It's from the school code and the
 19 article that relates to trustees of schools.
 20 Would you take a moment to read that paragraph
 21 to yourself, please.
 22 **A. Okay.**
 23 Q. Am I correct, sir, that this statute
 24 sets forth the obligations of trustees of

1 schools such as yourself?
 2 **A. Looks like it.**
 3 Q. And you can see from the notes below
 4 that this is the law that was in place at the
 5 time you were a trustee based on the revisions,
 6 correct?
 7 **A. Okay.**
 8 Q. And my question, sir, is: Did you
 9 comply with the statutory obligations stated in
 10 this Section 5-20 during the time you were
 11 trustees of schools?
 12 MR. KALTENBACH: I will object as it calls
 13 for the witness to make a legal conclusion
 14 which in his capacity today Judge Hartigan
 15 should not be doing. But nonetheless you can
 16 answer despite my objection.
 17 THE WITNESS: I would certainly hope so.
 18 BY MR. HOFFMAN:
 19 Q. I'm not asking whether you hope so,
 20 I'm asking, based on your recollection of what
 21 you did, did you, in fact, do the things that
 22 are set out in this statute?
 23 **A. I would think so.**
 24 Q. Okay. So --

1 **A. If they're brought to our attention,**
 2 **then yes.**
 3 Q. Okay. So it says in this section,
 4 sir, "The trustees of schools," and I'm
 5 starting midway through the first
 6 sentence -- well, why don't I read the whole
 7 thing. "At each regular meeting, and at such
 8 other meetings as they may think proper, the
 9 Trustee of Schools shall examine all books,
 10 notes, mortgages, securities, papers, monies
 11 and affects of the corporation, and the
 12 accounts and vouchers of the township treasurer
 13 or other township school officer," and then it
 14 goes on from there.
 15 And your best recollection, sir,
 16 is that you did those things while you were a
 17 school trustee?
 18 **A. If they were brought to my attention**
 19 **and we reviewed them, we had legal counsel, we**
 20 **had auditors, if they're brought to our**
 21 **attention, then yes, at the meeting.**
 22 Q. Have you spoken with any of your
 23 fellow trustees such as Donna Milich,
 24 M-I-L-I-C-H, or any other of the gentlemen or

1 ladies you served with as Trustee of Schools
 2 about the matters involved in this lawsuit?
 3 **A. I have not. Donna Milich my**
 4 **understanding has moved out of the area.**
 5 Q. She lives in Arizona, correct?
 6 **A. Yeah, I think so.**
 7 Q. Was it your understanding that the TTO
 8 acted as the agent and fiduciary for the
 9 various school districts, including District
 10 204, with respect to investment of their funds
 11 and accounting functions and other related
 12 business issues?
 13 **A. Yes, I mean we worked through our**
 14 **treasurer and worked through our auditor, and**
 15 **mainly treasurer would do whatever necessary to**
 16 **make sure that the funds were invested and**
 17 **secure funds. I think designated by statute.**
 18 **I think you couldn't do anything beyond what's**
 19 **in the statute.**
 20 Q. And what was the treasurer's
 21 responsibilities with respect to expenditures?
 22 **A. Well, I think he got money through,**
 23 **you know, taxing money, and then he would make**
 24 **payroll to the various school districts, and**

1 **also do the investing of funds, as mentioned,**
 2 **and deposit funds with local banks.**
 3 Q. So --
 4 **A. Or CDs or whatever it might be.**
 5 Q. And, sir, the entire time that you
 6 were a trustee at schools, am I correct that
 7 Robert Healy was the treasurer?
 8 **A. I believe so.**
 9 Q. What was his professional background?
 10 **A. I think he worked for the court system**
 11 **at one time in his life. I believe he had a**
 12 **degree, bachelor's degree, but I don't know if**
 13 **he had anything further, anything advanced.**
 14 Q. Do you know whether or not he was a
 15 CPA?
 16 **A. I don't believe so.**
 17 Q. Do you know whether or not he had any
 18 investment-related training or credentials?
 19 **A. I don't know that.**
 20 Q. And you were involved in extending
 21 Robert Healy's contract from time to time; am I
 22 correct about that?
 23 **A. That's correct.**
 24 Q. And tell me why you believe that

1 Robert Healy was capable of performing his
 2 duties as treasurer during your time as
 3 trustee?
 4 **A. Well, I mean given the fact we had**
 5 **auditors, given the fact we had a board, given**
 6 **the fact that the -- kept saying that the --**
 7 **things were going well, through the auditor and**
 8 **through legal counsel and through our board, we**
 9 **had no reason to suspect otherwise.**
 10 Q. Sir, Hartigan Exhibit No. 1 sets forth
 11 your undergraduate and law degree; am I
 12 correct?
 13 **A. Yes.**
 14 Q. And do you have any training or
 15 education as an accounting or investment
 16 professional?
 17 **A. I have a B.S. in commerce from DePaul**
 18 **and took some courses in the M.B.A. program.**
 19 **I'm not a CPA, but I did have a business**
 20 **degree. Did have accounting and finance in it.**
 21 Q. Do you know where -- you know a
 22 gentleman, of course, named Joseph Nekola,
 23 N-E-K-O-L-A; am I correct?
 24 **A. Yeah.**

1 Q. He was a fellow trustee with you,
 2 correct?
 3 **A. He was the president and trustee.**
 4 Q. He is now deceased?
 5 **A. Yes.**
 6 Q. Did Mr. Nekola have any accounting or
 7 investment background to your knowledge?
 8 **A. I doubt that.**
 9 Q. Same question for Ms. Milich?
 10 **A. No, I don't think so.**
 11 Q. Sir, I'd like to show you a document
 12 that's previously been marked as Healy Exhibit
 13 No. 1, and it's a compilation of a series of
 14 documents. We're not going to go through all
 15 of them, however I'm going to have you look at
 16 a few of them. So let me hand you that stack.
 17 I'd like you to turn to the third page, please.
 18 **A. Third page here?**
 19 Q. Yes. This is an April 29, 1999,
 20 letter that Bob Healy wrote to Lisa Beckwith,
 21 the business manager at District 204. Do you
 22 see that?
 23 **A. Yes.**
 24 Q. And have you ever had any

1 communications with Dr. Beckwith?
 2 **A. No.**
 3 Q. Sir, if you look at the last page of
 4 this letter, it shows you and your fellow
 5 trustees as carbon copies of this letter on
 6 page nine. Do you see that?
 7 **A. I do.**
 8 Q. And is this a letter that you believe
 9 you received on or about the date that it
 10 bears?
 11 **A. I couldn't say one way or the other.**
 12 Q. You don't remember this letter?
 13 **A. I do not.**
 14 Q. Do you have any reason to doubt that
 15 you received it?
 16 **A. No.**
 17 Q. And you see in here in the very first
 18 paragraph on the first page, sir, that it talks
 19 about an analysis of the duties and
 20 responsibilities of the TTO and specific
 21 services provided by the office. Do you see
 22 that?
 23 **A. Yes.**
 24 Q. Do you recall back in 1999 discussions

1 between the TTO and District 204 about
 2 financial issues?
 3 **A. About what issues?**
 4 Q. Financial issues or really any issues.
 5 **A. Only I would say from hearsay, not**
 6 **specifically with me.**
 7 Q. Well, regardless of whether you were
 8 personally involved in those discussions, sir,
 9 am I correct that you do remember there being
 10 discussions around this 1999 time period
 11 between the TTO and District 204, correct?
 12 **A. All I know there was some**
 13 **dissatisfaction with the treasurer's office,**
 14 **that's all I know.**
 15 Q. And what dissatisfaction did you
 16 understand there to be?
 17 **A. I don't know if it was in 1999 or**
 18 **subsequent thereto. I think they wanted, as I**
 19 **recall -- again, this is almost 20 years ago.**
 20 **I think they wanted to handle things themselves**
 21 **and something with computers. They wanted -- I**
 22 **don't know if it was an upgrade of the computer**
 23 **in the treasurer's office or something and**
 24 **whether they were compatible or not. Something**

1 **with the computer program. And they felt they**
 2 **could do a better job on their own.**
 3 Q. And anything else you remember about
 4 that?
 5 **A. Possibly personnel, but I don't recall**
 6 **specifically.**
 7 Q. When you say possibly personnel, sir
 8 what do you mean by that?
 9 **A. I don't remember.**
 10 Q. And you recall, am I correct, that
 11 District 204 could not leave the TTO without a
 12 state statute being passed?
 13 **A. That's correct.**
 14 Q. And you also recall that the TTO
 15 opposed District 204's departure from the TTO?
 16 **A. That I don't think I -- I'm not sure I**
 17 **was around for that.**
 18 Q. Do you remember any involvement by
 19 Mr. Landek to attempt to keep District 204 in
 20 the TTO?
 21 **A. I don't. That may have been past me.**
 22 Q. Do you know who Mr. Landek is?
 23 **A. Sure, I know him.**
 24 Q. And I'd like you, sir, to turn in this

1 April 29th, 1999, letter you received based on
 2 the CC here to page six, and you'll see there
 3 is a reference to annual audit. Do you see
 4 that?
 5 **A. Yes.**
 6 Q. And you recall that there was a firm
 7 called William F. Gurrie, G-U-R-R-I-E, that
 8 then became Virchow Krause, or maybe you don't
 9 remember them becoming Virchow Krause, but they
 10 did, then they became part of Baker tilly,
 11 which is an even bigger accounting firm. Are
 12 you familiar with that firm?
 13 **A. I am to the former that you mentioned.**
 14 Q. Gurrie?
 15 **A. Yeah.**
 16 Q. Let's call it Gurrie. And Gurrie was
 17 the auditor of the TTO as well as the school
 18 districts within the TTO, correct?
 19 **A. That is correct.**
 20 Q. And it says in this letter that Bob
 21 Healy wrote, "The trustees hire and pay for the
 22 audit of the school districts and the
 23 treasurer's office in Lyons Township." Is that
 24 consistent with your understanding of what the

1 trustees did?
 2 **A. I believe so.**
 3 Q. And then it says, "This office has
 4 assumed the cost of Lyons Township High
 5 School's audit, even though the functions were
 6 in-house." Is that also consistent with your
 7 understanding?
 8 **A. I believe so.**
 9 Q. On the last page of this letter, sir,
 10 page nine, there's a reference to a statute
 11 that says, "Requires that all school districts
 12 pay their proportionate share of the expenses
 13 of the treasurer's office. The contribution
 14 formula is prescribed by statute and allows for
 15 no variation."
 16 Do you see that statement?
 17 **A. Yes, I do.**
 18 Q. Are you familiar with that statute
 19 having to do with pro rata expenses of the
 20 treasurer's office?
 21 **A. All I can vaguely recall is that the**
 22 **pro rata share was based on money, I believe,**
 23 **and I don't think population, I think it was**
 24 **based on money.**

1 Q. It was based on the -- if I may, was
 2 it based on the amount of money that each
 3 district had maintained at the treasurer's
 4 office and invested through the treasurer's
 5 office?
 6 **A. I believe that's correct.**
 7 Q. Okay. So each district paid a share
 8 of the TTO's expenses based on the amount of
 9 money they had rather than the amount of
 10 services they received from the TTO?
 11 **A. Well, they kind of went hand in hand.**
 12 **I guess if they paid, they got certain**
 13 **services. But I think that's generally true.**
 14 Q. Okay. Sir, I'd like you to skip ahead
 15 a few pages and you'll see an agenda for a TTO
 16 meeting for July 29th of 1999.
 17 MR. KALTENBACH: Is there a Bates number on
 18 it?
 19 MR. HOFFMAN: These are not Bates numbered
 20 because we got them from you.
 21 MR. KALTENBACH: 27 you said?
 22 MR. HOFFMAN: Yes.
 23 THE WITNESS: I got it.
 24 BY MR. HOFFMAN:

1 Q. TTO's documents were not Bates
 2 numbered when we received them.
 3 **A. That's fine.**
 4 Q. Sir, you recognize this as an agenda
 5 and then right behind it the minutes of a board
 6 meeting during the time you were a trustee as
 7 indicated in the upper-left-hand corner of the
 8 agenda where your name appears; am I correct?
 9 **A. That's correct.**
 10 Q. All right. And on the minutes of the
 11 meeting of July of 27th, 1999, it indicates you
 12 were present at the meeting; am I correct?
 13 **A. That's correct.**
 14 Q. And then on page two at the very
 15 bottom, sir, it says, "There was a discussion
 16 regarding the Lyons Township High School and
 17 the problems the district has with the pro rata
 18 billing system. The trustees discussed with
 19 the Treasurer Healy several options to improve
 20 relations with the high school. Some of the
 21 items discussed are for the treasurer's office
 22 to assume more duties, possibly fund certain
 23 business functions, computer sharing and
 24 legislation." Do you see that?

1 **A. I do.**
 2 Q. Can you tell me what you recall about
 3 the discussion at that meeting other than
 4 what's stated here in these minutes?
 5 **A. You're going -- no, obviously I can't**
 6 **recall back then. This is 1999, you're talking**
 7 **almost 20 years.**
 8 MR. HOFFMAN: Off the record.
 9 (Discussion off the
 10 record.)
 11 MR. HOFFMAN: Back on the record.
 12 BY MR. HOFFMAN:
 13 Q. So, sir, you don't remember anything
 14 about this meeting other than what's set forth
 15 in the minutes?
 16 **A. Well, certain -- possibly fund certain**
 17 **business functions. I don't know if there**
 18 **was -- I don't know necessarily what that**
 19 **meant. Computer sharing --**
 20 Q. Can I interrupt you on that one?
 21 **A. Yeah.**
 22 Q. Does it help you to remember -- does
 23 it refresh your recollection to ask you whether
 24 District 204 at this time in 1999 was

1 performing its own business functions with its
 2 own staff rather than having the treasurer's
 3 office do that work like the other districts
 4 did, does that help you to remember?
 5 **A. That could be, uh-huh. Yes.**
 6 Q. And so do you remember anything about
 7 this possibly funding certain business
 8 functions?
 9 **A. I do not.**
 10 Q. And because it's in the minutes, you
 11 don't have any reason to believe this
 12 conversation did not occur as it's written
 13 here, do you?
 14 **A. I assume they're accurate.**
 15 Q. That's the point of having minutes,
 16 right?
 17 **A. Yes.**
 18 Q. Let's take a look at the next document
 19 which is an August 18th, 1999, letter to Dr.
 20 Beckwith at District 204 from Robert Healy, and
 21 I'll note for you on the third and final page
 22 of this letter there's a CC to Lyons Township
 23 Trustee of Schools. Do you see that?
 24 **A. Yes.**

1 Q. And is it fair to say that you
 2 received a copy of this letter on or about the
 3 date it bears, sir?
 4 **A. Well, the CC says trustees, so I**
 5 **assume I did.**
 6 Q. You see that this letter talks about
 7 five different proposals following up on the
 8 discussion of a month earlier at the trustees
 9 meeting. Do you see that?
 10 **A. I see that.**
 11 Q. And you see that there's -- in the
 12 very first sentence it talks about proposed
 13 possible solutions. In the very first page of
 14 this paragraph. Do you see that?
 15 **A. I do.**
 16 Q. And were these the proposals that Bob
 17 Healy had discussed with you and the other
 18 trustees?
 19 **A. I'm not sure he discussed them with**
 20 **us. I think we may have gotten a copy it looks**
 21 **like of the letter, but it's possible that he**
 22 **did, but I certainly don't recall any specific**
 23 **conversation.**
 24 Q. And so you don't remember getting this

1 letter and calling Bob Healy and asking him
 2 further information or details about this?
 3 **A. We may have got the letter. I don't**
 4 **recall calling him, no.**
 5 Q. So the first proposal is "Deviation
 6 From Pro Rata Billing." Do you see that?
 7 **A. Yes.**
 8 Q. And then it basically says that there
 9 would be -- under this first proposal that
 10 there would be a reduction in District 204's
 11 pro rata share, and it goes on to say that all
 12 of the other districts in the TTO would have to
 13 approve that change. Do you see that?
 14 **A. I do.**
 15 Q. And it talks about the necessity for
 16 an intragovernmental agreement among all 12
 17 taxing bodies in the township. Do you see
 18 that?
 19 **A. I do.**
 20 Q. Does that help you to remember the
 21 discussions that were had at that time about
 22 this proposal?
 23 **A. It does not.**
 24 Q. Is that consistent with your

1 understanding if there was a change in the pro
 2 rata billing that the treasurer issued to
 3 District 204, it would require an
 4 intragovernmental agreement?
 5 **A. I do not recall that.**
 6 Q. Do you know anything in particular
 7 about intragovernmental agreements? Are you
 8 verse in what requires an intragovernmental
 9 agreement and what does not?
 10 **A. Only through the Village of Western**
 11 **Springs when I was trustee, but I don't**
 12 **remember if it was fire or police or something.**
 13 Q. And what was that situation in which
 14 the Village had an intragovernmental agreement?
 15 **A. I'm not sure. I think they talked**
 16 **about an intragovernmental agreement. I'm not**
 17 **sure. It was sharing maybe a fire or**
 18 **ambulance. I don't think it ever came to pass**
 19 **though.**
 20 Q. The idea was that different taxing
 21 bodies would --
 22 **A. Right.**
 23 Q. -- kind of share responsibilities for
 24 fire and police?

1 **A. Exactly.**
 2 Q. And because that -- okay.
 3 Turn the page, please, to page
 4 two of the August 18th, 1999, letter. There's
 5 a proposal number two that's, quote, "Funding
 6 by township school treasurer of some district
 7 functions." Do you see that
 8 **A. Yes.**
 9 Q. And it discusses in the first
 10 paragraph, "If the responsibilities for the
 11 accounts payable and payroll production were to
 12 be returned to the school treasurer's office,
 13 it would mean higher operating costs for the
 14 treasurer's office in the form of salaries and
 15 benefits for increased staff and higher related
 16 expenses to accommodate the increase in
 17 workload." Do you see that?
 18 **A. Yes.**
 19 Q. Is that consistent with your
 20 recollection that if the TTO had taken in-house
 21 the business functions that District 204 was
 22 performing for itself, that the TTO's costs
 23 would have increased?
 24 **A. I don't remember that.**

1 Q. But you have no reason to doubt that
 2 that is true, do you?
 3 **A. Well, if it's in the letter and it was**
 4 **sent out by Healy, I suspect that's accurate.**
 5 Q. And then in the next paragraph of
 6 proposal number two it says, "I would expect
 7 that when the Trustee of Schools takes into
 8 consideration these necessary increases, they
 9 would logically conclude that a partial funding
 10 by the treasurer's office to cover District
 11 204's costs for the business functions District
 12 204 now performs would be reasonable.
 13 Especially in light of the fact that the
 14 treasurer's office is currently performing the
 15 same business functions for the 11 other school
 16 districts."
 17 Is that consistent with your
 18 recollection of this proposal and the
 19 discussions at the TTO?
 20 **A. I don't have a recollection. If it's**
 21 **in here and it was sent us to us, then it is**
 22 **what it is.**
 23 Q. Do you believe it to be accurate as
 24 the prior paragraph because it's in Mr. Healy's

1 letter?
 2 **A. From looking at this, again, I don't**
 3 **have any specific recall, but if it was in a**
 4 **letter sent out to us, then, fine.**
 5 Q. Then fine?
 6 **A. I mean fine as far as accurate.**
 7 Q. So you believe it to be accurate
 8 because it's set forth in this letter?
 9 **A. Right. Not that I have a recall, as I**
 10 **mentioned.**
 11 Q. I got you.
 12 Sir, I'd like to skip ahead to a
 13 notice and agenda of a Township Trustees of
 14 Schools meeting March 21, 2000.
 15 **A. Got it.**
 16 Q. And you've seen this document before,
 17 correct?
 18 **A. Many years ago. Unless you sent it to**
 19 **me.**
 20 Q. Did your attorneys show you this
 21 document, do you recall?
 22 **A. They possibly did.**
 23 Q. Okay. So you see on the agenda item
 24 number eight there's a listing for the District

1 204 business office, correct?
 2 **A. Is it on the second page or first?**
 3 Q. Turn back one more page, sir.
 4 **A. Sorry. On the agenda.**
 5 Q. On the agenda on point eight, there's
 6 the District 204 business office listed.
 7 **A. Correct.**
 8 Q. And then if you look at the minutes on
 9 the following page, it reflects that you were
 10 present at this March 21, 2000, trustees'
 11 meeting, correct?
 12 **A. Correct.**
 13 Q. And Bob Healy was there as well?
 14 **A. That's right.**
 15 Q. And then on the very last paragraph of
 16 the first page of minutes, Healy submitted to
 17 the trustees the proposal from District 204
 18 stating that this office absorb certain
 19 payroll, accounts payable and computer
 20 processing expenditures by District 204." Do
 21 you see that?
 22 **A. Yes.**
 23 Q. And attached to these minutes was --
 24 if you turn a couple of pages, as we received

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1 them, was the February 29th, 2000, memo from
 2 Lisa Beckwith to Robert Healy. Do you see
 3 that?
 4 **A. Yes.**
 5 Q. Are you familiar with that Lisa
 6 Beckwith memo setting forth the proposal of
 7 District 204?
 8 **A. Not really. I don't recall it.**
 9 Q. Do you have any reason at all to doubt
 10 that this memo was something you received at
 11 this meeting as the minutes indicate?
 12 **A. It appears that way.**
 13 Q. And you don't remember anything about
 14 this memo independently?
 15 **A. No.**
 16 Q. And then this -- the minutes go on to
 17 say, "As these costs would be incurred by the
 18 treasurer's office if the Lyons Township High
 19 School were to totally utilize the facilities
 20 of the treasurer's office. These costs would
 21 certainly be incurred."
 22 Is that consistent with your
 23 recollection of the discussions that were had
 24 regarding District 204's proposal?

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1 **A. I have no recollection.**
 2 Q. Do you have any reason to doubt that
 3 those were discussions that were had?
 4 **A. If it's in the minutes, I assume**
 5 **that's accurate.**
 6 Q. It also says, "A further
 7 recommendation by Trustee Hartigan is that the
 8 trustees be given an evaluation of the
 9 employee's performance for those aforementioned
 10 personnel employed at the high school." Do you
 11 see that?
 12 **A. I do.**
 13 Q. Is that something that you
 14 recommended?
 15 **A. Sounds logical.**
 16 Q. And you have no reason to doubt it
 17 based on the --
 18 **A. No.**
 19 Q. Let's turn to page two of the March
 20 21, 2000, minutes, please. It says, "A motion
 21 was made by Russell Hartigan, seconded by
 22 Joseph Nekola to accept the proposal given to
 23 the Lyons Township Trustees of Schools by Cook
 24 County High School District number 204." And

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1 then it has you and Mr. Nekola voting aye and
 2 no one voting nay, correct?
 3 **A. Correct.**
 4 Q. Is that the motion that you made, sir?
 5 Did you make that motion at that meeting?
 6 **A. Apparently.**
 7 Q. Based on the minutes, you believe that
 8 the trustees voted to accept the proposal of
 9 District 204, whereby the TTO would pay for
 10 business functions at District 204, correct?
 11 **A. Appears that way.**
 12 Q. And it appears that way because it's
 13 set forth in the minutes, correct?
 14 **A. Yes.**
 15 Q. Okay. Now, sir, do you recall that
 16 the way that the TTO's payments for District
 17 204's business functions -- actually, let me
 18 take that from you. I'll take that exhibit
 19 back.
 20 Sir, do you recall that what
 21 would happen in practice was that the TTO would
 22 bill District 204 for its share of pro rata
 23 expenses and District 204 would deduct the cost
 24 of the business functions at District 204 that

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1 the TTO was paying for and then District 204
 2 would pay the balance?
 3 **A. I don't recall the financial**
 4 **interworkings, but it sounds somewhat accurate.**
 5 **I think there was, what, a**
 6 **general account or something. General fund,**
 7 **maybe that's it.**
 8 Q. Right, and the payments were more in
 9 the nature of adjustments or line items because
 10 District 204 wouldn't pay the treasurer because
 11 the treasurer already had District 204's money,
 12 right?
 13 **A. I believe so.**
 14 Q. So in showing you a document, which is
 15 a June 14th, 2000, memo from Lisa Beckwith to
 16 the Board of Education, and that by the way is
 17 the Board of Education of District 204.
 18 MR. KALTENBACH: Is it part of the packet?
 19 MR. HOFFMAN: Yes, it is.
 20 BY MR. HOFFMAN:
 21 Q. I don't have any reason to believe
 22 you've ever seen that memorandum, but the
 23 question I'm asking you, sir, does this -- the
 24 June 14th, 2000, memo from Lisa Beckwith talks

1 about the pro rata billing from the TTO, then a
2 deduction for the TTO's payment of Lyons'
3 business functions and then a net payment by
4 the District 204.

5 Does that memo refresh your
6 recollection as to the process by which this
7 agreement was implemented by the parties?

8 **A. Well, as I mentioned, I've never seen
9 this.**

10 **So, again, I was not involved
11 heavily with the interworkings of who gets paid
12 to any great degree.**

13 **So I would assume that that seems
14 accurate.**

15 Q. And you were aware, sir, that from the
16 year 2000 through the remainder of your term as
17 trustee, that the TTO was paying for certain
18 business functions performed at District 204,
19 correct?

20 **A. I think so.**

21 Q. And that is an expenditure that you
22 and the other trustees approved on a regular
23 basis when you approved the expenses of the
24 TTO?

1 **A. Again, you know, if it was brought
2 before us and we had an auditor and an attorney
3 present, we would generally approve those.**

4 Q. Okay. Am I also correct that there
5 was never any issue during the time you were a
6 trustee with District 204 not paying its pro
7 rata share of the treasurer's expenses?

8 **A. I don't think so.**

9 Q. Did you ever hear from anyone whether
10 District's 204's Board of Education approved
11 the agreement between the TTO and District 204
12 that the trustees had approved in March of
13 2000?

14 **A. I did not.**

15 Q. And this agreement that you and the
16 trustees approved in March of 2000, this was
17 not intended as a one year only for the 2000
18 fiscal year agreement, was it?

19 MR. KALTENBACH: Objection. I think it
20 misstates the witness' prior testimony.
21 Subject to that, you can answer.

22 THE WITNESS: Yeah, I mean I don't know
23 what the nature of the longevity of it was.

24 BY MR. HOFFMAN:

1 Q. Okay. When you look back at the
2 August 19th, 1999, letter that Bob Healy sent
3 to Lisa Beckwith, and there's a proposal number
4 two for the payment by the TTO of certain
5 District 204 business functions, nothing in
6 that letter suggests that this was somehow only
7 an agreement applicable to one fiscal year,
8 does it?

9 **A. I'm sorry. I didn't get the latter
10 part of your question.**

11 MR. HOFFMAN: You can read it back, please.
12 (Said question was read
13 back.)

14 MR. KALTENBACH: Im sorry. This is Healy
15 I still?

16 MR. HOFFMAN: Yes.

17 THE WITNESS: I mean the paragraph reads,
18 you know -- includes a partial funding by the
19 Treasurer's Office to cover the 204 costs.

20 BY MR. HOFFMAN:

21 Q. And it was -- the purpose of this
22 proposal was to deal with District 204's
23 concerns that it was paying too much because it
24 was doing its own business functions and paying

1 for its own business functions, yet it was also
2 paying a full share of the pro rata expenses of
3 the Treasurer's Office, correct?

4 MR. KALTENBACH: Objection. Lack of
5 foundation.

6 THE WITNESS: Yeah, I don't know what -- if
7 any or what business functions they were doing,
8 204.

9 BY MR. HOFFMAN:

10 Q. Doesn't it refer to accounts payable
11 and payroll here?

12 **A. It says that in the letter, but --**

13 Q. But you don't know?

14 **A. No, I didn't hear from 204 about that.**

15 Q. Are you aware of any instance from
16 2000 until the end of your term as trustee,
17 sir, in which the TTO ever rejected District
18 204's net payment or statement of net payment
19 to the TTO?

20 **A. I'm not aware.**

21 Q. And you understand what I mean by net
22 payment, that it's the pro rata expenses minus
23 the cost of District 204's business functions?

24 **A. Yeah, I don't recall. I'm not aware.**