

COUNTY OF HUNTERDON
 NOTICE OF DISCIPLINARY ACTION
 Thursday, December 5, 2013
 9:30 to 12:30

IN RE: MARGARET PASQUA
 COUNTY TREASURER OF THE
 COUNTY OF HUNTERDON
 and
 KIMBERLY BROWNE, COUNTY
 DEPARTMENT HEAD, DEPARTMENT
 OF ADMINISTRATION AND FINANCE

APPEARANCES:

EDWARD J. FLORIO, ESQ.
 HEARING OFFICER

CLEARY, GIACOBBE, ALFIERI & JACOBS, ESQS.
 169 Ramapo Valley Road
 Oakland, New Jersey 07436
 BY: RICHARD A. GANTNER, ESQ.
 and
 MATTHEW J. GIACOBBE, ESQ.
 Appearing on Behalf of the County of Hunterdon

GAETANO M. DESAPIO, ESQ.
 1110 Harrison Street
 Frenchtown, New Jersey 08825
 Appearing on Behalf of Margaret Pasqua and Kimberly Browne

PHILIP A. FISHMAN
 COURT REPORTING AGENCY
 89 Headquarters Plaza North
 Morristown, New Jersey 07960
 973-285-5331 - FAX 732-605-9391

09:10:25 1 (Table of Contents from 2007 audit is marked
 09:10:30 2 as Exhibit PB-64 for identification.)
 09:11:15 3 (Report On Compliance With Requirements
 09:11:20 4 Applicable to Each Major Federal and State Program and
 09:11:25 5 Internal Control With OMB Circular A-133 and NJ OMB
 09:11:41 6 Circular 04-04 as amended is marked as Exhibit PB-65 for
 09:13:22 7 identification.)
 09:13:22 8 (Table of Contents is marked as Exhibit
 09:14:05 9 PB-66 for identification.)
 09:14:30 10 (Report on Compliance With Requirements That
 09:14:45 11 Could Have a Direct and Material Effect on Each Major
 09:14:49 12 Program and on Internal Control Over Compliance in
 09:14:58 13 Accordance With Federal OMB Circular A-133 and State
 09:15:04 14 Circular Letter 04-04 OMB is marked as Exhibit PB-67 for
 15 identification.)
 16
 09:41:30 17 Ronald F. Mathews, 99 Quakertown Road, Pittstown, New
 09:41:38 18 Jersey, having been duly sworn according to law, testifies
 09:41:38 19 under oath as follows:
 09:41:38 20 DIRECT EXAMINATION BY MR. DESAPIO:
 09:41:42 21 Q. Good morning, Mr. Mathews.
 09:41:45 22 A. Good morning.
 09:41:46 23 Q. Were you employed at any time by the County of
 09:41:52 24 Hunterdon, and in what capacity?
 09:41:53 25 A. I was director of Budgets and Grants.

INDEX

WITNESS: DIRECT CROSS REDIRECT RECROSS

RONALD F. MATHEWS

By Mr. DeSapio 3 25
 Mr. Giacobbe 18

EXHIBITS.

NUMBER	DESCRIPTION	PAGE
9	PB-64 Table of Contents from 2007 audit	3
10	PB-65 Report On Compliance With Requirements Applicable to Each Major Federal and State Program and Internal Control With OMB Circular A-133 and NJ OMB Circular 04-04	3
11	PB-66 Table of Contents	3
12	PB-67 Report on Compliance With Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance With Federal OMB Circular A-133 and State Circular Letter 04-04 OMB	3

Mathews - direct - DeSapio

09:41:55 1 Q. And when were you employed in that position?
 09:41:58 2 A. I started in September of 1993, retiring the end
 09:42:03 3 of June 2008.
 09:42:06 4 Q. And during that period of time did you hold any
 09:42:10 5 state-issued licenses?
 09:42:13 6 A. I am a certified municipal finance officer.
 09:42:16 7 Q. During the period of time that you were employed
 09:42:20 8 as a director of Budgets and Grants, what were your
 09:42:23 9 responsibilities?
 09:42:28 10 A. I was, along with the County treasurer, our
 09:42:33 11 charge was the preparation of the annual County budget,
 09:42:38 12 reconciliation of certain bank accounts, maintenance --
 09:42:43 13 initially when I first started I did all of the
 09:42:47 14 maintenance of the County ledgers, postings, current
 09:42:52 15 trust, grants and capital.
 09:42:58 16 Q. Okay. You indicated your title was Director of
 09:43:02 17 Budgets and Grants.
 09:43:03 18 What were your responsibilities in connection
 09:43:08 19 with grants?
 09:43:08 20 A. It was the analysis and the reconciliation of the
 09:43:11 21 grants.
 09:43:13 22 Q. You testified that you had responsibilities in
 09:43:21 23 connection with the County treasurer.
 09:43:22 24 Who was the County treasurer at the time?
 09:43:24 25 A. Charles Bahlog.

Mathews - direct - DeSapio 5

09:43:25 **1** Q. Okay. Now, from whom did the County obtain

09:43:31 **2** grants?

09:43:32 **3** **A. State and Federal grants, there was some private**

09:43:35 **4** **grants, but they were minimal.**

09:43:38 **5** **I would say mostly State and Federal grants.**

09:43:42 **6** **Most of the Federal grants were passed through the**

09:43:45 **7** **State, also.**

09:43:47 **8** Q. Okay. Now, the grants that the County received

09:43:51 **9** during that period, were they audited?

09:43:55 **10** **A. Yes.**

09:43:55 **11** Q. And by whom were they audited?

09:43:59 **12** **A. The County auditor for any designated year,**

09:44:02 **13** **basically, yes.**

09:44:03 **14** Q. During the period 1993 to 2008, can you remember

09:44:08 **15** the names of the auditing firms?

09:44:14 **16** **A. We started out with Case and Barlow, who became**

09:44:22 **17** **Smith and Brown. Then we had Ferraioli, which was Tom**

09:44:29 **18** **Ferry, and I believe Tom Ferry was the last one when I**

09:44:32 **19** **retired.**

09:44:33 **20** Q. Okay. Are you familiar with the term "single

09:44:37 **21** audit"?

09:44:37 **22** **A. Yes.**

09:44:38 **23** Q. And what is your understanding of what a "single

09:44:42 **24** audit" is?

09:44:43 **25** **A. It's encompassing the financial records of the**

Mathews - direct - DeSapio 6

09:44:47 **1** **County.**

09:44:49 **2** Q. And does it include -- would it include grants as

09:44:54 **3** well?

09:44:54 **4** **A. I believe so.**

09:45:36 **5** MR. DESAPIO: 64 and 65.

09:45:38 **6** Q. I am going to show you what has already been

09:45:41 **7** identified and marked into evidence as PB-20, which is

09:45:46 **8** the audit report of Ferraioli dated December 13, 2007.

09:45:52 **9** Were you the County director of Budgets and

09:45:58 **10** Grants for the year 2007?

09:46:00 **11** **A. Yes, sir.**

09:46:00 **12** Q. Okay. Now I am going to show you what's been

09:46:06 **13** marked as PB-64 and ask you to take a look at the table

09:46:15 **14** of contents of PB-20 and determine whether or not PB-64

09:46:22 **15** is an accurate copy of the section entitled "Part" Roman

09:46:28 **16** numeral "II."

09:46:29 **17** **A. It would appear so.**

09:46:30 **18** Q. And what is the "Part II" entitled?

09:46:36 **19** **A. "Part II" is entitled the "Single Audit" section.**

09:46:39 **20** Q. Okay. I am going to show you what's been marked

09:46:45 **21** for identification as PB-65, and then ask you -- I guess

09:46:53 **22** I should identify it for the record -- PB-65 is entitled

09:46:57 **23** "Report on Compliance With Requirements Applicable to

09:47:00 **24** Each Major Federal and State Program and Internal

09:47:03 **25** Control With OBM Circular A-133 and NJ OBM Circular

Mathews - direct - DeSapio 7

09:47:11 **1** 04-04 As Amended."

09:47:12 **2** The bottom of that, there is a page number, and

09:47:17 **3** that's 16.

09:47:19 **4** I wonder if you would look at Page 136 of PB-20

09:47:24 **5** and determine whether or not the pages that are in PB-65

09:47:31 **6** are true copies of those pages.

09:47:33 **7** **A. It would appear so.**

09:47:35 **8** Q. Now, what is PB-65, to your knowledge?

09:47:47 **9** **A. Well, I am only reading from the title, but it's**

09:47:50 **10** **the "Report of Compliance With the Requirements**

09:47:51 **11** **Applicable For Each Major Federal and State Grant**

09:48:00 **12** **Program."**

09:48:00 **13** Q. Now, how did the way that was reported in the

09:48:08 **14** 2007 audit compare -- strike that.

09:48:13 **15** Did the auditors for the years prior to 2007

09:48:18 **16** handle the single audit in the same manner as was done

09:48:22 **17** in the year 2007?

09:48:23 **18** **A. I believe so.**

09:48:24 **19** Q. Okay. And was any concern expressed by any

09:48:34 **20** Federal or State agency that the way the County was

09:48:37 **21** handling the single audit as part of the general audit

09:48:42 **22** of concern?

09:48:43 **23** **A. I don't recall any.**

09:48:58 **24** Q. In preparation for your testimony today -- could

09:49:03 **25** I ask you to take a look at PB-6, which has been marked

Mathews - direct - DeSapio 8

09:49:06 **1** in evidence as the Samuel Klein audit for the year 2011.

09:49:10 **2** **A. You did.**

09:49:11 **3** Q. Okay. And I am going to ask you to look at Roman

09:49:15 **4** numeral Page VI.

09:49:30 **5** I am going to show you PB-66, which has been

09:49:35 **6** marked for identification.

09:49:37 **7** Is that a true copy of Page VI of Klein's audit?

09:49:41 **8** **A. It would appear so.**

09:49:42 **9** Q. Okay. And is there a section in the 2011 audit

09:49:47 **10** which is similar to the section that you just testified

09:49:51 **11** to in the 2007 audit?

09:49:53 **12** **A. That's correct.**

09:49:54 **13** Q. And what is that entitled in the index?

09:49:56 **14** **A. "Single Audit Attachments."**

09:50:00 **15** Q. I am going to show you what's been marked PB-67

09:50:05 **16** for identification.

09:50:10 **17** MR. GIACOBBE: What is that?

09:50:11 **18** I don't have that.

09:50:12 **19** MR. DESAPIO: You don't have that.

09:50:13 **20** MR. FLORIO: Nor do I, nor 66.

09:50:16 **21** MR. GIACOBBE: You gave us 64 and 65.

09:50:20 **22** MR. DESAPIO: I apologize.

09:50:22 **23** 66 and 67.

09:50:23 **24** I am sorry about that, gentlemen.

09:50:27 **25** 66, 67. 66 and 67.

Mathews - direct - DeSapio 9

09:50:36 1 MR. FLORIO: Thank you.

09:50:45 2 Q. Okay. I showed you PB-67, which has been marked

09:50:49 3 for identification, and I am going to ask you to look at

09:50:53 4 PB-6 in evidence and let us know whether PB-67, which is

09:51:03 5 marked Page 132, is an accurate copy of Pages 132 and

09:51:09 6 following in the Samuel Klein audit.

09:51:14 7 A. It would appear so.

09:51:15 8 Q. All right.

09:51:17 9 Now, would you read the title of PB-67?

09:51:21 10 A. It's a "Report of the Compliance With the

09:51:23 11 Requirements That Could Have a Direct Material Effect on

09:51:26 12 Each Major Program of Internal Control Over Compliance

09:51:29 13 in Accordance With Federal OBM Circular A-133 and State

09:51:34 14 Circular Letter 0404 OMB."

09:51:38 15 Q. Does it appear to you, looking at Samuel Klein's

09:51:43 16 2011 audit, that Klein treated the single audit in the

09:51:48 17 same manner as it was treated when you were the County

09:51:53 18 director?

09:51:55 19 A. Yes, it would appear so.

09:52:04 20 Q. I wonder if you could take a look at PB-65.

09:52:21 21 Can you take us -- would you take us through

09:52:24 22 there and identify, if you could, whether there are any

09:52:31 23 grants referenced in that section.

09:52:40 24 A. Yes, beginning on Page 138.

09:52:43 25 Q. And could you give us an example of the grants

Mathews - direct - DeSapio 10

09:52:48 1 that are referenced there?

09:52:51 2 A. Community Affairs grant, there is a Victim

09:52:54 3 Assistance Grant, Narcotics Task Force, some reasonable

09:53:00 4 transportation, largely ones being Title 20, Small

09:53:04 5 Cities Community Development Grants, and so forth and so

09:53:09 6 on.

09:53:10 7 You don't want me to read them all, do you?

09:53:13 8 Q. No.

09:53:20 9 In regard to the Federal government's

09:53:22 10 requirements, what was your understanding of what PB-65

09:53:34 11 was and how it was handled by the County?

09:53:39 12 A. Well, this is a composite of the grants and the

09:53:42 13 audit that was performed by the auditor. This is a

09:53:48 14 statement of the amount of the initial grant, the

09:53:50 15 balances, the reserve and expenditures. This was done

09:53:58 16 for compliance with the single audit, as it states in

09:54:01 17 the cover.

09:54:03 18 Q. Okay. Now, can you take a look at PB-65 again

09:54:07 19 and take a look at the second paragraph, the one that

09:54:11 20 begins, "We conducted our audit of compliance in

09:54:14 21 accordance with auditing standards."

09:54:15 22 A. Uh-huh.

09:54:16 23 Q. Can you read that second paragraph for us?

09:54:17 24 A. The entire paragraph?

09:54:18 25 Q. Yes, please.

Mathews - direct - DeSapio 11

09:54:20 1 MR. GIACOBBE: Where are you reading from,

09:54:21 2 PB-65?

09:54:22 3 MR. DESAPIO: PB-65.

09:54:27 4 A. "We conducted --"

09:54:29 5 MR. GIACOBBE: I would object reading just a

09:54:33 6 document. The document says what it says.

09:54:36 7 We will stipulate to that.

09:54:38 8 Why are we reading a whole paragraph?

09:54:41 9 MR. DESAPIO: Only because --

09:54:42 10 MR. GIACOBBE: He didn't write this

09:54:44 11 paragraph.

09:54:45 12 MR. DESAPIO: I understand that.

09:54:46 13 Only for the witness to identify for the

09:54:48 14 hearing officer, more fully in regard to PB-65 rather

09:54:54 15 than just putting a document in to show what that

09:54:56 16 document does and what is the intent of it.

09:55:00 17 MR. GIACOBBE: Same objection.

09:55:01 18 I think then the witness should be asked

09:55:03 19 what is his understanding of this document and what does

09:55:05 20 this mean.

09:55:05 21 He can review it and testify, but reading it

09:55:09 22 is not testimony.

09:55:10 23 MR. FLORIO: Sustained.

09:55:11 24 MR. DESAPIO: Okay.

09:55:38 25 Q. I show you what's been marked in previous

Mathews - direct - DeSapio 12

09:55:40 1 proceedings as PB-31, PB-32 and PB-33.

09:55:47 2 I ask you if you are familiar with those forms or

09:55:54 3 forms similar to those.

09:56:14 4 A. I am not.

09:56:15 5 Q. All right.

09:56:16 6 Are you familiar with the term "Federal Data

09:56:19 7 Collection Form"?

09:56:20 8 A. I have never seen this one.

09:56:22 9 Q. Okay. During the period of time that you served

09:56:31 10 as Director of Budget and Grants, did you prepare or

09:56:32 11 sign or file a Federal Data Collection Form?

09:56:36 12 A. As I stated, I have never seen this form. I have

09:56:39 13 never completed it, and I have never seen it.

09:56:41 14 Q. Did you train -- did you have anything to do --

09:56:47 15 excuse me.

09:56:48 16 Describe the transition between the time that you

09:56:50 17 left and Kim Browne taking over her position.

09:56:58 18 A. From the time I left or prior to my leaving?

09:57:01 19 Q. Prior to your leaving, yes.

09:57:05 20 A. I believe Kim came over initially -- she came

09:57:10 21 over from Human Services in December of 2007, and, I

09:57:24 22 believe, she was in two positions -- still maintaining

09:57:27 23 her position in Human Services and was being trained, or

09:57:31 24 I made her familiar with my position as it was prior to

09:57:36 25 my retirement in June of 2008.

Mathews - direct - DeSapio 13

09:57:39 **1 Q.** What did you do to make her familiar with your
09:57:43 **2** position?
09:57:44 **3 A. Well, we went over my day-to-day obligations and**
09:57:47 **4 responsibilities, and of the beginning of 2008, she was**
09:57:56 **5 involved with me as well as the County treasurer in the**
09:58:01 **6 preparation of the 2008 County budget.**
09:58:05 **7 Q.** Now, in connection with your training of her, did
09:58:11 **8** you ever describe to her any responsibility in
09:58:13 **9** connection with the completion of Data Collection Forms?
09:58:16 **10 A. No, I am not familiar with the Data Collection**
09:58:19 **11 Form.**
09:58:23 **12 Q.** Who is Cheryl Wieder?
09:58:25 **13 A. She was the director of Human Resources when I**
09:58:28 **14 was employed by the County.**
09:58:29 **15 Q.** Please describe your personal understanding of
09:58:35 **16** her role during the period of time that you were
09:58:38 **17** employed by the County.
09:58:42 **18 A. Well, her role was the director of Human**
09:58:45 **19 Resources.**
09:58:45 **20 Whatever responsibilities that position held, I**
09:58:51 **21 would assume -- I wasn't familiar with her day-to-day**
09:58:53 **22 operation or anything, but she conducted -- she was here**
09:58:58 **23 when I was first hired, and went from there.**
09:59:05 **24 Q.** Now, did she perform, to your knowledge, any
09:59:13 **25** other responsibilities other than in her role as Human

Mathews - direct - DeSapio 14

09:59:18 **1** Resources director?
09:59:20 **2 A. You mean as far as finance?**
09:59:22 **3 Q.** As far as anything in the County.
09:59:24 **4 A. Well, she was instrumental working with me in**
09:59:28 **5 giving me -- she gave me spreadsheets for the salary and**
09:59:35 **6 wages and the employees for each department so that I**
09:59:41 **7 could prepare the County budget with the proper Salary**
09:59:43 **8 and Wage line items necessary for the County budget.**
09:59:49 **9 We were closely -- the first part of the year was**
09:59:53 **10 the preparation of the County budget. These**
09:59:55 **11 spreadsheets would have the prior year's salary, the**
09:59:59 **12 projected current year's salary. I am talking from**
10:00:03 **13 January through. If there was a contract settlement, if**
10:00:09 **14 there wasn't any, or unclassified people, we would**
10:00:13 **15 project a percentage.**
10:00:15 **16 This allowed me to come up with a proper salary**
10:00:18 **17 and wage appropriation for the County budget.**
10:00:22 **18 Q.** Why did she provide that information to you?
10:00:27 **19 A. Well, she was familiar with the employees, first**
10:00:33 **20 of all, who was assigned to each department or employed**
10:00:37 **21 by each department, and she was familiar with the wage**
10:00:39 **22 settlements that were in effect. She had that**
10:00:45 **23 information. I didn't have that information.**
10:00:46 **24 Q.** To what extent did you rely on these sheets that
10:00:51 **25** she prepared in your preparation of the budget?

Mathews - direct - DeSapio 15

10:00:55 **1 A. Exclusively.**
10:00:56 **2 Q.** To your knowledge, did she perform any roles or
10:01:03 **3** responsibilities outside of Human Resources?
10:01:10 **4 A. Not that I am directly familiar with.**
10:01:14 **5 Q.** Were you Director of Budget and Grants at the
10:01:25 **6** time that the County golf course was created?
10:01:28 **7 A. Yes, I was.**
10:01:28 **8 Q.** Explain your knowledge of how it was created at
10:01:38 **9** the time.
10:01:38 **10 A. The land was purchased from the Kuster family, I**
10:01:44 **11 believe, it was in excess of 200 acres. It's in Raritan**
10:01:48 **12 Township. There was Green Acres funding that was**
10:01:55 **13 involved with it.**
10:01:57 **14 It was a controversial project and still remains**
10:02:01 **15 that way, I think, but I haven't been there, but then**
10:02:07 **16 there was -- I can't remember who the actual developer**
10:02:17 **17 or contractor was for the design and the actual creation**
10:02:24 **18 of the golf course, but it took three to four years with**
10:02:30 **19 the maturation of the grasses and stuff like that and**
10:02:31 **20 the development of the golf course -- you know -- there**
10:02:36 **21 was no clubhouse involved.**
10:02:37 **22 Q.** Describe what you mean by -- when you said it's a
10:02:41 **23** "controversial project."
10:02:42 **24** It was a controversial project?
10:02:43 **25 A. Well, certain powers-to-be at the time, and maybe**

Mathews - direct - DeSapio 16

10:02:46 **1 still, didn't feel that the County should get involved**
10:02:51 **2 with recreation and, of course, we are talking about a**
10:02:55 **3 large ticket item. I mean it was millions of dollars**
10:03:00 **4 for the initial purchase plus another probably a million**
10:03:03 **5 and a half, \$2 million for the development and the**
10:03:06 **6 equipment.**
10:03:09 **7 Q.** When you say "certain powers-to-be," what do you
10:03:11 **8** mean by "certain powers-to-be"?
10:03:15 **9 A. It was a political hot item, certain freeholders**
10:03:19 **10 didn't, like I said, didn't feel the County should get**
10:03:23 **11 involved in recreation, and others did, but there was**
10:03:27 **12 enough votes to do it.**
10:03:30 **13 Q.** Now, what can you tell us about how the books and
10:03:33 **14** records for the golf course were established?
10:03:37 **15 A. Basically, like, anything else, but -- because,**
10:03:43 **16 as I said, it was a hot button item with some of the**
10:03:50 **17 freeholders, and they insisted that we create or**
10:03:53 **18 segregate the financial aspects of the golf course, and**
10:03:58 **19 it was my understanding that we were to initiate that as**
10:04:07 **20 far as finances so that there may someday be a record or**
10:04:14 **21 documentation that would indicate the profit and loss of**
10:04:21 **22 the County golf course.**
10:04:23 **23 Q.** Now, was that the way the records were set up?
10:04:26 **24 A. Yes.**
10:04:26 **25 Q.** Okay. And who actually set the records up,

Mathews - direct - DeSapio 17

10:04:33 **1** recordkeeping system up?

10:04:34 **2** **A. The County treasurer along with the auditor at**

10:04:39 **3 the time.**

10:04:39 **4** **Q.** And did the system that was set up remain the

10:04:46 **5** same during the period of time that you were the

10:04:49 **6** Director of Budgets and Finance and Grants?

10:04:53 **7** **A. Yes, sir, it did.**

10:04:53 **8** **Q.** Until the time that you left?

10:04:55 **9** **A. Yes.**

10:04:55 **10** **Q.** Are you familiar -- to what extent are you

10:05:13 **11** familiar with the concept of revenue accounts

10:05:17 **12** receivable?

10:05:17 **13** **A. Revenue accounts receivable is a line item in**

10:05:22 **14 each ledger offset by a reserve for receivables.**

10:05:28 **15** **Q.** When you say "offset by a reserve for

10:05:32 **16** receivables," explain that concept to the extent that

10:05:35 **17** you are familiar with it.

10:05:36 **18** **A. Well, it's just really an accounting procedure,**

10:05:39 **19 double entry bookkeeping, where you have a reserve as an**

10:05:43 **20 asset, and then you have a liability as a reserve for**

10:05:45 **21 receivable.**

10:05:46 **22** **Q.** And why do you have that, those two items?

10:05:50 **23** **A. To show the receivables that may be --**

10:06:03 **24** **Q.** During the period of time that you were in your

10:06:04 **25** position, to what extent was the Finance Department

Mathews - direct - DeSapio 18

10:06:09 **1** involved in the review of health insurance, billing and

10:06:14 **2** the types of coverages that employees had?

10:06:18 **3** **A. I was not involved at all.**

10:06:19 **4** **Q.** Okay. Who handled those determinations, to your

10:06:26 **5** understanding?

10:06:27 **6** **A. Human Resources.**

10:06:28 **7** **Q.** What was your understanding as to why they

10:06:31 **8** handled those determinations?

10:06:35 **9** **A. In Finance, in my office, we had no -- we had no**

10:06:40 **10 resource or data as to the employee or their dependents**

10:06:47 **11 or their coverage or any of that information as far as I**

10:07:13 **12 know.**

10:07:13 **13** MR. DESAPIO: I don't have anything further

10:07:14 **14** for this witness.

10:07:15 **15** MR. FLORIO: Cross-examine.

10:07:17 **16** CROSS-EXAMINATION BY MR. GIACOBBE:

10:07:17 **17** **Q.** Sir, can you just tell me again what were your

10:07:20 **18** responsibilities and your title when you were here?

10:07:23 **19** **A. Primary responsibilities was the establishment of**

10:07:26 **20 the County budget, and I maintained the ledgers --**

10:07:32 **21 initially I maintained them all, and then in further**

10:07:35 **22 years they were segregated, and primarily did the**

10:07:41 **23 capital ledger and the grants.**

10:07:46 **24** **Q.** And when you say the "grants," you handled

10:07:48 **25** Federal grants. Is that correct?

Mathews - cross - Giacobbe 19

10:07:50 **1** **A. Federal and State grants, yes, sir.**

10:07:52 **2** **Q.** And you just testified earlier about PB-64, 65,

10:07:56 **3** 66, that dealt with the single audit that's required to

10:08:00 **4** be filed as a result of the County receiving Federal

10:08:04 **5** grants. Is that correct?

10:08:05 **6** **A. That's my understanding.**

10:08:06 **7** **Q.** And you testified that you have no knowledge of

10:08:10 **8** the requirement to file a Federal Data Collection Form.

10:08:14 **9** **A. I have never seen this form.**

10:08:15 **10** **Q.** Do you know if Mr. Balogh filed those?

10:08:17 **11** **A. I do not.**

10:08:18 **12** **Q.** Okay. Do you know if that's a requirement of

10:08:21 **13** receiving Federal moneys?

10:08:23 **14** **A. I have not seen this form, so I wouldn't know. I**

10:08:27 **15 have never been asked to complete it.**

10:08:28 **16** **Q.** Do you know if you failed -- if the County --

10:08:31 **17** because you testified you had a CMFO license -- correct?

10:08:35 **18** **A. Correct.**

10:08:36 **19** **Q.** Do you know if you failed to file that you would

10:08:39 **20** be deemed a high risk auditee by the Federal Government?

10:08:42 **21** **A. I am not aware of that.**

10:08:43 **22** **Q.** You just testified about the golf course, and you

10:08:47 **23** said the records, the accounting processes that were put

10:08:50 **24** in place were set up by the County treasurer, which was

10:08:54 **25** Charles Balogh.

Mathews - cross - Giacobbe 20

10:08:54 **1** **A. That's correct.**

10:08:55 **2** **Q.** And the auditor, which would have been Samuel

10:08:59 **3** Klein?

10:08:59 **4** **A. No. Samuel Klein was after my retirement. It**

10:09:04 **5 would have been whoever the auditor was at the**

10:09:07 **6 establishment, and when we started actually -- I would**

10:09:11 **7 say it was probably initiated when we first started**

10:09:14 **8 collecting fees from the golf course.**

10:09:17 **9** **Q.** Did you set that up?

10:09:18 **10** **A. I did not.**

10:09:19 **11** **Q.** Did you ever question how it was set up?

10:09:23 **12** **A. I did not.**

10:09:25 **13** **Q.** Did you report to Mr. Balogh as the County

10:09:27 **14** treasurer?

10:09:28 **15** **A. I would say yes.**

10:09:29 **16** **Q.** Okay. Now, in terms of finances, the County

10:09:33 **17** finances, books and records, County budget, whose

10:09:37 **18** responsibility does that fall under? What individuals?

10:09:44 **19** **A. Financial records?**

10:09:45 **20** **Q.** Yes.

10:09:46 **21** **A. The office of the Finance Department and the**

10:09:48 **22 County treasurer.**

10:09:49 **23** **Q.** Okay. And so when you were there -- let's go to

10:09:56 **24** the audits.

10:09:56 **25** You were asked questions about PB-6, an audit.

Mathews - cross - Giacobbe		21
10:10:01	1 Correct?	
10:10:02	2 A. PB-6.	
10:10:03	3 Q. You reviewed an audit, I think, it was for the	
10:10:06	4 calendar year 2011. Mr. DeSapio asked you if you had	
10:10:09	5 reviewed it in preparation for today.	
10:10:10	6 A. I don't have any 6.	
10:10:12	7 Q. I think it's right in front of you, the big	
10:10:15	8 fat -- right there.	
10:10:16	9 A. Okay.	
10:10:17	10 Q. Did you review that in preparation for today?	
10:10:27	11 A. Only the page referring to the single audits.	
10:10:29	12 Q. Okay. But you did review it. Is that correct?	
10:10:32	13 A. Yes.	
10:10:32	14 Q. And the audits, when you were employed by the	
10:10:35	15 County of Hunterdon, did you and Mr. Balogh work with	
10:10:38	16 the auditors to make sure that all the audits were done?	
10:10:43	17 A. We didn't work with them. We provided the	
10:10:45	18 information for the audit to be completed.	
10:10:49	19 Q. So you provide the information to them upon which	
10:10:52	20 the auditors would rely upon. Correct?	
10:10:53	21 A. Correct.	
10:10:54	22 Q. And the information that you provided to them,	
10:10:57	23 that was your responsibility to maintain that	
10:10:59	24 information and provide it to them. Is that correct?	
10:11:07	25 A. Along with the County treasurer, yes.	

Mathews - cross - Giacobbe		22
10:11:07	1 Q. When I say "you," I am talking about you and the	
10:11:07	2 County treasurer, the Finance Department.	
10:11:07	3 A. Yes.	
10:11:07	4 Q. And so the information you were providing to them	
10:11:10	5 was information that any auditor should be able to rely	
10:11:12	6 upon. Is that correct?	
10:11:13	7 A. I would hope so, yes.	
10:11:15	8 Q. And if they could not rely upon it, that would	
10:11:18	9 fall under your and/or Mr. Balogh's purview or your	
10:11:24	10 responsibility if there was mistakes in the Finance	
10:11:26	11 records and data that was provided to them. Correct?	
10:11:28	12 A. Yes.	
10:11:29	13 Q. Okay. During your tenure from 1993 to 2008, were	
10:11:40	14 you ever cited -- when I say "you," I am using "you" not	
10:11:43	15 "you" specifically, you as Finance, you and Mr. Balogh.	
10:11:47	16 A. I understand.	
10:11:48	17 Q. Were you ever cited for a material weakness, to	
10:11:50	18 your recollection?	
10:11:52	19 A. I am not aware of any.	
10:11:54	20 Q. Do you know what a "material weakness" is?	
10:11:56	21 A. Internal controls, I would say.	
10:11:59	22 Q. Is that a serious thing if an auditor finds if	
10:12:02	23 there are material weaknesses?	
10:12:04	24 A. Depending on the degree of the material weakness,	
10:12:07	25 I would say yes, depending on the degree.	

Mathews - cross - Giacobbe		23
10:12:12	1 Q. Did you ever have to file -- strike that.	
10:12:16	2 Did Finance and you or Mr. Balogh ever file a	
10:12:21	3 Corrective Action Plan with the Department of Community	
10:12:24	4 Affairs, Local Government Services during your tenure as	
10:12:27	5 a result of any audit that you were involved with?	
10:12:30	6 A. I believe we did, but I can't quote what year.	
10:12:32	7 Q. Okay. And who would have prepared the Corrective	
10:12:37	8 Action Plan?	
10:12:38	9 A. The County treasurer.	
10:12:39	10 Q. And the County treasurer would then have to	
10:12:41	11 present the Corrective Action Plan to the Freeholder	
10:12:44	12 Board. Is that correct?	
10:12:45	13 A. I believe so.	
10:12:46	14 Q. And then the County treasurer would have to file	
10:12:49	15 the Corrective Action Plan with the State. Is that	
10:12:53	16 correct?	
10:12:53	17 A. Department of Community Affairs, Division of	
10:12:55	18 Local Government Services.	
10:12:57	19 Q. And in the Corrective Action Plan the County	
10:12:59	20 treasurer would have to advise the Department of	
10:13:04	21 Community Affairs Local Government Services what actions	
10:13:06	22 they were taking to correct the --	
10:13:10	23 A. That's correct.	
10:13:11	24 Q. -- the error?	
10:13:12	25 A. That's correct.	

Mathews - cross - Giacobbe		24
10:13:13	1 Q. Do you know if the County filed a Corrective	
10:13:17	2 Action Plan with DCA for the 2010 audit?	
10:13:24	3 A. I wasn't here, and, no, I don't know.	
10:13:31	4 Q. Did you pay the bills each month in your role --	
10:13:37	5 when I say the "bills," I am talking about health	
10:13:39	6 benefit bills -- did you pay the health benefit bills?	
10:13:42	7 A. By me, the Finance Department?	
10:13:44	8 Q. No. You personally.	
10:13:45	9 A. No, sir.	
10:13:45	10 Q. So the health benefit bills that came up from	
10:13:48	11 Human Resources to you, you never reviewed those?	
10:13:50	12 A. They didn't come to me.	
10:13:52	13 Q. But ultimately the health benefit bills for	
10:13:56	14 payment were transmitted from Human Resources to Finance	
10:14:00	15 to be paid. Is that correct?	
10:14:02	16 A. That's my understanding. I didn't have a	
10:14:05	17 personal involvement with that.	
10:14:06	18 Q. Let me ask you this: Did Cheryl Wieder in her	
10:14:09	19 role as the director of HR have the ability to pay bills	
10:14:14	20 herself?	
10:14:14	21 A. No. Physically pay bills?	
10:14:21	22 Q. Physically.	
10:14:22	23 A. Cut a check?	
10:14:23	24 Q. Cut a check.	
10:14:23	25 A. Not that I am aware of.	

Mathews - cross - Giacobbe		25
10:14:25	1	Q. The only people that you are aware of that could
10:14:28	2	pay bills was the Finance Department. Is that correct?
10:14:29	3	A. That's correct.
10:14:30	4	Q. You had processes in place to make sure that the
10:14:34	5	bills that you were paying were for services that were
10:14:37	6	actually received by the County. Is that correct?
10:14:39	7	A. If they received the proper signatures, yes.
10:14:42	8	Q. When you say the "proper signatures," are you
10:14:44	9	talking about the signatures from the various department
10:14:47	10	heads?
10:14:48	11	A. Department heads or a person who was authorized
10:14:52	12	to certify the receipt of goods and services.
10:15:00	13	Q. Should Finance pay a bill that wasn't initialed
10:15:05	14	or signed by the department head or an individual who
10:15:10	15	was authorized to receive the goods and services?
10:15:12	16	A. Should they?
10:15:13	17	Q. Should they.
10:15:14	18	A. No.
10:15:15	19	MR. GIACOBBE: I have no further questions.
10:15:17	20	MR. FLORIO: Redirect.
10:15:17	21	REDIRECT EXAMINATION BY MR. DESAPIO:
10:15:19	22	Q. Mr. Mathews, during the period of time that you
10:15:24	23	were employed, was the County ever determined to be a
10:15:28	24	high risk auditee?
10:15:30	25	A. No.

Mathews - redirect - DeSapio		26
10:15:31	1	Q. Did any auditing firm ever suggest the County was
10:15:37	2	or ought to be a high risk auditee?
10:15:39	3	A. No. Actually, quite the opposite.
10:15:41	4	We were recommended as a role model usually to
10:15:45	5	municipalities to come and see the proper operation of
10:15:49	6	the Finance Department.
10:15:50	7	Q. Did any auditor ever comment upon or criticize
10:15:55	8	the fact that you and Mr. Balogh were not filing Federal
10:15:59	9	Data Collection Forms?
10:16:01	10	A. Never seen the forms, so I never received a
10:16:05	11	comment on it.
10:16:16	12	Q. You were questioned by Mr. Giacobbe about the
10:16:22	13	County's or Finance Department's involvement with the
10:16:24	14	auditors.
10:16:26	15	Were there any portions of the audit where the
10:16:32	16	auditors got information from other than the Finance
10:16:35	17	Department?
10:16:41	18	A. Well, the golf course being one of them, because
10:16:44	19	that comes to mind because we spoke of it. There was a
10:16:48	20	third party that ran the golf course under contract that
10:16:54	21	they had to go out there and accumulate -- the
10:16:59	22	receivable and the reserve for receivable amount was
10:17:02	23	actually derived at by the auditor, and that included
10:17:08	24	beginning balances as far as the current ledgers
10:17:14	25	annually.

Mathews - redirect - DeSapio		27
10:17:17	1	Q. Describe the process to the extent that you know
10:17:20	2	of for the auditors to obtain that information.
10:17:24	3	A. As I know it, they physically went out there and
10:17:32	4	reviewed their books and the moneys that were sent over
10:17:32	5	to the County for deposit, their billings, and so forth
10:17:35	6	and so on, their receipts.
10:17:36	7	Q. And what would they do after they did that
10:17:39	8	review?
10:17:40	9	A. My understanding with their review they came up
10:17:43	10	with that number that became part of the County audit
10:17:46	11	and became, like I said, the beginning balance of our
10:17:49	12	January current operating ledger.
10:17:53	13	Q. How did that become the beginning balance?
10:17:56	14	A. It was made by the determination of the auditor.
10:17:59	15	Q. And when an auditor made that determination, was
10:18:03	16	there ever a necessity to adjust the books and records
10:18:06	17	that your office maintained?
10:18:07	18	A. We never did, as far as I was concerned or knew.
10:18:13	19	It was a given.
10:18:14	20	Q. It was a given?
10:18:15	21	A. It was a given.
10:18:16	22	Q. Now, to your knowledge, were there any other
10:18:19	23	figures in that audit which are derived by the auditors
10:18:23	24	going to some other outside agency or department to
10:18:27	25	review their records before coming back to you?

Mathews - redirect - DeSapio		28
10:18:31	1	A. Engineering.
10:18:32	2	Q. Anyplace else that you can recall?
10:18:38	3	A. Social Services had its own audit, the State
10:18:42	4	audit. It was never current. Being a State audit it
10:18:49	5	was historically, like, you couldn't get 2012 today.
10:18:53	6	You might get 2010. They are always a year behind or
10:18:58	7	two years behind.
10:19:03	8	There may be more, but I can't think off the top
10:19:07	9	of my head. It's been a while.
10:19:08	10	MR. DESAPIO: I don't have anything further.
10:19:09	11	MR. FLORIO: Anything else, Mr. Giacobbe?
10:19:11	12	MR. GIACOBBE: No, sir.
10:19:13	13	MR. FLORIO: Thank you, sir.
10:19:14	14	The witness is excused.
10:19:16	15	MR. GIACOBBE: Sir, you can leave that stuff
10:19:17	16	up there.
10:19:18	17	THE WITNESS: That was my question.
10:19:21	18	MR. FLORIO: Any other witnesses, Mr.
10:19:23	19	DeSapio?
10:19:23	20	MR. DESAPIO: I don't have any other
10:19:24	21	witnesses.
10:19:24	22	MR. FLORIO: Mr. Giacobbe.
10:19:25	23	MR. GIACOBBE: No other witnesses.
10:19:26	24	MR. FLORIO: Then we have reached the point
10:19:28	25	in this proceeding where we will now have summations.

Mathews - redirect - DeSapio 29

10:19:32 **1** I think we will take five.

10:19:34 **2** MR. DESAPIO: Can I ask for 15, because I

10:19:36 **3** need to look at some of those exhibit books.

10:19:38 **4** MR. FLORIO: We will take 15 or more if

10:19:40 **5** needed, and then we will begin our summations.

10:19:44 **6** MR. DESAPIO: Around 10:30?

10:19:45 **7** MR. FLORIO: Yes.

10:19:46 **8** We are in recess.

10:19:47 **9** (Whereupon, a short recess is taken.)

10:36:55 **10** MR. FLORIO: Are you ready, Mr. DeSapio and

10:36:59 **11** Mr. Giacobbe?

10:37:01 **12** MR. GIACOBBE: Ready.

10:37:01 **13** MR. FLORIO: Time for summation, Mr.

10:37:03 **14** DeSapio.

10:37:04 **15** MR. DESAPIO: Yes. Apparently I left the

10:37:06 **16** end there without offering 64 through 67 into evidence.

10:37:11 **17** MR. GIACOBBE: No objection.

10:37:12 **18** MR. DESAPIO: Okay.

10:37:13 **19** MR. FLORIO: 64, PB-64, 65, 66 and 67 are in

10:37:21 **20** evidence.

10:37:21 **21** Please proceed.

10:37:22 **22** MR. DESAPIO: Good morning again.

10:37:25 **23** The basic tenet in the discipline of public

10:37:35 **24** employees is that their duties have to be clear, the

10:37:39 **25** expectations have to be clear, and then they need to

30

10:37:42 **1** fail to perform in accordance with those duties and

10:37:45 **2** expectations.

10:37:49 **3** In addition, and drafted on top of that in

10:37:52 **4** New Jersey, is this concept of progressive discipline

10:37:55 **5** which acknowledges that someone will occasionally make a

10:37:59 **6** mistake, and that none of us is perfect, and that unless

10:38:09 **7** a mistake is continued or radically serious, that it

10:38:16 **8** just -- it doesn't just terminate.

10:38:22 **9** Now, in other words, to public employees

10:38:25 **10** there also is, in the law, based upon the US

10:38:31 **11** Constitution and based upon basic fundamental fairness,

10:38:39 **12** the right to this kind of proceeding, to a hearing, at

10:38:45 **13** which the charges against them have to be clear, and

10:38:48 **14** they have to be proven, and they need to be given the

10:38:53 **15** opportunity to respond.

10:38:57 **16** That's what this proceeding has been all

10:39:00 **17** about. And on top of that, I want to say that based

10:39:05 **18** upon at least 35 years of experience with political

10:39:09 **19** people, politicians, elected officials and their senior

10:39:15 **20** management, such as a County administrator, when a

10:39:24 **21** problem is discovered, especially one that the public

10:39:28 **22** would be extremely sensitive to, such as this insurance

10:39:31 **23** issue, there is a tendency to say just for somebody make

10:39:37 **24** it go away, make it go away. We don't want to think

10:39:41 **25** about it, we just want it to go away, and,

31

10:39:44 **1** unfortunately, sometimes the way in the political world

10:39:50 **2** that things "go away" is by saying, "Well, we fired

10:39:55 **3** somebody in the County."

10:39:59 **4** And unless the people who the politicians

10:40:02 **5** rely on, and this is a difficult responsibility at times

10:40:09 **6** are prepared to stand up and say, "Whoa, wait a second.

10:40:15 **7** Actually, look at what happened here before you make a

10:40:19 **8** judgment."

10:40:19 **9** And that's difficult to do with political

10:40:21 **10** people and elected officials for somebody to have the

10:40:25 **11** nerve to say, "Slow down."

10:40:31 **12** Unless somebody actually says that usually

10:40:33 **13** they jump to a conclusion, and so we have this hearing

10:40:38 **14** because the law now imposes in you the responsibility to

10:40:45 **15** look objectively at what happened here and determine

10:40:51 **16** whether or not you, as the hearing officer, need to say

10:40:54 **17** to them, "Slow down."

10:40:58 **18** You need to understand better what happened

10:41:01 **19** here. You need to talk to your professionals and see if

10:41:04 **20** they are giving you the complete story or whether they

10:41:09 **21** are giving you part of the story because you're

10:41:15 **22** politicians, and that's what you want to hear and have

10:41:27 **23** not been encouraged to tell you the whole situation.

10:41:27 **24** I am going to ask you, after we go through

10:41:28 **25** the evidence and after you hear Mr. Giacobbe and you

32

10:41:31 **1** think about the case and read the transcripts, to do

10:41:38 **2** that, and I am not suggesting you wouldn't, but I am

10:41:42 **3** just reinforcing that's what we are asking you to do, is

10:41:47 **4** to perform that constitutional responsibility and say,

10:41:52 **5** "We realize you are the freeholders, we realize the

10:41:55 **6** County administrator wants to see this done, but slow

10:41:58 **7** down, because it's not right, it's not fair, it's not

10:42:03 **8** just, it's not decent, and it's not something that you

10:42:09 **9** are entitled to do by law."

10:42:11 **10** Let's start to go through the evidence in

10:42:14 **11** that regard.

10:42:15 **12** This whole thing -- the whole proceeding

10:42:19 **13** starts out with two professionals testifying, Mr. Gannon

10:42:25 **14** and Mr. Tomkins, and when you review the transcript,

10:42:29 **15** although they described a myriad of things, some serious

10:42:34 **16** in their estimation and a lot of them not significant

10:42:40 **17** according to Mr. Gannon, yet it was all thrown out

10:42:45 **18** there, all thrown out there as if there is some big mess

10:42:49 **19** that these ladies are responsible for.

10:42:52 **20** Yet, when each of them were asked, "Are you

10:42:56 **21** saying these people should be fired over this," Mr.

10:42:59 **22** Gannon says, "No, I am not saying who is responsible for

10:43:03 **23** this, I am just saying what my observations are."

10:43:06 **24** And Mr. Tomkins says the same thing, "I am

10:43:09 **25** not saying somebody should be fired over this, I am just

10:43:11 **1** saying what my observations are," and not only does that
 10:43:17 **2** lend, I think, to our argument that the County doesn't
 10:43:24 **3** have a basis for firing these people, but, I think, it
 10:43:28 **4** bolsters the common sense interpretation that the first
 10:43:33 **5** line of dealing with this might have been for Mr. Gannon
 10:43:38 **6** to say, "Well, wait a second, there are comments in
 10:43:42 **7** every audit, so just forget about those, right, forget
 10:43:49 **8** about those, forget about the fact that four people went
 10:43:52 **9** out and bought things without getting a purchase order
 10:43:55 **10** first. These ladies couldn't have known that and have
 10:43:57 **11** anything to do with that."
 10:43:58 **12** Instead of -- Mr. Gannon just does what he's
 10:44:03 **13** told, and Mr. Tomkins the same thing, and I respectfully
 10:44:09 **14** suggest it's up to you to listen to what they said and
 10:44:12 **15** apply common sense interpretation and say, "Whoa, wait a
 10:44:16 **16** second. First of all, the situation is not all that bad
 10:44:21 **17** that there is a myriad of things, but second of all,
 10:44:25 **18** it's not these ladies' responsibility."
 10:44:27 **19** So now what happens.
 10:44:32 **20** They take those audits, the audit and the
 10:44:34 **21** report, and the County administrator, who testifies that
 10:44:43 **22** after 15 years of being County administrator she can't
 10:44:46 **23** describe the process for paying a bill -- it's not my
 10:44:52 **24** words, it's her words -- and yet she signs a
 10:44:57 **25** disciplinary charge against these ladies suggesting that

10:45:03 **1** they violated their responsibilities in regard to
 10:45:06 **2** payment of bills, why, it's an embarrassing situation.
 10:45:15 **3** You got to blame somebody. You can't blame
 10:45:18 **4** Cheryl Wieder anymore, because we already fired her or
 10:45:21 **5** encouraged her to retire and executed a Confidentiality
 10:45:24 **6** Agreement, so I can't talk about what we talked about
 10:45:27 **7** with her.
 10:45:29 **8** And then in regard to the audit says, "This
 10:45:31 **9** is a real terrible audit, you shouldn't have something
 10:45:36 **10** like this," but when asked, "What do you understand
 10:45:38 **11** about audits," the transcript will reflect her exact
 10:45:48 **12** words, but I think they were to the effect, "Not much,"
 10:45:54 **13** and yet she will say, "This audit is so terrible, and
 10:46:00 **14** these ladies are responsible for it."
 10:46:04 **15** The evidence does not show that, and let's
 10:46:11 **16** go through what I perceive, if I were standing on the
 10:46:13 **17** sidelines, to be the most serious thing, serious
 10:46:19 **18** concern.
 10:46:21 **19** It's the health insurance bills.
 10:46:26 **20** First of all, there has been a lot of
 10:46:29 **21** throwing around the words "internal control," internal
 10:46:31 **22** control, right, as if it's some magical potion, right,
 10:46:39 **23** never a magical potion that was pre-established.
 10:46:42 **24** I bet you the State of New Jersey would have
 10:46:44 **25** a typical set of internal controls, but they don't, so

10:46:51 **1** you can't use the concept, you shouldn't be permitted
 10:46:53 **2** from a common sense basis to use the concept of, "well,
 10:46:56 **3** it's a violation of internal control" just because
 10:46:59 **4** something went wrong.
 10:47:00 **5** The County has had an acknowledgment of
 10:47:04 **6** internal control policy in regard to the payment of
 10:47:07 **7** bills. Mr. Gannon acknowledged it. The freeholders
 10:47:14 **8** adopted it. There are portions of it in evidence as
 10:47:19 **9** PB-8, 9 and 10. It's an internal control policy.
 10:47:23 **10** Who adopted it? Not the Finance Department,
 10:47:27 **11** not the Purchasing Department, even though it's called a
 10:47:29 **12** Purchasing Manual, but when you look at the cover and
 10:47:32 **13** you look at the resolution that we submitted, it was
 10:47:34 **14** adopted by the freeholders, because they are responsible
 10:47:37 **15** for the management of the County. They are the ones
 10:47:42 **16** that are responsible. They are the ones who established
 10:47:49 **17** the system that these ladies complied with. That
 10:47:53 **18** policy, which is in evidence, which is consistent with
 10:47:58 **19** the New Jersey statute NJSA 40A:5-16, which is also in
 10:48:03 **20** evidence as PB-7, says, "The person who receives the
 10:48:08 **21** item has to certify that it's received before it gets
 10:48:13 **22** paid."
 10:48:15 **23** That's generally what that policy says, that
 10:48:18 **24** the freeholders adopted, and then the policy says,
 10:48:20 **25** "After the Certification is made, it goes up to the

10:48:25 **1** Finance Department."
 10:48:26 **2** Then there is a bills list that's prepared,
 10:48:29 **3** and the freeholders vote on it and say, "Okay, pay that
 10:48:34 **4** bill," and then the treasurer cuts a check.
 10:48:42 **5** Nowhere does it say in writing, going back
 10:48:48 **6** to clear expectations and duties, nowhere does it say
 10:48:53 **7** that's the procedure, that's the internal control, but
 10:48:58 **8** in regard to health insurance bills it's different,
 10:49:02 **9** "They are big, they are big, so Kim Browne and Margaret
 10:49:09 **10** Pasqua have to do something more."
 10:49:14 **11** Well, if the people who run the County want
 10:49:18 **12** their Finance Department to do something more, they have
 10:49:20 **13** to tell them to do something more, and they can't boot
 10:49:24 **14** strap on it retroactively and say, "Well, they should
 10:49:28 **15** have guessed that we would have wanted them to do it."
 10:49:31 **16** For at least since the early 1990s and prior
 10:49:36 **17** to that, it was done the way the freeholders directed,
 10:49:41 **18** so Mrs. Yard can sit there and say, "Well, that's a big
 10:49:44 **19** figure, 700,000 every month. They should have
 10:49:48 **20** guessed -- she didn't use the word "guess," that's mine,
 10:49:53 **21** right -- "they should have figured they should have
 10:49:55 **22** thought about it more."
 10:49:57 **23** Well, I want to say that common sense tells
 10:50:00 **24** you there is five freeholders. They approve that bill
 10:50:04 **25** every month. They could have sat there and said,

10:50:06 **1** "That's a big figure. We should make sure somebody else
 10:50:13 **2** besides Human Resources is looking at that bill."
 10:50:18 **3** Mrs. Yard, who acknowledged in accordance
 10:50:23 **4** with the County's Table of Organization, which is
 10:50:25 **5** PB-22, she is the supervisor of Human Resources.
 10:50:33 **6** Now, she says, "Well, that's a big bill."
 10:50:36 **7** Margaret and Kim should have thought to look it over
 10:50:40 **8** more."
 10:50:43 **9** Where was Mrs. Yard for 15 years? Where was
 10:50:47 **10** Mrs. Yard, who was the supervisor of Cheryl Wieder in
 10:50:50 **11** that department?
 10:50:51 **12** Did she ever say, "What do we have in place,
 10:50:53 **13** Cheryl, to make sure those bills are accurate? Are you
 10:50:57 **14** checking them?"
 10:51:00 **15** "What do we have in place, Cheryl," when the
 10:51:02 **16** auditor in 2010 says, "Gee, you are not taking people
 10:51:07 **17** off soon enough."
 10:51:09 **18** You are trying to suggest now Kim and
 10:51:11 **19** Margaret should have done something. Where is Cheryl's
 10:51:14 **20** supervisor, Mrs. Yard. Cheryl's supervisor is not
 10:51:19 **21** supervising Cheryl. She is ignoring the problem, and
 10:51:22 **22** then two years later trying to say, "These ladies should
 10:51:25 **23** have done it, not me."
 10:51:28 **24** That's why you are here, because nobody told
 10:51:35 **25** Mrs. Yard, not a freeholder, not a County counsel, not

10:51:39 **1** an auditor, not anybody else, "Slow down. What did you
 10:51:47 **2** do to deal with this?"
 10:51:50 **3** Now, it's very interesting that when Cheryl
 10:51:54 **4** Wieder leaves, and the first health insurance bill comes
 10:51:59 **5** in for that month, that Mrs. Yard signs off on it,
 10:52:07 **6** PB-25.
 10:52:09 **7** We asked her, "Why did you sign off on this
 10:52:13 **8** bill?"
 10:52:13 **9** "Because Finance wouldn't pay for it unless
 10:52:16 **10** somebody signed off on it."
 10:52:19 **11** What does that tell you from a common sense
 10:52:22 **12** point of view? She is the County administrator. She is
 10:52:25 **13** the one who now wants to fire these people.
 10:52:28 **14** Why didn't she say, "Why are you asking me
 10:52:30 **15** to sign off on this? I thought you were checking these
 10:52:33 **16** out for the last five years when you were here, or four
 10:52:36 **17** years when you were here, and I thought Charlie Balogh
 10:52:38 **18** and Ron Mathews were checking it out for the 12 years
 10:52:41 **19** they were here, or 18 years prior to that."
 10:52:43 **20** She didn't say that. She signed off.
 10:52:46 **21** The next month her then designee for Human
 10:52:51 **22** Resources director signs off on the next month's bill,
 10:52:55 **23** PB-26, because that's the County's policy, because
 10:53:02 **24** that's where the responsibility lies.
 10:53:06 **25** From a common sense point of view why did

10:53:08 **1** the responsibility lie there? Any organization that has
 10:53:15 **2** a separate Human Resources Department, if you have a
 10:53:20 **3** general understanding of how business works, understands
 10:53:24 **4** what Human Resources does, and it was acknowledged here
 10:53:29 **5** the same way in Hunterdon County.
 10:53:31 **6** The Human Resources Department was right
 10:53:33 **7** next to Mrs. Yard's. She supervised it. Mrs. Yard
 10:53:37 **8** acknowledged she was the appointing authority. She made
 10:53:40 **9** decisions about hiring and firing, about discipline.
 10:53:46 **10** She was the hearing officer for many County disciplinary
 10:53:51 **11** matters when they didn't have an independent person.
 10:53:54 **12** She reviewed Cheryl's work, and what did Cheryl do.
 10:53:59 **13** Cheryl was involved in collective
 10:54:01 **14** bargaining, Cheryl did the paperwork for Civil Service.
 10:54:04 **15** Cheryl set people's salaries when they were hired in
 10:54:15 **16** accordance with the Collective Bargaining Agreements
 10:54:15 **17** subject to the freeholders' approval. Cheryl analyzed
 10:54:15 **18** the Collective Bargaining Agreements. Cheryl determined
 10:54:19 **19** who should get what sort of insurance. Cheryl gave them
 10:54:22 **20** the W-4s to fill out. Cheryl knew whether they had
 10:54:26 **21** dependents or not. Cheryl gave them the information to
 10:54:28 **22** fill out. Cheryl notified the health benefits people as
 10:54:32 **23** to whether people should be put on or taken off, and
 10:54:39 **24** then when the bill came in, who did it come addressed
 10:54:43 **25** to? There wasn't any ambiguity who it came addressed

10:54:47 **1** to.
 10:54:47 **2** Every single bill that's been put in,
 10:54:49 **3** whether it's the PB-25 and 26 that I mentioned to you in
 10:54:55 **4** that whole stack that we had in the 50 series County put
 10:54:59 **5** in, they are all addressed to Cheryl Wieder, Human
 10:55:06 **6** Resources Director.
 10:55:09 **7** You know, it's our argument from a common
 10:55:16 **8** sense point of view and consistent with the County
 10:55:19 **9** policy that Cheryl was reviewing those bills every
 10:55:25 **10** month.
 10:55:25 **11** How do we know that?
 10:55:27 **12** Let's go to this issue about the missing
 10:55:30 **13** signatures.
 10:55:32 **14** It's very interesting that they brought out
 10:55:35 **15** a set of bills for health insurance where the remittance
 10:55:40 **16** copy bottom was torn off and there was no signature for
 10:55:42 **17** Cheryl, and then when my client testified, well, she
 10:55:47 **18** might have signed lower on the page, it might have been
 10:55:49 **19** on the remittance bottom. All of a sudden on
 10:55:52 **20** cross-examination they bring back a whole batch of bills
 10:55:55 **21** for the same months for a different health insurance
 10:55:59 **22** account where Cheryl's signature is clearly on it.
 10:56:03 **23** I think you can make some assumptions from
 10:56:06 **24** that.
 10:56:06 **25** They didn't bring out both batches together

10:56:10 **1** because they would have created an ambiguity because
 10:56:13 **2** that would have shown that Cheryl was reviewing health
 10:56:15 **3** insurance bills and signing off at least on some of
 10:56:18 **4** them, but they waited in order to bring out the second
 10:56:22 **5** set that she signed off on each month to try to deal
 10:56:25 **6** with my client's attempted exclamation of where her
 10:56:31 **7** signature might have been.
 10:56:33 **8** I don't think we have to prove where she
 10:56:38 **9** signed -- what happened to her signatures on those other
 10:56:42 **10** ones, because the fact that Cheryl went through them,
 10:56:49 **11** highlighted them and prepared that two-page sheet each
 10:56:53 **12** month as to what portion of those bills should have been
 10:56:58 **13** billed back to Social Services that you heard testimony
 10:57:01 **14** about, confirms that Cheryl looked at them first and, at
 10:57:06 **15** least in regard to Ms. Salvato was there when Charlie
 10:57:10 **16** Bahlog was there, she said she would deal with Cheryl
 10:57:13 **17** every month about those bills.
 10:57:16 **18** Why? Because she had the responsibility,
 10:57:19 **19** she had the information, she had the database, and now
 10:57:24 **20** somebody is trying to say, "Well, you had people on the
 10:57:28 **21** payroll list, you could have checked the payroll list
 10:57:33 **22** against the health insurance bill."
 10:57:37 **23** Where is that written in the responsibility
 10:57:40 **24** and where does it even make sense that it's possible to
 10:57:45 **25** do?

10:57:45 **1** When you read the transcript -- go back to
 10:57:47 **2** Mrs. Yard's testimony when we asked her about this
 10:57:51 **3** checking to see who was deceased. She said when she
 10:57:57 **4** tried to do it, it was "a near impossible task." Those
 10:58:05 **5** are her words, "a near impossible task."
 10:58:11 **6** So now the person who said it was a near
 10:58:13 **7** impossible task to do, wants to fire these two ladies
 10:58:19 **8** for not doing it when there is nothing that says it was
 10:58:22 **9** their responsibility, and there is nothing to show that
 10:58:25 **10** they had the ability to verify it in any event.
 10:58:31 **11** Take a look at -- when you do your decision,
 10:58:35 **12** take a look at HC-12, which is Mrs. Yard's report.
 10:58:49 **13** The third column has to do with retired,
 10:58:53 **14** deceased and/or survivor continued on benefits in
 10:58:56 **15** violation of the statute.
 10:59:00 **16** Now, this, apparently -- you know -- is the
 10:59:06 **17** high visibility, high sensitivity item, deceased people
 10:59:11 **18** still being paid.
 10:59:13 **19** First of all, when you go down that column
 10:59:15 **20** three, one, two, three, four, five, six, seven, eight
 10:59:20 **21** people on that list, not saying anything about whether
 10:59:25 **22** there is eight or not, there is eight on that list, one,
 10:59:29 **23** two, three, four, five, six, at least six, at least six
 10:59:34 **24** of them, six of them as a result of H-12, were
 10:59:37 **25** situations where the people died before these ladies

10:59:40 **1** even held office, so they should be fired for that?
 10:59:48 **2** When they took over they should have checked
 10:59:50 **3** the list the first day they were there to see whether
 10:59:53 **4** the County for years, in one case since 1996, have been
 11:00:00 **5** paying a deceased person. They should be fired for
 11:00:04 **6** 1996? By what stretch of what conceivable imagination
 11:00:09 **7** should they be?
 11:00:10 **8** But more telling than the time frame is the
 11:00:14 **9** fact that HC-12 on its face shows that somebody else was
 11:00:22 **10** checking to see whether people were deceased and
 11:00:26 **11** changing the roles.
 11:00:29 **12** You say, "Mr. DeSapio, what shows that?"
 11:00:33 **13** Well, take employee number 14, "Employee
 11:00:39 **14** died in 1998. Family of three continued on benefit."
 11:00:46 **15** It doesn't say, "Employee and family of
 11:00:46 **16** three continued on benefit."
 11:00:47 **17** It says, "Family of three continued on
 11:00:49 **18** benefit."
 11:00:51 **19** So somebody had to go in in 1998 or sometime
 11:00:55 **20** thereafter and change that coverage from somebody that
 11:01:02 **21** was living to their dependents.
 11:01:06 **22** 29, "Employee died in 2008. Spouse is
 11:01:11 **23** receiving benefits."
 11:01:12 **24** You know, this is very interesting, that's
 11:01:14 **25** one of the ones that's after they are here, but that

11:01:17 **1** person died, and they were taken off, but their spouse
 11:01:21 **2** was continued.
 11:01:23 **3** Now, how would the people in Finance know
 11:01:27 **4** whether there was a freeholder policy that entitled that
 11:01:31 **5** spouse to get benefits or not? But you can say at a
 11:01:35 **6** public meeting, you can say to the press, "Oh, dead
 11:01:38 **7** persons still getting benefits."
 11:01:39 **8** The dead person wasn't getting benefits.
 11:01:42 **9** The dead person, deceased person -- and I know there is
 11:01:48 **10** some anxiousness in my voice -- no disrespect for
 11:01:51 **11** anybody that's on this list of their families -- the
 11:01:54 **12** deceased person had been taken off.
 11:01:56 **13** Their spouse was receiving benefits.
 11:01:59 **14** These ladies couldn't have known whether the
 11:02:01 **15** spouse was entitled or not. Somebody in Human Resources
 11:02:05 **16** had to know the person was deceased, take the deceased
 11:02:09 **17** person off, and put their family on there.
 11:02:13 **18** Where does it say these ladies up in Finance
 11:02:17 **19** are supposed to check Cheryl Wieder's work as to whether
 11:02:21 **20** she is putting on spouses and children who are not
 11:02:25 **21** entitled because there is no policy to receive those
 11:02:30 **22** benefits? Maybe Mrs. Yard should have checked that,
 11:02:33 **23** since she was Cheryl Wieder's supervisor.
 11:02:36 **24** Number 75, "Employee died in 2005. Spouse
 11:02:41 **25** is receiving benefits."

11:02:44 **1** It doesn't say, "Employee and spouse is
 11:02:46 **2** receiving benefits."
 11:02:47 **3** The spouse is receiving benefits.
 11:02:49 **4** So what had to have happened in 2005,
 11:02:53 **5** somebody had to know that the person was deceased and
 11:02:58 **6** put the spouse on.
 11:03:02 **7** These ladies in Finance, how would they know
 11:03:05 **8** that that was a violation of policy?
 11:03:07 **9** The same with 104, "Spouse is receiving
 11:03:09 **10** benefits."
 11:03:10 **11** Now, see 16l -- that's why you can draw this
 11:03:13 **12** inference from this schedule -- 16l says, "Employee died
 11:03:17 **13** in 1996. Single coverage continued."
 11:03:21 **14** So that shows there was somebody that was
 11:03:24 **15** not taken off, but the next one, 180, says, "Employee
 11:03:28 **16** died in 2005. Spouse continued to receive single
 11:03:31 **17** coverage."
 11:03:33 **18** The same common sense interpretation.
 11:03:36 **19** Somebody knew it. Who? Human Resources.
 11:03:42 **20** Somebody took the deceased person off. Who? Human
 11:03:47 **21** Resources. Somebody put the spouse on. Who? Human
 11:03:52 **22** Resources.
 11:03:52 **23** If that was wrong, that wasn't these ladies'
 11:03:56 **24** responsibility to interpret that policy. They didn't
 11:04:00 **25** have the policies upstairs.

11:04:03 **1** The same way with these other columns, two,
 11:04:06 **2** three and five.
 11:04:10 **3** They say these people were receiving
 11:04:12 **4** benefits. There was no policy that said they were
 11:04:14 **5** entitled to it. That's not an objective fact that
 11:04:17 **6** somehow they can go to a chart and find if the person
 11:04:20 **7** died or not died, was not deceased.
 11:04:23 **8** Somebody had to look at that, where, in
 11:04:26 **9** Human Resources, and, say, "Yeah, they are entitled to
 11:04:31 **10** it, they are entitled to it."
 11:04:33 **11** Now, Mrs. Yard said something else, and I
 11:04:38 **12** don't want to be disrespectful, but it's a fact.
 11:04:42 **13** She claimed that in regard to the last
 11:04:46 **14** column that there was no way the County could have taken
 11:04:55 **15** people off who are on Medicare at 65 and had the
 11:05:04 **16** County's insurance be secondary because that wasn't in
 11:05:07 **17** the contract.
 11:05:09 **18** Why is that incredible? Because Margaret
 11:05:13 **19** Pasqua showed where there were people who were
 11:05:15 **20** receiving -- who were being billed out at the lower rate
 11:05:20 **21** with the secondary coverage, so if it can be done for
 11:05:24 **22** some people, it could have been done for all.
 11:05:29 **23** There was an effort, for whatever reason, to
 11:05:35 **24** blame these ladies for this.
 11:05:38 **25** Now let's go back to the history that

11:05:42 **1** developed, the brief history, that developed when Cheryl
 11:05:48 **2** Wieder left.
 11:05:50 **3** In HC-6, on March 27th, the testimony is
 11:05:56 **4** Cindy Yard said Cheryl Wieder left.
 11:06:00 **5** Does anybody have anything that should be
 11:06:01 **6** considered in regard to the new HR Department, new HR
 11:06:07 **7** people?
 11:06:07 **8** Kim Browne sends an e-mail, which is in
 11:06:10 **9** evidence, HC-6, and says a few things. She says we
 11:06:15 **10** still see Carol Lane's name on the bill, and I am not
 11:06:18 **11** quite sure what the County was saying in this proceeding
 11:06:21 **12** about Carol Lane -- you know -- in cross-examination
 11:06:24 **13** they are asking about her, and she wasn't taken off, and
 11:06:29 **14** why did it keep coming up as if it was these ladies'
 11:06:32 **15** responsibility to take her off?
 11:06:35 **16** It was clearly Cheryl Wieder's
 11:06:37 **17** responsibility to take her off, and then later on Mrs.
 11:06:41 **18** Yard acknowledges, "We finally got a credit for it."
 11:06:44 **19** The tenor of this whole proceeding, a lot of
 11:06:48 **20** irrelevant stuff just thrown out there.
 11:06:56 **21** Here is a good example. They tried to blame
 11:06:56 **22** these people for Carol Lane, and, yet, the new
 11:07:02 **23** accounting firm that is doing their work while this
 11:07:06 **24** proceeding is going on, right, had Margaret Pasqua's
 11:07:11 **25** memo that certain people were deceased in June.

11:07:17 **1** Mrs. Yard had the memo in June because it
 11:07:20 **2** was addressed to her.
 11:07:21 **3** The last bill, October, the County is still
 11:07:25 **4** paying for those deceased people or their dependents.
 11:07:32 **5** So isn't it a little bit disingenuous to
 11:07:39 **6** say, "We can hire somebody to come in from the outside"?
 11:07:41 **7** Who are we going to use as a witness in this
 11:07:43 **8** case to criticize these ladies for not acting fast
 11:07:47 **9** enough, for not doing this, for not checking the bill,
 11:07:50 **10** and they can come in, and not only can they come in, but
 11:07:55 **11** they can sign off on the bill in spite of the fact that
 11:08:00 **12** they have Margaret Pasqua's memo that says these people
 11:08:04 **13** are deceased, or spouses shouldn't receive coverage.
 11:08:08 **14** They can sign off on the bill four months later. They
 11:08:10 **15** can have all the excuses in the world why they, as hired
 11:08:14 **16** professionals, that's all right for you tell us. It is?
 11:08:20 **17** Then I think it's all right for them -- if
 11:08:23 **18** it was even their responsibility to begin with, which it
 11:08:28 **19** wasn't.
 11:08:28 **20** When we talk about expectations we have to
 11:08:31 **21** think about how this County is run, use common sense in
 11:08:37 **22** regard to how an organization is run, but past practices
 11:08:40 **23** as to how this County is run.
 11:08:43 **24** Charlie Balogh says, "We didn't check those
 11:08:47 **25** bills. We let Human Resources do that, and then we paid

11:08:51 **1** it. That's our job."
 11:08:53 **2** These ladies come in, trained by Charlie and
 11:08:57 **3** Ron Mathews, and they do the same thing.
 11:09:00 **4** Well, if you want to change the system, I
 11:09:04 **5** don't begrudge you changing the system, change the
 11:09:06 **6** system, but don't try to hang these ladies hanging out
 11:09:11 **7** high and dry because what you had in there before turned
 11:09:14 **8** out not to be working perfectly. Maybe not working at
 11:09:20 **9** all according to Mrs. Yard, but she was the one who was
 11:09:25 **10** the supervisor of that department.
 11:09:27 **11** Now let's look further about this issue,
 11:09:30 **12** because to throw a lot of big words around, which is
 11:09:33 **13** what professionals are supposed to do, but what
 11:09:37 **14** professionals do, but when they give advice to a client,
 11:09:41 **15** they should boil it down, especially when they know
 11:09:46 **16** somebody's career is at risk, so we have all this
 11:09:52 **17** commotion, internal control, insignificant deficiencies,
 11:09:58 **18** but look at PB-5, when you go to make your decision,
 11:10:02 **19** even though they take up the bottom three-quarters of
 11:10:05 **20** the page and the top of the next page about this bill
 11:10:08 **21** issue.
 11:10:11 **22** Mr. Gannon does not say, "Here is the new
 11:10:15 **23** internal control policy that the County should have to
 11:10:21 **24** deal with health insurance bills."
 11:10:24 **25** Well, if this were so simple, why couldn't

11:10:27 **1** he do that, "Here is the new policy."
 11:10:30 **2** He didn't say that.
 11:10:31 **3** Do you know what he said? "We recommend the
 11:10:36 **4** County perform a recertification process of all active
 11:10:41 **5** employees and retirees that receive health benefits from
 11:10:44 **6** the County to ensure that those individuals are
 11:10:46 **7** receiving health benefits appropriately and that the
 11:10:49 **8** coverage being provided to those individuals is
 11:10:51 **9** correct."
 11:10:52 **10** It's a recertification process. It doesn't
 11:10:56 **11** say, "We recommend an internal control system be put in
 11:10:59 **12** where Finance checks the bill every month."
 11:11:02 **13** He doesn't say, "We recommend that a total
 11:11:04 **14** control system be put in where the Finance Department
 11:11:09 **15** check the Social Security records every month." He
 11:11:11 **16** doesn't say any of that.
 11:11:13 **17** Maybe one of the reasons he didn't say any
 11:11:15 **18** of that is because of Mrs. Yard's statement, "It's
 11:11:17 **19** virtually impossible to do."
 11:11:21 **20** What does he say should be done? "Write a
 11:11:24 **21** letter to the people who are receiving benefits and find
 11:11:30 **22** out if they are still alive."
 11:11:35 **23** I hope you are not going to recommend firing
 11:11:38 **24** these two ladies, because the Human Resources Department
 11:11:41 **25** should have written a letter each year to determine

11:11:45 **1** whether or not people were still alive. That would be a
 11:11:49 **2** gross inequity, a gross unfairness to two -- unfairness
 11:11:57 **3** to two people who have performed their jobs diligently
 11:12:02 **4** and competently as explained to them.
 11:12:08 **5** They didn't even get a job description when
 11:12:10 **6** they took over their job, and then after the fact now, I
 11:12:17 **7** think, the County introduced a couple of job
 11:12:18 **8** descriptions, and then they tried to get these job
 11:12:21 **9** descriptions and say they should have developed internal
 11:12:23 **10** controls. The job descriptions do not say that when you
 11:12:26 **11** go back and read them. It just says they monitor them.
 11:12:33 **12** Why? Because there are five people who are
 11:12:36 **13** responsible for this County, and Kim Browne and Margaret
 11:12:39 **14** Pasqua are not one of the five. There are five
 11:12:45 **15** freeholders who are responsible for this, for the
 11:12:48 **16** internal control mechanisms across different departments
 11:12:52 **17** in the County and a county administrator who is supposed
 11:12:57 **18** to make sure that everything is done.
 11:13:00 **19** So now where does this recertification
 11:13:03 **20** letter come from? It's not by Finance.
 11:13:09 **21** The recertification letter, I believe, is in
 11:13:12 **22** evidence as -- I am sorry to hold you up here, everybody
 11:13:24 **23** up -- I will get it -- you will find it in the evidence
 11:13:30 **24** package, but it's PB-39 -- it's a letter from Human
 11:13:38 **25** Resources and the County administrator.

11:13:41 **1** Now, looking on PB-12, there are other
 11:13:44 **2** columns, Mrs. Yard said, "Oh, I found out these people
 11:13:48 **3** were being put on health benefits by Cheryl Wieder,
 11:13:54 **4** Human Resources," but has no policy to justify it.
 11:13:58 **5** How are my clients supposed to know there is
 11:14:00 **6** no Human Resources policy to justify it? Are they now
 11:14:03 **7** supposed to have been charged with being Cheryl Wieder's
 11:14:07 **8** supervisor? It's not what the County Table of
 11:14:11 **9** Organization says. It's not what their nonexistent job
 11:14:16 **10** descriptions say.
 11:14:20 **11** Mrs. Yard said, "Well, they have a license,
 11:14:23 **12** and because they have a license, I am assuming this was
 11:14:27 **13** their responsibility." No way.
 11:14:33 **14** She talked about 14 points of
 11:14:35 **15** responsibility, but they never introduced where they
 11:14:37 **16** came from, because they are not a condition of the
 11:14:43 **17** license. They are a condition of making this problem --
 11:14:50 **18** supposedly making this problem go away in the public's
 11:14:56 **19** mind.
 11:15:01 **20** Now let's move for a second -- maybe more
 11:15:07 **21** than a second -- to the second thing that's material.
 11:15:14 **22** Actually, it's the first thing in the report, all of
 11:15:17 **23** these readjustments of the 2011 audit.
 11:15:23 **24** It's very interesting.
 11:15:25 **25** Let's start with the golf course.

11:15:29 **1** So according to Ron Mathews, the freeholders
 11:15:31 **2** establish a golf course, I think, he said in 2002, and
 11:15:37 **3** there is contentiousness about it, and they wanted an
 11:15:41 **4** accounting system from people who feel they are in favor
 11:15:48 **5** of it which would show and prove that it was making
 11:15:51 **6** money, so then the existing accountant sets it up with
 11:15:57 **7** Charlie Balogh, and it's in place from 2002 to 2008, and
 11:16:01 **8** what does the 2007 audit say? That that golf course
 11:16:06 **9** operation owed 125,000 to the County for seed money,
 11:16:13 **10** that that golf course operation owed, owed, I think it
 11:16:18 **11** was 400-something-thousand to the County, even though
 11:16:23 **12** the County already had the money in a bank account.
 11:16:29 **13** You might say, "Well, that doesn't make any
 11:16:32 **14** sense."
 11:16:34 **15** Maybe it didn't, but it was a way for the
 11:16:37 **16** freeholders to show what the retained earnings were of
 11:16:41 **17** the golf course, so on any given year they can point to
 11:16:46 **18** the audit and say, "Look, since this golf course has
 11:16:48 **19** been in effect, it's made 450,000, or at the end of 2011
 11:16:54 **20** it's made 1,800,000, and although it was shown on the
 11:17:00 **21** books as a receivable, Margaret Pasqua testified
 11:17:06 **22** uncontradicted that it wasn't actually a receivable.
 11:17:10 **23** The money was there. The money was there."
 11:17:15 **24** So every auditor from 2002 to 2011 says,
 11:17:23 **25** "Fine, we will go out to the golf course, figure out how

11:17:27 **1** much money it made, add that to the amount that's
 11:17:29 **2** already on the books, and report it as a receivable,
 11:17:35 **3** why, because that's the way the freeholders in 2002
 11:17:38 **4** wanted it set up, so if anybody asks, 'Is this golf
 11:17:42 **5** course making money or are we losing money on it,' they
 11:17:45 **6** could say, 'We made money. There is a million-eight
 11:17:49 **7** they owe us, and also they owe us this 125 that we put
 11:17:53 **8** in for seed money.'"
 11:17:55 **9** So Margaret testifies that during the period
 11:18:01 **10** of time that she is there, she asked the auditors,
 11:18:04 **11** "Explain this better to me a little bit. Why do we have
 11:18:09 **12** it on the books that they owe us money when we have the
 11:18:12 **13** money," and everybody says, in effect, "Don't worry
 11:18:16 **14** about it."
 11:18:17 **15** And they continue to do it that way, and
 11:18:21 **16** then when a new auditor comes in, Wiss, she asks them --
 11:18:25 **17** and they go out and say "Whoa, wait a second, that
 11:18:31 **18** should have never been done that way. We are going to
 11:18:34 **19** write all those figures off because they don't owe you
 11:18:36 **20** the money, they already paid you the money."
 11:18:41 **21** Just because there is more than one way to
 11:18:44 **22** do something doesn't mean the way something is being
 11:18:47 **23** done is wrong.
 11:18:50 **24** How can you say to these ladies or how can
 11:18:55 **25** the County say to these ladies, "You weren't maintaining

11:18:57 **1** your books properly because, even though Charlie Balogh
 11:19:00 **2** did it this way in 2002 and 2003 and 2004 and 2005 and
 11:19:04 **3** 2006 and 2007, and the auditor signed it off and you
 11:19:11 **4** took over the books and you did it that way in 2008, in
 11:19:15 **5** 2009, in 2011, and the auditor signed off on it, you
 11:19:21 **6** ladies are wrong, and not only are you wrong for doing
 11:19:27 **7** it the same way you were taught to do it, but we are
 11:19:30 **8** going to fire you because that's a big number," and
 11:19:37 **9** that's about what Mr. Gannon said, that it's a material
 11:19:41 **10** weakness because it's a big number. What? Explain that
 11:19:50 **11** from a common sense point of view to anybody except the
 11:19:54 **12** politicians. A big number has to mean something. A big
 11:19:58 **13** number -- these people are being blasted from the press,
 11:20:02 **14** in the public's eye as if there is something wrong with
 11:20:06 **15** the books.
 11:20:08 **16** So we have a million-eight in a bank
 11:20:11 **17** account, and all the auditors through 2011 say, "We are
 11:20:13 **18** going to call that a 'receivable,'" and then the auditor
 11:20:16 **19** in 2012 -- a new one -- says, "Well, you shouldn't be
 11:20:22 **20** calling it a 'receivable,' you already have the money,"
 11:20:27 **21** and without talking to Charlie Balogh, the auditor who
 11:20:32 **22** set it up, these ladies, because Wiss -- Gannon thinks
 11:20:38 **23** management agrees, who is management, Cindy Yard, who
 11:20:42 **24** says she doesn't even understand how an audit work?
 11:20:46 **25** They all agree it should be written off.

11:20:49 **1** Well, maybe if they would have talked to
 11:20:51 **2** these ladies or Charlie Balogh they would have
 11:20:56 **3** understood it better, and maybe if somebody would have
 11:20:57 **4** had an opportunity to talk to Dave Gannon they would
 11:21:00 **5** have said, "Are you crazy? You are going to say that
 11:21:08 **6** the County has a million-eight in a bank account, and
 11:21:11 **7** because somebody put it on the books -- not these
 11:21:14 **8** ladies -- they continued the practice, somebody put it
 11:21:18 **9** on the books, now you are going to change the way it's
 11:21:20 **10** reported, and we are going to make believe -- more than
 11:21:24 **11** make believe -- we are going to say publicly that there
 11:21:28 **12** is some material weakness in the way they are doing
 11:21:35 **13** their work."
 11:21:37 **14** To place an indictment on commonly sense?
 11:21:41 **15** We went into this a little bit with Mr.
 11:21:43 **16** Tomkins because he was relying on Wikipedia -- Wikipedia
 11:21:47 **17** is not my favorite source -- but he relied on it, all
 11:21:52 **18** right, and what did Wikipedia say, "In regard to
 11:21:56 **19** accounting for public entities, you can't just do size,
 11:22:03 **20** because if you do that, the public doesn't understand.
 11:22:08 **21** You have to do whether or not there is really something
 11:22:10 **22** wrong, whether there is a fraud, whether somebody took
 11:22:14 **23** money," all right, and instead -- because one
 11:22:20 **24** accountant, two accountants, three accountants,
 11:22:23 **25** actually, Case and Barlow, Ferraioli, and Klein, because

11:22:28 **1** they looked at it and said, "You can do it this way,"
 11:22:31 **2** another accountant says, "Oh, no, you can't."
 11:22:33 **3** By then the golf course already made a
 11:22:36 **4** million-eight -- it's a big number, it's a real big
 11:22:39 **5** number -- so I just look at the numbers, I don't look at
 11:22:42 **6** reasons, effectively what Mr. Gannon said, "We are going
 11:22:47 **7** take it down to zero. And then we are going to say the
 11:22:49 **8** County has a material weakness in the way it maintains
 11:22:54 **9** its books."
 11:22:54 **10** The County would have a material weakness if
 11:22:57 **11** it maintained its books, if they were really owed a
 11:22:59 **12** million-eight, and Mr. Gannon said, "We have to write it
 11:23:02 **13** off because that's a fraud, but the County doesn't have
 11:23:06 **14** a material weakness if they have a million-eight in the
 11:23:09 **15** bank account and they are reporting it as an accounts
 11:23:12 **16** receivable," and Mr. Gannon says, "You shouldn't report
 11:23:15 **17** it as an accounts receivable because you already have
 11:23:18 **18** the money." What is that? What is that?
 11:23:22 **19** Now let's take a look at the rest of it,
 11:23:26 **20** this point one, so everybody testifies, including Mr.
 11:23:30 **21** Gannon, that in regard to the Consolidated
 11:23:34 **22** Transportation System, he goes out there to another
 11:23:37 **23** department, they maintain their own books. These ladies
 11:23:40 **24** don't have anything to do with it, they don't have
 11:23:42 **25** anything to do with the people who were hired to do the

11:23:45 **1** work. They don't supervise the maintenance of the
 11:23:47 **2** books.
 11:23:48 **3** The auditor goes out and he sees if there is
 11:23:51 **4** money due to the County. If there is money due to the
 11:23:54 **5** County he comes back and reports it and puts it in the
 11:23:57 **6** audit.
 11:23:57 **7** So Klein says at the end of 2011 that
 11:24:04 **8** Consolidated Transportation System owed the County
 11:24:06 **9** 165,564.77.
 11:24:13 **10** Klein has to speak to that number.
 11:24:17 **11** And then Gannon says it's zero. How he can
 11:24:20 **12** say that is zero is beyond my imagination, since it's a
 11:24:23 **13** transportation system that is collecting money out there
 11:24:26 **14** and owed money from different agencies who they bill for
 11:24:29 **15** their services, but he wants to make it zero, okay, he
 11:24:34 **16** wants to make it zero.
 11:24:37 **17** They weren't even around to argue that with
 11:24:41 **18** him. Not only weren't they not around to argue that
 11:24:46 **19** with him, when we asked Mr. Tomkins one of these
 11:24:52 **20** questions that you had, like, other policies and
 11:24:55 **21** procedures, people who were backups in the Finance
 11:24:57 **22** Department, "Did you ask Mrs. Browne and Mrs. Pasqua,
 11:25:02 **23** 'Oh, no, I didn't ask them' half the stuff that was over
 11:25:06 **24** there." No, I didn't ask."
 11:25:08 **25** "Why?"

11:25:09 **1** "We were told not to ask."
 11:25:17 **2** By any stretch of the imagination if a
 11:25:20 **3** professional is acting independently, and he is supposed
 11:25:31 **4** to be advising a client, should he accept that?
 11:25:31 **5** Shouldn't he say, "Wait a minute, Mrs. Yard,
 11:25:33 **6** wait a second, you are asking us to give you some
 11:25:35 **7** independent advice here. We are saying we can't find
 11:25:38 **8** this."
 11:25:44 **9** People who would know if it's there or not,
 11:25:46 **10** and what risk do you run, you run the risk it is there,
 11:25:49 **11** and tell you what drawer to look in and maybe you
 11:25:51 **12** couldn't criticize them.
 11:25:55 **13** "No. No. He was told don't ask them."
 11:26:01 **14** "Why?"
 11:26:04 **15** "Unless you are trying to make a case
 11:26:05 **16** already, unless you are trying to make a case."
 11:26:14 **17** Some of these other figures, we have already
 11:26:16 **18** -- we have shown through the -- you know -- this thing
 11:26:25 **19** about engineering, well, the accountant, Klein, reported
 11:26:32 **20** there was 24,466.30 due from engineering, but actually
 11:26:36 **21** it wasn't due because engineering drew the check, and it
 11:26:39 **22** was at the end of the month, and it was in transit, and
 11:26:42 **23** they showed it on the books this way,
 11:26:44 **24** but -- so it shouldn't -- shouldn't have been due.
 11:26:47 **25** "Check in transit" serves as the basis for

11:26:51 **1** firing somebody? Not if you apply common sense. If you
 11:27:01 **2** are looking to get somebody maybe.
 11:27:04 **3** There were these other figures, the trust
 11:27:08 **4** fund figures, the County clerk's trust fund figures, he
 11:27:13 **5** said, were reported at zero, but should have been
 11:27:18 **6** reported at higher figures, but -- well, Margaret shows
 11:27:22 **7** that there were unaudited financial statements, which
 11:27:27 **8** she filed with the State, PB-47, had the correct figures
 11:27:29 **9** on it.
 11:27:32 **10** Who made the mistake? Samuel Klein, because
 11:27:37 **11** when you look at Mr. Gannon's notes, he says he
 11:27:45 **12** discussed it with Samuel Klein, and Samuel Klein
 11:27:50 **13** acknowledged they made a mistake. People make mistakes,
 11:27:58 **14** but we are not suing Samuel Klein, and we are not suing
 11:28:02 **15** those other people, we are not firing them.
 11:28:06 **16** We are saying because all these things
 11:28:07 **17** appeared in an audit, somehow these ladies are
 11:28:14 **18** responsible, and they are not. They are not in
 11:28:18 **19** fairness. They are not in law. They are not in any
 11:28:22 **20** way, because they were doing their job as explained to
 11:28:25 **21** them, as done by the previous people who held those
 11:28:30 **22** offices, as approved by the auditors all during the
 11:28:33 **23** period of time they were there, so a new auditor comes
 11:28:35 **24** in and says, "We want to change the way these things are
 11:28:39 **25** reported. It's no loss of money. We just want to

11:28:46 **1** change it," and even though there is no loss of money,
 11:28:49 **2** the County administrator says, "Well, there ought to be
 11:28:52 **3** a loss of job, and that's not right, not right by any
 11:29:00 **4** stretch of the imagination."
 11:29:01 **5** Talk about these other comments. I don't
 11:29:04 **6** want to belabor them and go through them one by one
 11:29:06 **7** because you heard it all already.
 11:29:10 **8** These are things Mr. Gannon says are not
 11:29:13 **9** significant.
 11:29:13 **10** The County insisted on putting them all in
 11:29:17 **11** even though on their face we had to spend time with them
 11:29:22 **12** all. Some of them are clearly not their responsibility.
 11:29:25 **13** We already talked about the one somebody bought
 11:29:28 **14** something without a purchase order.
 11:29:32 **15** What about the one about the sheriff who
 11:29:34 **16** maintains his own accounts, wasn't reconciling them, so
 11:29:41 **17** fire the sheriff, fire the person in the sheriff's
 11:29:45 **18** department who isn't reconciling them.
 11:29:48 **19** You can't fire these ladies for those
 11:29:51 **20** things.
 11:29:51 **21** You can go through each one of them. Go
 11:29:53 **22** through the one about the checking, the debarred list.
 11:29:57 **23** In evidence is John Davenport's own memo to
 11:30:00 **24** the auditor that said he forgot to do it and that he
 11:30:06 **25** would do it from now on.

11:30:10 **1** It's so much of nothing when it comes right
 11:30:13 **2** down to it.
 11:30:15 **3** I am not saying it's nothing. Clearly, they
 11:30:18 **4** have to clear up this thing about the health insurance,
 11:30:21 **5** but -- you know -- the way it should have been cleared
 11:30:23 **6** up was the way that Kim Browne recommended that it be
 11:30:27 **7** cleared up in this meeting in April, in PB-6, all
 11:30:36 **8** right -- first of all, in H -- excuse me -- HC-6, HC-6,
 11:30:42 **9** she said to Cindy Yard, "Look, Human Resources checks
 11:30:46 **10** these bills, and we pay them after we tell them if they
 11:30:52 **11** are all right."
 11:30:52 **12** They go into this meeting in April, and Kim
 11:30:55 **13** says, "You know what I suggest, I suggest that you have
 11:30:59 **14** your new Human Resources people check all of these
 11:31:05 **15** bills, all of them, make sure they are right, people
 11:31:08 **16** have the correct coverages."
 11:31:10 **17** I mean, Kim Browne could be in Dave Gannon's
 11:31:13 **18** position criticizing somebody else, because what did Kim
 11:31:16 **19** say to do, Kim said to do what Dave Gannon recommended,
 11:31:20 **20** perform a recertification process. Did Mrs. Yard elect
 11:31:25 **21** to do that?
 11:31:27 **22** First of all, did Mrs. Yard deny that HR was
 11:31:31 **23** reviewing the bills, no, she didn't deny it in an e-mail
 11:31:34 **24** and she didn't deny it on the witness stand. All this
 11:31:39 **25** thing about where the signature is now, Mrs. Yard

11:31:46 **1** acknowledged that Cheryl reviewed it.
 11:31:46 **2** She just said, "Well, they are so big,
 11:31:46 **3** Finance should have reviewed them, too."
 11:31:48 **4** I want to tell you, 10,000 purchase orders
 11:31:52 **5** which you have heard the testimony about, if somebody in
 11:31:56 **6** the Roads and Bridges Department orders 50 sets of
 11:32:00 **7** brakes and certifies that they are received, and the
 11:32:06 **8** purchase order comes up to Finance, and it gets on the
 11:32:10 **9** freeholders' bills list and it's paid, and then they
 11:32:12 **10** find out the person ordered the wrong brakes, would you
 11:32:20 **11** fire Margaret Pasqua because the guy in Roads and
 11:32:24 **12** Bridges ordered the wrong brakes or he ordered 50 sets
 11:32:28 **13** of brakes of one kind and he should have ordered 48 of
 11:32:31 **14** one kind and two of another, but he certified he got
 11:32:36 **15** them, and the bill was paid, are you going to fire
 11:32:39 **16** Margaret Pasqua for that?
 11:32:41 **17** Are you going to turn this County -- not
 11:32:44 **18** just this County -- but the policy the freeholders
 11:32:48 **19** adopted on its head and say that there has got to be
 11:32:53 **20** somebody in the Finance Department who, when somebody
 11:32:55 **21** certifies we got a bulldozer, has to get in their car
 11:32:58 **22** and drive down there and see whether that person in the
 11:33:03 **23** Roads and Bridges Department is lying when they signed
 11:33:07 **24** off on the bill?
 11:33:09 **25** That's not the system that the law requires.

11:33:13 **1** It's not the system that the purchasing manual has in
 11:33:16 **2** it. There is nothing that says that health insurance
 11:33:19 **3** bills are different.
 11:33:21 **4** Now, there is one other key to our argument
 11:33:26 **5** that this was not their responsibility and it was never
 11:33:31 **6** their responsibility.
 11:33:33 **7** That's Mrs. Yard's e-mail of HC-7, where in
 11:33:42 **8** asking these ladies to do that, she says, "I believe
 11:33:47 **9** that your vast knowledge and experience as the fiscal
 11:33:50 **10** chief in the Consolidated Human Services Model will
 11:33:56 **11** all --" probably she meant "allow" -- "allow you to
 11:33:58 **12** easily train and transition this role back to your
 11:34:03 **13** fiscal professionals."
 11:34:06 **14** When was it ever their role? She doesn't
 11:34:12 **15** say, "ought to, enable you to do this role which was
 11:34:18 **16** always your responsibility." Then we would have a
 11:34:23 **17** Doningbrook.
 11:34:25 **18** She didn't say, "Why haven't you been
 11:34:28 **19** performing this role which has always been your
 11:34:32 **20** responsibility? Why haven't you been doing this which
 11:34:36 **21** your license requires? Why haven't you been doing this
 11:34:40 **22** pursuant to a memo or freeholder policy?"
 11:34:42 **23** No, she says, "Transition this role back up
 11:34:46 **24** to your fiscal professionals."
 11:34:48 **25** Well, I don't believe she could ever prove

11:34:50 **1** that they had the responsibility, but if they didn't
 11:34:54 **2** have it on March 15, which her e-mail acknowledges,
 11:34:59 **3** because she says to transition this role back, it must
 11:35:04 **4** mean somebody else had the role, i.e., Human Resources,
 11:35:08 **5** they can't be held responsible for something which
 11:35:11 **6** wasn't their job. No way. No way.
 11:35:18 **7** And you will need to find that. You will
 11:35:20 **8** need to tell this County that, and you need to tell
 11:35:25 **9** these freeholders that, that the responsibility for
 11:35:28 **10** doing things right goes beyond just finding a couple of
 11:35:33 **11** scapegoats to blame it on.
 11:35:38 **12** Now let's talk about these Data Collection
 11:35:43 **13** Forms.
 11:35:49 **14** Again, go back to what I had said about
 11:35:54 **15** there has got to be a clear definition of what your
 11:35:57 **16** duties are and what the expectations are, and so you
 11:36:06 **17** have Charlie Bahlog, who is there for at least 18 years,
 11:36:14 **18** and Ron Mathews, who is there for 15 years, who said,
 11:36:18 **19** "We never did this."
 11:36:21 **20** I don't know whether -- they said they never
 11:36:23 **21** do it. No auditor ever said, "You never did this, you
 11:36:28 **22** created a gigantic problem." Nobody says that.
 11:36:35 **23** Now, Mr. Gannon comes in, and I don't know
 11:36:38 **24** that I want to criticize him saying it should be done, I
 11:36:43 **25** don't at all.

11:36:43 **1** I want to read you PB-18 where he asks
 11:36:50 **2** whether these were done, an e-mail, "Do you remember
 11:36:56 **3** filing them? It would have been done electronically.
 11:37:02 **4** Typically" -- and I will say that word twice, because
 11:37:05 **5** it's only once in the e-mail -- typically, the auditor
 11:37:08 **6** does it, certifies it, and then you would review it and
 11:37:14 **7** certify it. Typically the auditor does it."
 11:37:19 **8** He didn't say, "Sometimes the auditor does
 11:37:22 **9** it." He didn't say, "Well, the auditor does it only
 11:37:26 **10** after you ask him to do it." He says, "Typically the
 11:37:30 **11** auditor does it."
 11:37:32 **12** So then either him or Kim Browne, and it
 11:37:36 **13** makes no difference, calls Samuel Klein, and says,
 11:37:38 **14** "Where are these forms?"
 11:37:39 **15** Samuel Klein says, "Whoa, we forgot to do
 11:37:42 **16** them."
 11:37:42 **17** They forgot to do them because, typically,
 11:37:48 **18** the auditor does it, so they do them, and they send them
 11:37:51 **19** to Kim, and Kim gets them right away, and she signs it.
 11:37:54 **20** Now, to bolster that, you should not be
 11:37:58 **21** disciplining these people, at least not firing them. If
 11:38:01 **22** you want to give them a letter of reprimand. "Don't
 11:38:03 **23** forget you should put it on your checklist."
 11:38:06 **24** Look at these forms, each one of them,
 11:38:16 **25** PB-31, 32 and 33. They are one, two, three, four, five,

11:38:18 **1** six pages long. Read them. Five of the six pages and
 11:38:24 **2** half of the first page, have to be completed by the
 11:38:27 **3** auditor. The last five pages say clearly at the top,
 11:38:35 **4** "To be completed by the auditor."
 11:38:41 **5** Page 1 says, you, the auditee, the County,
 11:38:44 **6** fill out the left-hand side of the page, which has the
 11:38:48 **7** date, your taxpayer ID number, your name, address,
 11:38:55 **8** telephone number, and you need to sign it, but the other
 11:38:58 **9** half of the first page is filled out by the auditor,
 11:39:01 **10** too.
 11:39:01 **11** So now here you have a situation where the
 11:39:05 **12** previous people in Finance never saw the form, never
 11:39:08 **13** filed it. The auditors never said anything about it,
 11:39:13 **14** saying whether it was right or wrong. It's
 11:39:16 **15** irrespective.
 11:39:17 **16** We are not talking about right or wrong, we
 11:39:19 **17** are talking about disciplining people, wanting to fire
 11:39:22 **18** them. They never did it.
 11:39:23 **19** They come in in 2008, and the new auditor --
 11:39:26 **20** because that's what Klein was then -- he forgets to do
 11:39:30 **21** it.
 11:39:32 **22** He forgets to do the responsibility that
 11:39:36 **23** Gannon says is, typically, "The auditor does it."
 11:39:43 **24** So we say, "Oh, wait a second. Those forms
 11:39:46 **25** were never filed. That's item number so and so on the

11:39:50 **1** discipline. Stop this. That's your role, stop this.
 11:40:03 **2** Step back. Apply common sense, listen to what you
 11:40:08 **3** heard. I understand that it's a big embarrassment to
 11:40:12 **4** find out that you have been paying health insurance
 11:40:15 **5** bills that you shouldn't have been paying."
 11:40:18 **6** It's not relevant to those proceedings.
 11:40:21 **7** It's an interesting question what's been done to recover
 11:40:24 **8** some of this money, to have the opportunity to do it.
 11:40:30 **9** They got a carrier that got paid something
 11:40:34 **10** one-year-old, and never had health insurance claims
 11:40:36 **11** since 1996. Did anybody go to that carrier and say --
 11:40:41 **12** you know -- "You are personally at fault here. Let's
 11:40:44 **13** get some of this money back."
 11:40:45 **14** It's irrespective. It's not their
 11:40:47 **15** responsibility, and they should not be held out to dry
 11:40:52 **16** to do it.
 11:40:52 **17** Insubordination, if I understood Mrs. Yard
 11:40:57 **18** correctly, and I am not trying to be facetious, but if I
 11:41:02 **19** understood it correctly, there are two bases for
 11:41:04 **20** insubordination. One is the failure to sign the
 11:41:08 **21** management letter, and the other one was, if I
 11:41:12 **22** understood her correctly, failure to check these --
 11:41:15 **23** implement her memos about checking the health insurance
 11:41:20 **24** bills.
 11:41:20 **25** Well, let's start with that one. So she

11:41:23 **1** sends a memo to Margaret and Kim and says, "Check the
 11:41:25 **2** health insurance bills."
 11:41:26 **3** And Kim writes back and says, "Look, it's
 11:41:29 **4** really not our responsibility. Let me make a compromise
 11:41:33 **5** offer." She makes a compromise offer.
 11:41:35 **6** Now, are we going to fire anybody in
 11:41:38 **7** government for insubordination who doesn't say "no" but
 11:41:46 **8** who says "think about it"? Is that the standard? Is
 11:41:52 **9** that the way we avoid problems?
 11:41:56 **10** I don't say -- if I don't say "No," I say
 11:42:00 **11** "Please think about it. This isn't going to work."
 11:42:02 **12** You don't want to discourage that. That's a
 11:42:07 **13** part of government. That's a part of good government.
 11:42:09 **14** So they go back and forth. She even
 11:42:12 **15** expresses her concern to a couple of freeholders,
 11:42:14 **16** according to her testimony.
 11:42:14 **17** They go back and forth, and the long and
 11:42:17 **18** short of it is, they do it. Margaret does it, even
 11:42:25 **19** though she testified she doesn't have the information,
 11:42:28 **20** because where is it? It's down in the Human Resources
 11:42:32 **21** computer, who the dependents are, the number of
 11:42:38 **22** dependents, whether you are entitled, not entitled, she
 11:42:42 **23** does the best she can, she does it, she signs up for
 11:42:46 **24** Social Security report on her own. So now we are going
 11:42:52 **25** to say you did it but you are insubordinate? It doesn't

11:42:57 **1** make any sense. She did it. What they were asked she
 11:43:03 **2** did. She cannot be insubordinate for that.
 11:43:06 **3** Then there is the management letter and,
 11:43:11 **4** again, plain language and common sense. Mrs. Yard says,
 11:43:17 **5** "Well, they didn't sign the management letter," but that
 11:43:21 **6** isn't what her memo said. Her memo said, "Sign or tell
 11:43:27 **7** me why you can't." On its face, "Sign or tell me why
 11:43:34 **8** you can't."
 11:43:35 **9** So you write back and give a number of
 11:43:36 **10** reasons why you can't does that mean you are
 11:43:40 **11** insubordinate? If it said "Sign," period, but it
 11:43:46 **12** didn't. It said, "Sign or tell me why you can't."
 11:43:50 **13** It's also very interesting about tell me why
 11:43:55 **14** you can't had to be disingenuous as a lot of this other
 11:44:00 **15** stuff, because when you say why you can't, do they set
 11:44:08 **16** up a meeting, no, they didn't set up a meeting. They
 11:44:14 **17** don't set up a meeting with the auditor. They don't set
 11:44:17 **18** up a meeting with the freeholders, they don't set up a
 11:44:26 **19** meeting with anybody. Why? That doesn't fit the plan
 11:44:30 **20** here. Maybe these ladies will have something to say.
 11:44:34 **21** No, let's just get them out of their office on some
 11:44:39 **22** pretext. Once we get them out we will bring somebody
 11:44:45 **23** else in, do what we are going to do, tell somebody else
 11:44:48 **24** not to talk to them, and then when we can't find things,
 11:44:52 **25** blame them, even though they could have taken you by the

11:44:57 **1** hand and showed you where it was, even though for
 11:45:01 **2** everything that the auditors raised they could have
 11:45:03 **3** provided an adequate explanation. There probably would
 11:45:09 **4** still be a difference of opinion on this medical thing,
 11:45:11 **5** at least we will be down to resolving one thing, which,
 11:45:14 **6** I think, is resolved by the policy.
 11:45:22 **7** Didn't make a recommendation that the County
 11:45:26 **8** administrator has gone overboard.
 11:45:30 **9** You need to -- I don't want to make this too
 11:45:38 **10** broad, but at least in regard to Hunterdon County, the
 11:45:45 **11** evidence, I believe, says this, and you have to say it
 11:45:53 **12** not only because these two ladies are entitled to it,
 11:45:56 **13** but because every employee in this County needs to know
 11:46:03 **14** that they will get a fair shake when the time comes if
 11:46:08 **15** they fail to do their job.
 11:46:11 **16** I was here 30 years. I know how it is if
 11:46:17 **17** an administrator wants to see you, the freeholders come
 11:46:21 **18** to say something to you, you are quick in your boots,
 11:46:25 **19** why, you got a family, you got a job -- you know -- it's
 11:46:28 **20** not in evidence, but it's irrelevant except for me to
 11:46:31 **21** make my point -- you are in the lower one-third, you are
 11:46:34 **22** in the richest County in the State and the lower
 11:46:36 **23** one-third of the pay rates, you can't afford to lose
 11:46:40 **24** your job, so when somebody comes down to talk to you,
 11:46:44 **25** you shake, and it's important that they know that there

11:46:54 **1** is recourse that if they need to stand on their own two
 11:46:58 **2** feet because somebody has gone
 11:47:00 **3** overboard because they don't want to listen, because
 11:47:03 **4** they want it to go away, they want it to go away. They
 11:47:08 **5** want to be able to tell the public, "We fired them,
 11:47:11 **6** don't you see it, we fired them. They made a \$1,800,000
 11:47:18 **7** mistake on the books, and we fired them."
 11:47:19 **8** Shouldn't you fire somebody that makes a
 11:47:22 **9** \$1,800,000 mistake on the books? \$1,800,000 mistakes on
 11:47:30 **10** the books, it's not a mistake, one sets it up. Three
 11:47:33 **11** auditors says it's okay. A new auditor says it
 11:47:37 **12** different. The money is there. Somebody needs to say
 11:47:40 **13** the money is there. So the new auditor wanted to change
 11:47:43 **14** it. You need to let them know, do justice for these two
 11:47:49 **15** ladies, but you will need to let them know that they
 11:47:55 **16** have a recourse, they have a hope that somebody will
 11:47:59 **17** listen.
 11:48:00 **18** I can give you a last example.
 11:48:04 **19** "Conduct unbecoming a public employee," here
 11:48:11 **20** you have a County administrator who says she has been
 11:48:13 **21** responsible for discipline, who says she has been
 11:48:20 **22** responsible for approving all the disciplinary charges
 11:48:22 **23** in the County, and she charges these two ladies with
 11:48:25 **24** conduct unbecoming a public employee, and she doesn't
 11:48:29 **25** know that the standard for that is that you do something

11:48:32 **1** in your personal behavior that besmirches the public
 11:48:37 **2** responsibility that you have, otherwise you wouldn't
 11:48:41 **3** need that, or otherwise it would be catchall for
 11:48:44 **4** anything, anything you do wrong is conduct unbecoming
 11:48:46 **5** you.
 11:48:47 **6** That's not what that means, and to put that
 11:48:49 **7** in there, to have the nerve to put that in there,
 11:48:55 **8** effectively what you are saying is, "Don't you ever
 11:48:59 **9** challenge us, don't you ever question us. I say jump,
 11:49:09 **10** you say how high." Because I am going to tell you,
 11:49:14 **11** lady, I am going to tell you, gentleman, if you don't,
 11:49:17 **12** who is going to side with them?
 11:49:24 **13** I am asking you to do that. I am not asking
 11:49:27 **14** you to tell anybody that they are bad people, just
 11:49:33 **15** asking you to tell them these are the facts, slow down.
 11:49:40 **16** These are the facts, this is the law. You have two good
 11:49:46 **17** employees. I am not saying what kind of new system you
 11:49:49 **18** should have, I am not saying who should check the health
 11:49:52 **19** insurance bills, I am not saying if it was right or
 11:49:54 **20** wrong that they got paid all those years, I am not even
 11:49:57 **21** saying that it's wrong, that the few people you had come
 11:50:03 **22** in are still paying the health insurance for people who
 11:50:05 **23** are deceased, I am not saying any of that.
 11:50:08 **24** I am only say this: I looked at the duties
 11:50:11 **25** these ladies had, and double-checking those health

11:50:15 **1** insurance bills were not their responsibility. I looked
 11:50:20 **2** at the accounting system that they inherited, approved
 11:50:24 **3** by a number of auditors, and the way it was done and the
 11:50:28 **4** fact that Wiss wanted to change it to a different one,
 11:50:33 **5** didn't mean they did anything wrong.
 11:50:35 **6** As I said before, more than one way to do
 11:50:40 **7** something does not mean that the other way was wrong.
 11:50:43 **8** It just means it was changed.
 11:50:45 **9** These other insignificant or not significant
 11:50:49 **10** deficiencies are just that.
 11:50:56 **11** My recommendation, speaking for you, as I
 11:51:04 **12** respectfully request, your recommendation would be don't
 11:51:04 **13** terminate these people. Reinstatement to their
 11:51:05 **14** positions.
 11:51:06 **15** Thank you.
 11:51:15 **16** MR. FLORIO: Mr. Giacobbe.
 11:51:17 **17** MR. GIACOBBE: Could we just take a
 11:51:18 **18** two-minute recess to use the restroom?
 11:51:20 **19** MR. FLORIO: Yes.
 11:51:21 **20** We are off the record.
 11:51:22 **21** (Whereupon, a short recess is taken.)
 11:57:02 **22** MR. FLORIO: Are we ready, Mr. Giacobbe?
 11:57:05 **23** MR. GIACOBBE: Good afternoon, Mr. Florio.
 11:57:07 **24** Matthew Giacobbe on behalf of the County of
 11:57:09 **25** Hunterdon.

11:57:10 **1** We heard a couple of interesting things from
 11:57:12 **2** Mr. DeSapio.
 11:57:13 **3** He said at the beginning of his closing
 11:57:16 **4** statement, the freeholders just want this to go away.
 11:57:20 **5** They just want it to go away and blame other people.
 11:57:24 **6** That's not what they want.
 11:57:25 **7** What does the County of Hunterdon want? The
 11:57:27 **8** County of Hunterdon wants justice done for the taxpayers
 11:57:30 **9** of Hunterdon County.
 11:57:32 **10** What you have heard through the testimony of
 11:57:35 **11** both the County's witnesses and the defense witnesses is
 11:57:40 **12** that there were gross errors that resulted in the loss
 11:57:44 **13** of hundreds of thousands, if not millions, of dollars
 11:57:48 **14** over a period of years.
 11:57:51 **15** You heard from Dave Gannon, from Fred
 11:57:54 **16** Tomkins, Cindy Yard, Margaret Pasqua, Kim Browne, Mr.
 11:57:59 **17** Bahlog, Mr. Mathews.
 11:58:02 **18** There is one that's clear from all of that
 11:58:04 **19** testimony, there were two people from 2008 until the
 11:58:11 **20** present that were responsible for Hunterdon County
 11:58:15 **21** finances. There were two people who possessed the
 11:58:18 **22** licenses that are required to be responsible for
 11:58:21 **23** Hunterdon County finances. Cheryl didn't have that
 11:58:26 **24** license, Cindy Yard didn't have that license, the Board
 11:58:30 **25** of Chosen Freeholders didn't have that license.

11:58:31 **1** They hired two professionals with the
 11:58:36 **2** required licenses to run the Finance Department, and who
 11:58:41 **3** were those two people, Margaret Pasqua, Kim Browne.
 11:58:45 **4** Those were the two people.
 11:58:47 **5** Mr. DeSapio claims that there is no job
 11:58:51 **6** description. Well, that's not accurate.
 11:58:55 **7** Let me read for you NJSA 40A:9-27,
 11:59:01 **8** "Treasurer Term Duties --" the State of New Jersey, the
 11:59:06 **9** legislature has defined the duties -- I will read them
 11:59:10 **10** to you for the record --
 11:59:12 **11** "The County treasurer shall maintain general
 11:59:15 **12** books of account in accordance with the rules and
 11:59:17 **13** regulations of the local Finance Board and the
 11:59:22 **14** Department of Community Affairs."
 11:59:23 **15** Margaret Pasqua's job, statutory, "The
 11:59:28 **16** County treasurer shall perform such other duties as it
 11:59:32 **17** may be assigned to him or her from time to time by the
 11:59:35 **18** board."
 11:59:35 **19** There is a statutory responsibility when you
 11:59:40 **20** accept that job as treasurer. There is a statutory
 11:59:43 **21** responsibility when you have that license and you are
 11:59:47 **22** signing certifications on behalf of the County of
 11:59:49 **23** Hunterdon regarding its finances.
 11:59:51 **24** You heard just this afternoon or this
 11:59:53 **25** morning with Mr. Mathews.

11:59:55 **1** He testified, as Mr. Bahlog, that the
 11:59:58 **2** Finance Department is responsible for the accuracy of
 12:00:01 **3** the books and records of the County's finances.
 12:00:06 **4** According to Mr. DeSapio, it's not our
 12:00:09 **5** fault. It's somebody else's fault. It's not our fault.
 12:00:12 **6** It's Cheryl Wieder's fault. It's not our fault. It's
 12:00:14 **7** the Board of Chosen Freeholders' fault. It's not our
 12:00:17 **8** fault. It's Cindy Yard's fault. None of those people
 12:00:20 **9** had the licenses. None of those people held those
 12:00:23 **10** positions. None of those people received compensation
 12:00:25 **11** for those positions.
 12:00:27 **12** What the evidence has shown is that the two
 12:00:31 **13** people responsible for finance failed in their duties.
 12:00:35 **14** Now let's look at the 2012 audit.
 12:00:40 **15** The 2012 audit -- and I am not going to
 12:00:44 **16** recount each and every item in it -- there were two
 12:00:49 **17** material weaknesses, and you heard not only from Dave
 12:00:52 **18** Gannon, not only from Fred Tomkins, not only from
 12:00:56 **19** Margaret Pasqua and Kim Browne, you heard it from Mr.
 12:01:00 **20** Bahlog and Mr. Mathews, material weaknesses is a big
 12:01:04 **21** deal. That's a major problem.
 12:01:07 **22** Mr. Mathews says he can't remember ever
 12:01:10 **23** having material weaknesses during his tenure. Yet you
 12:01:13 **24** have two material weaknesses and a third on its way.
 12:01:16 **25** We will get to that in a little while.

12:01:18 **1** Let's first go to the health benefits,
 12:01:22 **2** because Mr. DeSapio said that is a big issue. He is
 12:01:26 **3** right, it's a gigantic issue.
 12:01:28 **4** His entire argument, and I believe their
 12:01:32 **5** theory is, "not our fault, not our responsibility, not
 12:01:35 **6** our problem," but there is a fundamental thing. You
 12:01:38 **7** didn't hear from Mr. DeSapio in his closing statement,
 12:01:42 **8** there was a 2010 audit and who was the chief financial
 12:01:48 **9** officer and who was the County treasurer and who was the
 12:01:50 **10** director of Finance during the 2010 audit, Margaret
 12:01:53 **11** Pasqua, Kim Browne, and the auditor said, "You got a
 12:01:58 **12** problem. You are not removing people from health
 12:02:01 **13** benefits in a timely manner."
 12:02:04 **14** What do they do? Well, by law and in
 12:02:14 **15** accordance with the rules and regulations of the local
 12:02:14 **16** Finance Board and the Department of Community Affairs,
 12:02:14 **17** you have to take corrective action, you have to come up
 12:02:19 **18** with a Corrective Action Plan. You have to present it
 12:02:21 **19** to the freeholders, they have to adopt it, you have to
 12:02:23 **20** sign it and certify it and send it down to the local
 12:02:26 **21** Finance Board and the Department of Community Affairs.
 12:02:29 **22** Kim Browne and Margaret Pasqua both
 12:02:32 **23** testified that they reviewed the 2010 Corrective Action
 12:02:36 **24** Plan dealing with the health benefit issue. They signed
 12:02:39 **25** it and filed it, and when you look at what they said is,

12:02:43 **1** "We have discussed it with Human Resources."
 12:02:45 **2** In fact, if you recall, yesterday, when I
 12:02:49 **3** was cross-examining Mrs. Browne, Mrs. Browne appeared
 12:02:53 **4** before the Board of Chosen Freeholders on October 18th,
 12:02:58 **5** 2011, reporting on the 2010 audit and Corrective Action
 12:03:03 **6** Plan. This is what the minutes reflect: "Mrs. Browne
 12:03:06 **7** reported the third recommendation in the audit was that
 12:03:10 **8** management remove terminated employees from medical
 12:03:14 **9** benefits in a timely manner. Mrs. Browne explained,
 12:03:17 **10** 'This is a one-time issue and has been corrected.' She
 12:03:21 **11** stated that quarterly meetings will be set up with Human
 12:03:24 **12** Resources, the County administrator, the treasurer and
 12:03:25 **13** herself to keep track of these matters."
 12:03:28 **14** What did you hear yesterday? She had one
 12:03:30 **15** meeting, one meeting.
 12:03:33 **16** It wasn't corrected. We knew it today it
 12:03:37 **17** wasn't corrected by a long shot. In fact, what is
 12:03:40 **18** incredible is the March 27th, 2013 e-mail of Mrs.
 12:03:47 **19** Browne. This is before the audit comes out, and Mrs.
 12:03:50 **20** Browne says to Cindy Yard, "Carol Lane still on Horizon
 12:03:57 **21** Blue Cross Blue Shield invoice. Been trying to get her
 12:04:00 **22** off a long time now."
 12:04:02 **23** Wait a second. You told the freeholders in
 12:04:05 **24** 2011, and you certified to the State in the 2011
 12:04:10 **25** Corrective Action Plan, that you are taking action to

12:04:13 **1** stop this, yet on March 27, 2013 Carol Lane has been on
 12:04:18 **2** it for a long time now.
 12:04:21 **3** That's a problem.
 12:04:22 **4** It goes on in my e-mail, "the County is
 12:04:25 **5** probably paying full freight for some retirees instead
 12:04:28 **6** of the Medicare rate."
 12:04:30 **7** They are claiming that they have no
 12:04:32 **8** knowledge of this, but that's not the facts.
 12:04:35 **9** The facts are that as the licensed CCFO,
 12:04:40 **10** director of Finance, County treasurer, they filed a
 12:04:44 **11** Corrective Action Plan. It was their job to make sure
 12:04:48 **12** that controls were put in place so that this would stop,
 12:04:52 **13** so that the County of Hunterdon taxpayers would not be
 12:04:57 **14** wasting precious tax dollars on insuring people who are
 12:05:00 **15** dead or their families who didn't qualify for health
 12:05:03 **16** benefits.
 12:05:05 **17** That didn't happen. It didn't happen in
 12:05:07 **18** 2010, and, as a result of the 2010 audit and the alleged
 12:05:12 **19** Corrective Action Plan, it didn't correct itself.
 12:05:15 **20** You know how it didn't correct itself, look
 12:05:18 **21** at PB-38. The County treasurer, Margaret Pasqua, does
 12:05:23 **22** an audit, and you got circling through it, and there are
 12:05:29 **23** two pages of people who are being paid for health
 12:05:34 **24** benefits who either died or were laid off or were
 12:05:42 **25** terminated, and they are being paid for.

12:05:45 **1** So in 2013 the problem still exists, the
 12:05:53 **2** same problem that the Finance Department was audited and
 12:05:59 **3** had to prepare a Corrective Action Plan for in the 2010
 12:06:02 **4** budget, three years later the problem exists, and
 12:06:07 **5** contrary to Mrs. Browne's statement, it wasn't a
 12:06:10 **6** one-time issue. It was dozens and dozens of people for
 12:06:15 **7** thousands and thousands of dollars every month.
 12:06:18 **8** Now, you also heard, "Not our fault." Miss
 12:06:22 **9** Wieder, the bills were mailed to her. It was her
 12:06:25 **10** responsibility to review them, sign off on them, send
 12:06:29 **11** them up to processing. We went through it.
 12:06:31 **12** You saw the bills. They are in evidence.
 12:06:34 **13** There are small bills that Cheryl Wieder signed off on,
 12:06:39 **14** CAW, always above the return receipt slip that was torn
 12:06:43 **15** off. On the big bills, the bills that paid the County,
 12:06:46 **16** the monthly County health benefits for active employees,
 12:06:49 **17** retirees and dead people, not signed off on, none of
 12:06:56 **18** them.
 12:06:57 **19** They testified they would never pay a bill
 12:06:59 **20** unless it had Cheryl Wieder's approved signature on it.
 12:07:04 **21** Well, what we demonstrated is they paid the
 12:07:07 **22** bills month after month after month.
 12:07:11 **23** Then you heard the testimony that we didn't
 12:07:15 **24** have access to the information. We could never know.
 12:07:18 **25** Well, that's a fallacy. Every bill, every

12:07:23 **1** bill from Horizon Blue Cross Blue Shield has every
 12:07:26 **2** person who is receiving health benefits on a monthly
 12:07:29 **3** basis, what coverage they're receiving, family, husband
 12:07:32 **4** and wife, parent, child, single, and the amount of money
 12:07:36 **5** being paid.
 12:07:37 **6** If you recall, I asked the question, "Did
 12:07:39 **7** you ever take one of those monthly bills after 2010 when
 12:07:43 **8** you knew this was a problem and compare it to your
 12:07:45 **9** payroll database that was maintained in Finance?"
 12:07:47 **10** The answer was, "No, didn't do it."
 12:07:54 **11** They never did an audit.
 12:07:54 **12** They never said, "Wait a second, there is a
 12:07:54 **13** problem here. People who have been terminated are on
 12:07:56 **14** health benefits. Is Carol Lane still on it?"
 12:07:59 **15** Did they ever do a cross-examination, no.
 12:08:03 **16** You know how this came about. Wiss did that
 12:08:06 **17** cross-examination and said, "You have people on health
 12:08:08 **18** benefits that shouldn't be receiving it."
 12:08:11 **19** Mr. Florio, the Finance Department is
 12:08:16 **20** responsible for the books and records. They are
 12:08:19 **21** responsible to make sure that we are paying for things
 12:08:23 **22** that we are required to pay for, for goods and services
 12:08:25 **23** and health benefits that are statutorily obligated to be
 12:08:29 **24** paid for, and what you have is in 2010 these two ladies
 12:08:33 **25** had notice from Samuel Klein, the auditor, who they have

12:08:38 **1** criticized so much, that there was a problem.
 12:08:42 **2** As we sit here today, they didn't correct
 12:08:44 **3** that problem. They should be fired because when you
 12:08:48 **4** look at the statute, the statute says -- and the statute
 12:08:53 **5** that I am referring to is -- bear with me one second --
 12:09:05 **6** 40A:9-25, and it says -- the people who shall be removed
 12:09:22 **7** from office -- we already discussed this in the
 12:09:25 **8** statements, and I won't reiterate it -- the only person
 12:09:28 **9** who had a term of office here was Margaret Pasqua. She
 12:09:31 **10** was appointed for a three-year term. Her term expires
 12:09:34 **11** in the spring of next year, and it says -- the statute
 12:09:39 **12** provides -- "You can't be removed from office or
 12:09:42 **13** position except for cause."
 12:09:46 **14** Mr. Florio, the health benefit piece alone
 12:09:51 **15** is cause to remove Mrs. Pasqua. The health benefit
 12:09:55 **16** piece alone is cause to remove Mrs. Browne from office.
 12:10:00 **17** They knew about it. They went to the freeholders, said,
 12:10:04 **18** "It was a one-time incident. It was corrected. We are
 12:10:06 **19** going to do things to correct it."
 12:10:08 **20** And, guess what, two years later, not
 12:10:11 **21** corrected, many, many hundreds of thousands of dollars
 12:10:14 **22** wasted.
 12:10:15 **23** We have cause with that.
 12:10:18 **24** Now let's look at the second material
 12:10:23 **25** weakness.

12:10:25 **1** The material weakness, Mr. DeSapio said,
 12:10:29 **2** "Well, they did it this way for many, many years. Mr.
 12:10:33 **3** Bahlog did it, Mr. Mathews did it, Mr. Samuel Klein did
 12:10:37 **4** an audit," but if you remember what Mr. Gannon said,
 12:10:40 **5** "It's the responsibility of the Finance Department to
 12:10:44 **6** make sure that the numbers that you are reporting are
 12:10:48 **7** accurate. That's your responsibility. And the reason
 12:10:53 **8** that's your responsibility is because those numbers are
 12:10:57 **9** relied upon by many different people, not only the
 12:11:00 **10** taxpayers of the County, but other financial
 12:11:03 **11** institutions, if there is bonding, the State of New
 12:11:07 **12** Jersey, so one of the critical elements of your job as
 12:11:11 **13** the licensed CCFO, Director of Finance treasurer, is to
 12:11:16 **14** make sure that the books and records are accurate."
 12:11:20 **15** Mr. Mathews, I just asked him about that,
 12:11:24 **16** "Make sure the books are accurate."
 12:11:28 **17** Yes, that was his responsibility, nobody
 12:11:30 **18** else, one Cheryl Wieder, Cindy Yard, these two women's
 12:11:34 **19** responsibility is to make sure the books and records
 12:11:36 **20** were accurate.
 12:11:36 **21** When you look at Mr. Gannon's report, he
 12:11:41 **22** talks about the lack of accuracy, the lack of accuracy
 12:11:47 **23** in the books and records, and what Mr. Gannon says --
 12:11:57 **24** and he cites the Hunterdon County Consolidated
 12:12:02 **25** Transportation System, the golf course, the engineering

12:12:06 **1** fees, the golf course receivables, reserve for
 12:12:12 **2** receivables, all different things, and he says, "The
 12:12:15 **3** appropriately designed financial statement, close
 12:12:18 **4** process reduces the risk of errors in the financial
 12:12:21 **5** statement. The errors above occurred primarily as a
 12:12:25 **6** result of a lack of understanding regarding the golf
 12:12:27 **7** course management."
 12:12:29 **8** You have heard testimony. Mrs. Pasqua said
 12:12:32 **9** she wasn't sure if they were doing it right, and the
 12:12:38 **10** significant amount of decentralization of outside
 12:12:41 **11** departments and the level of engagement required as part
 12:12:44 **12** of that review of draft year-end financial statements,
 12:12:48 **13** they weren't overseeing it. They were just accepting
 12:12:51 **14** things as they came in.
 12:12:53 **15** Their job as County treasurer and the
 12:12:55 **16** Director of Finance is to make sure those statements are
 12:12:57 **17** accurate.
 12:12:58 **18** What does Mr. Gannon recommend? He
 12:13:01 **19** recommends the County implement stronger internal
 12:13:03 **20** control procedures over the year-end financial statement
 12:13:07 **21** close process, including the following: One, obtain a
 12:13:10 **22** better understanding of the financial transactions
 12:13:13 **23** related to the golf course.
 12:13:14 **24** Two, ensure each outside department reviews
 12:13:18 **25** their respective financial statements in draft form

12:13:21 **1** and/or consider issuing separate departmental financial
 12:13:25 **2** statements that are required to be audited.
 12:13:28 **3** Three, ensure appropriate individuals from
 12:13:31 **4** the Finance Department, Mrs. Pasqua, Mrs. Browne, review
 12:13:36 **5** and approve County's financial statements.
 12:13:40 **6** That's the first material weakness.
 12:13:44 **7** The second material weakness is the health
 12:13:53 **8** benefits which I have already gone over.
 12:13:53 **9** There is a lot of other material weaknesses
 12:13:53 **10** in this report.
 12:13:53 **11** And as Mr. Gannon indicated their comments
 12:13:56 **12** and recommendations, they are not as serious as the
 12:14:00 **13** material weaknesses and internal controls, but they are
 12:14:03 **14** nevertheless serious.
 12:14:04 **15** You had testimony that there is a person in
 12:14:07 **16** one of the statements who was receiving the health
 12:14:11 **17** benefit waiver when they were also receiving health
 12:14:14 **18** benefits. Another mistake in health benefits.
 12:14:19 **19** You had testimony from a number of people
 12:14:21 **20** that Chapter 78 placements were incorrect. Chapter 78
 12:14:26 **21** is a state law dealing with contributions and health
 12:14:29 **22** benefits where employees are required to contribute to
 12:14:31 **23** his or her health benefits. Why? To help the
 12:14:35 **24** taxpayers.
 12:14:36 **25** And so when you place people at the wrong

12:14:38 **1** levels and you put people on level one or two when they
 12:14:42 **2** should be at level four, who are you taking the money
 12:14:45 **3** from? The County taxpayers. It's a mistake.
 12:14:49 **4** You also heard a very significant mistake
 12:14:52 **5** dealing with the single audit. What's the single audit?
 12:14:59 **6** If you are receiving State Or Federal grant money, money
 12:15:01 **7** from the Federal Governmental, there is a single audit
 12:15:05 **8** process.
 12:15:06 **9** As part of that process you are required by
 12:15:12 **10** law -- when I say "you" -- the chief financial officer,
 12:15:16 **11** the licensed CCFO, Margaret Pasqua and Kim Browne,
 12:15:21 **12** either one of them, is required to certify on the
 12:15:27 **13** Federal Data Collection Form. It's mandated by law.
 12:15:33 **14** Now, Mr. Mathews didn't know about it. Mr.
 12:15:36 **15** Bahlog didn't know about it, and apparently Mrs. Browne
 12:15:39 **16** didn't know about it, and Mrs. Pasqua didn't know about
 12:15:42 **17** it.
 12:15:43 **18** But let's go back to the statute, "The
 12:15:46 **19** County treasurer shall maintain general books of account
 12:15:50 **20** in accordance with rules and regulations of the local
 12:15:54 **21** Finance Department."
 12:15:56 **22** One of those rules, when you are filing with
 12:15:59 **23** the -- accepting money from the Federal Government, is
 12:16:01 **24** you file a Federal Data Collection Form.
 12:16:05 **25** They didn't even know about it.

12:16:07 **1** Dave Gannon, when he was starting doing his
 12:16:10 **2** audit in February of 2013, e-mailed and asked, "Did you
 12:16:16 **3** guys file the Federal Data Collection Form? Generally,
 12:16:20 **4** it's prepared by the auditor, but you have to sign it.
 12:16:24 **5** You have to certify to it, and you have to file it
 12:16:27 **6** because you are the auditee."
 12:16:29 **7** There is actually a whole section in PB-31,
 12:16:33 **8** 32 and 33 where it shows the auditee has to sign it, and
 12:16:36 **9** there is only two people in this entire County who could
 12:16:39 **10** have signed it, because you have to be licensed.
 12:16:42 **11** Who are those two people, Kim Browne,
 12:16:44 **12** Margaret Pasqua. Cheryl Wieder couldn't sign it. Cindy
 12:16:49 **13** Yard couldn't have signed it. And if you fail to do it
 12:16:52 **14** you become a high risk auditee.
 12:16:55 **15** What does that mean? A high risk auditee
 12:16:58 **16** means they have to do a much more extensive audit during
 12:17:01 **17** the single audit, which would result in more money spent
 12:17:04 **18** by the County, taxpayer money, and greater scrutiny over
 12:17:09 **19** the next three years.
 12:17:11 **20** When Dave Gannon asked what was going on,
 12:17:17 **21** Mrs. Browne, on February 27th, said, "Margaret and I did
 12:17:22 **22** not file them."
 12:17:23 **23** They weren't filed, yet another reason why
 12:17:27 **24** there was cause to terminate these two women.
 12:17:32 **25** We have heard a lot about this being a "big

12:17:41 **1** embarrassment. We just want it to go away."
 12:17:45 **2** I have to frankly applaud the County of
 12:17:48 **3** Hunterdon because there is a lot of public bodies that
 12:17:51 **4** wouldn't want this dirty laundry out in the public.
 12:17:55 **5** They wouldn't want people to know that dead people are
 12:17:58 **6** getting health benefits, but the County of Hunterdon
 12:18:01 **7** said, "No, we are the stewards of the taxpayers' money.
 12:18:06 **8** We hire licensed professionals to do their job, and when
 12:18:09 **9** they fail to do their job, there is a consequence, and
 12:18:12 **10** that consequence is termination of employment."
 12:18:16 **11** Now, we have talked about that, or Mr.
 12:18:18 **12** DeSapio explored the idea about the insubordination.
 12:18:23 **13** All you have to do is read Mrs. Browne's e-mails to Mrs.
 12:18:28 **14** Yard, "It's not our responsibility, we are not doing
 12:18:34 **15** it," and then she testified how she was copying the
 12:18:37 **16** freeholder director, deputy director and me. I am an
 12:18:42 **17** outside labor counsel. Why am I being copied on an
 12:18:45 **18** e-mail?
 12:18:46 **19** Do you know why? Because she didn't want to
 12:18:49 **20** do what was requested.
 12:18:50 **21** Now let's look at the job description one
 12:18:54 **22** more time, which in the law, it says, "Anything else
 12:18:56 **23** that's assigned by the county."
 12:19:02 **24** They were assigned to look at the health
 12:19:04 **25** benefits. In fact, Mr. DeSapio talked about HC-6 and

12:19:12 **1** HC-6 was the e-mail drafted by Mrs. Browne, and she was
 12:19:17 **2** recommending to do this audit, to make sure that people
 12:19:22 **3** like Carol Lane, who has been on a long, long time, come
 12:19:31 **4** off. That's what she was directed to do.
 12:19:31 **5** There is a series of e-mails, "It's not our
 12:19:31 **6** responsibility."
 12:19:31 **7** I disagree. No one was asking her to do
 12:19:35 **8** something illegal. They are saying, "Audit the bills
 12:19:38 **9** that you have been paying for every month, seven,
 12:19:40 **10** \$700,000, audit those bills. If that person is on it,
 12:19:44 **11** we want to know why you are paying for these people."
 12:19:47 **12** It was something that they had knowledge of
 12:19:50 **13** two-and-a-half years before that there was a problem.
 12:19:54 **14** I don't know what else could constitute
 12:19:57 **15** insubordination. You saw the letter that was drafted by
 12:20:02 **16** both of these women when there was -- after the exit
 12:20:07 **17** conference -- when you have to sign off after the
 12:20:10 **18** management letter to Wiss. They didn't do it. They
 12:20:12 **19** refused. "We have problems, we are not doing it. We
 12:20:16 **20** weren't here for it."
 12:20:17 **21** Well, do you know what, that's not accurate.
 12:20:22 **22** You have seen the e-mails from Wiss, Dave
 12:20:24 **23** Gannon to Kim Browne. They were there all the way
 12:20:27 **24** through June 25th, 2013, and, guess what, they were
 12:20:30 **25** auditing -- they weren't auditing 2013, they were

12:20:33 **1** auditing 2012.
 12:20:35 **2** Who was the County chief financial officer
 12:20:37 **3** and director of finance, who was the treasurer, Margaret
 12:20:40 **4** Pasqua, Kim Browne in 2012. The books and records that
 12:20:44 **5** Dave Gannon is auditing isn't in 2013. They are
 12:20:48 **6** auditing 2012.
 12:20:51 **7** "Well, we don't know what they did, we have
 12:20:53 **8** no idea."
 12:20:54 **9** That's not true.
 12:20:54 **10** The books and records you certify to, they
 12:20:57 **11** are the books and records that you are required by law
 12:20:59 **12** to maintain. They are the books and records that all of
 12:21:03 **13** their witnesses said was their responsibility, 2012, and
 12:21:07 **14** yet they refused to sign off on the management letter
 12:21:11 **15** for 2012, insubordination.
 12:21:14 **16** Now, when you distill this entire case what
 12:21:21 **17** you have is you have defense's argument that, "It ain't
 12:21:26 **18** my fault, not my responsibility, it's everyone else's
 12:21:32 **19** responsibility, Cheryl Wieder, Cindy Yard, Board of
 12:21:36 **20** Chosen Freeholders, not our responsibility."
 12:21:40 **21** That's not accurate. It is your
 12:21:44 **22** responsibility. It's your statutory responsibility,
 12:21:46 **23** it's the responsibility when you hold that license, it's
 12:21:49 **24** the responsibility when you hold the job as director of
 12:21:52 **25** finance and/or County treasurer. It's your

12:21:56 **1** responsibility. It's your responsibility to ensure that
 12:21:59 **2** you are being a steward of the taxpayers' money, and Mr.
 12:22:02 **3** DeSapio said people make mistakes. That's accurate.
 12:22:06 **4** People make mistakes, but when you are a
 12:22:09 **5** licensed professional and you make mistakes of this
 12:22:13 **6** magnitude, especially when you had notice of it in the
 12:22:17 **7** 2010 audit, you are not qualified for the job, and there
 12:22:21 **8** is cause to terminate your employment.
 12:22:22 **9** So we would ask that you review all of the
 12:22:26 **10** evidence. There has been 60-some-odd documents
 12:22:32 **11** submitted by the defense, 30-some-odd documents
 12:22:36 **12** submitted by the County, probably in the area of over
 12:22:40 **13** 100 exhibits in evidence. There has been the testimony
 12:22:44 **14** of numerous days, and we believe that when you go
 12:22:50 **15** through the sworn testimony of all of the people who
 12:22:55 **16** testified, including Mrs. Browne's and Mrs. Pasqua's
 12:22:59 **17** testimony, and I would ask you to concentrate on their
 12:23:03 **18** testimony, on the cross-examination, because they
 12:23:05 **19** admitted that Finance was their responsibility.
 12:23:09 **20** They admitted that the error that was cited
 12:23:12 **21** in 2010 wasn't corrected. They admitted that the
 12:23:17 **22** responsibility of books and records were their
 12:23:20 **23** responsibility.
 12:23:20 **24** They also admitted -- if you recall, Mr.
 12:23:23 **25** DeSapio was critical of one of the comments about

12:23:27 **1** purchasing. Well, in 2012 purchasing, John Davenport,
 12:23:33 **2** reported to Kim Browne.
 12:23:36 **3** So when you look at the totality of the
 12:23:38 **4** evidence, it will be clear to you that we have supported
 12:23:43 **5** the charges, and the charges were neglect of duty,
 12:23:50 **6** serious mistakes due to carelessness where there is a
 12:23:54 **7** financial loss to the County. That's clearly been
 12:23:57 **8** established.
 12:23:59 **9** Failure to complete required reports,
 12:24:02 **10** clearly been established; incompetency or inability to
 12:24:06 **11** perform assigned duties, clearly been established;
 12:24:12 **12** insubordination, clearly been established; conduct
 12:24:16 **13** unbecoming a public employee, clearly been established;
 12:24:20 **14** and I disagree with Mr. DeSapio wholeheartedly, conduct
 12:24:26 **15** unbecoming a public employee.
 12:24:28 **16** When you have licensed professionals, people
 12:24:30 **17** who hold licenses to do a specific job -- and this is
 12:24:34 **18** probably one of the most important -- two of the most
 12:24:37 **19** important positions in the entire County -- you are the
 12:24:40 **20** gatekeeper, you are the watchdog of the taxpayers'
 12:24:45 **21** money, that's your job. If something doesn't look
 12:24:49 **22** right, you stop it. You double-check it. You make
 12:24:53 **23** sure. You slow it up. You just don't process bills
 12:24:56 **24** because they are coming up.
 12:24:57 **25** How come Carol Lane is still on this bill?

12:24:59 **1** You stop it, and you find out. You don't just pay the
 12:25:04 **2** bill. It's not your money, it's not my money. It's the
 12:25:13 **3** County of Hunterdon taxpayers' money, and they were the
 12:25:13 **4** stewards, and they failed at their job.
 12:25:13 **5** Contrary to what Mr. DeSapio said, the
 12:25:17 **6** County of Hunterdon doesn't want this to go away. The
 12:25:21 **7** County of Hunterdon wants to correct this problem. They
 12:25:26 **8** want to do justice for the taxpayers of Hunterdon
 12:25:30 **9** County, so that the dollars that they are spending as
 12:25:33 **10** taxes are guarded and safeguarded by the professionals
 12:25:37 **11** who are hired to do their job.
 12:25:41 **12** Presently, both Mrs. Browne and Mrs. Pasqua
 12:25:45 **13** failed to do their job, and we request that you
 12:25:47 **14** terminate their employment.
 12:25:48 **15** Thank you.
 12:25:49 **16** MR. FLORIO: Thank you, Mr. Giacobbe.
 12:25:54 **17** Thank you both -- both attorneys for your
 12:26:02 **18** closing arguments that both accurately and passionately
 12:26:12 **19** summarize the evidence that we heard throughout this
 12:26:15 **20** rather protracted proceeding.
 12:26:17 **21** I would also like to commend both lawyers
 12:26:24 **22** for representing your respective clients in a matter
 12:26:29 **23** that is of, what I would characterize, as constant
 12:26:33 **24** professionalism and extremely zealous representation of
 12:26:39 **25** the interests of your respective positions.

12:26:42 **1** Having said that, my duty now is to
 12:26:47 **2** undertake the review of all of the information that has
 12:26:52 **3** been presented to me over the various days of these
 12:26:56 **4** hearings.
 12:26:57 **5** That will include the testimony of all the
 12:27:01 **6** witnesses, both those presented by the County and those
 12:27:06 **7** presented by the defense, and a review of the
 12:27:09 **8** documentation that has been submitted in evidence,
 12:27:14 **9** which, as everyone has seen over the period of several
 12:27:18 **10** days, has grown to a small mountain in size.
 12:27:22 **11** I will tell you that this is probably the
 12:27:27 **12** most heavily documented employee disciplinary hearing
 12:27:36 **13** proceeding that I have experienced in over 25 years of
 12:27:41 **14** being involved in government and the law as it relates
 12:27:46 **15** to government, and I assure both parties that I am going
 12:27:51 **16** to give very careful consideration to every item that
 12:27:56 **17** has been presented for consideration.
 12:28:01 **18** I will work as quickly as I can in fairness
 12:28:03 **19** primarily to the employees in this circumstance, but
 12:28:06 **20** also to the County, which has brought these charges,
 12:28:11 **21** which have no doubt I recognize the severity of. I will
 12:28:16 **22** work as quickly as I can to reach a conclusion, and as
 12:28:21 **23** soon as I do I will transmit it to the respective
 12:28:23 **24** attorneys, and I will not prejudice either the parties
 12:28:30 **25** or myself by trying to give you a timetable. I am not

12:28:33 **1** going to rush. I want to carefully consider everything,
 12:28:37 **2** and I will get it done as quickly as is practicable
 12:28:43 **3** under all circumstances.
 12:28:45 **4** So that's my summation.
 12:28:47 **5** I want to thank everybody for your
 12:28:51 **6** respective patience and again the excellence exhibited
 12:28:57 **7** by both counsel for their respective clients, and I
 12:29:00 **8** thank you very much, and with that, we will go off the
 12:29:05 **9** record.
 12:29:05 **10** MR. DESAPIO: Thank you, Mr. Florio, and
 12:29:06 **11** thank you, Mr. Giacobbe, Matt.
 12:29:08 **12** MR. GIACOBBE: Thank you.
 12:29:10 **13** MR. DESAPIO: Shana, I acknowledge you.
 12:29:13 **14** Thank you for doing the running.
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1 CERTIFICATE

2 I, PHILIP A. FISHMAN, a Certified Shorthand Reporter
3 and Notary Public of the State of New Jersey, do hereby
4 certify that prior to the commencement of the examination,
5 RONALD F. MATHEWS was sworn by me to testify the truth,
6 the whole truth and nothing but the truth.

7 I DO FURTHER CERTIFY that the foregoing is a true and
8 accurate transcript of the testimony as taken
9 stenographically by and before me at the time, place and
10 on the date hereinbefore set forth, to the best of my
11 ability.

12 I DO FURTHER CERTIFY that I am neither a relative nor
13 employee nor attorney nor counsel of any of the parties to
14 the action; and that I am neither a relative nor employee
15 of such attorney or counsel; and that I am not financially
16 interested in the action.

17**18****19**

PHILIP A. FISHMAN, CSR

20

21 Dated: _____

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\$1,800,000 [3] - 72:6, 72:9 \$700,000 [1] - 90:10	2 [1] - 16:5 20 [1] - 10:4 200 [1] - 15:11 2002 [5] - 53:2, 53:7, 53:24, 54:3, 55:2 2003 [1] - 55:2 2004 [1] - 55:2 2005 [4] - 44:24, 45:4, 45:16, 55:2 2006 [1] - 55:3 2007 [11] - 2:9, 3:1, 6:8, 6:10, 7:14, 7:15, 7:17, 8:11, 12:21, 53:8, 55:3 2008 [11] - 4:3, 5:14, 12:25, 13:4, 13:6, 22:13, 43:22, 53:7, 55:4, 67:19, 75:19 2009 [1] - 55:5 2010 [14] - 24:2, 28:6, 37:16, 78:8, 78:10, 78:23, 79:5, 80:18, 81:3, 82:7, 82:24, 92:7, 92:21 2011 [13] - 8:1, 8:9, 9:16, 21:4, 52:23, 53:19, 53:24, 55:5, 55:17, 58:7, 79:5, 79:24 2012 [10] - 28:5, 55:19, 77:14, 77:15, 91:1, 91:4, 91:6, 91:13, 91:15, 93:1 2013 [8] - 1:2, 79:18, 80:1, 81:1, 88:2, 90:24, 90:25, 91:5 24,466.30 [1] - 59:20 25 [2] - 2:5, 95:13 25th [1] - 90:24 26 [1] - 40:3 27 [1] - 80:1 27th [3] - 47:3, 79:18, 88:21 29 [1] - 43:22	4 400-something-thousand [1] - 53:11 40A:5-16 [1] - 35:19 40A:9-25 [1] - 83:6 40A:9-27 [1] - 76:7 450,000 [1] - 53:19 48 [1] - 63:13	5	5 [1] - 1:2 50 [3] - 40:4, 63:6, 63:12	87:23 access [1] - 81:24 Accordance [3] - 2:15, 3:13, 9:13 accordance [7] - 10:21, 30:1, 37:3, 39:16, 76:12, 78:15, 87:20 according [6] - 3:18, 32:17, 49:9, 53:1, 69:16, 77:4 account [7] - 40:22, 53:12, 55:17, 56:6, 57:15, 76:12, 87:19 accountant [4] - 53:6, 56:24, 57:2, 59:19 accountants [2] - 56:24 accounting [6] - 17:18, 19:23, 47:23, 53:4, 56:19, 74:2 accounts [6] - 4:12, 17:11, 17:13, 57:15, 57:17, 61:16 accumulate [1] - 26:21 accuracy [3] - 77:2, 84:22 accurate [13] - 6:15, 9:5, 37:13, 76:6, 84:7, 84:14, 84:16, 84:20, 85:17, 90:21, 91:21, 92:3, 97:8 accurately [1] - 94:18 acknowledge [1] - 96:13 acknowledged [6] - 35:7, 37:3, 39:4, 39:8, 60:13, 63:1 acknowledges [3] - 30:5, 47:18, 65:2 acknowledgment [1] - 35:5 acres [1] - 15:11 Acres [1] - 15:12 acting [2] - 48:8, 59:3 ACTION [1] - 1:1 Action [13] - 23:3, 23:8, 23:11, 23:15, 23:19, 24:2, 78:18, 78:23, 79:5, 79:25, 80:11, 80:19, 81:3 action [4] - 78:17, 79:25, 97:14, 97:16 actions [1] - 23:21 active [2] - 50:4, 81:16 actual [2] - 15:16, 15:17 add [1] - 54:1 addition [1] - 30:3	address [1] - 67:7 addressed [4] - 39:24, 39:25, 40:5, 48:2 adequate [1] - 71:3 adjust [1] - 27:16 ADMINISTRATION [1] - 1:6 administrator [12] - 30:20, 32:6, 33:21, 33:22, 38:12, 51:17, 51:25, 61:2, 71:8, 71:17, 72:20, 79:12 admitted [4] - 92:19, 92:20, 92:21, 92:24 adopt [1] - 78:19 adopted [5] - 35:8, 35:10, 35:14, 35:24, 63:19 advice [2] - 49:14, 59:7 advise [1] - 23:20 advising [1] - 59:4 Affairs [6] - 23:4, 23:17, 23:21, 76:14, 78:16, 78:21 affairs [1] - 10:2 afford [1] - 71:23 afternoon [2] - 74:23, 76:24 agencies [1] - 58:14 agency [2] - 7:20, 27:24 AGENCY [1] - 1:23 agree [1] - 55:25 Agreement [1] - 34:6 Agreements [2] - 39:16, 39:18 agrees [1] - 55:23 ain't [1] - 91:17 ALFIERI [1] - 1:12 alive [2] - 50:22, 51:1 alleged [1] - 80:18 allow [2] - 64:11 allowed [1] - 14:16 alone [2] - 83:14, 83:16 ambiguity [2] - 39:25, 41:1 amended [1] - 3:6 Amended [1] - 7:1 amount [5] - 10:14, 26:22, 54:1, 82:4, 85:10 analysis [1] - 4:20 analyzed [1] - 39:17 AND [1] - 1:6 annual [1] - 4:11 annually [1] - 26:25 answer [1] - 82:10
'						
'is [1] - 54:4 'oh [1] - 58:23 'receivable [2] - 55:18, 55:20 'this [1] - 79:10 'we [1] - 54:6						
0						
04-04 [5] - 2:12, 2:16, 3:6, 3:14, 7:1 0404 [1] - 9:14 07436 [1] - 1:13 07960 [1] - 1:24 08825 [1] - 1:17						
1						
1 [1] - 67:5 1,800,000 [1] - 53:20 10 [1] - 35:9 10,000 [1] - 63:4 100 [1] - 92:13 104 [1] - 45:9 10:30 [1] - 29:6 1110 [1] - 1:17 12 [1] - 38:18 125 [1] - 54:7 125,000 [1] - 53:9 12:30 [1] - 1:2 13 [1] - 6:8 132 [2] - 9:5 136 [1] - 7:4 138 [1] - 9:24 14 [2] - 43:13, 52:14 15 [6] - 29:2, 29:4, 33:22, 37:9, 65:2, 65:18 16 [1] - 7:3 165,564.77 [1] - 58:9 169 [1] - 1:12 161 [2] - 45:11, 45:12 18 [3] - 2:5, 38:19, 65:17 180 [1] - 45:15 18th [1] - 79:4 1990s [1] - 36:16 1993 [3] - 4:2, 5:14, 22:13 1996 [4] - 43:4, 43:6, 45:13, 68:11 1998 [2] - 43:14, 43:19						
	3					
	3 [5] - 2:5, 2:9, 2:10, 2:12, 2:13 30 [1] - 71:16 30-some-odd [1] - 92:11 32 [2] - 66:25, 88:8 33 [2] - 66:25, 88:8 35 [1] - 30:18					
		6				
		6 [1] - 21:6 60-some-odd [1] - 92:10 64 [4] - 6:5, 8:21, 29:16, 29:19 65 [5] - 6:5, 8:21, 19:2, 29:19, 46:15 66 [6] - 8:20, 8:23, 8:25, 19:3, 29:19 67 [5] - 8:23, 8:25, 29:16, 29:19				
		7				
		700,000 [1] - 36:19 732-605-9391 [1] - 1:25 75 [1] - 44:24 78 [2] - 86:20				
		8				
		89 [1] - 1:24				
		9				
		9 [1] - 35:9 973-285-5331 [1] - 1:25 99 [1] - 3:17 9:30 [1] - 1:2				
		A				
		A-133 [6] - 2:11, 2:15, 3:5, 3:13, 6:25, 9:13 ability [3] - 24:19, 42:10, 97:11 able [2] - 22:5, 72:5 accept [2] - 59:4, 76:20 accepting [2] - 85:13,				

<p>anxiousness [1] - 44:10</p> <p>anyplace [1] - 28:2</p> <p>apologize [1] - 8:22</p> <p>appear [6] - 6:17, 7:7, 8:8, 9:7, 9:15, 9:19</p> <p>APPEARANCES [1] - 1:9</p> <p>appeared [2] - 60:17, 79:3</p> <p>Appearing [1] - 1:15</p> <p>appearing [1] - 1:18</p> <p>applaud [1] - 89:2</p> <p>Applicable [4] - 2:10, 3:4, 6:23, 7:11</p> <p>apply [3] - 33:15, 60:1, 68:2</p> <p>appointed [1] - 83:10</p> <p>appointing [1] - 39:8</p> <p>appropriate [1] - 86:3</p> <p>appropriately [2] - 50:7, 85:3</p> <p>appropriation [1] - 14:17</p> <p>approval [1] - 39:17</p> <p>approve [2] - 36:24, 86:5</p> <p>approved [3] - 60:22, 74:2, 81:20</p> <p>approving [1] - 72:22</p> <p>April [2] - 62:7, 62:12</p> <p>area [1] - 92:12</p> <p>argue [2] - 58:17, 58:18</p> <p>argument [5] - 33:2, 40:7, 64:4, 78:4, 91:17</p> <p>arguments [1] - 94:18</p> <p>aspects [1] - 16:18</p> <p>asset [1] - 17:20</p> <p>assigned [5] - 14:20, 76:17, 89:23, 89:24, 93:11</p> <p>Assistance [1] - 10:3</p> <p>assume [1] - 13:21</p> <p>assuming [1] - 52:12</p> <p>assumptions [1] - 40:23</p> <p>assure [1] - 95:15</p> <p>Attachments [1] - 8:14</p> <p>attempted [1] - 41:6</p> <p>attorney [2] - 97:13, 97:15</p> <p>attorneys [2] - 94:17, 95:24</p> <p>audit [65] - 2:9, 3:1, 5:21, 5:24, 6:8, 6:19, 7:14, 7:16, 7:21, 8:1, 8:7, 8:9, 8:11, 8:14,</p>	<p>9:6, 9:16, 10:13, 10:16, 10:20, 19:3, 20:25, 21:3, 21:18, 23:5, 24:2, 26:15, 27:10, 27:23, 28:3, 28:4, 33:7, 33:20, 34:8, 34:9, 34:13, 52:23, 53:8, 53:18, 55:24, 58:6, 60:17, 77:14, 77:15, 78:8, 78:10, 79:5, 79:7, 79:19, 80:18, 80:22, 82:11, 84:4, 87:5, 87:7, 88:2, 88:16, 88:17, 90:2, 90:8, 90:10, 92:7</p> <p>audited [4] - 5:9, 5:11, 81:2, 86:2</p> <p>auditee [8] - 19:20, 25:24, 26:2, 67:5, 88:6, 88:8, 88:14, 88:15</p> <p>auditing [8] - 5:15, 10:21, 26:1, 90:25, 91:1, 91:5, 91:6</p> <p>auditor [40] - 5:12, 10:13, 17:2, 20:2, 20:5, 22:5, 22:22, 26:7, 26:23, 27:14, 27:15, 37:16, 38:1, 53:24, 54:16, 55:3, 55:5, 55:18, 55:21, 58:3, 60:23, 61:24, 65:21, 66:5, 66:7, 66:8, 66:9, 66:11, 66:18, 67:3, 67:4, 67:9, 67:19, 67:23, 70:17, 72:11, 72:13, 78:11, 82:25, 88:4</p> <p>auditors [14] - 7:15, 21:16, 21:20, 26:14, 26:16, 27:2, 27:23, 54:10, 55:17, 60:22, 67:13, 71:2, 72:11, 74:3</p> <p>audits [6] - 20:24, 21:11, 21:14, 21:16, 33:20, 34:11</p> <p>authority [1] - 39:8</p> <p>authorized [2] - 25:11, 25:15</p> <p>avoid [1] - 69:9</p> <p>aware [4] - 19:21, 22:19, 24:25, 25:1</p>	<p>41:16, 65:17, 75:17, 77:1, 77:20, 84:3, 87:15</p> <p>balance [2] - 27:11, 27:13</p> <p>balances [2] - 10:15, 26:24</p> <p>Balogh [13] - 19:10, 19:25, 20:13, 21:15, 22:15, 23:2, 26:8, 38:17, 48:24, 53:7, 55:1, 55:21, 56:2</p> <p>Balogh's [1] - 22:9</p> <p>bank [5] - 4:12, 53:12, 55:16, 56:6, 57:15</p> <p>bargaining [1] - 39:14</p> <p>Bargaining [2] - 39:16, 39:18</p> <p>Barlow [2] - 5:16, 56:25</p> <p>based [3] - 30:10, 30:11, 30:17</p> <p>bases [1] - 68:19</p> <p>basic [2] - 29:23, 30:11</p> <p>basis [4] - 33:3, 35:2, 59:25, 82:3</p> <p>batch [1] - 40:20</p> <p>batches [1] - 40:25</p> <p>bear [1] - 83:5</p> <p>became [3] - 5:16, 27:10, 27:11</p> <p>become [2] - 27:13, 88:14</p> <p>begin [2] - 29:5, 48:18</p> <p>beginning [6] - 9:24, 13:4, 26:24, 27:11, 27:13, 75:3</p> <p>begins [1] - 10:20</p> <p>begrudge [1] - 49:5</p> <p>behalf [2] - 74:24, 76:22</p> <p>Behalf [2] - 1:15, 1:18</p> <p>behavior [1] - 73:1</p> <p>behind [2] - 28:6, 28:7</p> <p>belabor [1] - 61:6</p> <p>benefit [11] - 24:6, 24:10, 24:13, 43:14, 43:16, 43:18, 78:24, 83:14, 83:15, 86:17</p> <p>benefits [34] - 39:22, 42:14, 43:23, 44:5, 44:7, 44:8, 44:13, 44:22, 44:25, 45:2, 45:3, 45:10, 46:4, 50:5, 50:7, 50:21, 52:3, 78:1, 78:13, 79:9, 80:16, 80:24, 81:16, 82:2, 82:14, 82:18, 82:23, 86:8,</p>	<p>86:18, 86:22, 86:23, 89:6, 89:25</p> <p>besmirches [1] - 73:1</p> <p>best [2] - 69:23, 97:10</p> <p>bet [1] - 34:24</p> <p>better [4] - 31:18, 54:11, 56:3, 85:22</p> <p>between [1] - 12:16</p> <p>beyond [2] - 58:12, 65:10</p> <p>big [20] - 21:7, 32:18, 36:9, 36:18, 37:1, 37:6, 49:12, 55:8, 55:10, 55:12, 57:4, 63:2, 68:3, 77:20, 78:2, 81:15, 88:25</p> <p>bill [27] - 25:13, 33:23, 36:4, 36:24, 37:2, 37:6, 38:4, 38:8, 38:22, 39:24, 40:2, 41:22, 47:10, 48:3, 48:9, 48:11, 48:14, 49:20, 50:12, 58:14, 63:15, 63:24, 81:19, 81:25, 82:1, 93:25, 94:2</p> <p>billed [2] - 41:13, 46:20</p> <p>billing [1] - 18:1</p> <p>billings [1] - 27:5</p> <p>bills [44] - 24:4, 24:5, 24:6, 24:10, 24:13, 24:19, 24:21, 25:2, 25:5, 34:2, 34:19, 35:7, 36:2, 36:8, 37:13, 40:9, 40:15, 40:20, 41:3, 41:12, 41:17, 48:25, 49:24, 62:10, 62:15, 62:23, 63:9, 64:3, 68:5, 68:24, 69:2, 73:19, 74:1, 81:9, 81:12, 81:13, 81:15, 81:22, 82:7, 90:8, 90:10, 93:23</p> <p>bit [3] - 48:5, 54:11, 56:15</p> <p>blame [7] - 34:3, 46:24, 47:21, 65:11, 70:25, 75:5</p> <p>blasted [1] - 55:13</p> <p>Blue [4] - 79:21, 82:1</p> <p>Board [5] - 23:12, 75:24, 76:13, 78:16, 78:21</p> <p>board [4] - 76:18, 77:7, 79:4, 91:19</p> <p>bodies [1] - 89:3</p> <p>boil [1] - 49:15</p> <p>bolster [1] - 66:20</p>	<p>bolsters [1] - 33:4</p> <p>bonding [1] - 84:11</p> <p>bookkeeping [1] - 17:19</p> <p>books [34] - 16:13, 20:17, 27:4, 27:16, 29:3, 53:21, 54:2, 54:12, 55:1, 55:4, 55:15, 56:7, 56:9, 57:9, 57:11, 57:23, 58:2, 59:23, 72:7, 72:9, 72:10, 76:12, 77:3, 82:20, 84:14, 84:16, 84:19, 84:23, 87:19, 91:4, 91:10, 91:11, 91:12, 92:22</p> <p>boot [1] - 36:13</p> <p>boots [1] - 71:18</p> <p>bottom [4] - 7:2, 40:16, 40:19, 49:19</p> <p>bought [2] - 33:9, 61:13</p> <p>brakes [4] - 63:7, 63:10, 63:12, 63:13</p> <p>Bridges [3] - 63:6, 63:12, 63:23</p> <p>brief [1] - 47:1</p> <p>bring [4] - 40:20, 40:25, 41:4, 70:22</p> <p>broad [1] - 71:10</p> <p>brought [2] - 40:14, 95:20</p> <p>Brown [1] - 5:17</p> <p>BROWNE [1] - 1:5</p> <p>Browne [31] - 1:18, 12:17, 36:9, 47:8, 51:13, 58:22, 62:6, 62:17, 66:12, 75:16, 76:3, 77:19, 78:11, 78:22, 79:3, 79:6, 79:9, 79:19, 79:20, 83:16, 86:4, 87:11, 87:15, 88:11, 88:21, 90:1, 90:23, 91:4, 93:2, 94:12</p> <p>Browne's [3] - 81:5, 89:13, 92:16</p> <p>Budget [2] - 12:10, 15:5</p> <p>budget [10] - 4:11, 13:6, 14:7, 14:8, 14:10, 14:17, 14:25, 18:20, 20:17, 81:4</p> <p>Budgets [5] - 3:25, 4:8, 4:17, 6:9, 17:6</p> <p>bulldozer [1] - 63:21</p> <p>business [1] - 39:3</p> <p>button [1] - 16:16</p> <p>BY [4] - 1:13, 3:20, 18:16, 25:21</p>
	B			
<p>backups [1] - 58:21</p> <p>bad [2] - 33:16, 73:14</p> <p>Bahlog [8] - 4:25,</p>				

C				
<p>calendar [1] - 21:4 cannot [1] - 70:2 capacity [1] - 3:24 capital [2] - 4:15, 18:23 car [1] - 63:21 career [1] - 49:16 careful [1] - 95:16 carefully [1] - 96:1 carelessness [1] - 93:6 Carol [8] - 47:10, 47:12, 47:22, 79:20, 80:1, 82:14, 90:3, 93:25 carrier [2] - 68:9, 68:11 case [8] - 5:16, 32:1, 43:4, 48:8, 56:25, 59:15, 59:16, 91:16 catchall [1] - 73:3 CAW [1] - 81:14 CCFO [3] - 80:9, 84:13, 87:11 certain [6] - 4:12, 15:25, 16:7, 16:8, 16:9, 47:25 Certification [1] - 35:25 certifications [1] - 76:22 Certified [1] - 97:2 certified [3] - 4:6, 63:14, 79:24 certifies [3] - 63:7, 63:21, 66:6 certify [8] - 25:12, 35:21, 66:7, 78:20, 87:12, 88:5, 91:10, 97:4 CERTIFY [2] - 97:7, 97:12 challenge [1] - 73:9 change [8] - 43:20, 49:4, 49:5, 56:9, 60:24, 61:1, 72:13, 74:4 changed [1] - 74:8 changing [2] - 43:11, 49:5 chapter [2] - 86:20 characterize [1] - 94:23 charge [2] - 4:11, 33:25 charged [1] - 52:7 charges [6] - 30:13, 72:22, 72:23, 93:5,</p>	<p>95:20 Charles [2] - 4:25, 19:25 Charlie [9] - 38:17, 41:15, 48:24, 49:2, 53:7, 55:1, 55:21, 56:2, 65:17 chart [1] - 46:6 check [13] - 24:23, 24:24, 36:4, 44:19, 48:24, 50:15, 59:21, 59:25, 62:14, 68:22, 69:1, 73:18, 93:22 checked [3] - 41:21, 43:2, 44:22 checking [9] - 37:14, 38:15, 38:18, 42:3, 43:10, 48:9, 61:22, 68:23, 73:25 checklist [1] - 66:23 checks [2] - 50:12, 62:9 Cheryl [40] - 13:12, 24:18, 34:4, 37:10, 37:13, 37:15, 37:21, 38:3, 39:12, 39:13, 39:14, 39:15, 39:17, 39:18, 39:19, 39:20, 39:21, 39:22, 40:5, 40:9, 40:17, 41:2, 41:10, 41:14, 41:16, 44:19, 44:23, 47:1, 47:4, 47:16, 52:3, 52:7, 63:1, 75:23, 77:6, 81:13, 81:20, 84:18, 88:12, 91:19 Cheryl's [4] - 37:19, 37:20, 39:12, 40:22 chief [4] - 64:10, 78:8, 87:10, 91:2 child [1] - 82:4 children [1] - 44:20 Chosen [4] - 75:25, 77:7, 79:4, 91:20 Cindy [10] - 47:4, 55:23, 62:9, 75:16, 75:24, 77:8, 79:20, 84:18, 88:12, 91:19 circling [1] - 80:22 Circular [6] - 2:11, 2:15, 3:5, 3:14, 9:13, 9:14 circular [6] - 2:12, 2:15, 3:6, 3:13, 6:25 circumstance [1] - 95:19 circumstances [1] - 96:3 cited [3] - 22:14, 22:17, 92:20</p>	<p>cites [1] - 84:24 Cities [1] - 10:5 Civil [1] - 39:14 claimed [1] - 46:13 claiming [1] - 80:7 claims [2] - 68:10, 76:5 clear [8] - 29:24, 29:25, 30:13, 36:6, 62:4, 65:15, 75:18, 93:4 cleared [2] - 62:5, 62:7 clearly [10] - 40:22, 47:16, 61:12, 62:3, 67:3, 93:7, 93:10, 93:11, 93:12, 93:13 CLEARLY [1] - 1:12 clerk's [1] - 60:4 client [3] - 40:17, 49:14, 59:4 client's [1] - 41:6 clients [3] - 52:5, 94:22, 96:7 close [2] - 85:3, 85:21 closely [1] - 14:9 closing [3] - 75:3, 78:7, 94:18 clubhouse [1] - 15:21 CMFO [1] - 19:17 collecting [2] - 20:8, 58:13 Collection [10] - 12:7, 12:11, 13:9, 13:10, 19:8, 26:9, 65:12, 87:13, 87:24, 88:3 Collective [2] - 39:16, 39:18 collective [1] - 39:13 column [3] - 42:13, 42:19, 46:14 columns [2] - 46:1, 52:2 coming [3] - 27:25, 47:14, 93:24 commencement [1] - 97:4 commend [1] - 94:21 comment [2] - 26:7, 26:11 comments [4] - 33:6, 61:5, 86:11, 92:25 common [13] - 33:4, 33:15, 35:2, 36:23, 38:11, 38:25, 40:7, 45:18, 48:21, 55:11, 60:1, 68:2, 70:4 commonly [1] - 56:14 commonion [1] - 49:17 Community [7] - 10:5,</p>	<p>23:3, 23:17, 23:21, 76:14, 78:16, 78:21 community [1] - 10:2 compare [2] - 7:14, 82:8 compensation [1] - 77:10 competently [1] - 51:4 complete [3] - 19:15, 31:20, 93:9 completed [4] - 12:13, 21:18, 67:2, 67:4 completion [1] - 13:9 Compliance [10] - 2:10, 2:13, 2:14, 3:3, 3:10, 3:12, 6:23, 7:10, 9:10, 9:12 compliance [2] - 10:16, 10:20 complied [1] - 35:17 composite [1] - 10:12 compromise [2] - 69:4, 69:5 computer [1] - 69:21 conceivable [1] - 43:6 concentrate [1] - 92:17 concept [5] - 17:11, 17:16, 30:4, 35:1, 35:2 concern [4] - 7:19, 7:22, 34:18, 69:15 concerned [1] - 27:18 conclusion [2] - 31:13, 95:22 condition [2] - 52:16, 52:17 conduct [5] - 72:19, 72:24, 73:4, 93:12, 93:14 conducted [3] - 10:20, 11:4, 13:22 conference [1] - 90:17 Confidentiality [1] - 34:5 confirms [1] - 41:14 connection [4] - 4:18, 4:23, 13:7, 13:9 consequence [2] - 89:9, 89:10 consider [2] - 86:1, 96:1 consideration [2] - 95:16, 95:17 considered [1] - 47:6 consistent [2] - 35:18, 40:8 Consolidated [3] - 57:21, 58:8, 84:24 consolidated [1] -</p>	<p>64:10 constant [1] - 94:23 constitute [1] - 90:14 constitution [1] - 30:11 constitutional [1] - 32:4 contentiousness [1] - 53:3 contents [5] - 2:9, 2:12, 3:1, 3:8, 6:14 continue [1] - 54:15 continued [9] - 30:7, 42:14, 43:14, 43:16, 43:17, 44:2, 45:13, 45:16, 56:8 contract [3] - 14:13, 26:20, 46:17 contractor [1] - 15:17 contrary [2] - 81:5, 94:5 contribute [1] - 86:22 contributions [1] - 86:21 Control [6] - 2:11, 2:14, 3:5, 3:12, 6:25, 9:12 control [12] - 34:21, 34:22, 35:3, 35:6, 35:9, 36:7, 49:17, 49:23, 50:11, 50:14, 51:16, 85:20 controls [5] - 22:21, 34:25, 51:10, 80:12, 86:13 controversial [3] - 15:14, 15:23, 15:24 copied [1] - 89:17 copies [1] - 7:6 copy [4] - 6:15, 8:7, 9:5, 40:16 copying [1] - 89:15 correct [30] - 8:12, 18:25, 19:5, 19:17, 19:18, 20:1, 21:1, 21:12, 21:20, 21:21, 21:24, 22:6, 22:11, 23:12, 23:16, 23:22, 23:23, 23:25, 24:15, 25:2, 25:3, 25:6, 50:9, 60:8, 62:16, 80:19, 80:20, 83:2, 83:19, 94:7 corrected [6] - 79:10, 79:16, 79:17, 83:18, 83:21, 92:21 Corrective [13] - 23:3, 23:7, 23:11, 23:15, 23:19, 24:1, 78:18, 78:23, 79:5, 79:25,</p>

<p>80:11, 80:19, 81:3 corrective [1] - 78:17 correctly [3] - 68:18, 68:19, 68:22 counsel [5] - 37:25, 89:17, 96:7, 97:13, 97:15 COUNTY [4] - 1:1, 1:4, 1:4, 1:5 county [15] - 4:10, 5:8, 14:8, 14:17, 15:6, 16:1, 21:25, 30:20, 37:25, 40:8, 51:17, 72:20, 74:24, 89:23, 92:12 County [128] - 1:15, 3:23, 4:11, 4:14, 4:23, 4:24, 5:1, 5:12, 6:1, 6:9, 7:20, 9:17, 10:11, 13:5, 13:6, 13:14, 13:17, 14:3, 14:7, 14:10, 16:10, 16:22, 17:2, 18:20, 19:4, 19:16, 19:24, 20:13, 20:16, 20:17, 20:22, 21:15, 22:2, 23:9, 23:10, 23:14, 23:19, 24:1, 25:6, 25:23, 26:1, 27:5, 27:10, 31:3, 32:6, 33:2, 33:21, 33:22, 35:5, 35:15, 36:11, 38:12, 39:5, 39:10, 40:4, 43:4, 46:14, 47:11, 48:3, 48:21, 48:23, 49:23, 50:4, 50:6, 51:7, 51:13, 51:17, 51:25, 52:8, 53:9, 53:11, 53:12, 54:25, 56:6, 57:8, 57:10, 57:13, 58:4, 58:5, 58:8, 60:4, 61:2, 61:10, 63:17, 63:18, 65:8, 67:5, 71:7, 71:10, 71:13, 71:22, 72:23, 75:7, 75:8, 75:9, 75:20, 75:23, 76:11, 76:16, 76:22, 78:9, 79:12, 80:4, 80:10, 80:13, 80:21, 81:15, 81:16, 84:10, 84:24, 85:15, 85:19, 87:3, 87:19, 88:9, 88:18, 89:2, 89:6, 91:2, 91:25, 93:7, 93:19, 94:3, 94:6, 94:7, 94:9, 95:6, 95:20 County's [7] - 26:13, 37:4, 38:23, 46:16,</p>	<p>75:11, 77:3, 86:5 couple [4] - 51:7, 65:10, 69:15, 75:1 course [24] - 15:6, 15:18, 15:20, 16:2, 16:14, 16:18, 16:22, 19:22, 20:8, 26:18, 26:20, 52:25, 53:2, 53:8, 53:10, 53:17, 53:18, 53:25, 54:5, 57:3, 84:25, 85:1, 85:7, 85:23 COURT [1] - 1:23 cover [2] - 10:17, 35:12 coverage [8] - 18:11, 43:20, 45:13, 45:17, 46:21, 48:13, 50:8, 82:3 coverages [2] - 18:2, 62:16 crazy [1] - 56:5 create [1] - 16:17 created [4] - 15:6, 15:8, 41:1, 65:22 creation [1] - 15:17 credit [1] - 47:18 critical [2] - 84:12, 92:25 criticize [4] - 26:7, 48:8, 59:12, 65:24 criticized [1] - 83:1 criticizing [1] - 62:18 CROSS [2] - 2:3, 18:16 cross [7] - 18:15, 40:20, 47:12, 79:3, 82:15, 82:17, 92:18 Cross [2] - 79:21, 82:1 cross-examination [5] - 40:20, 47:12, 82:15, 82:17, 92:18 CROSS-EXAMINATION [1] - 18:16 cross-examine [1] - 18:15 cross-examining [1] - 79:3 CSR [1] - 97:19 current [5] - 4:14, 14:12, 26:24, 27:12, 28:4 cut [2] - 24:23, 24:24 cuts [1] - 36:4</p>	<p>13:9, 13:10, 19:8, 26:9, 65:12, 87:13, 87:24, 88:3 database [2] - 41:19, 82:9 date [2] - 67:7, 97:10 dated [2] - 6:8, 97:21 Dave [9] - 56:4, 62:17, 62:19, 75:15, 77:17, 88:1, 88:20, 90:22, 91:5 Davenport [1] - 93:1 Davenport's [1] - 61:23 day-to-day [2] - 13:3, 13:21 days [3] - 92:14, 95:3, 95:10 DCA [1] - 24:2 dead [6] - 44:6, 44:8, 44:9, 80:15, 81:17, 89:5 deal [5] - 38:2, 41:5, 41:16, 49:24, 77:21 dealing [4] - 33:5, 78:24, 86:21, 87:5 dealt [1] - 19:3 debarred [1] - 61:22 deceased [16] - 42:3, 42:14, 42:17, 43:5, 43:10, 44:9, 44:12, 44:16, 45:5, 45:20, 46:7, 47:25, 48:4, 48:13, 73:23 December [3] - 1:2, 6:8, 12:21 decent [1] - 32:8 decentralization [1] - 85:10 decision [2] - 42:11, 49:18 decisions [1] - 39:9 deemed [1] - 19:20 defense [3] - 75:11, 92:11, 95:7 defense's [1] - 91:17 deficiencies [2] - 49:17, 74:10 defined [1] - 76:9 definition [1] - 65:15 degree [2] - 22:24, 22:25 demonstrated [1] - 81:21 deny [3] - 62:22, 62:23, 62:24 department [15] - 14:6, 14:20, 14:21, 25:9, 25:11, 25:14, 27:24, 37:11, 39:2,</p>	<p>39:6, 49:10, 50:24, 57:23, 61:18, 85:24 Department [30] - 17:25, 20:21, 22:2, 23:3, 23:17, 23:20, 24:7, 25:2, 26:6, 26:17, 35:10, 35:11, 36:1, 36:12, 47:6, 50:14, 58:22, 63:6, 63:20, 63:23, 76:2, 76:14, 77:2, 78:16, 78:21, 81:2, 82:19, 84:5, 86:4, 87:21 DEPARTMENT [2] - 1:6 Department's [1] - 26:13 departmental [1] - 86:1 departments [2] - 51:16, 85:11 dependents [6] - 18:10, 39:21, 43:21, 48:4, 69:21, 69:22 deposit [1] - 27:5 deputy [1] - 89:16 derived [2] - 26:23, 27:23 DeSapio [18] - 2:5, 21:4, 28:19, 29:10, 29:14, 43:12, 75:2, 76:5, 77:4, 78:2, 78:7, 84:1, 89:12, 89:25, 92:3, 92:25, 93:14, 94:5 DESAPIO [20] - 1:16, 3:20, 6:5, 8:19, 8:22, 11:3, 11:9, 11:12, 11:24, 18:13, 25:21, 28:10, 28:20, 29:2, 29:6, 29:15, 29:18, 29:22, 96:10, 96:13 describe [6] - 12:16, 13:8, 13:15, 15:22, 27:1, 33:23 described [1] - 32:15 description [3] - 51:5, 76:6, 89:21 DESCRIPTION [1] - 2:8 descriptions [4] - 51:8, 51:9, 51:10, 52:10 design [1] - 15:17 designated [1] - 5:12 designed [1] - 85:3 designee [1] - 38:21 determination [2] - 27:14, 27:15 determinations [2] -</p>	<p>18:4, 18:8 determine [4] - 6:14, 7:5, 31:15, 50:25 determined [2] - 25:23, 39:18 developed [3] - 47:1, 51:9 developer [1] - 15:16 Development [1] - 10:5 development [2] - 15:20, 16:5 died [10] - 42:25, 43:14, 43:22, 44:1, 44:24, 45:12, 45:16, 46:7, 80:24 difference [2] - 66:13, 71:4 different [9] - 36:8, 40:21, 51:16, 58:14, 64:3, 72:12, 74:4, 84:9, 85:2 difficult [2] - 31:5, 31:9 diligently [1] - 51:3 DIRECT [2] - 2:3, 3:20 Direct [3] - 2:13, 3:11, 9:11 directed [2] - 36:17, 90:4 directly [1] - 15:4 director [19] - 3:25, 4:8, 6:9, 9:18, 12:10, 13:13, 13:18, 14:1, 15:5, 17:6, 24:19, 38:22, 40:6, 78:10, 80:10, 89:16, 91:3, 91:24 Director [3] - 4:16, 84:13, 85:16 dirty [1] - 89:4 disagree [2] - 90:7, 93:14 DISCIPLINARY [1] - 1:1 disciplinary [4] - 33:25, 39:10, 72:22, 95:12 discipline [5] - 29:23, 30:4, 39:9, 68:1, 72:21 disciplining [2] - 66:21, 67:17 discourage [1] - 69:12 discovered [1] - 30:21 discussed [3] - 60:12, 79:1, 83:7 disingenuous [2] - 48:5, 70:14 disrespect [1] - 44:10</p>
	D			
	<p>data [2] - 18:10, 22:11 Data [10] - 12:6, 12:11,</p>			

<p>disrespectful [1] - 46:12</p> <p>distill [1] - 91:16</p> <p>Division [1] - 23:17</p> <p>DO [2] - 97:7, 97:12</p> <p>document [5] - 11:6, 11:15, 11:16, 11:19</p> <p>documentation [2] - 16:21, 95:8</p> <p>documented [1] - 95:12</p> <p>documents [2] - 92:10, 92:11</p> <p>dollars [6] - 16:3, 75:13, 80:14, 81:7, 83:21, 94:9</p> <p>done [2] - 7:16, 10:15, 21:16, 32:6, 36:17, 37:19, 37:23, 46:21, 46:22, 50:20, 51:18, 54:18, 54:23, 60:21, 65:24, 66:2, 66:3, 68:7, 74:3, 75:8, 96:2</p> <p>Donningbrook [1] - 64:17</p> <p>double [3] - 17:19, 73:25, 93:22</p> <p>double-check [1] - 93:22</p> <p>double-checking [1] - 73:25</p> <p>doubt [1] - 95:21</p> <p>down [14] - 31:11, 31:17, 32:7, 38:1, 42:19, 49:15, 57:7, 62:2, 63:22, 69:20, 71:5, 71:24, 73:15, 78:20</p> <p>dozens [2] - 81:6</p> <p>draft [2] - 85:12, 85:25</p> <p>drafted [3] - 30:3, 90:1, 90:15</p> <p>draw [1] - 45:11</p> <p>drawer [1] - 59:11</p> <p>drew [1] - 59:21</p> <p>drive [1] - 63:22</p> <p>dry [2] - 49:7, 68:15</p> <p>due [6] - 58:4, 59:20, 59:21, 59:24, 93:6</p> <p>duly [1] - 3:18</p> <p>during [16] - 4:4, 4:7, 5:9, 5:14, 12:9, 13:16, 17:5, 17:24, 22:13, 23:4, 25:22, 54:9, 60:22, 77:23, 78:10, 88:16</p> <p>duties [9] - 29:24, 30:1, 36:6, 65:16, 73:24, 76:9, 76:16,</p>	<p>77:13, 93:11</p> <p>Duties [1] - 76:8</p> <p>duty [2] - 93:5, 95:1</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>e-mail [10] - 47:8, 62:23, 64:7, 65:2, 66:2, 66:5, 79:18, 80:4, 89:18, 90:1</p> <p>e-mailed [1] - 88:2</p> <p>e-mails [3] - 89:13, 90:5, 90:22</p> <p>early [1] - 36:16</p> <p>earnings [1] - 53:16</p> <p>easily [1] - 64:12</p> <p>EDWARD [1] - 1:10</p> <p>effect [4] - 14:22, 34:12, 53:19, 54:13</p> <p>Effect [3] - 2:14, 3:11, 9:11</p> <p>effectively [2] - 57:6, 73:8</p> <p>effort [1] - 46:23</p> <p>eight [9] - 42:20, 42:22, 54:6, 55:16, 56:6, 57:4, 57:12, 57:14</p> <p>either [4] - 66:12, 80:24, 87:12, 95:24</p> <p>elect [1] - 62:20</p> <p>elected [2] - 30:19, 31:10</p> <p>electronically [1] - 66:3</p> <p>elements [1] - 84:12</p> <p>embarrassing [1] - 34:2</p> <p>embarrassment [2] - 68:3, 89:1</p> <p>employed [8] - 3:23, 4:1, 4:7, 13:14, 13:17, 14:20, 21:14, 25:23</p> <p>employee [17] - 18:10, 43:13, 43:15, 43:22, 44:24, 45:1, 45:12, 45:15, 71:13, 72:19, 72:24, 93:13, 93:15, 95:12, 97:13, 97:14</p> <p>employees [11] - 14:6, 14:19, 18:2, 29:24, 30:9, 50:5, 73:17, 79:8, 81:16, 86:22, 95:19</p> <p>employment [3] - 89:10, 92:8, 94:14</p> <p>enable [1] - 64:15</p> <p>encompassing [1] - 5:25</p>	<p>encouraged [2] - 31:23, 34:5</p> <p>end [7] - 4:2, 29:16, 53:19, 58:7, 59:22, 85:12, 85:20</p> <p>engagement [1] - 85:11</p> <p>engineering [5] - 28:1, 59:19, 59:20, 59:21, 84:25</p> <p>ensure [4] - 50:6, 85:24, 86:3, 92:1</p> <p>entire [5] - 10:24, 78:4, 88:9, 91:16, 93:19</p> <p>entities [1] - 56:19</p> <p>entitled [15] - 6:15, 6:18, 6:19, 6:22, 8:13, 32:9, 44:4, 44:15, 44:21, 46:5, 46:9, 46:10, 69:22, 71:12</p> <p>entry [1] - 17:19</p> <p>equipment [1] - 16:6</p> <p>error [2] - 23:24, 92:20</p> <p>errors [3] - 75:12, 85:4, 85:5</p> <p>especially [3] - 30:21, 49:15, 92:6</p> <p>ESQ [4] - 1:10, 1:13, 1:14, 1:16</p> <p>ESQS [1] - 1:12</p> <p>establish [1] - 53:2</p> <p>established [8] - 16:14, 34:23, 35:16, 93:8, 93:10, 93:11, 93:12, 93:13</p> <p>establishment [2] - 18:19, 20:6</p> <p>estimation [1] - 32:16</p> <p>event [1] - 42:10</p> <p>evidence [24] - 6:7, 8:1, 9:4, 29:16, 29:20, 31:25, 32:10, 34:15, 35:8, 35:18, 35:20, 47:9, 51:22, 51:23, 61:23, 71:11, 71:20, 77:12, 81:12, 92:10, 92:13, 93:4, 94:19, 95:8</p> <p>exact [1] - 34:11</p> <p>EXAMINATION [3] - 3:20, 18:16, 25:21</p> <p>examination [6] - 40:20, 47:12, 82:15, 82:17, 92:18, 97:4</p> <p>examine [1] - 18:15</p> <p>examining [1] - 79:3</p> <p>example [3] - 9:25, 47:21, 72:18</p>	<p>excellence [1] - 96:6</p> <p>except [3] - 55:11, 71:20, 83:13</p> <p>excess [1] - 15:11</p> <p>exclamation [1] - 41:6</p> <p>exclusively [1] - 15:1</p> <p>excuse [2] - 12:15, 62:8</p> <p>excused [1] - 28:14</p> <p>excuses [1] - 48:15</p> <p>executed [1] - 34:5</p> <p>Exhibit [3] - 3:2, 3:6, 3:14</p> <p>exhibit [2] - 3:8, 29:3</p> <p>exhibited [1] - 96:6</p> <p>exhibits [1] - 92:13</p> <p>existing [1] - 53:6</p> <p>exists [2] - 81:1, 81:4</p> <p>exit [1] - 90:16</p> <p>expectations [5] - 29:25, 30:2, 36:6, 48:20, 65:16</p> <p>expenditures [1] - 10:15</p> <p>experience [2] - 30:18, 64:9</p> <p>experienced [1] - 95:13</p> <p>expires [1] - 83:10</p> <p>explain [4] - 15:8, 17:16, 54:11, 55:10</p> <p>explained [3] - 51:4, 60:20, 79:9</p> <p>explanation [1] - 71:3</p> <p>explored [1] - 89:12</p> <p>expressed [1] - 7:19</p> <p>expresses [1] - 69:15</p> <p>extensive [1] - 88:16</p> <p>extent [5] - 14:24, 17:10, 17:16, 17:25, 27:1</p> <p>extremely [2] - 30:22, 94:24</p> <p>eye [1] - 55:14</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>face [3] - 43:9, 61:11, 70:7</p> <p>facetious [1] - 68:18</p> <p>fact [12] - 26:8, 33:8, 41:10, 43:9, 46:5, 46:12, 48:11, 51:6, 74:4, 79:2, 79:17, 89:25</p> <p>facts [4] - 73:15, 73:16, 80:8, 80:9</p> <p>fail [4] - 30:1, 71:15, 88:13, 89:9</p> <p>failed [5] - 19:16,</p>	<p>19:19, 77:13, 94:4, 94:13</p> <p>failure [3] - 68:20, 68:22, 93:9</p> <p>fair [2] - 32:7, 71:14</p> <p>fairness [3] - 30:11, 60:19, 95:18</p> <p>fall [2] - 20:18, 22:9</p> <p>fallacy [1] - 81:25</p> <p>familiar [13] - 5:20, 12:2, 12:6, 12:24, 13:1, 13:10, 13:21, 14:19, 14:21, 15:4, 17:10, 17:11, 17:17</p> <p>families [2] - 44:11, 80:15</p> <p>family [7] - 15:10, 43:14, 43:15, 43:17, 44:17, 71:19, 82:3</p> <p>far [6] - 14:2, 14:3, 16:20, 18:11, 26:24, 27:18</p> <p>fast [1] - 48:8</p> <p>fat [1] - 21:8</p> <p>fault [12] - 68:12, 77:5, 77:6, 77:7, 77:8, 78:5, 81:8, 91:18</p> <p>favor [1] - 53:4</p> <p>favorite [1] - 56:17</p> <p>FAX [1] - 1:25</p> <p>February [2] - 88:2, 88:21</p> <p>federal [10] - 5:3, 5:5, 5:6, 10:9, 18:25, 19:1, 19:4, 19:13, 19:20, 87:7</p> <p>Federal [17] - 2:10, 2:15, 3:4, 3:13, 6:24, 7:11, 7:20, 9:13, 12:6, 12:11, 19:8, 26:8, 87:6, 87:13, 87:23, 87:24, 88:3</p> <p>fees [2] - 20:8, 85:1</p> <p>feet [1] - 72:2</p> <p>Ferraioli [3] - 5:17, 6:8, 56:25</p> <p>Ferry [2] - 5:18</p> <p>few [2] - 47:9, 73:21</p> <p>figure [3] - 36:19, 37:1, 53:25</p> <p>figured [1] - 36:21</p> <p>figures [8] - 27:23, 54:19, 59:17, 60:3, 60:4, 60:6, 60:8</p> <p>file [10] - 12:11, 19:8, 19:19, 23:1, 23:2, 23:14, 87:24, 88:3, 88:5, 88:22</p> <p>filed [9] - 19:4, 19:10, 24:1, 60:8, 67:13,</p>
---	---	--	---	--

<p>67:25, 78:25, 80:10, 88:23</p> <p>filing [3] - 26:8, 66:3, 87:22</p> <p>fill [3] - 39:20, 39:22, 67:6</p> <p>filled [1] - 67:9</p> <p>finally [1] - 47:18</p> <p>finance [23] - 4:6, 14:2, 18:9, 22:10, 22:15, 23:2, 24:14, 25:13, 38:9, 44:3, 44:18, 45:7, 50:12, 51:20, 63:3, 63:8, 67:12, 77:13, 78:10, 82:9, 91:3, 91:25, 92:19</p> <p>Finance [28] - 17:6, 17:25, 20:21, 22:2, 24:7, 25:2, 26:6, 26:13, 26:16, 35:10, 36:1, 36:12, 50:14, 58:21, 63:20, 76:2, 76:13, 77:2, 78:16, 78:21, 80:10, 81:2, 82:19, 84:5, 84:13, 85:16, 86:4, 87:21</p> <p>FINANCE [1] - 1:6</p> <p>finances [7] - 16:20, 20:16, 20:17, 75:21, 75:23, 76:23, 77:3</p> <p>financial [17] - 5:25, 16:18, 20:19, 60:7, 78:8, 84:10, 85:3, 85:4, 85:12, 85:20, 85:22, 85:25, 86:1, 86:5, 87:10, 91:2, 93:7</p> <p>financially [1] - 97:15</p> <p>fine [1] - 53:25</p> <p>fire [11] - 38:13, 42:7, 55:8, 61:17, 61:19, 63:11, 63:15, 67:17, 69:6, 72:8</p> <p>fred [10] - 31:2, 32:21, 32:25, 34:4, 43:1, 43:5, 72:5, 72:6, 72:7, 83:3</p> <p>firing [6] - 33:3, 39:9, 50:23, 60:1, 60:15, 66:21</p> <p>firm [2] - 26:1, 47:23</p> <p>firms [1] - 5:15</p> <p>first [20] - 4:13, 13:23, 14:9, 14:19, 20:7, 33:4, 33:10, 33:16, 34:20, 38:4, 41:14, 42:19, 43:3, 52:22, 62:8, 62:22, 67:2, 67:9, 78:1, 86:6</p>	<p>fiscal [3] - 64:9, 64:13, 64:24</p> <p>FISHMAN [3] - 1:23, 97:2, 97:19</p> <p>fit [1] - 70:19</p> <p>five [12] - 29:1, 36:24, 38:16, 42:20, 42:23, 46:2, 51:12, 51:14, 66:25, 67:1, 67:3</p> <p>FLORIO [20] - 1:10, 8:20, 9:1, 11:23, 18:15, 25:20, 28:11, 28:13, 28:18, 28:22, 28:24, 29:4, 29:7, 29:10, 29:13, 29:19, 74:16, 74:19, 74:22, 94:16</p> <p>Florio [4] - 74:23, 82:19, 83:14, 96:10</p> <p>following [2] - 9:6, 85:21</p> <p>follows [1] - 3:19</p> <p>Force [1] - 10:3</p> <p>foregoing [1] - 97:7</p> <p>forget [4] - 33:7, 33:8, 66:23</p> <p>forgets [2] - 67:20, 67:22</p> <p>forgot [3] - 61:24, 66:15, 66:17</p> <p>Form [7] - 12:7, 12:11, 13:11, 19:8, 87:13, 87:24, 88:3</p> <p>form [5] - 12:12, 19:9, 19:14, 67:12, 85:25</p> <p>Forms [3] - 13:9, 26:9, 65:13</p> <p>forms [6] - 12:2, 12:3, 26:10, 66:14, 66:24, 67:24</p> <p>forth [5] - 10:5, 27:5, 69:14, 69:17, 97:10</p> <p>four [8] - 15:18, 33:8, 38:16, 42:20, 42:23, 48:14, 66:25, 87:2</p> <p>frame [1] - 43:8</p> <p>frankly [1] - 89:2</p> <p>fraud [2] - 56:22, 57:13</p> <p>Fred [2] - 75:15, 77:18</p> <p>Freeholder [1] - 23:11</p> <p>freeholder [4] - 37:25, 44:4, 64:22, 89:16</p> <p>freeholders [22] - 16:9, 16:17, 32:5, 35:7, 35:14, 35:24, 36:3, 36:17, 36:24, 51:15, 53:1, 53:16, 54:3, 63:18, 65:9, 69:15, 70:18, 71:17,</p>	<p>75:4, 78:19, 79:23, 83:17</p> <p>Freeholders [3] - 75:25, 79:4, 91:20</p> <p>freeholders' [3] - 39:17, 63:9, 77:7</p> <p>freight [1] - 80:5</p> <p>Freighttown [1] - 1:17</p> <p>front [1] - 21:7</p> <p>full [1] - 80:5</p> <p>fully [1] - 11:14</p> <p>fund [2] - 60:4</p> <p>fundamental [2] - 30:11, 78:6</p> <p>funding [1] - 15:12</p> <p>FURTHER [2] - 97:7, 97:12</p>	<p>golf [23] - 15:6, 15:18, 15:20, 16:14, 16:18, 16:22, 19:22, 20:8, 26:18, 26:20, 52:25, 53:2, 53:8, 53:10, 53:17, 53:18, 53:25, 54:4, 57:3, 84:25, 85:1, 85:6, 85:23</p> <p>goods [3] - 25:12, 25:15, 82:22</p> <p>government [6] - 19:20, 69:7, 69:13, 95:14, 95:15</p> <p>Government [4] - 23:4, 23:18, 23:21, 87:23</p> <p>government's [1] - 10:9</p> <p>governmental [1] - 87:7</p> <p>Grant [2] - 7:11, 10:3</p> <p>grant [3] - 10:2, 10:14, 87:6</p> <p>Grants [7] - 3:25, 4:17, 6:10, 10:5, 12:10, 15:5, 17:6</p> <p>grants [19] - 4:8, 4:15, 4:19, 4:21, 5:2, 5:3, 5:4, 5:5, 5:6, 5:8, 6:2, 9:23, 9:25, 10:12, 18:23, 18:24, 18:25, 19:1, 19:5</p> <p>grasses [1] - 15:19</p> <p>greater [1] - 88:18</p> <p>Green [1] - 15:12</p> <p>gross [3] - 51:2, 75:12</p> <p>grown [1] - 95:10</p> <p>guarded [1] - 94:10</p> <p>guess [4] - 6:21, 36:20, 83:20, 90:24</p> <p>guessed [2] - 36:15, 36:20</p> <p>guy [1] - 63:11</p> <p>guys [1] - 88:3</p>	<p>62:8, 89:25, 90:1</p> <p>HC-7 [1] - 64:7</p> <p>HEAD [1] - 1:6</p> <p>head [3] - 25:14, 28:9, 63:19</p> <p>Headquarters [1] - 1:24</p> <p>heads [2] - 25:10, 25:11</p> <p>health [46] - 18:1, 24:5, 24:6, 24:10, 24:13, 34:19, 36:8, 38:4, 39:22, 40:15, 40:21, 41:2, 41:22, 49:24, 50:5, 50:7, 52:3, 62:4, 64:2, 68:4, 68:10, 68:23, 69:2, 73:18, 73:22, 73:25, 78:1, 78:12, 78:24, 80:15, 80:23, 81:16, 82:2, 82:14, 82:17, 82:23, 83:14, 83:15, 86:7, 86:16, 86:17, 86:18, 86:21, 86:23, 89:6, 89:24</p> <p>hear [4] - 31:22, 31:25, 78:7, 79:14</p> <p>heard [16] - 41:13, 61:7, 63:5, 68:3, 75:1, 75:10, 75:15, 76:24, 77:17, 77:19, 81:8, 81:23, 85:8, 87:4, 88:25, 94:19</p> <p>hearing [6] - 11:14, 30:12, 31:13, 31:16, 39:10, 95:12</p> <p>HEARING [1] - 1:10</p> <p>hearings [1] - 95:4</p> <p>heavily [1] - 95:12</p> <p>held [6] - 13:20, 43:1, 60:21, 65:5, 68:15, 77:9</p> <p>help [1] - 86:23</p> <p>hereby [1] - 97:3</p> <p>hereinbefore [1] - 97:10</p> <p>herself [2] - 24:20, 79:13</p> <p>high [9] - 19:20, 25:24, 26:2, 42:17, 49:7, 73:10, 88:14, 88:15</p> <p>higher [1] - 60:6</p> <p>highlighted [1] - 41:11</p> <p>hire [2] - 48:6, 89:8</p> <p>hired [6] - 13:23, 39:15, 48:15, 57:25, 76:1, 94:11</p> <p>hiring [1] - 39:9</p> <p>historically [1] - 28:5</p>
G				
<p>GAETANO [1] - 1:16</p> <p>Gannon [29] - 32:13, 32:17, 32:22, 33:5, 33:12, 35:7, 49:22, 55:9, 55:22, 56:4, 57:6, 57:12, 57:16, 57:21, 58:11, 61:8, 62:19, 65:23, 67:23, 75:15, 77:18, 84:4, 84:23, 85:18, 86:11, 88:1, 88:20, 90:23, 91:5</p> <p>Gannon's [3] - 60:11, 62:17, 84:21</p> <p>GANTNER [1] - 1:13</p> <p>gatekeeper [1] - 93:20</p> <p>gee [1] - 37:16</p> <p>general [4] - 7:21, 39:3, 76:11, 87:19</p> <p>generally [2] - 35:23, 88:3</p> <p>gentleman [1] - 73:11</p> <p>gentlemen [1] - 8:24</p> <p>GIACOBBE [18] - 1:12, 1:14, 8:17, 8:21, 11:1, 11:5, 11:10, 11:17, 18:16, 25:19, 28:12, 28:15, 28:23, 29:12, 29:17, 74:17, 74:23, 96:12</p> <p>Giacobbe [11] - 2:5, 26:12, 28:11, 28:22, 29:11, 31:25, 74:16, 74:22, 74:24, 94:16, 96:11</p> <p>gigantic [2] - 65:22, 78:3</p> <p>given [5] - 27:19, 27:20, 27:21, 30:14, 53:17</p>				
H				
<p>H-12 [1] - 42:24</p> <p>half [5] - 16:5, 58:23, 67:2, 67:9, 90:13</p> <p>hand [2] - 67:6, 71:1</p> <p>handle [1] - 7:16</p> <p>handled [4] - 10:11, 18:4, 18:8, 18:24</p> <p>handling [1] - 7:21</p> <p>hang [1] - 49:6</p> <p>hanging [1] - 49:6</p> <p>Harrison [1] - 1:17</p> <p>HC-12 [2] - 42:12, 43:9</p> <p>HC-6 [6] - 47:3, 47:9,</p>				

<p>history [2] - 46:25, 47:1</p> <p>hold [5] - 4:4, 51:22, 91:23, 91:24, 93:17</p> <p>hope [3] - 22:7, 50:23, 72:16</p> <p>horizon [2] - 79:20, 82:1</p> <p>hot [2] - 16:9, 16:16</p> <p>HR [4] - 24:19, 47:6, 62:22</p> <p>human [2] - 38:21, 79:11</p> <p>Human [31] - 12:21, 12:23, 13:13, 13:18, 13:25, 15:3, 18:6, 24:11, 24:14, 37:2, 37:5, 39:2, 39:4, 39:6, 40:5, 44:15, 45:19, 45:20, 45:21, 46:9, 48:25, 50:24, 51:24, 52:4, 52:6, 62:9, 62:14, 64:10, 65:4, 69:20, 79:1</p> <p>hundreds [2] - 75:13, 83:21</p> <p>HUNTERDON [2] - 1:1, 1:4</p> <p>hunterdon [1] - 75:8</p> <p>Hunterdon [19] - 1:15, 3:24, 21:15, 39:5, 71:10, 74:25, 75:7, 75:9, 75:20, 75:23, 76:23, 80:13, 84:24, 89:3, 89:6, 94:3, 94:6, 94:7, 94:8</p> <p>husband [1] - 82:3</p>	<p>42:5, 42:7, 50:19</p> <p>IN [1] - 1:3</p> <p>inability [1] - 93:10</p> <p>incident [1] - 83:18</p> <p>include [3] - 6:2, 95:5</p> <p>included [1] - 26:23</p> <p>including [3] - 57:20, 85:21, 92:16</p> <p>incompetency [1] - 93:10</p> <p>incorrect [1] - 86:20</p> <p>incredible [2] - 46:18, 79:18</p> <p>independent [2] - 39:11, 59:7</p> <p>independently [1] - 59:3</p> <p>index [1] - 8:13</p> <p>indicate [1] - 16:21</p> <p>indicated [2] - 4:16, 86:11</p> <p>indictment [1] - 56:14</p> <p>individual [1] - 25:14</p> <p>individuals [4] - 20:18, 50:6, 50:8, 86:3</p> <p>inequity [1] - 51:2</p> <p>inference [1] - 45:12</p> <p>information [17] - 14:18, 14:23, 18:11, 21:18, 21:19, 21:22, 21:24, 22:4, 22:5, 26:16, 27:2, 39:21, 41:19, 69:19, 81:24, 95:2</p> <p>inherited [1] - 74:2</p> <p>initial [2] - 10:14, 16:4</p> <p>initialed [1] - 25:13</p> <p>initiate [1] - 16:19</p> <p>initiated [1] - 20:7</p> <p>insignificant [2] - 49:17, 74:9</p> <p>insisted [2] - 16:17, 61:10</p> <p>instead [3] - 33:12, 56:23, 80:5</p> <p>institutions [1] - 84:11</p> <p>instrumental [1] - 14:4</p> <p>insubordinate [3] - 69:25, 70:2, 70:11</p> <p>insubordination [7] - 68:17, 68:20, 69:7, 89:12, 90:15, 91:15, 93:12</p> <p>insurance [21] - 18:1, 30:22, 34:19, 36:8, 38:4, 39:19, 40:15, 40:21, 41:3, 41:22, 46:16, 49:24, 62:4,</p>	<p>64:2, 68:4, 68:10, 68:23, 69:2, 73:19, 73:22, 74:1</p> <p>insuring [1] - 80:14</p> <p>intent [1] - 11:16</p> <p>interested [1] - 97:16</p> <p>interesting [7] - 38:3, 40:14, 43:24, 52:24, 68:7, 70:13, 75:1</p> <p>interests [1] - 94:25</p> <p>internal [15] - 22:21, 34:21, 34:25, 35:3, 35:6, 35:9, 36:7, 49:17, 49:23, 50:11, 51:9, 51:16, 85:19, 86:13</p> <p>Internal [6] - 2:11, 2:14, 3:5, 3:12, 6:24, 9:12</p> <p>interpret [1] - 45:24</p> <p>interpretation [3] - 33:4, 33:15, 45:18</p> <p>introduced [2] - 51:7, 52:15</p> <p>invoice [1] - 79:21</p> <p>involved [10] - 13:5, 15:13, 15:21, 16:1, 16:11, 18:1, 18:3, 23:5, 39:13, 95:14</p> <p>involvement [2] - 24:17, 26:13</p> <p>irrelevant [2] - 47:20, 71:20</p> <p>irrespective [2] - 67:15, 68:14</p> <p>issue [9] - 30:23, 40:12, 49:11, 49:21, 78:2, 78:3, 78:24, 79:10, 81:6</p> <p>issued [1] - 4:5</p> <p>issuing [1] - 86:1</p> <p>item [9] - 16:3, 16:9, 16:16, 17:13, 35:21, 42:17, 67:25, 77:16, 95:16</p> <p>items [2] - 14:8, 17:22</p> <p>itself [2] - 80:19, 80:20</p>	<p>61:3, 65:6, 71:15, 71:19, 71:24, 76:5, 76:15, 76:20, 80:11, 84:12, 85:15, 89:8, 89:9, 89:21, 91:24, 92:7, 93:17, 93:21, 94:4, 94:11, 94:13</p> <p>jobs [1] - 51:3</p> <p>John [2] - 61:23, 93:1</p> <p>judgment [1] - 31:8</p> <p>jump [2] - 31:13, 73:9</p> <p>June [5] - 4:3, 12:25, 47:25, 48:1, 90:24</p> <p>justice [3] - 72:14, 75:8, 94:8</p> <p>justify [2] - 52:4, 52:6</p>	<p>54:24, 54:25, 55:6, 55:22, 56:2, 56:8, 57:23, 60:17, 61:19, 64:8, 70:20, 71:12, 72:15, 72:23, 73:25, 82:24</p> <p>ladies' [3] - 33:18, 45:23, 47:14</p> <p>lady [1] - 73:11</p> <p>laid [1] - 80:24</p> <p>land [1] - 15:10</p> <p>lane [7] - 47:12, 47:22, 79:20, 80:1, 82:14, 90:3, 93:25</p> <p>lane's [1] - 47:10</p> <p>language [1] - 70:4</p> <p>large [1] - 16:3</p> <p>largely [1] - 10:4</p> <p>last [6] - 5:18, 38:16, 46:13, 48:3, 67:3, 72:18</p> <p>laundry [1] - 89:4</p> <p>law [14] - 3:18, 30:10, 31:14, 32:9, 60:19, 63:25, 73:16, 78:14, 86:21, 87:10, 87:13, 89:22, 91:11, 95:14</p> <p>lawyers [1] - 94:21</p> <p>least [10] - 30:18, 36:16, 41:3, 41:15, 42:23, 65:17, 66:21, 71:5, 71:10</p> <p>leave [1] - 28:15</p> <p>leaves [1] - 38:4</p> <p>leaving [2] - 12:18, 12:19</p> <p>ledger [3] - 17:14, 18:23, 27:12</p> <p>ledgers [3] - 4:14, 18:20, 26:24</p> <p>left [7] - 12:17, 12:18, 17:8, 29:15, 47:2, 47:4, 67:6</p> <p>left-hand [1] - 67:6</p> <p>legislature [1] - 76:9</p> <p>lend [1] - 33:2</p> <p>letter [12] - 50:21, 50:25, 51:20, 51:21, 51:24, 66:22, 68:21, 70:3, 70:5, 90:15, 90:18, 91:14</p> <p>Letter [3] - 2:16, 3:14, 9:14</p> <p>level [3] - 85:11, 87:1, 87:2</p> <p>levels [1] - 87:1</p> <p>liability [1] - 17:20</p> <p>license [10] - 19:17, 52:11, 52:12, 52:17, 64:21, 75:24, 75:25,</p>
I			K	
<p>i.e [1] - 65:4</p> <p>ID [1] - 67:7</p> <p>idea [2] - 89:12, 91:8</p> <p>identification [8] - 3:2, 3:7, 3:9, 3:15, 6:21, 8:6, 8:16, 9:3</p> <p>identified [1] - 6:7</p> <p>identify [3] - 6:22, 9:22, 11:13</p> <p>ignoring [1] - 37:21</p> <p>II [3] - 6:16, 6:18, 6:19</p> <p>illegal [1] - 90:8</p> <p>imagination [4] - 43:6, 58:12, 59:2, 61:4</p> <p>implement [2] - 68:23, 85:19</p> <p>important [3] - 71:25, 93:18, 93:19</p> <p>imposes [1] - 31:14</p> <p>impossible [4] - 42:4,</p>	<p>inherited [1] - 74:2</p> <p>initial [2] - 10:14, 16:4</p> <p>initialed [1] - 25:13</p> <p>initiate [1] - 16:19</p> <p>initiated [1] - 20:7</p> <p>insignificant [2] - 49:17, 74:9</p> <p>insisted [2] - 16:17, 61:10</p> <p>instead [3] - 33:12, 56:23, 80:5</p> <p>institutions [1] - 84:11</p> <p>instrumental [1] - 14:4</p> <p>insubordinate [3] - 69:25, 70:2, 70:11</p> <p>insubordination [7] - 68:17, 68:20, 69:7, 89:12, 90:15, 91:15, 93:12</p> <p>insurance [21] - 18:1, 30:22, 34:19, 36:8, 38:4, 39:19, 40:15, 40:21, 41:3, 41:22, 46:16, 49:24, 62:4,</p>		<p>keep [2] - 47:14, 79:13</p> <p>key [1] - 64:4</p> <p>Kim [27] - 12:17, 12:20, 36:9, 37:7, 37:18, 47:8, 51:13, 62:6, 62:12, 62:17, 62:18, 62:19, 66:12, 66:19, 69:1, 69:3, 75:16, 76:3, 77:19, 78:11, 78:22, 87:11, 88:11, 90:23, 91:4, 93:2</p> <p>KIMBERLY [1] - 1:5</p> <p>Kimberly [1] - 1:18</p> <p>kind [4] - 30:12, 63:13, 63:14, 73:17</p> <p>Klein [18] - 8:1, 9:6, 9:16, 20:3, 20:4, 56:25, 58:7, 58:10, 59:19, 60:10, 60:12, 60:14, 66:13, 66:15, 67:20, 82:25, 84:3</p> <p>Klein's [2] - 8:7, 9:15</p> <p>knowledge [9] - 7:8, 13:24, 15:2, 15:8, 19:7, 27:22, 64:9, 80:8, 90:12</p> <p>known [2] - 33:10, 44:14</p> <p>Kuster [1] - 15:10</p>	<p>keep [2] - 47:14, 79:13</p> <p>key [1] - 64:4</p> <p>Kim [27] - 12:17, 12:20, 36:9, 37:7, 37:18, 47:8, 51:13, 62:6, 62:12, 62:17, 62:18, 62:19, 66:12, 66:19, 69:1, 69:3, 75:16, 76:3, 77:19, 78:11, 78:22, 87:11, 88:11, 90:23, 91:4, 93:2</p> <p>KIMBERLY [1] - 1:5</p> <p>Kimberly [1] - 1:18</p> <p>kind [4] - 30:12, 63:13, 63:14, 73:17</p> <p>Klein [18] - 8:1, 9:6, 9:16, 20:3, 20:4, 56:25, 58:7, 58:10, 59:19, 60:10, 60:12, 60:14, 66:13, 66:15, 67:20, 82:25, 84:3</p> <p>Klein's [2] - 8:7, 9:15</p> <p>knowledge [9] - 7:8, 13:24, 15:2, 15:8, 19:7, 27:22, 64:9, 80:8, 90:12</p> <p>known [2] - 33:10, 44:14</p> <p>Kuster [1] - 15:10</p>
		J	L	
		<p>JACOBS [1] - 1:12</p> <p>January [2] - 14:13, 27:12</p> <p>Jersey [10] - 1:13, 1:17, 1:24, 3:18, 30:4, 34:24, 35:19, 76:8, 84:12, 97:3</p> <p>job [29] - 49:1, 51:5, 51:6, 51:7, 51:8, 51:10, 52:9, 60:20,</p>	<p>labor [1] - 89:17</p> <p>lack [3] - 84:22, 85:6</p> <p>ladies [32] - 32:19, 33:10, 33:25, 34:14, 35:17, 37:22, 42:7, 42:25, 44:14, 44:18, 45:7, 46:24, 48:8, 49:2, 49:6, 50:24,</p>	

<p>76:21, 91:23 licensed [7] - 80:9, 84:13, 87:11, 88:10, 89:8, 92:5, 93:16 licenses [5] - 4:5, 75:22, 76:2, 77:9, 93:17 lie [1] - 39:1 lies [1] - 38:24 line [3] - 14:8, 17:13, 33:5 list [9] - 36:2, 41:21, 42:21, 42:22, 43:3, 44:11, 61:22, 63:9 listen [4] - 33:14, 68:2, 72:3, 72:17 living [1] - 43:21 Local [3] - 23:4, 23:18, 23:21 local [4] - 76:13, 78:15, 78:20, 87:20 look [38] - 6:13, 7:4, 7:25, 8:3, 9:3, 9:20, 10:18, 10:19, 29:3, 31:7, 31:15, 35:12, 35:13, 37:7, 42:11, 42:12, 46:8, 49:11, 49:18, 53:18, 57:5, 57:19, 59:11, 60:11, 62:9, 66:24, 69:3, 77:14, 78:25, 80:20, 83:4, 83:24, 84:21, 89:21, 89:24, 93:3, 93:21 looked [4] - 41:14, 57:1, 73:24, 74:1 looking [4] - 9:15, 37:2, 52:1, 60:2 lose [1] - 71:23 losing [1] - 54:5 loss [6] - 16:21, 60:25, 61:1, 61:3, 75:12, 93:7 lower [4] - 40:18, 46:20, 71:21, 71:22 lying [1] - 63:23</p>	<p>57:23, 76:11, 87:19, 91:12 maintained [5] - 18:20, 18:21, 27:17, 57:11, 82:9 maintaining [2] - 12:22, 54:25 maintains [2] - 57:8, 61:16 maintenance [3] - 4:12, 4:14, 58:1 major [1] - 77:21 Major [7] - 2:10, 2:14, 3:4, 3:11, 6:24, 7:11, 9:12 management [11] - 30:20, 35:15, 55:23, 68:21, 70:3, 70:5, 79:8, 85:7, 90:18, 91:14 mandated [1] - 87:13 manner [4] - 7:16, 9:17, 78:13, 79:9 manual [1] - 64:1 Manual [1] - 35:12 March [4] - 47:3, 65:2, 79:18, 80:1 MARGARET [1] - 1:3 Margaret [27] - 1:18, 36:9, 37:7, 37:19, 46:18, 47:24, 48:12, 51:13, 53:21, 54:9, 60:6, 63:11, 63:16, 69:1, 69:18, 75:16, 76:3, 76:15, 77:19, 78:10, 78:22, 80:21, 83:9, 87:11, 88:12, 88:21, 91:3 marked [13] - 3:1, 3:6, 3:8, 3:14, 6:7, 6:13, 6:20, 7:25, 8:6, 8:15, 9:2, 9:5, 11:25 material [20] - 22:17, 22:20, 22:23, 22:24, 52:21, 55:9, 56:12, 57:8, 57:10, 57:14, 77:17, 77:20, 77:23, 77:24, 83:24, 84:1, 86:6, 86:7, 86:9, 86:13 Material [3] - 2:13, 3:11, 9:11 Mathews [13] - 3:17, 3:21, 25:22, 38:18, 49:3, 53:1, 65:18, 75:17, 76:25, 77:20, 77:22, 84:3, 87:14 MATHEWS [2] - 2:4, 97:5 mathews [1] - 84:15</p>	<p>mat [1] - 96:11 matter [1] - 94:22 matters [2] - 39:11, 79:13 MATTHEW [1] - 1:14 Matthew [1] - 74:24 maturation [1] - 15:19 mean [13] - 11:20, 14:2, 15:22, 16:3, 16:8, 54:22, 55:12, 62:17, 65:4, 70:10, 74:5, 74:7, 88:15 means [3] - 73:6, 74:8, 88:16 meant [1] - 64:11 mechanisms [1] - 51:16 medical [2] - 71:4, 79:8 medicare [2] - 46:15, 80:6 meeting [10] - 44:6, 62:7, 62:12, 70:16, 70:17, 70:18, 70:19, 79:15 meetings [1] - 79:11 memo [8] - 47:25, 48:1, 48:12, 61:23, 64:22, 69:1, 70:6 memos [1] - 68:23 mentioned [1] - 40:3 mess [1] - 32:18 might [6] - 28:6, 33:5, 40:18, 41:7, 53:13 million [8] - 16:4, 16:5, 54:6, 55:16, 56:6, 57:4, 57:12, 57:14 million-eight [6] - 54:6, 55:16, 56:6, 57:4, 57:12, 57:14 millions [2] - 16:3, 75:13 mind [2] - 26:19, 52:19 mine [1] - 36:20 minimal [1] - 5:4 minute [2] - 59:5, 74:18 minutes [1] - 79:6 miss [1] - 81:8 missing [1] - 40:12 mistake [10] - 30:6, 30:7, 60:10, 60:13, 72:7, 72:9, 72:10, 86:18, 87:3, 87:4 mistakes [7] - 22:10, 60:13, 72:9, 92:3, 92:4, 92:5, 93:6 Model [1] - 64:10</p>	<p>model [1] - 26:4 money [40] - 53:6, 53:9, 53:12, 53:23, 54:1, 54:5, 54:6, 54:8, 54:12, 54:13, 54:20, 55:20, 56:23, 57:18, 58:4, 58:13, 58:14, 60:25, 61:1, 68:8, 68:13, 72:12, 72:13, 82:4, 87:2, 87:6, 87:23, 88:17, 88:18, 89:7, 92:2, 93:21, 94:2, 94:3 moneys [2] - 19:13, 27:4 monitor [1] - 51:11 month [17] - 24:4, 36:19, 36:25, 38:5, 38:21, 40:10, 41:5, 41:12, 41:17, 50:12, 50:15, 59:22, 81:7, 81:22, 90:9 month's [1] - 38:22 monthly [3] - 81:16, 82:2, 82:7 months [2] - 40:21, 48:14 morning [4] - 3:21, 3:22, 29:22, 76:25 Morristown [1] - 1:24 most [5] - 5:6, 34:17, 93:18, 95:12 mostly [1] - 5:5 mountain [1] - 95:10 move [1] - 52:20 MR [54] - 3:20, 6:5, 8:17, 8:19, 8:20, 8:21, 8:22, 9:1, 11:1, 11:3, 11:5, 11:9, 11:10, 11:12, 11:17, 11:23, 11:24, 18:13, 18:15, 18:16, 25:19, 25:20, 25:21, 28:10, 28:11, 28:12, 28:13, 28:15, 28:18, 28:20, 28:22, 28:23, 28:24, 29:2, 29:4, 29:6, 29:7, 29:10, 29:12, 29:13, 29:15, 29:17, 29:18, 29:19, 29:22, 74:16, 74:17, 74:19, 74:22, 74:23, 94:16, 96:10, 96:12, 96:13 municipal [1] - 4:6 municipalities [1] - 26:5 must [1] - 65:3 myriad [2] - 32:15, 33:17</p>	<p style="text-align: center;">N</p> <p>name [2] - 47:10, 67:7 names [1] - 5:15 Narcotics [1] - 10:3 near [3] - 42:4, 42:5, 42:6 necessary [1] - 14:8 necessity [1] - 27:16 need [15] - 29:3, 29:25, 30:14, 31:16, 31:18, 31:19, 65:7, 65:8, 67:8, 71:9, 72:1, 72:14, 72:15, 73:3 needed [1] - 29:5 needs [2] - 71:13, 72:12 neglect [1] - 93:5 nerve [2] - 31:11, 73:7 never [28] - 12:8, 12:12, 12:13, 19:9, 19:15, 24:11, 26:10, 27:18, 28:4, 34:23, 52:15, 54:18, 64:5, 65:19, 65:20, 65:21, 67:12, 67:13, 67:18, 67:25, 68:10, 81:19, 81:24, 82:11, 82:12 nevertheless [1] - 86:14 new [13] - 47:6, 47:22, 49:22, 50:1, 54:16, 55:19, 60:23, 62:14, 67:19, 72:11, 72:13, 73:17 New [10] - 1:13, 1:17, 1:24, 3:17, 30:4, 34:24, 35:19, 76:8, 84:11, 97:3 next [7] - 38:21, 38:22, 39:7, 45:15, 49:20, 83:11, 88:19 NJ [3] - 2:11, 3:5, 6:25 NJSA [2] - 35:19, 76:7 nobody [3] - 37:24, 65:22, 84:17 none [5] - 30:6, 77:8, 77:9, 77:10, 81:17 nonexistent [1] - 52:9 North [1] - 1:24 Notary [1] - 97:3 notes [1] - 60:11 nothing [6] - 42:8, 42:9, 62:1, 62:3, 64:2, 97:6 NOTICE [1] - 1:1 notice [2] - 82:25, 92:6 notified [1] - 39:22</p>
M				
<p>magical [2] - 34:22, 34:23 magnitude [1] - 92:6 mail [10] - 47:8, 62:23, 64:7, 65:2, 66:2, 66:5, 79:18, 80:4, 89:18, 90:1 mailed [2] - 81:9, 88:2 mails [3] - 89:13, 90:5, 90:22 maintain [5] - 21:23,</p>				

<p>Nowhere ^[1] - 36:5 nowhere ^[1] - 36:6 NUMBER ^[1] - 2:8 number ^[18] - 7:2, 27:10, 43:13, 44:24, 55:8, 55:10, 55:12, 55:13, 57:4, 57:5, 58:10, 67:7, 67:8, 67:25, 69:21, 70:9, 74:3, 86:19 numbers ^[3] - 57:5, 84:6, 84:8 numeral ^[2] - 6:16, 8:4 numerous ^[1] - 92:14</p>	<p>43:4, 43:25, 45:15, 49:9, 50:17, 51:14, 54:21, 55:19, 56:23, 57:20, 58:19, 61:6, 61:13, 61:15, 61:21, 61:22, 63:13, 63:14, 64:4, 66:24, 66:25, 68:10, 68:20, 68:21, 68:25, 71:5, 71:21, 71:23, 72:10, 74:4, 74:6, 75:18, 79:10, 79:14, 79:15, 81:6, 82:7, 83:5, 83:18, 84:12, 84:18, 85:21, 86:16, 87:1, 87:12, 87:22, 89:21, 90:7, 92:25, 93:18</p>	<p>P</p>	<p>payroll ^[3] - 41:21, 82:9 PB-12 ^[1] - 52:1 PB-18 ^[1] - 66:1 PB-20 ^[3] - 6:7, 6:14, 7:4 PB-22 ^[1] - 37:5 PB-25 ^[2] - 38:6, 40:3 PB-26 ^[1] - 38:23 PB-31 ^[3] - 12:1, 66:25, 88:7 PB-32 ^[1] - 12:1 PB-33 ^[1] - 12:1 PB-38 ^[1] - 80:21 PB-39 ^[1] - 51:24 PB-47 ^[1] - 60:8 PB-5 ^[1] - 49:18 PB-6 ^[5] - 7:25, 9:4, 20:25, 21:2, 62:7 PB-64 ^[6] - 2:9, 3:2, 6:13, 6:14, 19:2, 29:19 PB-65 ^[12] - 2:10, 3:6, 6:21, 6:22, 7:5, 7:8, 9:20, 10:10, 10:18, 11:2, 11:3, 11:14 PB-66 ^[3] - 2:12, 3:9, 8:5 PB-67 ^[6] - 2:13, 3:14, 8:15, 9:2, 9:4, 9:9 PB-7 ^[1] - 35:20 PB-8 ^[1] - 35:9 People ^[1] - 59:9 people ^[80] - 14:14, 25:1, 30:19, 31:4, 31:10, 32:21, 33:3, 33:8, 36:11, 37:16, 38:13, 39:22, 39:23, 41:20, 42:17, 42:21, 42:25, 43:10, 44:3, 46:3, 46:15, 46:19, 46:22, 47:7, 47:22, 47:25, 48:4, 48:12, 50:21, 51:1, 51:3, 51:12, 52:2, 53:4, 55:13, 57:25, 58:21, 60:13, 60:15, 60:21, 62:14, 62:15, 66:21, 67:12, 67:17, 73:14, 73:21, 73:22, 74:13, 75:5, 75:19, 75:21, 76:3, 76:4, 77:8, 77:9, 77:10, 77:13, 78:12, 80:14, 80:23, 81:6, 81:17, 82:13, 82:17, 83:6, 84:9, 86:19, 86:25, 87:1, 88:9, 88:11, 89:5, 90:2, 90:11, 92:3, 92:4, 92:15, 93:16</p>	<p>people's ^[1] - 39:15 perceive ^[1] - 34:16 percentage ^[1] - 14:15 perfect ^[1] - 30:6 perfectly ^[1] - 49:8 perform ^[8] - 13:24, 15:2, 30:1, 32:4, 50:4, 62:20, 76:16, 93:11 performed ^[2] - 10:13, 51:3 performing ^[1] - 64:19 period ^[14] - 4:4, 4:7, 5:9, 5:14, 12:9, 13:16, 17:5, 17:24, 25:22, 54:9, 60:23, 70:11, 75:14, 95:9 permitted ^[1] - 35:1 person ^[22] - 25:11, 35:20, 39:11, 42:6, 43:5, 44:1, 44:8, 44:9, 44:12, 44:16, 44:17, 45:5, 45:20, 46:6, 61:17, 63:10, 63:22, 82:2, 83:8, 86:15, 90:10 personal ^[3] - 13:15, 24:17, 73:1 personally ^[2] - 24:8, 68:12 persons ^[1] - 44:7 PHILIP ^[3] - 1:23, 97:2, 97:19 physically ^[3] - 24:21, 24:22, 27:3 piece ^[2] - 83:14, 83:16 Pittstown ^[1] - 3:17 place ^[9] - 19:24, 25:4, 37:12, 37:15, 53:7, 56:14, 80:12, 86:25, 97:9 placements ^[1] - 86:20 plain ^[1] - 70:4 Plan ^[13] - 23:3, 23:8, 23:11, 23:15, 23:19, 24:2, 78:18, 78:24, 79:6, 79:25, 80:11, 80:19, 81:3 plan ^[1] - 70:19 Plaza ^[1] - 1:24 plus ^[1] - 16:4 point ^[8] - 28:24, 38:12, 38:25, 40:8, 53:17, 55:11, 57:20, 71:21 points ^[1] - 52:14 policies ^[2] - 45:25, 58:20</p>
<p style="text-align: center;">O</p> <p>Oakland ^[1] - 1:13 oath ^[1] - 3:19 object ^[1] - 11:5 objection ^[2] - 11:17, 29:17 objective ^[1] - 46:5 objectively ^[1] - 31:15 obligated ^[1] - 82:23 obligations ^[1] - 13:3 OBM ^[3] - 6:25, 9:13 observations ^[2] - 32:23, 33:1 obtain ^[3] - 5:1, 27:2, 85:21 occasionally ^[1] - 30:5 occurred ^[1] - 85:5 October ^[2] - 48:3, 79:4 OF ^[5] - 1:1, 1:1, 1:4, 1:4, 1:6 offer ^[2] - 69:5 offering ^[1] - 29:16 office ^[9] - 18:9, 20:21, 27:17, 43:1, 70:21, 83:7, 83:9, 83:12, 83:16 officer ^[7] - 4:6, 11:14, 31:16, 39:10, 78:9, 87:10, 91:2 OFFICER ^[1] - 1:10 offices ^[1] - 60:22 officials ^[2] - 30:19, 31:10 offset ^[2] - 17:14, 17:15 old ^[1] - 68:10 OMB ^[9] - 2:11, 2:15, 2:16, 3:5, 3:13, 3:14, 9:14 once ^[2] - 66:5, 70:22 one ^[59] - 5:18, 10:19, 12:8, 26:18, 30:21, 38:13, 42:20, 42:22,</p>	<p>43:4, 43:25, 45:15, 49:9, 50:17, 51:14, 54:21, 55:19, 56:23, 57:20, 58:19, 61:6, 61:13, 61:15, 61:21, 61:22, 63:13, 63:14, 64:4, 66:24, 66:25, 68:10, 68:20, 68:21, 68:25, 71:5, 71:21, 71:23, 72:10, 74:4, 74:6, 75:18, 79:10, 79:14, 79:15, 81:6, 82:7, 83:5, 83:18, 84:12, 84:18, 85:21, 86:16, 87:1, 87:12, 87:22, 89:21, 90:7, 92:25, 93:18</p> <p>one-third ^[2] - 71:21, 71:23 one-time ^[3] - 79:10, 81:6, 83:18 one-year-old ^[1] - 68:10 ones ^[5] - 10:4, 35:15, 35:16, 41:10, 43:25 operating ^[1] - 27:12 operation ^[4] - 13:22, 26:5, 53:9, 53:10 opinion ^[1] - 71:4 opportunity ^[3] - 30:15, 56:4, 68:8 opposite ^[1] - 26:3 order ^[4] - 33:9, 41:4, 61:14, 63:8 ordered ^[4] - 63:10, 63:12, 63:13 orders ^[2] - 63:4, 63:6 Organization ^[2] - 37:4, 52:9 organization ^[2] - 39:1, 48:22 otherwise ^[2] - 73:2, 73:3 ought ^[3] - 26:2, 61:2, 64:15 outside ^[6] - 15:3, 27:24, 48:6, 85:10, 85:24, 89:17 overboard ^[2] - 71:8, 72:3 overseeing ^[1] - 85:13 owe ^[4] - 54:7, 54:12, 54:19 owed ^[6] - 53:9, 53:10, 57:11, 58:8, 58:14 own ^[6] - 28:3, 57:23, 61:16, 61:23, 69:24, 72:1</p>	<p>package ^[1] - 51:24 page ^[11] - 7:2, 7:4, 8:7, 21:11, 40:18, 41:11, 49:20, 67:2, 67:6, 67:9 PAGE ^[1] - 2:8 Page ^[4] - 8:4, 9:5, 9:24, 67:5 pages ^[7] - 7:5, 7:6, 9:5, 67:1, 67:3, 80:23 paid ^[15] - 24:15, 35:22, 42:18, 48:25, 54:20, 63:9, 63:15, 68:9, 73:20, 80:23, 80:25, 81:15, 81:21, 82:5, 82:24 paperwork ^[1] - 39:14 paragraph ^[5] - 10:19, 10:23, 10:24, 11:8, 11:11 parent ^[1] - 82:4 part ^[9] - 6:15, 7:21, 14:9, 27:10, 31:21, 69:13, 85:11, 87:9 Part ^[2] - 6:18, 6:19 parties ^[3] - 95:15, 95:24, 97:13 party ^[1] - 26:20 PASQUA ^[1] - 1:3 Pasqua ^[23] - 1:18, 36:10, 46:19, 51:14, 53:21, 58:22, 63:11, 63:16, 75:16, 76:3, 77:19, 78:11, 78:22, 80:21, 83:9, 83:15, 85:8, 86:4, 87:11, 87:16, 88:12, 91:4, 94:12 Pasqua's ^[4] - 47:24, 48:12, 76:15, 92:16 passed ^[1] - 5:6 passionately ^[1] - 94:18 past ^[1] - 48:22 patience ^[1] - 96:6 pay ^[13] - 24:4, 24:6, 24:19, 24:21, 25:2, 25:13, 36:3, 38:9, 62:10, 71:23, 81:19, 82:22, 94:1 paying ^[11] - 25:5, 33:23, 43:5, 48:4, 68:4, 68:5, 73:22, 80:5, 82:21, 90:9, 90:11 payment ^[3] - 24:14, 34:2, 35:6</p>	<p>payroll ^[3] - 41:21, 82:9 PB-12 ^[1] - 52:1 PB-18 ^[1] - 66:1 PB-20 ^[3] - 6:7, 6:14, 7:4 PB-22 ^[1] - 37:5 PB-25 ^[2] - 38:6, 40:3 PB-26 ^[1] - 38:23 PB-31 ^[3] - 12:1, 66:25, 88:7 PB-32 ^[1] - 12:1 PB-33 ^[1] - 12:1 PB-38 ^[1] - 80:21 PB-39 ^[1] - 51:24 PB-47 ^[1] - 60:8 PB-5 ^[1] - 49:18 PB-6 ^[5] - 7:25, 9:4, 20:25, 21:2, 62:7 PB-64 ^[6] - 2:9, 3:2, 6:13, 6:14, 19:2, 29:19 PB-65 ^[12] - 2:10, 3:6, 6:21, 6:22, 7:5, 7:8, 9:20, 10:10, 10:18, 11:2, 11:3, 11:14 PB-66 ^[3] - 2:12, 3:9, 8:5 PB-67 ^[6] - 2:13, 3:14, 8:15, 9:2, 9:4, 9:9 PB-7 ^[1] - 35:20 PB-8 ^[1] - 35:9 People ^[1] - 59:9 people ^[80] - 14:14, 25:1, 30:19, 31:4, 31:10, 32:21, 33:3, 33:8, 36:11, 37:16, 38:13, 39:22, 39:23, 41:20, 42:17, 42:21, 42:25, 43:10, 44:3, 46:3, 46:15, 46:19, 46:22, 47:7, 47:22, 47:25, 48:4, 48:12, 50:21, 51:1, 51:3, 51:12, 52:2, 53:4, 55:13, 57:25, 58:21, 60:13, 60:15, 60:21, 62:14, 62:15, 66:21, 67:12, 67:17, 73:14, 73:21, 73:22, 74:13, 75:5, 75:19, 75:21, 76:3, 76:4, 77:8, 77:9, 77:10, 77:13, 78:12, 80:14, 80:23, 81:6, 81:17, 82:13, 82:17, 83:6, 84:9, 86:19, 86:25, 87:1, 88:9, 88:11, 89:5, 90:2, 90:11, 92:3, 92:4, 92:15, 93:16</p>	<p>people's ^[1] - 39:15 perceive ^[1] - 34:16 percentage ^[1] - 14:15 perfect ^[1] - 30:6 perfectly ^[1] - 49:8 perform ^[8] - 13:24, 15:2, 30:1, 32:4, 50:4, 62:20, 76:16, 93:11 performed ^[2] - 10:13, 51:3 performing ^[1] - 64:19 period ^[14] - 4:4, 4:7, 5:9, 5:14, 12:9, 13:16, 17:5, 17:24, 25:22, 54:9, 60:23, 70:11, 75:14, 95:9 permitted ^[1] - 35:1 person ^[22] - 25:11, 35:20, 39:11, 42:6, 43:5, 44:1, 44:8, 44:9, 44:12, 44:16, 44:17, 45:5, 45:20, 46:6, 61:17, 63:10, 63:22, 82:2, 83:8, 86:15, 90:10 personal ^[3] - 13:15, 24:17, 73:1 personally ^[2] - 24:8, 68:12 persons ^[1] - 44:7 PHILIP ^[3] - 1:23, 97:2, 97:19 physically ^[3] - 24:21, 24:22, 27:3 piece ^[2] - 83:14, 83:16 Pittstown ^[1] - 3:17 place ^[9] - 19:24, 25:4, 37:12, 37:15, 53:7, 56:14, 80:12, 86:25, 97:9 placements ^[1] - 86:20 plain ^[1] - 70:4 Plan ^[13] - 23:3, 23:8, 23:11, 23:15, 23:19, 24:2, 78:18, 78:24, 79:6, 79:25, 80:11, 80:19, 81:3 plan ^[1] - 70:19 Plaza ^[1] - 1:24 plus ^[1] - 16:4 point ^[8] - 28:24, 38:12, 38:25, 40:8, 53:17, 55:11, 57:20, 71:21 points ^[1] - 52:14 policies ^[2] - 45:25, 58:20</p>

<p>policy [19] - 35:6, 35:9, 35:18, 35:23, 35:24, 38:23, 40:9, 44:4, 44:21, 45:8, 45:24, 46:4, 49:23, 50:1, 52:4, 52:6, 63:18, 64:22, 71:6</p> <p>political [4] - 16:9, 30:18, 31:1, 31:9</p> <p>politicians [4] - 30:19, 31:4, 31:22, 55:12</p> <p>portion [1] - 41:12</p> <p>portions [2] - 26:15, 35:8</p> <p>position [9] - 4:1, 12:17, 12:23, 12:24, 13:2, 13:20, 17:25, 62:18, 83:13</p> <p>positions [6] - 12:22, 74:14, 77:10, 77:11, 93:19, 94:25</p> <p>possessed [1] - 75:21</p> <p>possible [1] - 41:24</p> <p>postings [1] - 4:14</p> <p>potion [2] - 34:22, 34:23</p> <p>powers [3] - 15:25, 16:7, 16:8</p> <p>powers-to-be [3] - 15:25, 16:7, 16:8</p> <p>practicable [1] - 96:2</p> <p>practice [1] - 56:8</p> <p>practices [1] - 48:22</p> <p>pre [1] - 34:23</p> <p>pre-established [1] - 34:23</p> <p>precious [1] - 80:14</p> <p>prejudice [1] - 95:24</p> <p>preparation [7] - 4:11, 7:24, 13:6, 14:10, 14:25, 21:5, 21:10</p> <p>prepare [3] - 12:10, 14:7, 81:3</p> <p>prepared [6] - 14:25, 23:7, 31:6, 36:2, 41:11, 88:4</p> <p>present [3] - 23:11, 75:20, 78:18</p> <p>presented [4] - 95:3, 95:6, 95:7, 95:17</p> <p>presently [1] - 94:12</p> <p>press [2] - 44:6, 55:13</p> <p>pretext [1] - 70:22</p> <p>previous [3] - 11:25, 60:21, 67:12</p> <p>primarily [3] - 18:22, 85:5, 95:19</p> <p>primary [1] - 18:19</p> <p>private [1] - 5:3</p> <p>problem [18] - 30:21,</p>	<p>37:21, 52:17, 52:18, 65:22, 77:21, 78:6, 78:12, 80:3, 81:1, 81:2, 81:4, 82:8, 82:13, 83:1, 83:3, 90:13, 94:7</p> <p>problems [2] - 69:9, 90:19</p> <p>procedure [2] - 17:18, 36:7</p> <p>procedures [2] - 58:21, 85:20</p> <p>proceed [1] - 29:21</p> <p>proceeding [9] - 28:25, 30:12, 30:16, 32:12, 47:11, 47:19, 47:24, 94:20, 95:13</p> <p>proceedings [2] - 12:1, 68:6</p> <p>process [10] - 27:1, 33:23, 50:4, 50:10, 62:20, 85:4, 85:21, 87:8, 87:9, 93:23</p> <p>processes [2] - 19:23, 25:4</p> <p>processing [1] - 81:11</p> <p>professional [2] - 59:3, 92:5</p> <p>professionalism [1] - 94:24</p> <p>professionals [11] - 31:19, 32:13, 48:16, 49:13, 49:14, 64:13, 64:24, 76:1, 89:8, 93:16, 94:10</p> <p>profit [1] - 16:21</p> <p>Program [7] - 2:11, 2:14, 3:4, 3:12, 6:24, 7:12, 9:12</p> <p>progressive [1] - 30:4</p> <p>project [4] - 14:15, 15:14, 15:23, 15:24</p> <p>projected [1] - 14:12</p> <p>proper [5] - 14:7, 14:16, 25:7, 25:8, 26:5</p> <p>properly [1] - 55:1</p> <p>protracted [1] - 94:20</p> <p>prove [3] - 41:8, 53:5, 64:25</p> <p>proven [1] - 30:14</p> <p>provide [3] - 14:18, 21:19, 21:24</p> <p>provided [5] - 21:17, 21:22, 22:11, 50:8, 71:3</p> <p>provides [1] - 83:12</p> <p>providing [1] - 22:4</p> <p>Public [1] - 97:3</p> <p>public [14] - 29:23,</p>	<p>30:9, 30:21, 44:6, 56:19, 56:20, 72:5, 72:19, 72:24, 73:1, 89:3, 89:4, 93:13, 93:15</p> <p>public's [2] - 52:18, 55:14</p> <p>publicly [1] - 56:11</p> <p>purchase [5] - 16:4, 33:9, 61:14, 63:4, 63:8</p> <p>purchased [1] - 15:10</p> <p>Purchasing [2] - 35:11, 35:12</p> <p>purchasing [3] - 64:1, 93:1</p> <p>pursuant [1] - 64:22</p> <p>purview [1] - 22:9</p> <p>put [18] - 19:23, 39:23, 40:2, 40:4, 44:17, 45:6, 45:21, 50:11, 50:14, 52:3, 54:7, 56:7, 56:8, 66:23, 73:6, 73:7, 80:12, 87:1</p> <p>puts [1] - 58:5</p> <p>putting [3] - 11:15, 44:20, 61:10</p>	<p>10:23, 32:1, 42:1, 51:11, 66:1, 67:1, 76:7, 76:9, 89:13</p> <p>reading [5] - 7:9, 11:1, 11:5, 11:8, 11:21</p> <p>readjustments [1] - 52:23</p> <p>ready [3] - 29:10, 29:12, 74:22</p> <p>real [2] - 34:9, 57:4</p> <p>realize [2] - 32:5</p> <p>really [4] - 17:18, 56:21, 57:11, 69:4</p> <p>reason [3] - 46:23, 84:7, 88:23</p> <p>reasonable [1] - 10:3</p> <p>reasons [3] - 50:17, 57:6, 70:10</p> <p>receipt [2] - 25:12, 81:14</p> <p>receipts [1] - 27:6</p> <p>receivable [10] - 17:12, 17:13, 17:21, 26:22, 53:21, 53:22, 54:2, 57:16, 57:17</p> <p>receivables [5] - 17:14, 17:16, 17:23, 85:1, 85:2</p> <p>receive [5] - 25:15, 44:21, 45:16, 48:13, 50:5</p> <p>received [7] - 5:8, 25:6, 25:7, 26:10, 35:21, 63:7, 77:10</p> <p>receives [1] - 35:20</p> <p>receiving [18] - 19:4, 19:13, 43:23, 44:13, 44:25, 45:2, 45:3, 45:9, 46:3, 46:20, 50:7, 50:21, 82:2, 82:3, 82:18, 86:16, 86:17, 87:6</p> <p>recertification [5] - 50:4, 50:10, 51:19, 51:21, 62:20</p> <p>recess [4] - 29:8, 29:9, 74:18, 74:21</p> <p>recognize [1] - 95:21</p> <p>recollection [1] - 22:18</p> <p>recommend [5] - 50:3, 50:11, 50:13, 50:23, 85:18</p> <p>recommendation [4] - 71:7, 74:11, 74:12, 79:7</p> <p>recommendations [1] - 86:12</p> <p>recommended [3] - 26:4, 62:6, 62:19</p>	<p>recommending [1] - 90:2</p> <p>recommends [1] - 85:19</p> <p>reconciliation [2] - 4:12, 4:20</p> <p>reconciling [2] - 61:16, 61:18</p> <p>record [5] - 6:22, 16:20, 74:20, 76:10, 96:9</p> <p>recordkeeping [1] - 17:1</p> <p>records [21] - 5:25, 16:14, 16:23, 16:25, 19:23, 20:17, 20:19, 22:11, 27:16, 27:25, 50:15, 77:3, 82:20, 84:14, 84:19, 84:23, 91:4, 91:10, 91:11, 91:12, 92:22</p> <p>recount [1] - 77:16</p> <p>recourse [2] - 72:1, 72:16</p> <p>recover [1] - 68:7</p> <p>recreation [2] - 16:2, 16:11</p> <p>RECROSS [1] - 2:3</p> <p>redirect [1] - 25:20</p> <p>REDIRECT [2] - 2:3, 25:21</p> <p>reduces [1] - 85:4</p> <p>referenced [2] - 9:23, 10:1</p> <p>referring [2] - 21:11, 83:5</p> <p>reflect [2] - 34:11, 79:6</p> <p>refused [2] - 90:19, 91:14</p> <p>regard [14] - 10:9, 11:14, 32:11, 34:1, 34:8, 35:6, 36:8, 41:15, 46:13, 47:6, 48:22, 56:18, 57:21, 71:10</p> <p>regarding [2] - 76:23, 85:6</p> <p>regulations [3] - 76:13, 78:15, 87:20</p> <p>reinforcing [1] - 32:3</p> <p>reinstate [1] - 74:13</p> <p>reiterate [1] - 83:8</p> <p>related [1] - 85:23</p> <p>relates [1] - 95:14</p> <p>relative [2] - 97:12, 97:14</p> <p>relevant [1] - 68:6</p> <p>relied [2] - 56:17, 84:9</p> <p>rely [5] - 14:24, 21:20,</p>
Q				
<p>Quakertown [1] - 3:17</p> <p>qualified [1] - 92:7</p> <p>qualify [1] - 80:15</p> <p>quarterly [1] - 79:11</p> <p>quarters [1] - 49:19</p> <p>questioned [1] - 26:12</p> <p>questions [3] - 20:25, 25:19, 58:20</p> <p>quick [1] - 71:18</p> <p>quickly [3] - 95:18, 95:22, 96:2</p> <p>quite [2] - 26:3, 47:11</p> <p>quote [1] - 23:6</p>				
R				
<p>radically [1] - 30:7</p> <p>raised [1] - 71:2</p> <p>Ramapo [1] - 1:12</p> <p>ran [1] - 26:20</p> <p>Raritan [1] - 15:11</p> <p>rate [2] - 46:20, 80:6</p> <p>rates [1] - 71:23</p> <p>rather [2] - 11:14, 94:20</p> <p>RE [1] - 1:3</p> <p>reach [1] - 95:22</p> <p>reached [1] - 28:24</p> <p>read [11] - 9:9, 10:7,</p>				

<p>22:5, 22:8, 31:5 relying [1] - 56:16 remain [1] - 17:4 remains [1] - 15:14 remember [5] - 5:14, 15:16, 66:2, 77:22, 84:4 remittance [2] - 40:15, 40:19 remove [3] - 79:8, 83:15, 83:16 removed [2] - 83:6, 83:12 removing [1] - 78:12 report [14] - 2:10, 2:13, 3:3, 3:10, 6:8, 20:13, 33:21, 42:12, 52:22, 54:2, 57:16, 69:24, 84:21, 86:10 Report [3] - 6:23, 7:10, 9:10 reported [8] - 7:13, 56:10, 59:19, 60:5, 60:6, 60:25, 79:7, 93:2 Reporter [1] - 97:2 reporting [3] - 57:15, 79:5, 84:6 REPORTING [1] - 1:23 reports [2] - 58:5, 93:9 representation [1] - 94:24 representing [1] - 94:22 reprimand [1] - 66:22 request [2] - 74:12, 94:13 requested [1] - 89:20 required [11] - 19:3, 75:22, 76:2, 82:22, 85:11, 86:2, 86:22, 87:9, 87:12, 91:11, 93:9 requirement [2] - 19:8, 19:12 requirements [1] - 10:10 Requirements [7] - 2:10, 2:13, 3:3, 3:10, 6:23, 7:10, 9:11 requires [2] - 63:25, 64:21 reserve [7] - 10:15, 17:14, 17:15, 17:19, 17:20, 26:22, 85:1 resolution [1] - 35:13 resolved [1] - 71:6 resolving [1] - 71:5 resource [1] - 18:10 Resources [30] -</p>	<p>13:13, 13:19, 14:1, 15:3, 18:6, 24:11, 24:14, 37:2, 37:5, 38:22, 39:2, 39:4, 39:6, 40:6, 44:15, 45:19, 45:21, 45:22, 46:9, 48:25, 50:24, 51:25, 52:4, 52:6, 62:9, 62:14, 65:4, 69:20, 79:1, 79:12 respectfully [2] - 33:13, 74:12 respective [6] - 85:25, 94:22, 94:25, 95:23, 96:6, 96:7 respond [1] - 30:15 responsibilities [10] - 4:9, 4:18, 4:22, 13:4, 13:20, 13:25, 15:3, 18:18, 18:19, 34:1 responsibility [55] - 13:8, 20:18, 21:23, 22:10, 31:5, 31:14, 32:4, 33:18, 38:24, 39:1, 41:18, 41:23, 42:9, 45:24, 47:15, 47:17, 48:18, 52:13, 52:15, 61:12, 64:5, 64:6, 64:16, 64:20, 65:1, 65:9, 67:22, 68:15, 69:4, 73:2, 74:1, 76:19, 76:21, 78:5, 81:10, 84:5, 84:7, 84:8, 84:17, 84:19, 89:14, 90:6, 91:13, 91:18, 91:19, 91:20, 91:22, 91:23, 91:24, 92:1, 92:19, 92:22, 92:23 responsible [17] - 32:19, 32:22, 34:14, 35:14, 35:16, 51:13, 51:15, 60:18, 65:5, 72:21, 72:22, 75:20, 75:22, 77:2, 77:13, 82:20, 82:21 rest [1] - 57:19 restroom [1] - 74:18 result [6] - 19:4, 23:5, 42:24, 80:18, 85:6, 88:17 resulted [1] - 75:12 retained [1] - 53:16 retire [1] - 34:5 retired [2] - 5:19, 42:13 retirees [3] - 50:5, 80:5, 81:17 retirement [2] - 12:25, 20:4</p>	<p>retiring [1] - 4:2 retroactively [1] - 36:14 return [1] - 81:14 revenue [2] - 17:11, 17:13 review [15] - 11:21, 18:1, 21:10, 21:12, 27:8, 27:9, 27:25, 32:14, 66:6, 81:10, 85:12, 86:4, 92:9, 95:2, 95:7 reviewed [8] - 21:3, 21:5, 24:11, 27:4, 39:12, 63:1, 63:3, 78:23 reviewing [3] - 40:9, 41:2, 62:23 reviews [1] - 85:24 RICHARD [1] - 1:13 richest [1] - 71:22 risk [9] - 19:20, 25:24, 26:2, 49:16, 59:10, 85:4, 88:14, 88:15 road [1] - 3:17 Road [1] - 1:12 Roads [3] - 63:6, 63:11, 63:23 role [14] - 13:16, 13:18, 13:25, 24:4, 24:19, 26:4, 64:12, 64:14, 64:15, 64:19, 64:23, 65:3, 65:4, 68:1 roles [2] - 15:2, 43:11 Roman [2] - 6:15, 8:3 Ron [4] - 38:18, 49:3, 53:1, 65:18 RONALD [2] - 2:4, 97:5 Ronald [1] - 3:17 rules [4] - 76:12, 78:15, 87:20, 87:22 run [7] - 36:11, 48:21, 48:22, 48:23, 59:10, 76:2 running [1] - 96:14 rush [1] - 96:1</p>	<p>60:10, 60:12, 60:14, 66:13, 66:15, 82:25, 84:3 sat [1] - 36:25 saw [3] - 67:12, 81:12, 90:15 scapegoats [1] - 65:11 schedule [1] - 45:12 scrutiny [1] - 88:18 second [18] - 10:19, 10:23, 31:6, 33:6, 33:16, 33:17, 41:4, 52:20, 52:21, 54:17, 59:6, 67:24, 79:23, 82:12, 83:5, 83:24, 86:7 secondary [2] - 46:16, 46:21 section [6] - 6:15, 6:19, 8:9, 8:10, 9:23, 88:7 Security [2] - 50:15, 69:24 see [11] - 26:5, 31:19, 32:6, 42:3, 43:3, 43:10, 45:11, 47:10, 63:22, 71:17, 72:6 seed [2] - 53:9, 54:8 sees [1] - 58:3 segregate [1] - 16:18 segregated [1] - 18:22 send [3] - 66:18, 78:20, 81:10 sends [2] - 47:8, 69:1 senior [1] - 30:19 sense [17] - 33:4, 33:15, 35:2, 36:23, 38:11, 38:25, 40:8, 41:24, 45:18, 48:21, 53:14, 55:11, 56:14, 60:1, 68:2, 70:1, 70:4 sensitive [1] - 30:22 sensitivity [1] - 42:17 sent [1] - 27:4 separate [2] - 39:2, 86:1 September [1] - 4:2 series [2] - 40:4, 90:5 serious [8] - 22:22, 30:7, 32:15, 34:17, 86:12, 86:14, 93:6 served [1] - 12:9 serves [1] - 59:25 Service [1] - 39:14 Services [7] - 12:21, 12:23, 23:4, 23:18, 23:21, 41:13, 64:10 services [6] - 25:5,</p>	<p>25:12, 25:15, 28:3, 58:15, 82:22 set [19] - 16:23, 16:25, 17:4, 19:24, 20:9, 20:11, 34:25, 39:15, 40:15, 41:5, 54:4, 55:22, 70:15, 70:16, 70:17, 70:18, 79:11, 97:10 sets [4] - 53:6, 63:6, 63:12, 72:10 settlement [1] - 14:13 settlements [1] - 14:22 seven [2] - 42:20, 90:9 several [1] - 95:9 severity [1] - 95:21 shake [2] - 71:14, 71:25 shall [4] - 76:11, 76:16, 83:6, 87:19 Shana [1] - 96:13 sheet [1] - 41:11 sheets [1] - 14:24 sheriff [2] - 61:15, 61:17 sheriff's [1] - 61:17 Shield [2] - 79:21, 82:1 short [3] - 29:9, 69:18, 74:21 Shorthand [1] - 97:2 shot [1] - 79:17 show [12] - 6:6, 6:12, 6:20, 8:5, 8:15, 11:15, 11:25, 17:23, 34:15, 42:9, 53:5, 53:16 showed [4] - 9:2, 46:19, 59:23, 71:1 shown [4] - 41:2, 53:20, 59:18, 77:12 shows [5] - 43:9, 43:12, 45:14, 60:6, 88:8 side [2] - 67:6, 73:12 sidelines [1] - 34:17 sign [19] - 12:11, 38:7, 38:15, 48:11, 48:14, 67:8, 68:20, 70:5, 70:6, 70:7, 70:11, 70:12, 78:20, 81:10, 88:4, 88:8, 88:12, 90:17, 91:14 signature [5] - 40:16, 40:22, 41:7, 62:25, 81:20 signatures [5] - 25:7, 25:8, 25:9, 40:13, 41:9</p>
S				
<p>safeguarded [1] - 94:10 salaries [1] - 39:15 salary [4] - 14:5, 14:11, 14:12, 14:16 Salary [1] - 14:7 Salvato [1] - 41:15 Samuel [13] - 8:1, 9:6, 9:15, 20:2, 20:4,</p>				

<p>signed [14] - 25:14, 38:10, 38:20, 40:18, 41:5, 41:9, 55:3, 55:5, 63:23, 78:24, 81:13, 81:17, 88:10, 88:13</p> <p>significant [5] - 32:16, 61:9, 74:9, 85:10, 87:4</p> <p>signing [2] - 41:3, 76:22</p> <p>signs [5] - 33:24, 38:5, 38:22, 66:19, 69:23</p> <p>similar [2] - 8:10, 12:3</p> <p>simple [1] - 49:25</p> <p>single [18] - 5:20, 5:23, 6:19, 7:16, 7:21, 8:14, 9:16, 10:16, 19:3, 21:11, 40:2, 45:13, 45:16, 82:4, 87:5, 87:7, 88:17</p> <p>sit [2] - 36:18, 83:2</p> <p>situation [4] - 31:23, 33:16, 34:2, 67:11</p> <p>situations [1] - 42:25</p> <p>six [7] - 42:20, 42:23, 42:24, 67:1</p> <p>size [2] - 56:19, 95:10</p> <p>slip [1] - 81:14</p> <p>slow [6] - 31:11, 31:17, 32:6, 38:1, 73:15, 93:23</p> <p>Small [1] - 10:4</p> <p>small [2] - 81:13, 95:10</p> <p>Smith [1] - 5:17</p> <p>social [1] - 28:3</p> <p>Social [3] - 41:13, 50:15, 69:24</p> <p>someday [1] - 16:20</p> <p>someone [1] - 30:5</p> <p>sometime [1] - 43:19</p> <p>sometimes [2] - 31:1, 66:8</p> <p>soon [2] - 37:17, 95:23</p> <p>sorry [2] - 8:24, 51:22</p> <p>sort [1] - 39:19</p> <p>source [1] - 56:17</p> <p>speaking [1] - 74:11</p> <p>specific [1] - 93:17</p> <p>specifically [1] - 22:15</p> <p>spend [1] - 61:11</p> <p>spending [1] - 94:9</p> <p>spent [1] - 88:17</p> <p>spite [1] - 48:11</p> <p>spouse [12] - 43:22, 44:1, 44:5, 44:13, 44:15, 44:24, 45:1,</p>	<p>45:3, 45:6, 45:9, 45:16, 45:21</p> <p>spouses [2] - 44:20, 48:13</p> <p>spreadsheets [2] - 14:5, 14:11</p> <p>spring [1] - 83:11</p> <p>stack [1] - 40:4</p> <p>stand [3] - 31:6, 62:24, 72:1</p> <p>standard [2] - 69:8, 72:25</p> <p>standards [1] - 10:21</p> <p>standing [1] - 34:16</p> <p>start [3] - 32:10, 52:25, 68:25</p> <p>started [5] - 4:2, 4:13, 5:16, 20:6, 20:7</p> <p>starting [1] - 88:1</p> <p>starts [1] - 32:13</p> <p>State [14] - 2:11, 2:15, 3:4, 3:13, 6:24, 7:11, 7:20, 9:13, 34:24, 71:22, 76:8, 84:11, 87:6, 97:3</p> <p>state [11] - 4:5, 5:3, 5:5, 5:7, 19:1, 23:15, 28:3, 28:4, 60:8, 79:24, 86:21</p> <p>state-issued [1] - 4:5</p> <p>statement [8] - 10:14, 50:18, 75:4, 78:7, 81:5, 85:3, 85:5, 85:20</p> <p>statements [8] - 60:7, 83:8, 85:12, 85:16, 85:25, 86:2, 86:5, 86:16</p> <p>states [1] - 10:16</p> <p>statute [7] - 35:19, 42:15, 83:4, 83:11, 87:18</p> <p>statutorily [1] - 82:23</p> <p>statutory [4] - 76:15, 76:19, 76:20, 91:22</p> <p>stenographically [1] - 97:9</p> <p>step [1] - 68:2</p> <p>steward [1] - 92:2</p> <p>stewards [2] - 89:7, 94:4</p> <p>still [15] - 12:22, 15:14, 16:1, 42:18, 44:7, 47:10, 48:3, 50:22, 51:1, 71:4, 73:22, 79:20, 81:1, 82:14, 93:25</p> <p>stipulate [1] - 11:7</p> <p>stop [6] - 68:1, 80:1, 80:12, 93:22, 94:1</p>	<p>story [2] - 31:20, 31:21</p> <p>strap [1] - 36:14</p> <p>Street [1] - 1:17</p> <p>stretch [3] - 43:6, 59:2, 61:4</p> <p>strike [2] - 7:14, 23:1</p> <p>stronger [1] - 85:19</p> <p>stuff [5] - 15:19, 28:15, 47:20, 58:23, 70:15</p> <p>subject [1] - 39:17</p> <p>submitted [4] - 35:13, 92:11, 92:12, 95:8</p> <p>sudden [1] - 40:19</p> <p>suggest [5] - 26:1, 33:14, 37:18, 62:13</p> <p>suggesting [2] - 32:2, 33:25</p> <p>suing [2] - 60:14</p> <p>summarize [1] - 94:19</p> <p>summation [2] - 29:13, 96:4</p> <p>summations [2] - 28:25, 29:5</p> <p>supervise [1] - 58:1</p> <p>supervised [1] - 39:7</p> <p>supervising [1] - 37:21</p> <p>supervisor [7] - 37:5, 37:10, 37:20, 44:23, 49:10, 52:8</p> <p>supported [1] - 93:4</p> <p>supposed [6] - 44:19, 49:13, 51:17, 52:5, 52:7, 59:3</p> <p>supposedly [1] - 52:18</p> <p>survivor [1] - 42:14</p> <p>sustained [1] - 11:23</p> <p>sworn [3] - 3:18, 92:15, 97:5</p> <p>system [14] - 17:1, 17:4, 35:17, 49:4, 49:5, 49:6, 50:11, 50:14, 53:4, 58:13, 63:25, 64:1, 73:17, 74:2</p> <p>System [3] - 57:22, 58:8, 84:25</p>	<p>taught [1] - 55:7</p> <p>tax [1] - 80:14</p> <p>taxes [1] - 94:10</p> <p>taxpayer [2] - 67:7, 88:18</p> <p>taxpayers [6] - 75:8, 80:13, 84:10, 86:24, 87:3, 94:8</p> <p>taxpayers' [4] - 89:7, 92:2, 93:20, 94:3</p> <p>telephone [1] - 67:8</p> <p>tendency [1] - 30:23</p> <p>tenet [1] - 29:23</p> <p>tenor [1] - 47:19</p> <p>tenure [3] - 22:13, 23:4, 77:23</p> <p>term [5] - 5:20, 12:6, 83:9, 83:10</p> <p>Term [1] - 76:8</p> <p>terminate [5] - 30:8, 74:13, 88:24, 92:8, 94:14</p> <p>terminated [3] - 79:8, 80:25, 82:13</p> <p>termination [1] - 89:10</p> <p>terms [1] - 20:16</p> <p>terrible [2] - 34:9, 34:13</p> <p>testified [14] - 4:22, 8:10, 19:2, 19:7, 19:17, 19:22, 40:17, 53:21, 69:19, 77:1, 78:23, 81:19, 89:15, 92:16</p> <p>testifies [4] - 3:18, 33:21, 54:9, 57:20</p> <p>testify [2] - 11:21, 97:5</p> <p>testifying [1] - 32:13</p> <p>testimony [19] - 7:24, 11:22, 41:13, 42:2, 47:3, 63:5, 69:16, 75:10, 75:19, 81:23, 85:8, 86:15, 86:19, 92:13, 92:15, 92:17, 92:18, 95:5, 97:8</p> <p>THE [2] - 1:4, 28:17</p> <p>them' [1] - 58:23</p> <p>theory [1] - 78:5</p> <p>thereafter [1] - 43:20</p> <p>thinks [1] - 55:22</p> <p>third [6] - 26:20, 42:13, 71:21, 71:23, 77:24, 79:7</p> <p>thousands [4] - 75:13, 81:7, 83:21</p> <p>three [16] - 15:18, 42:20, 42:23, 43:14, 43:16, 43:17, 46:2, 49:19, 56:24, 66:25,</p>	<p>72:10, 81:4, 83:10, 86:3, 88:19</p> <p>three-quarters [1] - 49:19</p> <p>three-year [1] - 83:10</p> <p>throughout [1] - 94:19</p> <p>throw [1] - 49:12</p> <p>throwing [1] - 34:21</p> <p>thrown [3] - 32:17, 32:18, 47:20</p> <p>Thursday [1] - 1:2</p> <p>ticket [1] - 16:3</p> <p>timely [2] - 78:13, 79:9</p> <p>timetable [1] - 95:25</p> <p>title [5] - 4:16, 7:9, 9:9, 10:4, 18:18</p> <p>today [6] - 7:24, 21:5, 21:10, 28:5, 79:16, 83:2</p> <p>together [1] - 40:25</p> <p>Tom [2] - 5:17, 5:18</p> <p>Tomkins [7] - 32:14, 32:24, 33:13, 56:16, 58:19, 75:16, 77:18</p> <p>took [6] - 15:18, 43:2, 45:20, 51:6, 55:4, 56:22</p> <p>top [5] - 28:8, 30:3, 30:17, 49:20, 67:3</p> <p>torn [2] - 40:16, 81:14</p> <p>total [1] - 50:13</p> <p>totality [1] - 93:3</p> <p>township [1] - 15:12</p> <p>track [1] - 79:13</p> <p>train [2] - 12:14, 64:12</p> <p>trained [2] - 12:23, 49:2</p> <p>training [1] - 13:7</p> <p>transactions [1] - 85:22</p> <p>transcript [4] - 32:14, 34:11, 42:1, 97:8</p> <p>transcripts [1] - 32:1</p> <p>transit [2] - 59:22, 59:25</p> <p>transition [4] - 12:16, 64:12, 64:23, 65:3</p> <p>transmit [1] - 95:23</p> <p>transmitted [1] - 24:14</p> <p>Transportation [3] - 57:22, 58:8, 84:25</p> <p>transportation [2] - 10:4, 58:13</p> <p>treasurer [27] - 4:10, 4:23, 4:24, 13:5, 17:2, 19:24, 20:14, 20:22, 21:25, 22:2, 23:9, 23:10, 23:14, 23:20, 36:4, 76:11, 76:16, 76:20, 78:9,</p>
T				
<p>Table [2] - 37:4, 52:8</p> <p>table [5] - 2:9, 2:12, 3:1, 3:8, 6:13</p> <p>talks [1] - 84:22</p> <p>task [3] - 42:4, 42:5, 42:7</p> <p>Task [1] - 10:3</p>				

<p>79:12, 80:10, 80:21, 84:13, 85:15, 87:19, 91:3, 91:25</p> <p>TREASURER [1] - 1:4</p> <p>Treasurer [1] - 76:8</p> <p>treated [2] - 9:16, 9:17</p> <p>tried [3] - 42:4, 47:21, 51:8</p> <p>true [4] - 7:6, 8:7, 91:9, 97:7</p> <p>trust [3] - 4:15, 60:3, 60:4</p> <p>truth [3] - 97:5, 97:6</p> <p>try [2] - 41:5, 49:6</p> <p>trying [8] - 37:18, 37:22, 41:20, 59:15, 59:16, 68:18, 79:21, 95:25</p> <p>turn [1] - 63:17</p> <p>turned [1] - 49:7</p> <p>twice [1] - 66:4</p> <p>two [42] - 12:22, 17:22, 28:7, 32:13, 37:22, 41:11, 42:7, 42:20, 42:23, 46:1, 50:24, 51:2, 51:3, 56:24, 63:14, 66:25, 68:19, 71:12, 72:1, 72:14, 72:23, 73:16, 74:18, 75:19, 75:21, 76:1, 76:3, 76:4, 77:12, 77:16, 77:24, 80:23, 82:24, 83:20, 84:18, 85:24, 87:1, 88:9, 88:11, 88:24, 90:13, 93:18</p> <p>two-and-a-half [1] - 90:13</p> <p>two-minute [1] - 74:18</p> <p>two-page [1] - 41:11</p> <p>types [1] - 18:2</p> <p>typical [1] - 34:25</p> <p>typically [6] - 66:4, 66:5, 66:7, 66:10, 66:17, 67:23</p>	<p>understood [4] - 56:3, 68:17, 68:19, 68:22</p> <p>undertake [1] - 95:2</p> <p>unfairness [2] - 51:2</p> <p>unfortunately [1] - 31:1</p> <p>unless [7] - 30:6, 31:4, 31:12, 38:9, 59:15, 59:16, 81:20</p> <p>up [39] - 14:16, 16:23, 16:25, 17:1, 17:4, 19:24, 20:9, 20:11, 24:10, 27:9, 28:16, 31:6, 33:14, 35:25, 44:18, 47:14, 49:19, 51:22, 51:23, 53:6, 54:4, 55:22, 62:4, 62:6, 62:7, 63:8, 64:23, 69:23, 70:16, 70:17, 70:18, 72:10, 78:17, 79:11, 81:11, 93:23, 93:24</p> <p>upstairs [1] - 45:25</p> <p>US [1] - 30:10</p>	<p>58:16, 71:17, 75:8, 94:7</p> <p>wasted [1] - 83:22</p> <p>wasting [1] - 80:14</p> <p>watchdog [1] - 93:20</p> <p>weakness [12] - 22:17, 22:20, 22:24, 55:10, 56:12, 57:8, 57:10, 57:14, 83:25, 84:1, 86:6, 86:7</p> <p>weaknesses [7] - 22:23, 77:17, 77:20, 77:23, 77:24, 86:9, 86:13</p> <p>Whoa [4] - 31:6, 33:15, 54:17, 66:15</p> <p>whole [9] - 11:8, 31:23, 32:12, 40:4, 40:20, 47:19, 88:7, 97:6</p> <p>wholeheartedly [1] - 93:14</p> <p>Wieder [14] - 13:12, 24:18, 34:4, 37:10, 38:4, 40:5, 47:2, 47:4, 52:3, 81:9, 81:13, 84:18, 88:12, 91:19</p> <p>Wieder's [6] - 44:19, 44:23, 47:16, 52:7, 77:6, 81:20</p> <p>wife [1] - 82:4</p> <p>Wikipedia [3] - 56:16, 56:18</p> <p>Wiss [6] - 54:16, 55:22, 74:4, 82:16, 90:18, 90:22</p> <p>witness [6] - 11:13, 11:18, 18:14, 28:14, 48:7, 62:24</p>	<p>writing [1] - 36:5</p> <p>written [3] - 41:23, 50:25, 55:25</p>
<p>U</p> <p>ultimately [1] - 24:13</p> <p>unaudited [1] - 60:7</p> <p>unbecoming [5] - 72:19, 72:24, 73:4, 93:13, 93:15</p> <p>unclassified [1] - 14:14</p> <p>uncontradicted [1] - 53:22</p> <p>under [5] - 3:19, 20:18, 22:9, 26:20, 96:3</p>	<p>V</p> <p>Valley [1] - 1:12</p> <p>various [2] - 25:9, 95:3</p> <p>vast [1] - 64:9</p> <p>verify [1] - 42:10</p> <p>VI [2] - 8:4, 8:7</p> <p>Victim [1] - 10:2</p> <p>view [4] - 38:12, 38:25, 40:8, 55:11</p> <p>violated [1] - 34:1</p> <p>violation [3] - 35:3, 42:15, 45:8</p> <p>virtually [1] - 50:19</p> <p>visibility [1] - 42:17</p> <p>voice [1] - 44:10</p> <p>vote [1] - 36:3</p> <p>votes [1] - 16:12</p>	<p>WITNESS [2] - 2:3, 28:17</p> <p>witnesses [7] - 28:18, 28:21, 28:23, 75:11, 91:13, 95:6</p> <p>women [2] - 88:24, 90:16</p> <p>women's [1] - 84:18</p> <p>wonder [2] - 7:4, 9:20</p> <p>word [2] - 36:20, 66:4</p> <p>words [7] - 30:9, 33:24, 34:12, 34:21, 42:5, 49:12</p> <p>works [1] - 39:3</p> <p>world [2] - 31:1, 48:15</p> <p>worry [1] - 54:13</p> <p>write [5] - 11:10, 50:20, 54:19, 57:12, 70:9</p> <p>writes [1] - 69:3</p>	<p>Y</p> <p>Yard [31] - 36:18, 37:3, 37:9, 37:10, 37:20, 37:25, 38:5, 39:7, 44:22, 46:11, 47:4, 47:18, 48:1, 49:9, 52:2, 52:11, 55:23, 59:5, 62:9, 62:20, 62:22, 62:25, 68:17, 70:4, 75:16, 75:24, 79:20, 84:18, 88:13, 89:14, 91:19</p> <p>yard's [6] - 39:7, 42:2, 42:12, 50:18, 64:7, 77:8</p> <p>year [15] - 5:12, 6:10, 7:17, 8:1, 14:9, 21:4, 23:6, 28:6, 50:25, 53:17, 68:10, 83:10, 83:11, 85:12, 85:20</p> <p>year's [2] - 14:11, 14:12</p> <p>year-end [2] - 85:12, 85:20</p> <p>years [24] - 7:15, 15:18, 18:22, 28:7, 30:18, 33:22, 37:9, 37:22, 38:16, 38:17, 38:18, 38:19, 43:4, 65:17, 65:18, 71:16, 73:20, 75:14, 81:4, 83:20, 84:2, 88:19, 90:13, 95:13</p> <p>yesterday [2] - 79:2, 79:14</p>
	<p>W</p> <p>W-4s [1] - 39:20</p> <p>Wage [1] - 14:8</p> <p>wage [2] - 14:17, 14:21</p> <p>wages [1] - 14:6</p> <p>wait [9] - 31:6, 33:6, 33:15, 54:17, 59:5, 59:6, 67:24, 79:23, 82:12</p> <p>waited [1] - 41:4</p> <p>waiver [1] - 86:17</p> <p>wants [8] - 32:6, 38:13, 42:7, 58:15,</p>	<p>Z</p> <p>zealous [1] - 94:24</p> <p>zero [6] - 57:7, 58:11, 58:12, 58:15, 58:16, 60:5</p>	