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COUNTY OF HUNTERDON  
NOTICE OF DISCIPLINARY ACTION  
Monday, November 4, 2013  
9:00 to 4:30

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

I N D E X



09:15:37 1 MR. FLORIO: Ready when you are, Mr.  
09:15:38 2 DeSapio.  
09:15:39 3 MR. DESAPIO: Can we just talk about the  
09:15:41 4 schedule for a second?  
09:15:48 5 MR. FLORIO: Sure.  
09:15:49 6 MR. DESAPIO: I have that we are going until  
09:15:50 7 two o'clock today.  
09:15:52 8 MR. FLORIO: Okay.  
09:15:52 9 MR. DESAPIO: Thursday. Correct.  
09:15:55 10 MR. GANTNER: Yes.  
09:15:56 11 MR. DESAPIO: And then we are ending at one  
09:16:01 12 o'clock.  
09:16:01 13 MR. FLORIO: Thursday we are going from nine  
09:16:03 14 to one.  
09:16:03 15 MR. GANTNER: That's correct.  
09:16:05 16 MR. DESAPIO: Now, did we pick any other  
09:16:07 17 dates and do we want to throw out tentative dates now so  
09:16:11 18 we can check before we are done for today?  
09:16:16 19 MR. FLORIO: I can if you can.  
09:16:17 20 MR. GANTNER: I am hoping that I will be  
09:16:20 21 done by Thursday.  
09:16:23 22 Mr. Giacobbe will handle it from there. He  
09:16:27 23 is on vacation -- he has to catch a plane on Thursday  
09:16:32 24 and, I believe, he is going to be gone for a week. I  
09:16:36 25 don't want to speak for his schedule. We have to wait

09:16:40 1 for him to do that part.

09:16:42 2 MR. FLORIO: All right.

09:16:43 3 MR. GANTNER: Sorry.

09:16:44 4 MR. FLORIO: We know we are going until two  
09:16:46 5 today, and then you are going to be ready, Mr. Gantner,  
09:16:51 6 to proceed on Thursday from nine to one.

09:16:54 7 MR. GANTNER: I will.

09:16:54 8 MR. FLORIO: When Mr. Giacobbe arrives today  
09:16:57 9 we will try to look beyond his return from vacation.

09:17:03 10 MR. GANTNER: I appreciate that. Rather  
09:17:06 11 than me speak for him.

09:17:07 12 MR. FLORIO: I am all right with that.

09:17:09 13 Mr. DeSapio, it's 9:15. Let's go right  
09:17:13 14 through until, like, 12, is that okay, go right through  
09:17:18 15 until 12 and maybe take a half an hour then, and then we  
09:17:21 16 will finish up?

09:17:22 17 MR. DESAPIO: Can I just ask who might have  
09:17:24 18 all of the exhibits in case we need them -- when we need  
09:17:29 19 to refer to them. The original exhibits are someplace.

09:17:39 20 MR. GANTNER: Ms. Taylor is going to get  
21 them.

09:18:33 22 CINDY YARD PREVIOUSLY SWORN.

09:18:36 23 CROSS-EXAMINATION CONTINUED BY MR. DESAPIO:

09:27:09 24 Q. Good morning, Ms. Yard.

09:27:10 25 A. Good morning, Guy.

09:27:12 1 How are you?

09:27:13 2 Q. Who hires the County auditors?

09:27:18 3 A. It's by resolution, the Board of Chosen  
09:27:22 4 Freeholders.

09:27:22 5 Q. How familiar are you with the County audit and  
09:27:27 6 the County audit process?

09:27:30 7 A. Very limited.

09:27:38 8 Q. What is your understanding of what the County  
09:27:40 9 audit is designed to cover?

09:27:47 10 A. I know the County is required to have an annual  
09:27:51 11 independent audit, and I know that they follow the  
09:27:59 12 standards of practice for auditing. I don't know all of  
09:28:05 13 the intricacies of what they audit and what their  
09:28:08 14 standards of practice are.

09:28:09 15 I know that the Board of Chosen Freeholders  
09:28:13 16 passed a resolution to hire them. I know that they come  
09:28:18 17 in and they conduct the audit over several months.

09:28:24 18 I know that they are assigned or work with the  
09:28:31 19 Department of Finance. That's where most of the audit  
09:28:34 20 takes place, although they do go out and do offsite  
09:28:40 21 auditing, and that's my knowledge of the extent of what  
09:28:47 22 is audited and the process.

09:28:49 23 Q. Uh-huh. So is it your understanding then that  
09:28:54 24 they audit more than just the Finance Department?

09:29:02 25 A. They audit the finance service delivery

09:29:09 1 wherever -- you know -- those services take place, so  
09:29:14 2 it's not just the department. Right.

09:29:16 3 Q. It's just not the department?

09:29:18 4 A. It's not just the department, Guy, I am sorry, it  
09:29:21 5 is who ever delivers finance services, the areas.

09:29:28 6 Q. Okay. I am going to hand you PB-5.

09:29:33 7 Do you recognize what that is?

09:29:40 8 A. This is their audit findings.

09:29:44 9 The title says, "Report on Internal Control Over  
09:29:47 10 Financial Reporting and On Compliance and Other Matters  
09:29:51 11 Based on an Audit of Financial Statements Performed in  
09:29:55 12 Accordance with Government Auditing Standards."

09:29:57 13 It's the Wiss report for the 2012 audit.

09:30:04 14 Q. And did I understand you to testify on direct  
09:30:09 15 examination that served as the basis for your filing  
09:30:17 16 disciplinary charges against Margaret Pasqua and Kim  
09:30:23 17 Browne?

09:30:25 18 A. Yes.

09:30:26 19 Q. All right.

09:30:27 20 Is it your position that each and every item in  
09:30:31 21 there was their responsibility?

09:30:39 22 A. Each and every item in this audit, as it states,  
09:30:44 23 "Report on Internal Control Over Financial Reporting and  
09:30:49 24 the Internal Controls" ultimately were with Margaret  
09:30:54 25 Pasqua and Kim Browne.

09:30:57 1 Q. Well, is it your understanding that document you  
09:31:02 2 have in front of you is not just limited to comments  
09:31:05 3 about internal controls?

09:31:09 4 A. Yes. I do understand that.

09:31:11 5 Q. Okay. Are there items in there that do not deal  
09:31:16 6 with internal controls that are not the responsibility  
09:31:21 7 or were not the responsibility of Kim Browne and  
09:31:23 8 Margaret Pasqua?

09:31:25 9 A. The ultimate internal controls and the results of  
09:31:31 10 this audit, which are a barometer of our success in  
09:31:36 11 delivering financial services, ultimately rests with  
09:31:41 12 Margaret Pasqua and Kim Browne.

09:31:45 13 Q. Okay. Look through PB-5, please, if you would,  
09:31:53 14 until you get to the item that's marked in the margin as  
09:31:58 15 number one.

09:31:58 16 A. What page?

09:32:00 17 Q. I don't think that is paginated, but it would  
09:32:04 18 seem to me it's probably Page 3.

09:32:06 19 When I say "it's not paginated," I don't see page  
09:32:11 20 numbers on my copy.

09:32:12 21 A. It says "County-169."

09:32:15 22 Q. You have one that's Bates stamped. Okay.

09:32:21 23 If I can just bother you for a second and take a  
09:32:21 24 look at it. I will make sure it coordinates with what I  
09:32:24 25 am asking you about.

09:32:25 1 That way we will save time.

09:33:02 2 Okay. PB-5 --

09:33:05 3 A. Is it marked?

09:33:06 4 Q. -- marked on the right-hand bottom where it says,  
09:33:08 5 "County-169."

09:33:09 6 A. Uh-huh.

09:33:10 7 Q. Do you see item "2012-1"?

09:33:17 8 A. Yes. Entitled "Material Weakness in Internal  
09:33:21 9 Control."

09:33:21 10 Q. Right. Okay.

09:33:23 11 Can you explain what that audit comment says?

09:33:33 12 A. I can read what it says.

09:33:35 13 It says -- you want the criteria, the condition  
09:33:39 14 or the context, Guy, what do you want me --

09:33:43 15 Q. No. I am not asking you to read it.

09:33:45 16 A. Okay.

09:33:46 17 Q. I am asking you if you understand it and can  
09:33:49 18 explain it, what it says.

09:33:52 19 A. It says, if you have "A properly functioning  
09:33:54 20 financial statement close process provides an adequate  
09:33:59 21 internal control system to ensure that appropriate month  
09:34:02 22 and year-end internal controls are in place to ensure  
09:34:06 23 that financial statements are produced on a timely basis  
09:34:09 24 and are materially accurate."

09:34:12 25 Q. Do you know what that means?



09:34:17 1 A. Well, just what it says, that if you have a  
09:34:19 2 properly functioning financial statement, that is an  
09:34:25 3 adequate internal control to ensure that the appropriate  
09:34:28 4 month and year-end internal controls are in place and  
09:34:32 5 that they are produced on a timely basis and are  
09:34:34 6 materially accurate.

09:34:35 7 Q. Can you describe how that would be set up, a  
09:34:40 8 "properly functioning financial statement close  
09:34:42 9 process"?

09:34:44 10 A. No, I can't, because I am not licensed, nor is it  
09:34:50 11 my responsibility to do that.

09:34:53 12 Q. Okay. Do I understand correctly you based your  
09:35:00 13 charges against Kim Browne and Margaret Pasqua just on  
09:35:05 14 the fact that these audit comments existed?

09:35:09 15 A. No. That's not correct.

09:35:12 16 Q. Let's go through 2012-1.

09:35:20 17 Look at the first bullet point. I will call it a  
09:35:23 18 "bullet point."

09:35:24 19 A. You mean the 2012-1?

09:35:27 20 Q. 2012-1.

09:35:29 21 A. I want to stay with you. That's all right.

09:35:31 22 Q. The first bullet point, "Revenue Accounts  
09:35:35 23 Receivable-Hunterdon County Consolidated Transportation  
09:35:38 24 System," what is the "Hunterdon County Consolidated  
09:35:42 25 Transportation System"?

09:35:44 1 A. That is our transportation services that we  
09:35:47 2 deliver to our citizens.

09:35:50 3 Q. Okay. And by whom are those services provided?

09:35:55 4 A. That's an outside -- we contract out with  
09:36:03 5 operations to deliver those transportation services.

09:36:07 6 Q. And who made the decision to contract out  
09:36:11 7 transportation services?

09:36:17 8 A. If my memory serves me correctly, I think years  
09:36:20 9 ago it was you, Guy, when you were the County counsel.  
09:36:23 10 I remember Mr. Freeholder Melick telling me that when we  
09:36:27 11 were going to provide transportation, at least that's my  
09:36:31 12 memory.

09:36:33 13 Q. Does the County counsel decide to have an  
09:36:36 14 independent agency provide transportation services?

09:36:40 15 A. No, but the County counsel certainly provides  
09:36:43 16 legal guidance to a governing body to protect the  
09:36:48 17 county's interest and, I believe, again, I am not 100  
09:36:53 18 percent sure, but when the time came predating me,  
09:36:58 19 predating -- you know -- many of the people that work  
09:37:02 20 here when the counsel -- County decided that they didn't  
09:37:05 21 want to be in the business of transportation, delivering  
09:37:09 22 transportation, but they knew it was something that they  
09:37:12 23 wanted to provide the citizens, my recollection is that  
09:37:16 24 you guided the Board, but I may be wrong.

09:37:19 25 Q. Did the Board of Chosen Freeholders make the

09:37:23 1 ultimate decision to contract with a third party?

09:37:27 2 A. Absolutely. They are the policymakers of this  
09:37:30 3 County.

09:37:31 4 Q. When they made that decision, did they decide  
09:37:34 5 where the financial records of the system would be  
09:37:41 6 housed and located?

09:37:45 7 A. Again, it predates me.

09:37:48 8 I don't know.

09:37:50 9 Q. Okay. Do you know where the financial records of  
09:37:52 10 the system are housed and located?

09:37:55 11 A. Yes. In Human Services.

09:37:58 12 Q. Okay. And where is the Finance Department  
09:38:04 13 located, physically, where is that?

09:38:09 14 A. The floor that we are on in this building.

09:38:12 15 Q. Okay. And where is the transportation system  
09:38:15 16 located?

09:38:16 17 A. It's over in Route 31. It's under the  
09:38:20 18 consolidated model of Human Services.

09:38:23 19 Q. Now, presently, who is in charge of the financial  
09:38:28 20 records for the Hunterdon County Transportation System?

09:38:34 21 A. It ultimately is the Finance Department. I  
09:38:41 22 believe there is a relatively new employee over there in  
09:38:45 23 Human Services, but it's ultimately the Finance  
09:38:48 24 Department's.

09:38:50 25 Q. The Finance Department has the records for the

09:38:52 1 transportation system?

09:38:53 2 A. No. No.

09:38:55 3 The actual finance and the financial matters is  
09:39:01 4 ultimately the Finance Department.

09:39:03 5 Q. Who maintains the records for the transportation  
09:39:08 6 system?

09:39:10 7 A. I believe it's out at Route 31.

09:39:13 8 Q. And what's the employee's name who maintains it?

09:39:18 9 A. It's a new employee.

09:39:22 10 Her name escapes me right now, but the managerial  
09:39:29 11 executive out there is Jim Shore.

09:39:33 12 Q. Does she oversee that person that maintains the  
09:39:39 13 financial records for the Consolidated Transportation  
09:39:45 14 System?

09:39:45 15 A. Yes. It's part of her managerial executive  
09:39:45 16 duties, yes.

09:39:45 17 Q. Okay. And do you know how that operation works?

09:39:55 18 A. No, I don't.

09:39:55 19 Q. You don't?

09:39:56 20 A. No, I don't.

09:39:57 21 Q. Okay. Is there anything in writing, as far as  
09:40:01 22 you know, that says the Finance Department is  
09:40:09 23 responsible overseeing Jim Shore or the operation of the  
09:40:12 24 Consolidated Financial System records?

09:40:18 25 A. I know that the license of a CMFO and a CCFO

09:40:27 1 identifies the responsibility of custody of public  
09:40:33 2 funds, and there are other responsibilities, so  
09:40:36 3 ultimately all of the financial matters in Hunterdon  
09:40:40 4 County in our public service delivery system is  
09:40:43 5 ultimately the responsibility of Margaret Pasqua and Kim  
09:40:48 6 Browne.

09:40:48 7 Q. Is there anything in writing that the County has  
09:40:52 8 adopted, freeholders or you have adopted internally,  
09:40:59 9 that says that the Finance Department is responsible for  
09:41:02 10 overseeing Jim Shore or the operation, the financial  
09:41:06 11 operation of the Consolidated Transportation System?

09:41:10 12 A. The Finance Department is ultimately responsible  
09:41:15 13 for all of the financial matters in Hunterdon County,  
09:41:19 14 and the answer to your question is, "I do not know that  
09:41:22 15 there is anything in writing."

09:41:23 16 Q. Okay. Now, do you understand this first bullet  
09:41:30 17 point comment to be that the -- strike that. Ignore the  
09:41:41 18 first part of that question.

09:41:42 19 Who was the auditor prior to Wiss?

09:41:46 20 A. Wiss?

09:41:48 21 Q. Wiss.

09:41:49 22 A. Samuel Klein, I believe.

09:41:51 23 Q. Do you understand this first bullet point comment  
09:41:54 24 that we are talking about that Samuel Klein had reported  
09:41:59 25 as of December 31st, 2011 that the transportation system

09:42:05 1 owed downtown \$160,564.77?

09:42:14 2 A. Are you asking me if I know what Samuel Klein's  
09:42:18 3 report stated?

09:42:20 4 Q. Yes. Uh-huh.

09:42:22 5 A. No, I don't know that.

09:42:22 6 Q. Did you understand his first comment that Wiss  
09:42:28 7 reviewed the 2011 audit and decided that instead of the  
09:42:34 8 figure being 160,564.77, that the figure should have  
09:42:40 9 been zero?

09:42:44 10 A. What I understand from these bullets is that  
09:42:50 11 Wiss, our auditor for 2012, said that there were several  
09:42:55 12 instances that the audited account balances had to be  
09:42:59 13 restated because they were not materially accurate.

09:43:03 14 That's what I know.

09:43:04 15 Q. Okay. And did you do any investigation on your  
09:43:11 16 own to determine why it was that they were not  
09:43:14 17 materially accurate?

09:43:18 18 A. No.

09:43:19 19 Q. The next bullet item, "Golf Course," it was  
09:43:24 20 reported at -- is the golf course -- how is the golf  
09:43:35 21 course operated? By whom?

09:43:37 22 A. It's a third party vendor who we are in a  
09:43:44 23 contract for operations to operate the golf course.

09:43:47 24 Q. Who made the decision to have the golf course  
09:43:53 25 operated by a third party vendor?

09:43:55 1 A. Ultimately it would have been the Board of Chosen  
09:43:59 2 Freeholders.

09:43:59 3 Q. Okay. And where are the financial books and  
09:44:04 4 records of the actual day-to-day operation of the golf  
09:44:07 5 course kept?

09:44:09 6 A. I am not sure.

09:44:11 7 Q. Okay. When the freeholders established -- put  
09:44:20 8 out a bid proposal in order to obtain an operator for  
09:44:24 9 the golf course --

09:44:25 10 A. Yes, they did.

09:44:26 11 You, as former County counsel, were very involved  
09:44:29 12 in helping us go through the process.

09:44:32 13 I remember there was a committee of people, and  
09:44:35 14 you were on it.

09:44:37 15 Q. When that bid proposal was put out, did the  
09:44:43 16 freeholders adopt any policy or procedure that charged  
09:44:48 17 the Finance Department with maintaining the financial  
09:44:52 18 books and records for the golf course?

09:44:55 19 A. I am not aware of it.

09:44:59 20 Q. Was there actually, in connection with the golf  
09:45:01 21 course, some political controversy and difference of  
09:45:05 22 opinion between the freeholders about starting the golf  
09:45:09 23 course?

09:45:14 24 A. That predated me, but there was -- there was some  
09:45:22 25 difference on the Board and our former governance is our

09:45:28 1 majority rules.

09:45:29 2 Q. And did you have any sense in the 15 years that  
09:45:32 3 you were the County administrator, or you have been the  
09:45:34 4 County administrator, that the political support, the  
09:45:41 5 people who politically supported the golf course on the  
09:45:44 6 Freeholder Board, wanted to keep the operation as  
09:45:48 7 detached from, what I will call, "downtown" from the  
09:45:53 8 administration as possible?

09:45:57 9 MR. GANTNER: Objection; relevance.

09:45:59 10 MR. FLORIO: Overruled.

09:46:00 11 You can answer.

09:46:04 12 A. Would you ask me again -- I am sorry -- Guy.

09:46:07 13 MR. DESAPIO: Can you read that question  
09:46:08 14 back to the witness?

09:46:08 15 (Whereupon, the court reporter reads as  
09:46:42 16 requested.)

09:46:42 17 A. I don't know that I can answer why the Board  
09:46:45 18 makes the decisions they do, but the decision was to  
09:46:49 19 continue it as a third party outside vendor.

09:46:53 20 Q. Uh-huh. Talking about bullet point one and two,  
09:47:05 21 were you aware that these entries, similar types of  
09:47:10 22 entries, had been on the County books for a number of  
09:47:12 23 years prior even to the appointment of Margaret Pasqua  
09:47:17 24 and Kim Browne to their positions?

09:47:26 25 A. I don't know that I am knowledgeable about what



09:47:31 1 was on the books before, but I do know that this new  
09:47:34 2 auditing firm came in and audited, evidently by  
09:47:39 3 standards of practices in auditing and came up with  
09:47:43 4 these examples.

09:47:46 5 Q. Uh-huh. Before deciding to file disciplinary  
09:47:53 6 charges based in part on these audit comments, did you  
09:48:02 7 investigate the meaning of them at all?

09:48:08 8 A. This was an outside independent auditing firm  
09:48:12 9 that came in, audited our financial books in accordance  
09:48:16 10 with standards of practices, and these were their  
09:48:19 11 findings.

09:48:19 12 No, I did not, nor am I licensed to do that, you  
09:48:28 13 know.

09:48:28 14 Q. As the County administrator, do you need a  
09:48:35 15 license in order to evaluate whether you want to hold an  
09:48:39 16 employee accountable for a particular action or  
09:48:43 17 inaction?

09:48:45 18 A. It's interesting you bring that up, Guy, because  
09:48:48 19 when you and I had a conversation in my office when I  
09:48:54 20 was asking for some guidance as far as supervising the  
09:48:59 21 assistant County counsel, and you were very, very  
09:49:03 22 resolved that only an attorney could supervise an  
09:49:07 23 attorney, and I remember wanting to talk with you, and  
09:49:14 24 you were giving me guidance, so, no, I don't manage  
09:49:20 25 professionals, but I certainly manage people, and as

09:49:25 1 soon as things came to my attention, I reacted, and this  
09:49:31 2 was an independent audit by an audit group who audit  
09:49:37 3 within the standards of practice of auditing, and they  
09:49:41 4 found, whether they were there before or they were there  
09:49:45 5 when other people audited, this was their -- these were  
09:49:51 6 their findings.

09:49:54 7 Q. And as a part of managing people, when an  
09:50:00 8 employee is criticized, do you feel you have an  
09:50:02 9 obligation to conduct an investigation before  
09:50:06 10 determining -- or at least review an issue before  
09:50:08 11 determining that they are responsible for the situation?

09:50:15 12 A. It depends on the case and the situation.

09:50:21 13 Q. The third bullet point says, "Engineering fees  
09:50:23 14 were reported as \$24,466.30 as of December 31st, 2011,  
09:50:29 15 but should have been zero."

09:50:31 16 I take it your answer -- well, let me just ask.

09:50:36 17 Did you independently ask what that was in regard  
09:50:40 18 to?

09:50:41 19 A. No, because if you look at the condition of the  
09:50:46 20 material weakness, 2012-1, it states that they were not  
09:50:56 21 materially accurate and, in fact, they had to be  
09:51:02 22 restated, so my answer is the same.

09:51:08 23 Q. If you had been told or knew that that third  
09:51:13 24 bullet point involved a check for that amount,  
09:51:20 25 24,466.30, which had been written by the Engineering

09:51:24 1 Department in December and transmitted to the Finance  
09:51:30 2 Department, and that check had not yet cleared the bank,  
09:51:34 3 and the Finance Department was still showing it as due  
09:51:38 4 on their books simply because the check had not yet  
09:51:42 5 cleared, would that change your opinion as to whether or  
09:51:46 6 not this was a serious problem for which the Finance  
09:51:49 7 Department officer should be disciplined?

09:51:52 8 A. I believe that when the definition of a material  
09:51:56 9 weakness is severe enough that they gave examples, and  
09:52:03 10 if one of the examples or even two of the examples were  
09:52:10 11 not correct, that would be certainly in our plan of  
09:52:13 12 correction or Corrective Action Plan.

09:52:17 13 A material weakness, from what I understand, is  
09:52:20 14 more of a systemic issue, and there are several examples  
09:52:27 15 of why that became a material weakness in internal  
09:52:32 16 control, but certainly we would correct it if -- if it  
09:52:36 17 was incorrectly stated.

09:52:40 18 That would be -- the Corrective Action Plan would  
09:52:41 19 be the place, the forum, to make those changes.

09:52:47 20 Q. But would that event in and of itself in your  
09:52:52 21 mind justify disciplining the two chief people in your  
09:52:57 22 Finance Department?

09:52:58 23 MR. GANTNER: Objection; asked and answered.

09:53:00 24 MR. FLORIO: Sustained.

09:53:01 25 Q. Now, you know who Mr. Gannon is, right, Dave

09:53:06 1 Gannon?

09:53:06 2 A. Uh-huh.

09:53:07 3 Q. Okay. Did you have any conversation with him  
09:53:11 4 about why he characterized these items as "material"?

09:53:20 5 A. Did I personally have a conversation with him why  
09:53:24 6 the depth and breadth of these -- no, not personally.

09:53:28 7 Q. Did he tell you or report to you at any time that  
09:53:32 8 the only reason that he characterized these entries,  
09:53:38 9 correction of these entries as "material" was because of  
09:53:41 10 the size of them?

09:53:46 11 A. No, he didn't tell me that.

09:53:47 12 Q. Did these entries, the correction of these  
09:53:52 13 entries on the books of the County, result in there  
09:53:57 14 being any missing money?

09:54:06 15 A. No, these were mistakes on paper, I believe.

09:54:15 16 Q. When you looked at this as the County  
09:54:20 17 administrator and you saw "golf course" was reported at  
09:54:31 18 1,836,041.33, but should have been zero, did you say to  
09:54:41 19 yourself, "I should understand that better given the  
09:54:44 20 size of how large that is"?

09:54:45 21 A. No, I didn't.

09:54:48 22 Q. Did any of the freeholders ask you to investigate  
09:54:53 23 that?

09:54:54 24 MR. GANTNER: Objection.

09:54:55 25 It calls for hearsay.

09:54:57 1 MR. FLORIO: Overruled.

09:55:06 2 Q. Did any of the freeholders ask you to investigate  
09:55:12 3 why that figure in the 2011 audit was 1,836,041.43, but  
09:55:21 4 that Wiss wanted to restate it as zero, did they ask you  
09:55:27 5 to investigate or did they ask you why that was?

09:55:34 6 A. The results of the audit are what resulted in the  
09:55:40 7 charges against Margaret Pasqua and Kim Browne.

09:55:43 8 Q. Okay. Did Mr. Gannon say to you at any time that  
09:55:49 9 he was not expressing an opinion as to whether or not  
09:55:51 10 there was any fault or responsibility of any particular  
09:56:02 11 County employee, but that he was just reporting his  
09:56:02 12 accounting determinations and that the determination as  
09:56:05 13 to fault would rest with the County?

09:56:09 14 A. He and I never had a conversation like that.

09:56:13 15 Q. Now, the trust fund, County Clerk Trust Fund Cash  
09:56:28 16 and Reserve was reported at zero, but should have been  
09:56:33 17 457,523.31.

09:56:33 18 Does the Finance Department have any control over  
09:56:37 19 the County clerk's trust fund?

09:56:42 20 A. The Finance Department is ultimately responsible  
09:56:44 21 for all of the financial items in the County, so even  
09:56:55 22 though that trust fund is under the County clerk, it  
09:56:58 23 still is calculated and still considered public funds  
09:57:06 24 where Margaret Pasqua and Kim Browne would have been the  
09:57:09 25 custody of public funds.

09:57:11 1 Q. Do you know where the records for the trust fund  
09:57:13 2 are maintained?

09:57:17 3 A. No, I don't, not for sure, no.

09:57:19 4 Q. Uh-huh. "Planning Board Developers Escrow Fund  
09:57:26 5 Cash and Reserve," do you know where that's maintained?

09:57:36 6 A. No, but I would imagine each department, even  
09:57:39 7 though it's a centralized finance delivery system, most  
09:57:48 8 likely keeps copies of their records in their own areas.

09:57:53 9 Q. Is it not the case that some of these  
09:57:58 10 departments -- well, let's just talk about the ones you  
09:58:04 11 testified to already.

09:58:05 12 The transportation and the golf course keep their  
09:58:08 13 own records, correct, not just copies of them?

09:58:10 14 A. I believe so.

09:58:12 15 Q. And the planning board, does it keep its own  
09:58:16 16 records about its development fund?

09:58:19 17 A. I believe so. It's under the auspices of the  
09:58:22 18 Finance Department, though.

09:58:24 19 Q. And is your answer going to be -- I shouldn't ask  
09:58:33 20 it that way. I apologize.

09:58:37 21 Are there any County-written policies or  
09:58:39 22 procedures that say the Finance Department has any  
09:58:43 23 special responsibility in connection with overseeing the  
09:58:48 24 funds that are independently maintained by a County  
09:58:51 25 department or County clerk constitutional officer, any

09:58:58 1 County-written policy?

09:59:04 2 A. It's all part of the County budget and Finance  
09:59:07 3 handles the County budget.

09:59:13 4 Q. So would it surprise you then that each year the  
09:59:19 5 auditors go out to these independent departments and the  
09:59:27 6 constitutional officers and look at their books and then  
09:59:30 7 come back and report the balance to the Finance  
09:59:35 8 Department?

09:59:35 9 A. It's my understanding that they don't just go out  
09:59:38 10 to these independent departments. They go out to  
09:59:43 11 however they are conducting their audit, so it's not  
09:59:48 12 only the four constitutional officers. I am including  
09:59:52 13 the prosecutor as one of those, but many of the  
09:59:56 14 departments are visited, and then I don't know how they  
10:00:04 15 communicate their findings back to Finance, but there  
10:00:08 16 is -- they do go offsite to audit, and they come back  
10:00:12 17 and somehow come up with a report with their audit  
10:00:16 18 findings.

10:00:16 19 Q. Okay. "Surrogate's office, guardianship  
10:00:22 20 account," is the surrogate a constitutional officer?

10:00:24 21 A. Yes. The surrogate is a constitutional officer,  
10:00:27 22 as is the County clerk and the sheriff.

10:00:31 23 Q. Okay. And haven't you personally and the  
10:00:40 24 freeholders collectively as a group over the 15 years  
10:00:42 25 that you have been the County administrator had disputes

10:00:46 1 from time to time as to the extent to which you as the  
10:00:52 2 administrator and the freeholders to the Board can  
10:00:56 3 supervise their operations?

10:00:58 4 A. Certainly. Always referred to you as former  
10:01:02 5 County counsel for guidance, so that we are -- you  
10:01:05 6 know -- protecting the legal interest of the County,  
10:01:10 7 absolutely.

10:01:11 8 Q. Haven't there been times with the sheriff for  
10:01:16 9 one, where you have personally tried to withhold bills  
10:01:21 10 for payment, checks for payment for bills of the  
10:01:23 11 sheriff, and you have gotten into a dispute with the  
10:01:27 12 various sheriffs as to whether you had the authority to  
10:01:30 13 do that?

10:01:31 14 A. Yes, and the Board always looked to you for legal  
10:01:34 15 guidance. Absolutely.

10:01:43 16 Q. Okay. Next, Page 170, item number two,  
10:01:47 17 2012-2.

10:01:50 18 A. Uh-huh.

10:01:55 19 Q. Is that the issue that we spent some time talking  
10:01:58 20 about last time and probably the time before that in  
10:02:04 21 regard to the payment of health insurance bills?

10:02:08 22 A. You want to direct me where you want me to look?

10:02:12 23 Q. A third of the way down, Page 170 --

10:02:16 24 A. Okay.

10:02:16 25 Q. -- 2012-2.



10:02:20 1 Is the issue that the auditors raise in 2012-2,  
10:02:29 2 this issue of payment of health insurance bills which  
10:02:32 3 you testified extensively to previously?

10:02:36 4 A. Yes. Under the condition, but it also gives us  
10:02:40 5 examples.

10:02:43 6 Halfway down the page which you directed me to  
10:02:46 7 look at under 2012-2, it talks about an overall internal  
10:02:52 8 control system which talks about "a process that  
10:02:58 9 assesses the quality of internal control performance  
10:03:00 10 over time. Examples of monitoring procedures include  
10:03:05 11 but are not limited to, the following," and then it  
10:03:08 12 gives examples of how internal controls should take  
10:03:12 13 place, and then under the "Condition," it does say about  
10:03:15 14 the health benefit provider, and the County was paying  
10:03:18 15 for those individuals to receive health benefits.

10:03:23 16 Q. Prior to the receipt of this audit, the one you  
10:03:32 17 are looking at now, the "Comment" section, had you ever  
10:03:34 18 heard the term "internal control" as applicable to the  
10:03:42 19 financial operation of the County?

10:03:48 20 A. Have I ever heard the term "internal control"?

10:03:51 21 Q. Prior to the receipt of this audit, the one you  
10:03:57 22 are testifying to now.

10:03:57 23 A. Uh-huh.

10:03:58 24 Q. Had you ever heard the term "internal control" as  
10:04:02 25 applied to the financial operations of the County?

10:04:08 1 A. It certainly is one of their responsibilities as  
10:04:13 2 the custodian of public funds and is part of their  
10:04:17 3 license, Margaret Pasqua and Kim Browne.

10:04:20 4 Q. My question is, prior to the receipt of this  
10:04:22 5 audit, had you ever heard of the term "internal control"  
10:04:27 6 as applied to the financial operation of the County?

10:04:36 7 A. Yes, I have heard of the words "internal control"  
10:04:39 8 as it refers to a Finance Department, our Finance  
10:04:44 9 Department.

10:04:44 10 I know what the words "internal control" mean.

10:04:46 11 Q. I understand.

10:04:48 12 Had you heard of it prior to the receipt of this  
10:04:50 13 audit?

10:04:54 14 A. With reference to --

10:04:57 15 Q. The Finance Department.

10:04:58 16 A. The Finance Department. I heard the word  
10:05:01 17 "internal control" prior to the --

10:05:03 18 Q. Prior to the receipt of this audit?

10:05:05 19 A. Yes. Yes.

10:05:06 20 Q. Okay. Now, did you understand that the County  
10:05:10 21 purchasing policy was a form of internal control?

10:05:15 22 A. You brought that to my attention the last time  
10:05:18 23 when I was up on the stand where you said Mr. Gannon  
10:05:21 24 testified that it was an internal control.

10:05:24 25 Anything -- certainly when you look at the

10:05:28 1 criteria when Wiss defines what "internal controls" are,  
10:05:33 2 it certainly is -- anything from the Purchasing  
10:05:37 3 Department is part of internal control. Sure.

10:05:41 4 Q. Okay. Now, do you understand that there are two  
10:05:49 5 types of internal controls, one within a department, and  
10:05:54 6 one that crosses over various departments in the County?

10:06:09 7 A. That's -- I would agree with that -- well,  
10:06:13 8 internal controls, it's the degree in which the controls  
10:06:17 9 are defined or prescribed, so internal controls, it's  
10:06:24 10 not really different. Internal controls as Wiss  
10:06:27 11 described are monitoring functions, and so it's not a  
10:06:35 12 different internal control.

10:06:36 13 It's just, I know -- I believe what you're doing  
10:06:43 14 the internal controls for.

10:06:45 15 I don't know that it's different, Guy.

10:06:48 16 Q. So when the first bullet point says, "Ongoing  
10:06:52 17 monitoring built-in through independent reconciliations,  
10:06:56 18 staff meeting feedback, rotating staff, supervisory  
10:07:00 19 review and management review of reports," in regard to,  
10:07:05 20 say, like, the golf course, the Consolidated  
10:07:08 21 Transportation System, do you understand that comment as  
10:07:12 22 applying to those operations?

10:07:29 23 A. I agree that that first bullet discusses the  
10:07:35 24 responsibility of Margaret Pasqua and Kim Browne to  
10:07:44 25 supervise and review and management review of reports,

10:07:49 1 so if I haven't answered your question -- if I haven't,  
10:07:52 2 certainly ask it again, and I can try to answer it, but  
10:07:55 3 that looks appropriate for what the internal controls  
10:07:59 4 should be for a Finance Department.

10:08:03 5 Q. How would you describe the freeholders'  
10:08:06 6 philosophy and your philosophy concerning staffing of  
10:08:10 7 departments?

10:08:14 8 A. We make decisions based on need, not want.

10:08:18 9 Certainly if a manager is able to represent a  
10:08:27 10 need and has demonstrated that they are effectively  
10:08:35 11 utilizing their available staff, I believe that the  
10:08:40 12 Board, through the years, have been supportive of  
10:08:45 13 requests for additional staff.

10:08:48 14 Q. Uh-huh. Over the last few years, oh, going back,  
10:08:53 15 say, 2009, 2008, is the freeholders' philosophy because  
10:09:01 16 of physical crises to cut staff?

10:09:05 17 A. We had a hiring freeze.

10:09:07 18 As a matter of fact, the other day when you said  
10:09:08 19 about the points of light, Guy, I remember that was the  
10:09:11 20 manifesto, that you drafted for the Board when we knew  
10:09:16 21 that we were in the economic downturn and there were  
10:09:21 22 several points on that manifesto, but the Board put a  
10:09:27 23 freeze on hiring employees.

10:09:31 24 However, managers had the right to come before  
10:09:34 25 the Board and substantiate or justify the need for

10:09:39 1 additional staff, and then the Board -- the governing  
10:09:43 2 body made the ultimate decision whether the requests for  
10:09:48 3 additional staff would be adhered to or approved.

10:09:52 4 Q. Bullet point number two, "Periodic site visits  
10:09:55 5 performed at decentralized locations and checks  
10:09:58 6 performed to determine whether procedures are being  
10:10:01 7 followed as intended."

10:10:02 8 When it says, "decentralized locations," would  
10:10:05 9 you understand that to mean the golf course operation  
10:10:09 10 being someplace else, the transportation operation being  
10:10:12 11 someplace else?

10:10:13 12 A. Any department, any service delivery system of  
10:10:18 13 the County, yes, absolutely.

10:10:19 14 Q. As you understand the staffing of the Finance  
10:10:22 15 Department, did they have the personnel to be going out  
10:10:24 16 and making periodic site visits at decentralized  
10:10:29 17 locations?

10:10:32 18 A. Are you asking me if they were adequately  
10:10:35 19 staffed?

10:10:35 20 Q. No. I am asking you if they had the staff to go  
10:10:38 21 out and make periodic site visits at decentralized  
10:10:42 22 locations.

10:10:42 23 A. All the managers here in Hunterdon County have to  
10:10:46 24 prioritize what's important and how they spend their  
10:10:51 25 time.

10:10:51 1 Obviously, internal controls is a very important  
10:11:01 2 part of a Finance Department, specifically Margaret  
10:11:03 3 Pasqua and Kim Browne.

10:11:04 4 Q. Did you or the Board ever direct the Finance  
10:11:09 5 Department to go out and make periodic site visits at  
10:11:13 6 decentralized locations and check to perform whether  
10:11:18 7 procedures are being followed at these decentralized  
10:11:21 8 locations?

10:11:26 9 A. There have been a -- conversations about  
10:11:30 10 technical assistance to departments and with finances,  
10:11:35 11 but if you are asking me if there is a written policy,  
10:11:39 12 there is no written policy.

10:11:40 13 Q. Okay. The "technical assistance" means answering  
10:11:46 14 questions. Right?

10:11:50 15 A. Not just that.

10:11:50 16 Technical assistance in actualizing a budget,  
10:11:55 17 filling out a budget, any of the -- anything that falls  
10:12:01 18 under the Finance umbrella.

10:12:03 19 Q. Uh-huh. Now, the third bullet says, "Follow up  
10:12:06 20 on irregularities and deficiencies to determine the  
10:12:09 21 cause."

10:12:12 22 Isn't the case that when previous auditors  
10:12:17 23 determined in their "Comment" sections of the auditors  
10:12:20 24 that there was a deficiency that it was followed up on  
10:12:24 25 to determine the cause?

10:12:30 1 A. DCA requires a Corrective Action Plan, so that's  
10:12:38 2 one of the ways that you could follow up on  
10:12:42 3 irregularities and deficiencies to determine the cause,  
10:12:47 4 but there are certainly other ways which is explained --  
10:12:53 5 you know -- in some of their examples.

10:12:56 6 Q. Uh-huh. What about internal quality control  
10:12:59 7 reviews performed, did you or the freeholders ever  
10:13:04 8 direct or put in a policy that the Finance Department  
10:13:07 9 was supposed to go out and do internal quality control  
10:13:10 10 reviews of independent operations at decentralized  
10:13:17 11 locations?

10:13:20 12 A. It is part of the managerial executives.

10:13:25 13 We talked about this the other day, Guy, about  
10:13:28 14 our new -- all of the job descriptions and the change  
10:13:34 15 since May of 2012, but it's also part of the  
10:13:41 16 responsibility of their license, Kim Browne and Margaret  
10:13:46 17 Pasqua, but there is not a County policy that says they  
10:13:51 18 should follow the responsibilities of their license, no.

10:13:56 19 Q. Now, the next bullet says, "Management meets with  
10:13:59 20 program monitors."

10:14:00 21 Who are the "program monitors"?

10:14:04 22 A. Well, anybody that monitors this program.

10:14:07 23 Q. Well, who in particular are they talking about  
10:14:10 24 here, "program monitors"?

10:14:12 25 A. I don't know what the intent of Mr. Gannon's

10:14:17 1 statement is here, but, again, I can only tell you  
10:14:22 2 whoever monitors their programs.

10:14:24 3 Q. So you don't know what the intent is, but you  
10:14:28 4 know the blame is with Margaret Pasqua and Kim Browne.  
10:14:31 5 Is that what you are saying?

10:14:33 6 MR. GANTNER: Objection; argumentative.

10:14:35 7 MR. FLORIO: Sustained.

10:14:35 8 Q. Okay. Can management mean you, "Management meets  
10:14:42 9 with program monitors, auditors and reviewers to  
10:14:45 10 evaluate the condition of the program and controls,"  
10:14:47 11 could he be criticizing you there?

10:14:51 12 A. It's my understanding that when he -- I mean,  
10:14:55 13 this is about the management of the finance service  
10:15:02 14 delivery system in the County, but certainly I am a  
10:15:06 15 manager. Our first line supervisors are managers. Our  
10:15:11 16 middleman managers are managers, you are -- our senior  
10:15:15 17 managers are managers, and I am a manager, also.

10:15:18 18 Q. Next bullet point, "Internal audit or a  
10:15:22 19 designated employee routinely tests for compliance."

10:15:23 20 Does the County have an internal auditing  
10:15:27 21 department?

10:15:28 22 A. No, but it's the responsibility of both Margaret  
10:15:32 23 Pasqua and Kim Browne as part of their license.

10:15:36 24 Q. To conduct internal audits?

10:15:38 25 A. It says, "Develop internal controls to protect



10:15:43 1 the county's assets," so internal controls, part of  
10:15:48 2 internal controls could be an audit, it could be as they  
10:15:53 3 explain further up, staff meeting feedback, independent  
10:15:57 4 reconciliations, rotating staff, supervisory review and  
10:16:01 5 management review of reports.

10:16:04 6 "Internal controls" encompasses any check and  
10:16:09 7 balance that you would have to make sure that the  
10:16:15 8 county's assets are protected.

10:16:17 9 Q. So the last bullet point, "The governing body  
10:16:20 10 reviews the results of all monitoring or audit reports  
10:16:23 11 and periodically assesses the adequacy of corrective  
10:16:27 12 action," how can that be a criticism of Margaret Pasqua  
10:16:36 13 or Kim Browne?

10:16:37 14 MR. GANTNER: Objection.

10:16:38 15 There is an assumption in the question that  
10:16:40 16 there is a criticism, and I don't think that there is an  
10:16:45 17 appropriate foundation for that.

10:16:48 18 You say right in the report, "These are  
10:16:51 19 examples of monitoring providers."

10:16:55 20 MR. FLORIO: Mr. DeSapio, do you want to be  
10:16:58 21 heard on the objection?

10:16:59 22 MR. DESAPIO: I understand this witness'  
10:17:00 23 testimony that these comments serve as the foundation  
10:17:07 24 for her proposing to discipline and fire these two  
10:17:11 25 employees, and I am just trying to establish what in

10:17:16 1 here really could be related to their responsibility and  
10:17:19 2 what is the responsibility of others, and this says on  
10:17:23 3 its face, and I just wanted her to acknowledge, I am  
10:17:26 4 asking her whether she acknowledges that it doesn't  
10:17:28 5 apply to them.

10:17:29 6 MR. GANTNER: Actually, that's not her  
10:17:31 7 testimony.

10:17:31 8 Her testimony is that the audit report drew  
10:17:38 9 her attention to numerous deficiencies. She didn't hone  
10:17:45 10 in on these particular bullet points and say she relied  
10:17:46 11 on each and every one individually and, again, they are  
10:17:52 12 not by definition, they are not criticisms, because the  
10:17:55 13 report itself says what they are. They are examples of  
10:18:00 14 monitoring procedures.

10:18:01 15 MR. FLORIO: I understand your objection,  
10:18:02 16 but I will allow the question.

10:18:05 17 The inquiry is within the scope of the  
10:18:07 18 nature of the charges.

10:18:10 19 MR. DESAPIO: Can you read back the question  
10:18:11 20 and see whether it's inartfully asked, and, if so, I  
10:18:16 21 will re-ask it, but can you read back the question?

10:18:17 22 (Whereupon, the court reporter reads as  
10:18:47 23 requested.)

10:18:47 24 A. You want me to answer now?

10:18:49 25 Q. Yes.

10:18:52 1 A. The statement, "The governing body reviews the  
10:18:55 2 results of all monitoring or audit reports and  
10:18:58 3 periodically assesses the adequacy of corrective action"  
10:19:01 4 is an example.

10:19:03 5 It's not -- I don't view it as a criticism. I am  
10:19:08 6 not criticizing, and I did testify before that it was  
10:19:16 7 the totality of the audit report, not the individual  
10:19:23 8 examples.

10:19:24 9 Q. Uh-huh. So could this whole section then --  
10:19:31 10 strike that. Ignore that part.

10:19:34 11 The freeholders adopted the County purchasing  
10:19:37 12 policy, did they not?

10:19:42 13 A. In 1996, yes.

10:19:44 14 Q. Okay. Could this whole section be read to state  
10:19:51 15 that, "The freeholders should exercise their management  
10:19:57 16 responsibility to develop an internal control policy  
10:20:03 17 that covered these issues"?

10:20:11 18 A. No.

10:20:16 19 Q. Okay. Let's go to Page 175.

10:20:36 20 Do you, in fact, understand that there are two  
10:20:39 21 parts to PB-5, the first part, items one and two,  
10:20:45 22 "2012-1 and 2012-2," being items that were material, and  
10:20:53 23 there being a second part which begins with the  
10:20:55 24 "2012-3"?

10:20:57 25 A. The findings, yes.

10:20:59 1 Q. General comments?

10:21:01 2 A. Yes.

10:21:02 3 Q. Did Mr. Gannon ever describe to you that these  
10:21:09 4 items listed in this section could not be considered  
10:21:15 5 significant deficiencies?

10:21:22 6 A. Findings certainly have a different weight than a  
10:21:25 7 material weakness.

10:21:27 8 Q. Did he ever use the words with you that "They  
10:21:30 9 could not be considered significant deficiencies"?

10:21:32 10 A. Not that I recall. They are findings.

10:21:37 11 Q. In your 15 years as County administrator, have  
10:21:45 12 there been comments in each of the County audits that  
10:21:51 13 have been received during those 15 years?

10:21:55 14 A. As opposed to material weaknesses?

10:21:57 15 Q. Yes.

10:21:58 16 A. This is the first audit that there has ever been,  
10:22:02 17 to my knowledge, material weaknesses.

10:22:04 18 Q. That was not the question.

10:22:04 19 The question was, in the 15 years since you have  
10:22:08 20 been County administrator, have there ever been comments  
10:22:14 21 made in the general "Comments" section of the audit?

10:22:19 22 A. Yes.

10:22:20 23 Q. Okay. And has anyone ever been disciplined for  
10:22:27 24 comments made in the general "Comments" section of an  
10:22:31 25 audit in 15 years?

10:22:37 1 A. No.

10:22:38 2 Q. Okay. Let's take 2012-3.

10:22:43 3 What's your understanding of what happened there  
10:22:48 4 that resulted in that comment?

10:22:54 5 A. My understanding is what would be written, which  
10:22:58 6 said there were three -- revealed three instances in  
10:23:02 7 which the County did not properly encumber funds prior  
10:23:05 8 to placing an order with a vendor for the procurement of  
10:23:09 9 goods and services.

10:23:10 10 Q. Okay. Did you investigate what that meant or  
10:23:14 11 what that referred to?

10:23:15 12 A. No, I did not.

10:23:16 13 Q. Okay. Would you be surprised then if Mr. Gannon  
10:23:22 14 related to you that that was three instances where  
10:23:25 15 County employees, not Margaret Pasqua or Kim Browne,  
10:23:32 16 bought things prior to getting a purchase order?

10:23:37 17 A. The overall internal controls rest with Margaret  
10:23:43 18 Pasqua and Kim Browne.

10:23:46 19 Q. Would it surprise you then if Mr. Gannon had  
10:23:49 20 related that this situation involved County employees in  
10:23:56 21 three instances buying goods without getting a purchase  
10:24:00 22 order first, would it surprise you?

10:24:07 23 "Yes" or "no"?

10:24:09 24 A. No, finding that relates to any of the service  
10:24:14 25 delivery of financial services, no, it would not

10:24:17 1 surprise me.

10:24:18 2 Q. Okay. Can you explain for us, how in your  
10:24:24 3 estimation either Kim Browne or Margaret Pasqua can be  
10:24:28 4 responsible if a County employee goes out and orders  
10:24:32 5 something without getting a purchase order first?

10:24:42 6 A. The responsibility of that particular instance  
10:24:48 7 that you gave would certainly preliminarily lie with the  
10:24:55 8 person who was doing whatever the finding said.

10:25:00 9 However, the Finance Department, and before the  
10:25:07 10 bills are paid, that's the last stop and, perhaps, why  
10:25:17 11 the license is so specific as far as the  
10:25:20 12 responsibilities, so the actual "infraction," if you  
10:25:24 13 will, or "deficiency," or "finding," we seem to have a  
10:25:29 14 lot of words if somebody has done something wrong,  
10:25:32 15 somebody has done something wrong, but the actual checks  
10:25:36 16 and balances to prevent it from happening again lies  
10:25:44 17 with the Finance Department, specifically Margaret  
10:25:47 18 Pasqua and Kim Browne.

10:25:48 19 Q. Uh-huh. How would you propose that Margaret  
10:25:52 20 Pasqua and Kim Browne could stop somebody from going out  
10:26:02 21 and buying something without a purchase order, how do  
10:26:02 22 they physically do that?

10:26:02 23 A. Proactively they would not be able to do that,  
10:26:03 24 but reactively, and certainly preventively in putting  
10:26:08 25 internal controls in place, checks and balances, to

10:26:10 1 prevent it from ever happening, certainly lies with  
10:26:13 2 Margaret Pasqua and Kim Browne.

10:26:15 3 Q. Okay. Even though the other day you weren't  
10:26:17 4 familiar with the total process for paying a bill, you  
10:26:20 5 are familiar that you need a purchase order before you  
10:26:23 6 order something. Correct?

10:26:24 7 A. Yes.

10:26:24 8 Q. Okay. And as County administrator, when you read  
10:26:28 9 an audit comment somebody has bought something without a  
10:26:30 10 purchase order, you didn't conduct any investigation to  
10:26:33 11 see who did it and what department, whether the  
10:26:36 12 department head took disciplinary action, whether people  
10:26:39 13 were going to be reminded that they weren't supposed to  
10:26:42 14 buy things without purchase orders, you didn't do any of  
10:26:45 15 that. Correct?

10:26:46 16 A. That most appropriately would be done at the  
10:26:49 17 Corrective Action Plan when we take a look and see what  
10:26:53 18 has happened and we find out how it happened and what  
10:26:58 19 internal controls or checks and balances we can put in  
10:27:02 20 place to prevent it from happening again.

10:27:06 21 Q. Page 176, 2012-4.

10:27:14 22 What do you understand that comment to be in  
10:27:20 23 regards to?

10:27:20 24 A. The condition, which is explaining what happened  
10:27:27 25 by this independent audit finding, said that NJAC

10:27:33 1 5:30-5.3 which also is part of the responsibilities of  
10:27:38 2 the license, sets forth the requirements of the chief  
10:27:42 3 financial officer or certifying finance officer must  
10:27:46 4 perform in order to certify the availability of funds  
10:27:49 5 prior to the County entering into a contract or  
10:27:52 6 executing a purchase order.

10:27:55 7 The purchase order that the County currently  
10:27:57 8 utilizes does not adequately document that this  
10:28:00 9 certification is occurring for each of the county's  
10:28:03 10 purchases.

10:28:04 11 Q. Now, are you aware of the fact that the County  
10:28:09 12 purchasing manual says that it's the responsibility of  
10:28:13 13 the freeholder clerk to ask the Finance Department for a  
10:28:18 14 Certificate of Availability of Funds?

10:28:23 15 A. Evidently, that's not what NJAC 5:30-5.3 says,  
10:28:31 16 but no, I am not. I am not.

10:28:34 17 I know that the purchasing manual in 1996, we  
10:28:38 18 went through several years of trying to update it, of  
10:28:43 19 which you and one of your associates in your office  
10:28:47 20 spent many, many hours with us bringing it up-to-date,  
10:28:51 21 and it never -- never seemed to get adopted, so I don't  
10:28:56 22 know if the old one says what the new one is supposed to  
10:28:59 23 say, but I do know that NJAC 45:30-5.3 through 5.5 says  
10:29:07 24 something different.

10:29:09 25 Q. Okay. Would you look at PB-13, please.



10:29:11 1 Would you read Item 13 on PB-13.

10:29:19 2 A. "The Finance Department is contacted by the  
10:29:23 3 freeholders' office to prepare a certificate indicating  
10:29:27 4 that sufficient funds are available for the  
10:29:29 5 acquisition."

10:29:34 6 Q. When you read this audit comment, 2012-14, did  
10:29:42 7 you discipline or propose to discipline the freeholder  
10:29:45 8 clerk for not asking for a Certificate of Availability  
10:29:52 9 of Funds?

10:29:52 10 A. As I said before, when the Corrective Action Plan  
10:29:59 11 is developed, certainly we are going to need to look at  
10:30:04 12 any of the situations, but -- that are cited, and if we  
10:30:11 13 want to -- you know -- decide that we should not follow  
10:30:15 14 the law.

10:30:17 15 Q. But if you wanted to decide you should not follow  
10:30:20 16 the law -- is that what you just said?

10:30:22 17 A. I just said the law is pretty clear, what this  
10:30:26 18 says -- you know -- the policy from 1996. I don't know  
10:30:30 19 if this law has been updated since 1996 when we wrote  
10:30:37 20 the first purchasing manual.

10:30:42 21 Q. But you decided to discipline Margaret Pasqua and  
10:30:46 22 Kim Browne?

10:30:48 23 A. As a result of the gravity, as I have testified,  
10:30:53 24 as the gravity of the situation, the depth and breadth  
10:30:56 25 of this 2012 audit and the ultimate responsibility of

10:31:03 1 Margaret Pasqua and Kim Browne in delivering financial  
10:31:08 2 services and protecting the county's financial assets.

10:31:13 3 Q. Are you saying or not saying that 2012-4 is a  
10:31:18 4 basis for your wanting to discipline Margaret Pasqua and  
10:31:22 5 Kim Browne?

10:31:25 6 A. No.

10:31:27 7 Q. Yes.

10:31:28 8 A. It was the totality of the 2012 audit conducted  
10:31:33 9 by an independent auditor, a new independent auditor,  
10:31:39 10 and that was how -- how I decided to draft the charges  
10:31:46 11 and the ultimate recommended penalty of termination.

10:31:50 12 Q. I show you PB-14.

10:31:54 13 Do you recognize that?

10:32:06 14 A. Well, I don't know that I have ever seen it, but  
10:32:09 15 it coincides with 5:30-5, which is referenced in this  
10:32:18 16 finding.

10:32:19 17 Q. And you testified --

10:32:22 18 A. I am sorry.

10:32:23 19 Q. That's okay.

10:32:24 20 You testified that you felt that that regulation,  
10:32:31 21 5:30-5, is what governed the county's responsibility in  
10:32:37 22 connection with Certificates of Availability of Funds.  
10:32:40 23 Correct?

10:32:40 24 A. That's what was cited by the auditor, yes.

10:32:42 25 Q. Can you read on the top of Page 3 what subsection

10:32:48 1 four on the first paragraph says?

10:32:51 2 A. "Before a governing body approves a resolution or  
10:33:00 3 ordinance authorizing the entering into of a contract,  
10:33:00 4 the local unit attorney shall be satisfied that a  
10:33:02 5 Certificate of Availability of Funds has been provided."

10:33:04 6 Q. The local who authority?

10:33:07 7 A. The local unit's attorney.

10:33:08 8 Q. Attorney, local unit's attorney. Okay.

10:33:19 9 When you read this audit comment, did you propose  
10:33:22 10 to discipline County counsel for not making that  
10:33:25 11 determination prior to the freeholders acting in  
10:33:29 12 connection with any payment?

10:33:33 13 A. I made a decision as a result of the totality of  
10:33:37 14 this audit to recommend discipline for Margaret Pasqua  
10:33:44 15 and Kim Browne and, I guess, would that also have  
10:33:49 16 applied when you were County counsel, Guy, because it  
10:33:53 17 says -- you're right -- it says the "local unit's  
10:33:57 18 attorney."

10:33:58 19 I don't remember ever you saying that you were  
10:34:00 20 satisfied the Certificate of Availability of Funds had  
10:34:04 21 been provided.

10:34:05 22 Q. I think you would be surprised, Ms. Yard --

10:34:08 23 A. I don't know.

10:34:09 24 Q. -- if you were on top of what was attached to  
10:34:11 25 every contract that was signed.

10:34:13 1 A. All right.

10:34:14 2 MR. GANTNER: Objection.

10:34:16 3 MR. DESAPIO: Can I just say, if we can stop  
10:34:19 4 talking about, "Guy, you should know this," and, "Guy,  
10:34:22 5 you should know that," I am biting my tongue, but, I  
10:34:26 6 think, that the answers should be directed to the  
10:34:29 7 question and not directed to me.

10:34:32 8 MR. GANTNER: Objection to that.

10:34:33 9 MR. FLORIO: Counsel.

10:34:33 10 MR. GANTNER: I object to the remark.

10:34:36 11 The answers have been directed to the  
10:34:37 12 question, and it's sort of an unavoidable aspect of this  
10:34:43 13 case, given the circumstances.

10:34:46 14 MR. FLORIO: I understand that those kinds  
10:34:51 15 of responses might strike a chord with you, Counsel.

10:34:56 16 I have said several times on the record,  
10:34:58 17 though, that there is no jury here.

10:35:01 18 I assure you that I will not be swayed by  
10:35:10 19 assertions that don't speak necessarily immediately to  
10:35:13 20 the issue, but I am not going to attempt to knuckle the  
10:35:18 21 witness in her effort to respond to your inquiries in a  
10:35:21 22 candid fashion.

10:35:22 23 MR. DESAPIO: I understand that, Mr. Florio.

10:35:24 24 I hope that was my one free shot.

10:35:27 25 MR. FLORIO: I acknowledge you got it.

10:35:29 1 Let's move on.

10:35:30 2 Q. Let's look on Page 176, number five, 2012-5.

10:35:38 3 What do you understand that to be?

10:35:44 4 A. The independent auditor says, "Our audit over  
10:35:53 5 wire transfers revealed that the initiation and  
10:35:56 6 authorization process resided with the county's chief  
10:35:59 7 financial officer."

10:36:02 8 Q. And he goes on to say?

10:36:04 9 A. "We suggest that the County implement an internal  
10:36:07 10 policy requiring that the initiation of a wire transfer  
10:36:11 11 and the approval of a wire transfer be performed by two  
10:36:14 12 different employees to ensure appropriate segregation of  
10:36:18 13 duties and adequate internal controls over the wire  
10:36:21 14 transfer process."

10:36:22 15 Q. To your knowledge, was there any determination or  
10:36:26 16 finding that it was an inappropriate wiring of money to  
10:36:31 17 anybody?

10:36:35 18 A. That's not what the finding says.

10:36:38 19 Q. The auditor merely suggests that a new policy be  
10:36:42 20 implemented requiring two different people to concur in  
10:36:46 21 a wire. Correct?

10:36:51 22 A. What the recommendations says is, "We suggest  
10:36:56 23 that the County implement an internal policy requiring  
10:37:00 24 that the initiation of a wire transfer and the approval  
10:37:02 25 of a wire transfer be performed by two different

10:37:05 1 employees to ensure appropriate segregation of duties  
10:37:08 2 and adequate internal controls over the wire transfer  
10:37:11 3 process."

10:37:12 4 Q. It's a suggestion for a future change. Correct?

10:37:16 5 A. It appears to me it's the definition of a  
10:37:19 6 finding, and that's where it seems to be on this audit  
10:37:23 7 report.

10:37:25 8 Q. Okay. 2012-6, where did the records reside by  
10:37:47 9 way of which somebody could review these items which the  
10:37:55 10 auditor referred to in 2012-6?

10:38:05 11 A. The opt in and opt out was coordinated through  
10:38:12 12 HR, but there were absolute interdependencies of the  
10:38:20 13 opting in and opting out, and the payroll administrator  
10:38:26 14 who ultimately entered that information into the  
10:38:35 15 database, the data program.

10:38:40 16 Q. So when you say "HR," you mean if an employee was  
10:38:45 17 going to opt in to a program, they would have to do it  
10:38:49 18 through HR. Correct?

10:38:50 19 A. Yes.

10:38:50 20 Q. And if an employee opted out of a program, they  
10:38:54 21 would have to do it with HR. Correct?

10:38:56 22 A. Yes, and then there was -- I am sorry, Guy. I am  
10:38:59 23 sorry.

10:38:59 24 Q. That's okay.

10:39:00 25 Then HR would have a responsibility to notify the

10:39:04 1 Payroll Department that that person had either opted in  
10:39:08 2 or opted out of something. Correct?

10:39:12 3 A. Absolutely. There were interactions and  
10:39:17 4 interdependencies, yes.

10:39:18 5 Q. Okay. Do you have any evidence or knowledge that  
10:39:21 6 the Payroll Department was notified that somebody had  
10:39:25 7 either opted in and didn't start to take the deductions  
10:39:29 8 or opted out and continued to take the deductions?

10:39:38 9 A. I did not have any documentation or verification  
10:39:46 10 that it was communicated to a payroll administrator, nor  
10:39:51 11 do I have any conversely that it was or was not.

10:39:57 12 Q. Uh-huh. Number seven on Page 177, to whom is a  
10:40:23 13 request -- what department of the County is a request or  
10:40:30 14 application for a family or medical leave or New Jersey  
10:40:30 15 Family Leave directed to?

10:40:30 16 A. HR.

10:40:32 17 Q. Okay. And who is responsible for approving or  
10:40:37 18 disapproving that leave?

10:40:40 19 A. HR, and ultimately with our new policy, the Board  
10:40:47 20 of Chosen Freeholders.

10:40:47 21 Q. Okay. And would HR then have the responsibility  
10:40:55 22 of notifying Finance that somebody's status had changed?

10:41:01 23 A. Certainly that's the adjacencies and  
10:41:08 24 interdependencies of the payroll administrator.

10:41:10 25 Q. And do you have any evidence or information that

10:41:14 1 Finance was notified by HR that somebody who went out on  
10:41:18 2 Family Medical Leave or New Jersey Family Leave status  
10:41:22 3 had changed, and Finance did not deal with that  
10:41:26 4 accordingly?

10:41:28 5 A. I don't have any written evidence that they were  
10:41:33 6 or they were not notified.

10:41:36 7 Q. Okay. Number eight on the bottom of 177.

10:41:51 8 A. Yes.

10:41:52 9 Q. This deals with Chapter 78, the tier issue, which  
10:41:57 10 we discussed for a little bit last week.

10:42:06 11 I apologize if I asked you this question, but I  
10:42:13 12 don't recall if I did, did you, in connection with your  
10:42:18 13 review of the Chapter 78 tier issue, determine that  
10:42:24 14 there was a database on the Human Resources director's  
10:42:29 15 computer developed by Cheryl Wieder?

10:42:37 16 A. Guy, just so you know -- and I am not going to  
10:42:40 17 refer to you -- but I went back and looked at the April  
10:42:45 18 19th -- I wanted to refresh my memory because there  
10:42:51 19 was -- you know -- there were things talked about at  
10:42:54 20 that meeting that are critical, and, yes, there  
10:42:58 21 absolutely was an original, and this was actually -- the  
10:43:02 22 payroll administrator had indicated this -- that Cheryl  
10:43:08 23 Wieder did set up that initial Excel spreadsheet when  
10:43:11 24 Chapter 78 started, but it was the payroll administrator  
10:43:17 25 that then made the changes, calculated the tier, and, as



10:43:24 1 a matter of fact, when we reviewed -- because I had  
10:43:29 2 asked at that April 19th meeting for a listing of  
10:43:33 3 everyone that had been hired after July 1, 2011 and  
10:43:39 4 where they were at and what tier, and it was a  
10:43:44 5 selective -- all of the unclassified were put on the  
10:43:47 6 correct place, and the other folks were put in the wrong  
10:43:53 7 tier, so, yes, absolutely positively I know you asked me  
10:43:59 8 last week about letters and this and that and the  
10:44:01 9 calculations, but it was -- it was discussed at that  
10:44:06 10 April 19th meeting that absolutely did -- Cheryl Wieder,  
10:44:12 11 the HR director, did that initial spreadsheet for the  
10:44:16 12 correct placement of folks on the tier, the new tier, as  
10:44:21 13 a result of the law, and that the payroll administrator  
10:44:24 14 then calculated and placed people on the tier, because  
10:44:28 15 it impacted their contribution for their health care of  
10:44:33 16 which she was responsible for.

10:44:35 17 Q. Just to clarify, if I understand correctly,  
10:44:39 18 everybody who was employed prior to that date in 2011  
10:44:42 19 that you just mentioned, was correctly placed. Correct?

10:44:48 20 A. What I said was Cheryl Wieder, the HR director,  
10:44:54 21 made the initial sheet, because that sheet, that Excel  
10:44:59 22 spreadsheet changes, as we had talked about last week,  
10:45:03 23 if someone gets a raise, if they change their plans,  
10:45:07 24 because that calculation is based on a window, a \$5,000  
10:45:14 25 window, in other words, if you make 20 to 25,000 or if

10:45:18 1 you make 25 to 30,000, that determines the percentage  
10:45:24 2 that you are to pay, and then it depends on the plan  
10:45:27 3 that you have selected and what the county's premium is  
10:45:31 4 as far as what you ultimately pay in your paycheck, so  
10:45:37 5 that initial spreadsheet or Excel spreadsheet that HR  
10:45:43 6 did, was never designed, nor should it have been, that  
10:45:49 7 people would have stayed constant.

10:45:52 8 It was always moving -- you know -- depending if  
10:45:55 9 they went over that window of their salary or if they  
10:45:59 10 changed their plans, so that was always changing, and  
10:46:04 11 the calculations and the input to the Finance payroll  
10:46:11 12 software was the ultimate responsibility of the payroll  
10:46:15 13 administrator.

10:46:19 14 Q. The Human Resources Department would know if  
10:46:22 15 somebody's salary changed. Correct?

10:46:23 16 A. Certainly, but so would the payroll  
10:46:27 17 administrator, because every time there was a resolution  
10:46:30 18 passed with regard to salary and again a check and  
10:46:37 19 balance, an internal control, the payroll administrator  
10:46:39 20 would not do anything without a resolution, so each and  
10:46:43 21 every time that somebody's salary changed, the payroll  
10:46:48 22 administrator would have received a copy of that  
10:46:50 23 resolution.

10:46:51 24 Q. Okay. And they would have received it through  
10:46:54 25 Cheryl, correct, Cheryl Wieder?

10:46:56 1 A. I am not sure if it was the clerk to the  
10:47:01 2 Freeholder Board or if it was Cheryl Wieder, but when a  
10:47:04 3 resolution was passed and formal action was taken, it  
10:47:09 4 ended up with the payroll administrator, so that the  
10:47:12 5 accurate amount could be -- because we are an exception  
10:47:16 6 payroll, and unless you tell the software that something  
10:47:20 7 is different, they will keep paying the person whatever  
10:47:25 8 the amount is.

10:47:27 9 Q. Uh-huh. Do I also understand you to say if a  
10:47:37 10 person opts for a different type of coverage, that would  
10:47:37 11 affect their tier placement?

10:47:37 12 A. Certainly.

10:47:38 13 Q. Okay. And they would opt for a different type of  
10:47:41 14 coverage through what department?

10:47:44 15 A. Well, it would be open enrollment, and it would  
10:47:47 16 be through HR, but, again, I don't believe that you can  
10:47:52 17 minimize or discount the inner dependency of the payroll  
10:48:01 18 administrator and HR, because -- you know -- they  
10:48:05 19 certainly have adjacencies that they were interdependent  
10:48:10 20 on each other.

10:48:11 21 Q. And when the County had the open enrollment it  
10:48:16 22 would be HR that would have the information and notify  
10:48:20 23 the payroll department that the person's coverage had  
10:48:25 24 changed?

10:48:25 25 A. I am not quite sure how they have it set up, but

10:48:28 1 the HR person would certainly know and -- you know --  
10:48:31 2 how they communicated or what their method of their  
10:48:35 3 checks and balances, I am not privy to. I don't know.

10:48:40 4 Q. So before my last two questions I was asking you  
10:48:46 5 whether you testified the other day that the placement  
10:48:49 6 of existing employees prior to 2011 was correct.

10:48:56 7 A. And, I believe, I have been consistent that that  
10:49:00 8 initial Excel spreadsheet that was done to assist the  
10:49:07 9 payroll administrator by HR, the law changed where  
10:49:13 10 everybody would be on the correct tier, I believe, yes.

10:49:17 11 Q. Okay.

10:49:18 12 A. Yes.

10:49:18 13 Q. And the only problem that you identified was for  
10:49:21 14 new hires after a certain date in 2011?

10:49:28 15 A. The problem of the misapplication of the law was  
10:49:35 16 that, and this was, again, that April 19th meeting, when  
10:49:40 17 it was discussed it was said -- the payroll  
10:49:46 18 administrator spoke for a couple of minutes and said  
10:49:49 19 that it was easier to put people on tiers, it was just  
10:49:53 20 easier to track and was confirmed at that meeting that  
10:49:57 21 Mrs. Browne knew, and I think I also testified that --  
10:50:04 22 it wasn't a direct quote -- but that she confirmed that  
10:50:07 23 she knew and that she heard it in passing.

10:50:11 24 Q. Okay. My question, Ms. Yard, was, was this  
10:50:16 25 problem that you identified only in connection with new

10:50:22 1 hires after that date that you identified in 2011?

10:50:29 2 A. That was the target group that we looked at, yes,  
10:50:34 3 but we have to go back, because there is concerns that  
10:50:39 4 we haven't moved people off tiers.

10:50:40 5 Obviously they were supposed to move again in  
10:50:42 6 July, and we are still doing -- trying -- because again  
10:50:47 7 I also testified the underutilization of the Paylocity  
10:50:53 8 and the software, because that can calculate it, but it  
10:50:58 9 was calculated by the payroll administrator.

10:51:02 10 Q. When you say they had to "move again in July,"  
10:51:05 11 are you saying that you have concerns about the fact  
10:51:08 12 that people were not moved in July of 2013?

10:51:13 13 A. They are not concerns.

10:51:14 14 It's an issue that we have to address because the  
10:51:19 15 law says they have to be on a certain tier at least 12  
10:51:23 16 months, well, they are, but we are now -- we have to go  
10:51:26 17 back and recalculate and make sure that everyone is on  
10:51:29 18 the right tier.

10:51:30 19 Q. But Margaret Pasqua and Kim Browne weren't in  
10:51:33 20 charge of the Finance Department on July 1, 2013?

10:51:39 21 A. That's true.

10:51:39 22 Q. So if people weren't moved correctly, it would be  
10:51:43 23 your new -- whatever they are called -- "temporary CFO."  
10:51:48 24 Correct?

10:51:48 25 A. No, the County made a decision. We knew that we

10:51:54 1 needed to change them at least -- they had to be on it  
10:51:58 2 for 12 months. The County recognized the vulnerability,  
10:52:03 3 and we are not going to do it until we can get the  
10:52:06 4 correct calculations, so we are just not moving people  
10:52:09 5 and then moving them again and moving them again, so we  
10:52:12 6 are making sure that we are doing it right.

10:52:14 7 Q. So it's July, August, September, October, four  
10:52:20 8 months, and you still don't know if you are doing it  
10:52:22 9 right or not, the County doesn't know if it's doing it  
10:52:26 10 right or not?

10:52:26 11 A. No, we are in the process of calculating the  
10:52:28 12 correct amount so that they are -- so that employees are  
10:52:32 13 charged the correct contribution for their health care.

10:52:36 14 Q. Since July you have been calculating this, the  
10:52:39 15 County has been calculating this?

10:52:41 16 A. Yes. We are working -- yes.

10:52:44 17 Q. Now, you talked about Paylocity and, in fact, I  
10:52:49 18 think in one of your answers regarding the basis for  
10:52:57 19 your charges on direct, you said the Finance Department  
10:53:02 20 was failing to use all of the available components of  
10:53:07 21 Paylocity.

10:53:08 22 Am I understanding you correctly?

10:53:10 23 A. Underutilization of it, yes. Yes, of the  
10:53:14 24 capabilities of the Paylocity, yes.

10:53:16 25 Q. When was the Paylocity system put into place?

10:53:24 1 A. January 2013, I believe.

10:53:27 2 Q. January 20th, 2013?

10:53:29 3 A. Yes.

10:53:29 4 Q. Okay. Were you aware of what components of that  
10:53:38 5 system the County had purchased?

10:53:45 6 A. I was not part -- Mrs. Browne had made a decision  
10:53:50 7 to work with Cheryl Wieder, certainly the payroll  
10:53:56 8 administrator. She included purchasing, I believe,  
10:54:01 9 which is one of the areas that she supervises, and made  
10:54:05 10 a recommendation to the Board to go with Paylocity as  
10:54:10 11 our payroll company.

10:54:17 12 Q. Do you know whether or not when this was  
10:54:17 13 purchased by the Board of Chosen Freeholders, it  
10:54:19 14 included the component, the unit that would do tier one?

10:54:26 15 A. I don't know that.

10:54:27 16 Q. You don't know that?

10:54:29 17 A. No.

10:54:29 18 Q. Okay. Is it fair to say you don't know what  
10:54:37 19 components included or it didn't include?

10:54:41 20 A. I know that when we began to -- when Kim Browne  
10:54:48 21 and Margaret Pasqua were reassigned as a result of a  
10:54:52 22 recommendation from the Prosecutor's Office, we -- and I  
10:54:58 23 know I testified to this prior -- we brought people in  
10:55:04 24 to help us continue to deliver services to our employees  
10:55:10 25 and anyone else, our customers, and the gentleman from

10:55:18 1 Paylocity -- actually, there was a meeting that we  
10:55:22 2 talked about, the different capabilities, the HR  
10:55:24 3 capabilities of which Kim Browne and Margaret Pasqua and  
10:55:28 4 the payroll administrator were here, but as we brought  
10:55:32 5 them in to continue to deliver our services, it was --  
10:55:38 6 it was they, the rep, that said -- you know -- that  
10:55:43 7 there are a lot of areas that we could certainly  
10:55:47 8 benefit, of course, certainly it's an outside vendor,  
10:55:51 9 but it was brought to our attention that there were  
10:55:56 10 several things, pension situations, but -- I am sorry,  
10:56:00 11 Guy, I forgot what the real question was.

10:56:03 12 Q. In this meeting with the Paylocity  
10:56:05 13 representative --

10:56:07 14 A. Right.

10:56:07 15 Q. -- did he point out that some of these things  
10:56:10 16 that you are talking about, the County had not yet  
10:56:13 17 purchased the software that would accommodate them?

10:56:17 18 A. Absolutely. The HR piece. I believe it was a  
10:56:22 19 1.40 an employee -- you know -- when we talked about the  
10:56:25 20 different capabilities of an HR piece and, yes, so, yes,  
10:56:32 21 they talked about other capabilities, but I am talking  
10:56:37 22 about the capabilities of the actual payroll software,  
10:56:44 23 so I hope I answered your question.

10:56:47 24 Q. But the additional capabilities that you were  
10:56:50 25 criticizing in your direct testimony, the Finance



10:56:56 1 Department had not yet been purchased by the County?

10:56:59 2 A. That's not true.

10:57:00 3 Q. Which one had been purchased by the County?

10:57:03 4 A. There were some -- one piece of it had to do with  
10:57:08 5 pension ID numbers. They weren't part -- they were  
10:57:10 6 never put into the system, and I am not quite sure if  
10:57:17 7 the Chapter 78 here was part of the capabilities.

10:57:20 8 I was talking about the HR, 1.42 or \$1.41 I was  
10:57:26 9 talking about, that was all -- it was a complimentary  
10:57:30 10 piece to the payroll part of it was an HR piece.

10:57:33 11 Q. So now you are saying you are not sure whether  
10:57:36 12 the Chapter 78 was included in the package that the  
10:57:41 13 County bought?

10:57:42 14 A. I know for a fact that when they came -- we had  
10:57:45 15 Paylocity come out and talk to us and talk to, not me  
10:57:49 16 particularly, but people who were trying to deliver the  
10:57:52 17 service, the payroll, the payroll service and the  
10:57:56 18 reports that were part of the contract, they explained  
10:58:02 19 that we had underutilized the capability of the system  
10:58:07 20 that we had purchased.

10:58:09 21 Q. Okay. 2012-9 on Page 178, do you know what grant  
10:58:21 22 that referred to?

10:58:28 23 A. No, I don't. I know that Mrs. Browne, as part of  
10:58:31 24 her responsibility as managerial executive of that  
10:58:35 25 department, was the grant administrator, so I am not

10:58:40 1 sure, Guy.

10:58:41 2 Q. Okay. Do you know whether those matching funds  
10:58:45 3 were to be canceled irrespective of whether there was an  
10:58:49 4 approved resolution from the freeholders at the time?

10:58:53 5 A. No, I don't know.

10:58:55 6 Q. Okay. 2012-10, do you understand what that's all  
10:59:06 7 about?

10:59:08 8 A. I can read what the condition was. It says --

10:59:11 9 Q. Do you understand it other than reading it?

10:59:16 10 A. No, I don't understand.

10:59:17 11 Q. Okay. 2012-11, do you understand what that's  
10:59:28 12 about?

10:59:28 13 A. It says that there were \$25,000 that had not been  
10:59:32 14 turned over to the county's Finance Department, and it  
10:59:36 15 was unclear whether it should be retained by Parks and  
10:59:39 16 Recreation or the Finance Department.

10:59:42 17 Q. Okay. Who do you understand that the auditors  
10:59:46 18 were asking to determine whether or not that should be  
10:59:49 19 turned over?

10:59:53 20 A. Are you asking me if the auditors are asking us  
10:59:56 21 whether it should be turned over?

10:59:57 22 Q. Who do you understand, as the auditor, is  
11:00:02 23 suggesting should make that determination as to whether  
11:00:04 24 it should be turned over?

11:00:07 25 A. I only know what I read. It says it's not clear

11:00:10 1 as to whether those funds should be retained by the  
11:00:12 2 Parks and Recreation Department or the Finance  
11:00:15 3 Department.

11:00:15 4 Q. Okay. Page 179, 2012-12, "Our testing of the  
11:00:22 5 Sheriff's Department revealed that there were several  
11:00:25 6 stale dated outstanding checks that continued to be  
11:00:28 7 recorded on the monthly bank reconciliations."

11:00:34 8 Were Margaret Pasqua and Kim Browne responsible  
11:00:37 9 for doing the monthly reconciliations on the Sheriff's  
11:00:41 10 Department account?

11:00:45 11 A. Probably not, but they were ultimately  
11:00:47 12 responsible to develop and install internal controls to  
11:00:51 13 protect the county's assets.

11:00:54 14 Q. Okay. 2012-13, the Engineers Department, "Our  
11:01:03 15 testing of the Engineer's Department revealed several  
11:01:11 16 instances in which funds were not deposited within 48  
11:01:11 17 hours."

11:01:11 18 Did you understand that to mean that the  
11:01:11 19 Engineering Department received funds and didn't deposit  
11:01:14 20 them within 48 hours?

11:01:23 21 A. I had no understanding. I read the condition,  
11:01:34 22 the recommendation which says, "We suggest that the  
11:01:36 23 Engineer's Department deposit moneys received within 48  
11:01:39 24 hours of receipt."

11:01:41 25 Q. Uh-huh. 2012-14, what is your understanding of

11:01:52 1 what that's about?

11:01:58 2 A. It says, "In accordance with the Federal OMB  
11:02:02 3 circular, A-133, organizations receiving federal grant  
11:02:05 4 awards are prohibited from entering into a procurement  
11:02:08 5 contract utilizing federal funds that exceed \$25,000  
11:02:12 6 with an organization that is suspended or debarred by  
11:02:15 7 the federal government. The County does not have a  
11:02:20 8 process in place to ensure that procurement contracts  
11:02:23 9 exceeding \$25,000 utilizing federal funds are not with  
11:02:28 10 organizations that have been suspended or debarred by  
11:02:31 11 the federal government. It should be noted that our  
11:02:33 12 testing over the county's federal programs did not  
11:02:37 13 reveal any instances in which the County utilized a  
11:02:40 14 vendor that was suspended or debarred by the federal  
11:02:43 15 government and the county's reviews the State of New  
11:02:47 16 Jersey's debarred or suspended list."

11:02:50 17 Q. Did you do any independent investigation as to  
11:02:57 18 that?

11:02:57 19 A. No, I didn't.

11:02:58 20 Q. Okay. Did you know that John Davenport  
11:03:02 21 acknowledged to the auditor that he assumed  
11:03:05 22 responsibility for that item and that he had since begun  
11:03:11 23 to do the checking?

11:03:13 24 A. No, but that certainly should go in our  
11:03:15 25 Corrective Action Plan, but I also need to remind, and I

11:03:23 1 have testified to this, so it's not a new statement, as  
11:03:28 2 the managerial executive of the director of Finance and  
11:03:32 3 Administrative Services, purchasing falls under Kim  
11:03:36 4 Browne.

11:03:41 5 MR. DESAPIO: I know that we said we were  
11:03:43 6 going to go straight through to twelve or 12:30, but can  
11:03:47 7 we just take five minutes?

11:03:50 8 MR. FLORIO: We are off the record.

11:03:53 9 Five minutes.

11:03:56 10 (Whereupon, a short recess is taken.)

11:16:56 11 MR. FLORIO: We are back on the record and  
11:16:58 12 ready to continue.

11:16:59 13 Q. Ms. Yard, on direct examination you testified  
11:17:04 14 about the specific charges in the disciplinary action.

11:17:09 15 Do you recall that?

11:17:12 16 A. Yes.

11:17:13 17 Q. Okay. So now looking at HC-4, which you have in  
11:17:21 18 front of you, those are the disciplinary charges against  
11:17:25 19 Margaret Pasqua?

11:17:27 20 A. Yes.

11:17:28 21 Q. Okay. Now, in Section 2 where it says,  
11:17:31 22 "Hunterdon County Table of Offenses" --

11:17:35 23 A. Yes.

11:17:35 24 Q. -- does that refer to PB-23, I believe it is --  
11:17:46 25 let me check a second, Mr. Florio -- I apologize, but

11:17:51 1 this is scratched on here, and I am not sure if I have  
11:17:53 2 the right number.

11:17:54 3 A. You gave it to me, Guy.

11:17:55 4 Q. I gave you 23?

11:17:56 5 A. Yes.

11:17:56 6 Q. Does that refer to PB-23?

11:18:01 7 A. Yes.

11:18:01 8 Q. Okay. And are the pages numbered on your copy of  
11:18:06 9 PB-23?

11:18:11 10 A. It says "County" -- yes, 16, 17, it looks like  
11:18:15 11 they are in chronological order.

11:18:17 12 Q. Would you look at Page 20.

11:18:26 13 A. Okay.

11:18:26 14 Q. Okay. Now, I see in the top of the upper  
11:18:31 15 left-hand column a little letter "B." Is that correct?

11:18:36 16 A. Yes.

11:18:36 17 Q. And then down those columns there is a "3"  
11:18:40 18 further on down, "1, 2, 3."

11:18:42 19 A. Yes.

11:18:42 20 Q. So when the charge says "B-3, neglect of duty,"  
11:18:47 21 does that refer to the line that begins with the 3 on  
11:18:51 22 Page 20, B-3?

11:18:52 23 A. Yes.

11:18:53 24 Q. Okay. So is the charge "Neglect of duty,  
11:18:58 25 loafing, idleness or willful failure to devote attention

11:19:02 1 to tasks which did result in danger to persons or  
11:19:05 2 property."

11:19:08 3 Is that B-3?

11:19:09 4 A. Yes.

11:19:10 5 Q. You are not suggesting that there was any loafing  
11:19:15 6 involved here, were you?

11:19:16 7 A. No.

11:19:16 8 Q. Okay. You are not suggesting that there was any  
11:19:20 9 idleness involved here, are you?

11:19:22 10 A. No. Right.

11:19:24 11 Q. So let me re-read this then, "Neglect of duty or  
11:19:27 12 willful failure to devote attention to task which could  
11:19:32 13 result in danger to persons or property," what is the  
11:19:37 14 danger to a person that occurred with which you are  
11:19:42 15 charging Ms. Browne -- we are talking about Ms. Pasqua  
11:19:47 16 first -- what is the danger to a person?

11:19:52 17 A. Well, it's the danger to property, to the County.

11:19:56 18 Q. Let's start, is there a danger to the person, is  
11:20:00 19 there any danger to a person?

11:20:01 20 A. No.

11:20:01 21 Q. Is there a danger to property?

11:20:04 22 A. Of course, the County assets.

11:20:06 23 Q. Okay. Is that the way you read B-3 that the word  
11:20:12 24 "danger" means what in regard to County assets?

11:20:18 25 A. Well, without the internal controls it was

11:20:24 1 neglect of her duty as a licensed CFMO or CCFO, and the  
11:20:32 2 danger was to the County assets, which is the County  
11:20:36 3 property.

11:20:37 4 Q. Uh-huh. You developed the definition of B-3 at  
11:20:48 5 the time that this Table of Offenses was created.  
11:20:51 6 Correct?

11:20:52 7 A. Actually, I hate to say this, this has undergone  
11:20:58 8 several revisions since it was first adopted in 1999 and  
11:21:03 9 '98, and, yes, and this one says "2008," and actually  
11:21:16 10 those -- part of B-3 on several of the Table of Offenses  
11:21:20 11 or the type of offenses, we added gradations, meaning  
11:21:27 12 that you will see "does not result," "could result" and  
11:21:32 13 "did result," and so those gradations of actually a lot  
11:21:39 14 of these offenses as we modify the corrective action  
11:21:47 15 disciplinary program Table of Offenses through the  
11:21:51 16 years, things have been -- you know -- modified.

11:21:56 17 Q. Uh-huh. Well, let's look at the next one,  
11:22:00 18 B-12. Is that, like, on the next page, County-21?

11:22:11 19 A. Yes.

11:22:12 20 Q. Okay. And that reads, "Serious mistake due to  
11:22:15 21 the carelessness where an individual is placed in a  
11:22:18 22 hazardous situation, property is damaged, there is a  
11:22:21 23 serious breach of security or financial loss to the  
11:22:24 24 County"?

11:22:25 25 A. Right.



11:22:26 1 Q. There it speaks of property being damaged and  
11:22:29 2 separately a financial loss to the County?

11:22:32 3 A. Right.

11:22:32 4 Q. What would be the difference between B-3 and  
11:22:35 5 B-12?

11:22:38 6 A. It's just the way the offense is written, but in  
11:22:43 7 both cases, I believe, there is commas, right, yes, so,  
11:22:51 8 in other words, there are different situations.  
11:22:54 9 "Neglect of duty, loafing, idleness or willful failure  
11:23:00 10 to devote action -- attention." And then on B-12, which  
11:23:03 11 you asked me about, the same thing, in other words,  
11:23:07 12 there are commas to differentiate the different -- it's  
11:23:11 13 a multi, multi-faceted definition, but you are correct  
11:23:17 14 in B-12 specifically does say "or financial loss to the  
11:23:22 15 County."

11:23:24 16 Q. So your testimony is that an employee reading B-3  
11:23:32 17 would reasonably be expected to interpret the term,  
11:23:38 18 "danger to property" as being a "financial loss"?

11:23:44 19 A. That's not my testimony at all.

11:23:47 20 You put those words in my mouth.

11:23:50 21 I testified as to what the offense reads. I  
11:23:56 22 don't know how nor would I be able to represent how each  
11:24:00 23 individual would interpret that.

11:24:02 24 Q. Now, B-12, when you were talking about B-12, is  
11:24:07 25 B-12 the cost of the payment that the County made for

11:24:23 1 premiums that you have identified as not being due under  
11:24:26 2 the health benefits bill?

11:24:28 3 A. No. As a matter of fact, I remember testifying  
11:24:34 4 that part of this financial loss to the County, I had  
11:24:38 5 testified that the result of the audit moved us into  
11:24:44 6 another bracket of being a high risk, and that was part  
11:24:52 7 of the financial loss to the County.

11:24:56 8 It was also -- any of the dollars, the taxpayer  
11:25:02 9 dollars that we have needed to spend to correct the  
11:25:09 10 serious mistake, and also, I believe, I did in my  
11:25:17 11 testimony reference the health benefits, yes, but that  
11:25:21 12 was one small part of it.

11:25:28 13 Q. The health benefits is a small part of it?

11:25:30 14 A. Well, it was one reference in the audit of the  
11:25:36 15 material weaknesses which we only went over two today.  
11:25:40 16 We didn't get over to the federal data problem in not  
11:25:46 17 filing the federal reports or the 14 findings, which --  
11:25:55 18 yes, not small, you are absolutely correct, but it was  
11:25:59 19 part of the many, many examples and findings and  
11:26:05 20 material weaknesses as a result of the audit.

11:26:09 21 Q. So let's break that down a little bit.

11:26:12 22 If after this hearing there is a determination  
11:26:19 23 that the Human Resources Department was responsible for  
11:26:27 24 certifying the accuracy of the health benefits bill --  
11:26:32 25 that's the hearing officer's determination -- then there

11:26:36 1 would be no financial loss in connection with the health  
11:26:39 2 benefits that's attributable to Margaret Pasqua or Kim  
11:26:43 3 Browne. Correct?

11:26:50 4 A. I can't speak for the hearing officer, but if it  
11:26:54 5 was determined that there was no culpability or  
11:26:57 6 responsibility to develop internal controls or to put  
11:27:01 7 controls and checks and balances in place as the  
11:27:06 8 ultimate last stop before public moneys are released  
11:27:12 9 from this organization, that piece -- I guess -- you are  
11:27:19 10 asking me if there was a financial loss to the County  
11:27:24 11 that Margaret Pasqua or Kim Browne was responsible for.

11:27:31 12 Q. So are you saying another part of the financial  
11:27:35 13 loss is that the County thinks it's going to pay more  
11:27:41 14 for an audit, paid more for the 2012 audit than it  
11:27:46 15 thought it was going to pay?

11:27:49 16 A. No.

11:27:50 17 The results of the audit have moved, and the  
11:27:53 18 failure to submit the federal ID data collection, which  
11:28:01 19 is the responsibility of the CFO and has to be certified  
11:28:11 20 by the CFO, as well as the results of the totality of  
11:28:17 21 the audit, we are now considered a high risk auditee,  
11:28:23 22 and that means that it is going to cost us more because  
11:28:29 23 an auditing company or an auditing firm must dig deeper,  
11:28:36 24 expand the samples, do different things that it is  
11:28:41 25 more -- it's a more expensive audit to have.

11:28:44 1 Q. Okay. Let's go back to my original question  
11:28:47 2 first, and I want to ask about what you just said.

11:28:50 3 So it's not a part of this discipline that you  
11:28:53 4 are contending that the County had to pay more for the  
11:28:58 5 2012 audit. Right?

11:29:06 6 A. I am not sure I understand, Guy. Could you ask  
11:29:08 7 me again?

11:29:09 8 Q. Is a part of the financial loss to which you are  
11:29:18 9 referring in B-12, the fact that it costs the County any  
11:29:21 10 more for the 2012 audit?

11:29:23 11 A. It actually did.

11:29:25 12 Q. It did cost the County more?

11:29:26 13 A. Absolutely.

11:29:28 14 Q. What was the original quote for the audit?

11:29:33 15 A. It was -- I am thinking, and I am not -- I don't  
11:29:38 16 have the resolution in front of me.

11:29:40 17 Certainly if you could show me that, but I  
11:29:43 18 believe it was 60 or 62,000. I am not quite sure  
11:29:47 19 exactly what the number was, Guy, but there is a  
11:29:50 20 resolution somewhere.

11:29:54 21 Q. And so what was the extra amount that Wiss billed  
11:29:58 22 you?

11:30:04 23 A. I am sure we haven't seen the -- I don't know  
11:30:07 24 that we have been billed more at this point, but the  
11:30:11 25 bigger issue, the financial loss to the County was the

11:30:18 1 recommendations by the prosecutor that we assign the two  
11:30:24 2 licensed people, Margaret Pasqua and Kim Browne,  
11:30:28 3 bringing more people in, outside people, to continue to  
11:30:33 4 deliver financial services to this County, and I am --  
11:30:41 5 you know -- I am sure that there is going to be an  
11:30:45 6 additional cost by Wiss, but the fact that we are being  
11:30:49 7 moved into a high risk auditee will also cost us more  
11:30:56 8 money for subsequent audits, so it's not just 2012.  
11:31:02 9 It's years out, subsequent years.

11:31:05 10 Q. Is that how you typically charge employees with  
11:31:09 11 misconduct or doing something wrong, assuming that  
11:31:13 12 something may happen in the future and charging them  
11:31:17 13 with what you assume may happen?

11:31:19 14 A. I didn't charge them on what I assume might  
11:31:23 15 happen.

11:31:23 16 I charged them, and I know, Guy, you don't want  
11:31:26 17 me to bring this up, but you and I have had several  
11:31:31 18 philosophical discussions on how to charge people, and I  
11:31:36 19 know you don't want to bring it up, but I feel compelled  
11:31:40 20 that as the former County counsel who we relied on for  
11:31:46 21 legal guidance, I used to -- when I came from the State  
11:31:52 22 of New Jersey being a hearing officer since 1985 and  
11:31:55 23 doing hundreds of hearings, I used to -- and when we  
11:32:00 24 started to train the employees here in Hunterdon County  
11:32:04 25 on how to apply a table of offenses, and I said, "Find

11:32:09 1 the charge, find what your objective is, talk to the  
11:32:11 2 people, identify the charge" -- and it was you, and I am  
11:32:17 3 sorry, you don't want me to bring this up -- but it was  
11:32:19 4 you that explained to me all of the charges that apply  
11:32:24 5 and the reason why you do that, and this is how you  
11:32:28 6 explained it to me, Guy, and I know you can't accept it  
11:32:33 7 or deny it, but in your heart of heart you know that you  
11:32:39 8 said that a hearing officer, if they are unable to  
11:32:42 9 substantiate HR to all of the charges, at least if you  
11:32:48 10 do all of the charges that apply, then you can still  
11:32:52 11 achieve your objective.

11:32:54 12 When I reviewed these charges, I selected the  
11:33:00 13 charges that applied, not necessarily what meant to be  
11:33:05 14 the future. I took the 2012 audit and the  
11:33:09 15 recommendations from the outside auditing accounting  
11:33:15 16 firm of DGD, Donohue, Gironde & Doria, and I selected  
11:33:26 17 the charges that applied, and I followed -- and I know  
11:33:31 18 you don't want to hear this -- but I followed your  
11:33:34 19 guidance of many years of being County counsel and me  
11:33:37 20 looking to you for guidance to protect the county's  
11:33:41 21 legal interest.

11:33:45 22 Q. Okay. Let me ask you about this high risk  
11:33:52 23 auditee statement that you have been making.

11:33:55 24 A. Uh-huh.

11:33:55 25 Q. This is in connection with the federal data

11:34:01 1 collection, ID data collection report?

11:34:05 2 A. I only know that the results of this audit and  
11:34:13 3 the material weaknesses, not necessarily the findings,  
11:34:18 4 resulted in the County now being labeled or identified  
11:34:25 5 as a "high risk auditee."

11:34:28 6 I am not licensed -- I don't have a financial  
11:34:34 7 license. I just know what I was told by the auditors.

11:34:42 8 Q. Okay. Now, is that statement in the 2012 audit?

11:34:56 9 MR. GANTNER: Can I get some clarification?

11:35:00 10 Q. Is there any --

11:35:03 11 MR. DESAPIO: I will clarify it.

11:35:04 12 You want me to clarify it to you or to the  
11:35:07 13 witness?

11:35:07 14 MR. GANTNER: I will wait for you to do it.

11:35:09 15 MR. DESAPIO: Okay.

11:35:09 16 Q. Is there any comment, criticism or statement in  
11:35:16 17 the 2012 audit citing the County for failure to file  
11:35:22 18 these data collection reports?

11:35:24 19 MR. GANTNER: All right.

11:35:25 20 Now I want to clarify my objection.

11:35:27 21 There are two audits, there is a financial  
11:35:29 22 audit and the single audit. We need to understand which  
11:35:33 23 audit counsel is referring to.

11:35:34 24 MR. FLORIO: What do you mean by "signal  
11:35:37 25 audit"?

11:35:37 1 MR. GANTNER: "Single audit."

11:35:39 2 MR. FLORIO: "Single."

11:35:39 3 MR. GANTNER: The single audit, which is

11:35:42 4 still in process.

11:35:43 5 MR. FLORIO: That's Donohue's, Gironda's and

11:35:46 6 somebody else.

11:35:47 7 MR. GANTNER: No. Wiss.

11:35:49 8 MR. FLORIO: Thank you. It's clarified for

11:35:51 9 me.

11:35:51 10 MR. DESAPIO: Excuse me.

11:35:52 11 MR. FLORIO: It's clarified for me now.

11:35:53 12 MR. DESAPIO: That audit is not in evidence,

11:35:56 13 there is no writing about it, and we are talking about

11:35:58 14 charges which have been preferred now, and my question

11:36:02 15 is, in connection with anything that's been put in in

11:36:11 16 the county's direct case, is there any statement or

11:36:11 17 criticism for failure to file those forms?

11:36:15 18 MR. GANTNER: You will recall or see it in

11:36:20 19 the transcript, that when Mr. Gannon testified after

11:36:27 20 counsel's objection was overruled, he discussed the fact

11:36:31 21 that there are two audits, there is the financial audit,

11:36:34 22 which is in writing, we have been talking about, that

11:36:38 23 there is also something called a "single audit," and the

11:36:42 24 testimony was that when the single audit is memorialized

11:36:46 25 in writing it is going to identify two material



11:36:49 1 weaknesses, one of which was the failure to file the  
11:36:54 2 federal data collection forms for a period of, I think,  
11:36:59 3 five or six years.

11:37:02 4 MR. DESAPIO: First of all, that misstates  
11:37:03 5 the evidence.

11:37:05 6 It wasn't five or six years. It was three  
11:37:08 7 years, 2009, 2010 and 2011, and again I want to make the  
11:37:14 8 point, how can anybody -- excuse me for sitting -- how  
11:37:17 9 can anybody answer charges about something that hasn't  
11:37:21 10 happened yet.

11:37:22 11 I mean, it's -- you know -- this is, like, I  
11:37:24 12 don't know what this is like, but -- well, maybe we will  
11:37:28 13 pay more for the audit, so if there has been a financial  
11:37:30 14 loss to the County, right, maybe this audit report will  
11:37:33 15 come in and make us a high risk auditee. Well, it  
11:37:37 16 hasn't yet.

11:37:38 17 The only testimony we have is Gannon  
11:37:41 18 identified that these weren't done, that they are  
11:37:45 19 typically prepared by the auditor and then certified by  
11:37:49 20 somebody in Finance, that he called the previous  
11:37:52 21 auditor, and the previous auditor confirmed that he  
11:37:56 22 forgot to do them, the previous auditor then did them,  
11:38:00 23 they were sent to Finance, Finance signed them, and they  
11:38:03 24 were filed.

11:38:04 25 There is no definitive evidence in the

11:38:09 1 record that he is making a determination or had made a  
11:38:12 2 determination that the County is a high risk auditee,  
11:38:17 3 and until he does, there shouldn't be any testimony  
11:38:19 4 about it, and it certainly shouldn't be taken into  
11:38:23 5 consideration by the hearing officer.

11:38:25 6 MR. FLORIO: Mr. Gantner.

11:38:26 7 MR. GANTNER: Well, it's an argument, and, I  
11:38:27 8 suppose, it's better placed in summation of some sort.

11:38:34 9 Right now we are addressed to the witness'  
11:38:39 10 answer to a question, which refers back to the testimony  
11:38:44 11 that you heard from Mr. Gannon in which he told you when  
11:38:50 12 I issue this finding it will be designated as a material  
11:38:55 13 weakness, and it does result in the County being a high  
11:38:59 14 risk auditee. That's the evidence.

11:39:01 15 Counsel may not like the evidence. He can  
11:39:03 16 argue about the sufficiency of it or the weight of it,  
11:39:06 17 but this isn't the time for that argument.

11:39:13 18 MR. FLORIO: Mr. DeSapio.

11:39:16 19 MR. DESAPIO: My objection and reasoning  
11:39:18 20 stands the same.

11:39:19 21 I don't know how an employee is supposed to  
11:39:21 22 respond to something that hasn't happened yet, that  
11:39:29 23 somebody thinks it's going to happen.

11:39:30 24 MR. FLORIO: I will overrule the objection.

11:39:32 25 My recollection of Mr. Gannon's testimony is

11:39:36 1 similar to what was just represented by Mr. Gantner, and  
11:39:44 2 the witness is testifying not from the testimony of Mr.  
11:39:47 3 Gannon, but from her own recollection, so I will allow  
11:39:52 4 it, and I will give it the proper weight when the time  
11:39:56 5 comes for weighting such things.

11:40:00 6 Please feel free to continue.

11:40:12 7 Q. Did Mr. Gannon tell you what he had determined in  
11:40:23 8 connection with these forms?

11:40:27 9 A. What forms?

11:40:28 10 Q. With the federal data collection forms.

11:40:38 11 A. I know that we were at a meeting in July, either  
11:40:45 12 July 30th or July 31st, when we talked about the results  
11:40:52 13 of Wiss' 2012 audit, and he did explain about the other  
11:40:59 14 two material weaknesses, the federal ID.

11:41:03 15 He said that while auditors will assist, it is  
11:41:10 16 the ultimate responsibility of the chief financial  
11:41:14 17 officer to sign off and certify which was done in 2008,  
11:41:24 18 in '9, '10 and '11, that Certification, those federal  
11:41:30 19 data sheets or ID sheets, or whatever, weren't filed,  
11:41:36 20 but -- and I concur with what the hearing officer has  
11:41:40 21 said or Mr. Gantner said -- Dave Gannon said that they  
11:41:50 22 did contact the past -- excuse me -- the old -- the  
11:41:58 23 previous auditing company, Samuel Klein, and it was  
11:42:04 24 corrected, but it's supposed to be an annual  
11:42:08 25 Certification by the chief financial officer.

11:42:12 1 I don't know what's on those sheets. I couldn't  
11:42:15 2 tell you, but I do know that it was -- it was going to  
11:42:21 3 or has resulted in a material weakness under their  
11:42:28 4 audit, under the single audit.

11:42:31 5 Q. Did Mr. Gannon say to you that these forms are  
11:42:36 6 typically prepared by the auditor?

11:42:42 7 A. He said that the auditing people assist with it,  
11:42:48 8 but the ultimate responsibility is a Certification by  
11:42:53 9 the chief financial officer, and that needs to be done  
11:42:59 10 to submit the federal data sheets or whatever they are.

11:43:04 11 Q. Are you aware of the fact that these forms for  
11:43:08 12 those years were filed?

11:43:11 13 A. No, I am not.

11:43:17 14 MR. DESAPIO: What are we up to, 31, 32 and  
11:43:21 15 33.

11:43:22 16 THE WITNESS: And I just testified to that,  
11:43:24 17 though, that during the 2012 audit they contacted the  
11:43:32 18 previous auditor, and I don't know if they then  
11:43:34 19 certified after the fact of the '9, '10 and '11, so  
11:43:39 20 possibly it was submitted, but not when it was supposed  
11:43:44 21 to in '9, '10 and '11 and certified by the chief  
11:43:47 22 financial officer.

11:43:50 23 MR. DESAPIO: Are we up to --

11:43:51 24 MR. FLORIO: 31 is next.

11:43:53 25 MR. DESAPIO: I have here to mark 31, 32 and

11:43:58 1 33.

11:44:03 2 MR. GIACOBBE: Do we have copies?

11:44:06 3 MR. DESAPIO: These were in the material  
11:44:08 4 which you gave to me, which was the work papers of Mr.  
11:44:13 5 Gannon. I don't have copies this morning.

11:44:16 6 Maybe we can ask County counsel to help us  
11:44:19 7 with copies or I can make them someplace on the luncheon  
11:44:23 8 break.

11:45:07 9 (Data collection form is marked as Exhibit  
11:45:10 10 PB-31 for identification.)

11:45:12 11 (Data collection form is marked as Exhibit  
11:45:18 12 PB-32 for identification.)

11:45:21 13 (Data collection form is marked as Exhibit  
11:45:25 14 PB-33 for identification.)

11:46:27 15 MR. FLORIO: Let's break.

12:32:55 16 Are we ready?

12:32:56 17 MR. DESAPIO: Ready.

12:32:58 18 MR. GANTNER: Yes.

12:32:58 19 MR. FLORIO: Let's continue.

12:33:02 20 Back on the record.

12:33:03 21 Q. PB-31 is the form "Data collection form for  
12:33:10 22 Reporting on Audits of States, Local Governments and  
12:33:12 23 Nonprofit Organizations for the fiscal year ending dates  
12:33:16 24 in 2008, 2009 or 2010."

12:33:21 25 Under part one, Section 1, it says, "For the

12:33:25 1 period ending December 31st, 2009."

12:33:29 2 P-32 is the same form, and in part one it says,  
12:33:37 3 "For the fiscal period ending 12/31/2010."

12:33:43 4 And P-33 is entitled the same form, "For the  
12:33:50 5 fiscal period ending December 31st, 2011."

12:33:53 6 Ms. Yard, do you have those in front of you?

12:33:57 7 A. Yes.

12:33:58 8 Q. Okay. Can you identify these?

12:34:04 9 A. Never seen them before in my life.

12:34:06 10 Q. Okay. Do you have a copy with you of the form  
12:34:16 11 that you contend that Margaret Pasqua and Kim Browne  
12:34:20 12 didn't file?

12:34:22 13 MR. GANTNER: Objection.

12:34:26 14 MR. FLORIO: Explain.

12:34:26 15 MR. GANTNER: A copy of the form that wasn't  
12:34:29 16 filed?

12:34:30 17 MR. DESAPIO: She contends that was not  
12:34:32 18 filed.

12:34:33 19 MR. GANTNER: That's the whole point.

12:34:35 20 They weren't filed. They weren't prepared.

12:34:39 21 MR. FLORIO: I have to sustain the objection  
12:34:41 22 because I don't understand the question then.

12:34:44 23 Q. Do you have a copy of the blank form that you  
12:34:47 24 contend was not completed by Margaret Pasqua or Kim  
12:34:51 25 Browne that serves as the basis for charge number B-13,

12:35:00 1 "Failure to complete required reports"?

12:35:04 2 MR. GANTNER: I believe that Mr. Gannon  
12:35:07 3 explained that the form is prepared by the auditor,  
12:35:12 4 which at the time was Klein, and is supplied to the  
12:35:17 5 County to electronically sign it and file it, so if the  
12:35:22 6 County never got it, I don't understand whether this is  
12:35:25 7 just -- whether the questioner just doesn't understand  
12:35:30 8 that or just an ingenuous question.

12:35:35 9 MR. FLORIO: I am going to reserve on the  
12:35:37 10 objection and allow the inquiry and see if we can  
12:35:41 11 connect it up to some matter in dispute that has been  
12:35:47 12 testified to previously.

12:35:52 13 Q. Do you have a copy of the blank form that you  
12:35:57 14 contend either Margaret Pasqua or Kim Browne didn't  
12:36:01 15 complete that serves as the basis for charge B-13 in the  
12:36:07 16 notice of disciplinary charges?

12:36:10 17 MR. FLORIO: Counsel, when you ask about  
12:36:12 18 "blank form," you have presented three exhibits for  
12:36:17 19 identification.

12:36:18 20 Are you referring to any particular one of  
12:36:21 21 those three --

12:36:22 22 MR. DESAPIO: Well, she indicated --

12:36:24 23 MR. FLORIO: -- or something else?

12:36:24 24 MR. DESAPIO: She indicated she didn't  
12:36:26 25 recognize them.

12:36:27 1 THE WITNESS: I have never seen them before.

12:36:28 2 MR. DESAPIO: Never seen them before. All  
12:36:30 3 right.

12:36:30 4 MR. FLORIO: Yes.

12:36:31 5 MR. DESAPIO: She has charged these  
12:36:32 6 employees with failure to complete a report.

12:36:35 7 I am asking if the witness has a copy of the  
12:36:38 8 form, incompleated, that she is charging -- "uncompleted"  
12:36:44 9 is the word -- that she is charging these two employees  
12:36:47 10 failed to file.

12:36:49 11 MR. FLORIO: Do you understand the question,  
12:36:50 12 Ms. Yard?

12:36:53 13 THE WITNESS: To the best of my ability the  
12:36:55 14 answer is "no."

12:37:09 15 Q. Charge number five in Margaret Pasqua's Notice of  
12:37:15 16 Discipline, which is HC-4 --

12:37:22 17 A. Are we done with these?

12:37:24 18 Q. Yes. In charge number six in Kim Browne's notice  
12:37:34 19 of discipline, HC-5, titled "C-11 Insubordination," does  
12:37:47 20 that refer to the item in the Table of Offenses that's  
12:37:57 21 in PB-23 at County-22, C-11?

12:38:05 22 A. C-11, yes. Uh-huh.

12:38:07 23 Q. All right.

12:38:08 24 "Insubordination, intentional disobedience or  
12:38:13 25 refusal to accept reasonable order, assaulting or



12:38:18 1 resisting authority, disrespect or use of insulting or  
12:38:22 2 abusive language to a supervisor," was there any  
12:38:31 3 assaulting or resisting your authority on any of their  
12:38:38 4 behalves?

12:38:38 5 A. The charge came from, as I said before, I have  
12:38:44 6 testified before, there are commas in these offenses and  
12:38:52 7 the conduct that made me recommend this charge,  
12:38:58 8 "Intentional disobedience or refusal to accept the  
12:39:01 9 reasonable order."

12:39:04 10 Q. Okay. So that's the portion of C-11 that serves  
12:39:18 11 as the basis for your charge. Correct?

12:39:18 12 A. Uh-huh. Yes. Yes.

12:39:18 13 Q. Okay. I am going to show you what's been marked  
12:39:25 14 as HC --

12:39:26 15 A. Am I done with this?

12:39:28 16 Q. -- HC-13. Is that the letter that you contends  
12:39:53 17 served as the basis for insubordination?

12:40:00 18 A. This is the letter to Kimberly Browne where I had  
12:40:07 19 made a reasonable request, and I made a reasonable -- I  
12:40:14 20 gave her a reasonable order to sign the representation  
12:40:18 21 letter for the 2012 Hunterdon County audit, so, yes.

12:40:27 22 Q. HC-13, in the first paragraph, says, "Enclosed is  
12:40:32 23 that representation letter issued by Wiss & Company  
12:40:36 24 regarding the 2012 Hunterdon County order."

12:40:41 25 Is that attached to HC-13?

12:40:45 1 A. In August, mid August, it was delivered to both  
12:40:55 2 the Director of Finance, Kim Browne, and the County  
12:41:00 3 Treasurer, Margaret Pasqua, as they were reassigned at  
12:41:07 4 the recommendations of the prosecutor's office, and that  
12:41:12 5 was an e-mail requesting them to sign the representation  
12:41:17 6 letter.

12:41:26 7 MR. DESAPIO: We are up to 34.

12:41:28 8 I am sorry.

12:41:29 9 PB-34, please.

12:41:39 10 (E-mail from Margaret Pasqua to Cynthia Yard  
12:41:48 11 dated September 10, 2013, is marked as Exhibit PB-34 for  
12:42:29 12 identification.)

12:42:29 13 Q. The cover sheet, the first page of PB-34 is a  
12:42:32 14 memo to Cynthia J. Yard from Margaret Pasqua and  
12:42:37 15 Kimberly Browne dated September 10, 2013, with a  
12:42:41 16 reference to the Wiss audit.

12:42:44 17 The second page purports to be a copy of an  
12:42:50 18 e-mail dated August 9th, 2013, from Dave Gannon to  
12:42:55 19 Kimberly Browne and Margaret Pasqua, and pages 3 through  
12:43:04 20 the end appears to be a letter with the "County of  
12:43:13 21 Hunterdon, 71 Main Street, Building No. 1," at the top,  
12:43:16 22 dated August 12, 2013, addressed to Wiss & Company, LLP  
12:43:23 23 with signature lines on the last page for Cynthia Yard,  
12:43:27 24 Kimberly Browne and Margaret Pasqua.

12:43:31 25 Ms. Yard, I am going to show you PB-34 --

12:43:34 1 A. Okay.

12:43:35 2 Q. -- and ask you if you are familiar with those  
12:43:41 3 items.

12:43:45 4 A. If I am familiar with the items, yes.

12:43:51 5 Q. Is the first page of PB-34, in fact, Margaret  
12:43:56 6 Pasqua, Kim Browne's response to your memo, HC-13, dated  
12:44:04 7 September 9th, 2013?

12:44:09 8 A. I am sorry. Say it again. September 10?

12:44:12 9 Q. Is the first page of PB-34, the response that  
12:44:20 10 Kimberly Browne and Margaret Pasqua provided to you, in  
12:44:25 11 regard to your memo to them of September 9, 2013?

12:44:33 12 A. Yes.

12:44:34 13 Q. Can you flip to the third page, please.

12:44:41 14 A. Yes, I will, but the September 10th -- all I can  
12:44:45 15 confirm is that it's dated September 10th. It doesn't  
12:44:49 16 say anywhere on there, "This is in response to the  
12:44:52 17 September 9th correspondence."

12:44:54 18 It says in -- it's in response to your request  
12:44:57 19 for our signatures on the 2012 audit, so I would be  
12:45:01 20 remiss if I said that it was in response to my September  
12:45:06 21 9th memo. It is in response to a request I made for  
12:45:10 22 signatures.

12:45:11 23 Go ahead.

12:45:12 24 Q. Let's go back to the cover sheet again.

12:45:15 25 Do you acknowledge receiving the cover sheet?

12:45:17 1 A. Yes.

12:45:18 2 Q. Okay.

12:45:18 3 A. It's dated September 10th.

12:45:20 4 Q. And the day after your September 9th memo.

12:45:24 5 Correct?

12:45:25 6 A. I sent a memo on September 9th, yes.

12:45:28 7 Q. And when you received the first page of PB-34,

12:45:32 8 did you understand it to be in response to your

12:45:35 9 September 9th memo?

12:45:38 10 A. I understood it to be in response to my request

12:45:41 11 for signatures on the 2012 audit, because that's what it

12:45:45 12 says.

12:45:45 13 Q. Which is the subject of your September 9th memo?

12:45:49 14 A. The subject of my memo was Wiss' audit. I am

12:45:54 15 just reading.

12:45:54 16 Q. Would you look at Page 3, please.

12:45:58 17 Can you identify that?

12:46:07 18 A. They are not -- actually, physically going to the

12:46:10 19 third page, because they are not numbered.

12:46:12 20 Q. Physically going to the third page --

12:46:14 21 A. Okay.

12:46:15 22 Q. -- page that begins, "County of Hunterdon, 71

12:46:18 23 Main Street, Building One, Flemington, New Jersey."

12:46:21 24 A. Got it.

12:46:22 25 Q. Got it. Okay.

12:46:23 1 Do you recognize that?

12:46:31 2 A. Yes. It's from Wiss & Company, yes. Uh-huh.

12:46:34 3 Q. What is it?

12:46:36 4 A. It says, "This representation letter is provided

12:46:40 5 in connection with your audits."

12:46:44 6 Q. Is this the representation letter that you wanted

12:46:48 7 Kimberly Browne and Margaret Pasqua to sign?

12:46:53 8 A. This is the representation letter, yes.

12:46:56 9 Q. Is it the one you wanted them to sign?

12:46:59 10 A. It appears so.

12:47:01 11 Q. Okay. Now, how many pages does that consist of,

12:47:12 12 the letter?

12:47:23 13 A. Six.

12:47:24 14 Q. Okay. And how many numbered representations are

12:47:30 15 in here?

12:47:33 16 A. It's numbered one through 50.

12:47:36 17 Q. Okay. And do some of those representations, in

12:47:46 18 fact, have subsections?

12:47:46 19 A. Uh-huh.

12:47:46 20 Q. Okay. Take a look at --

12:47:46 21 A. Yes. Excuse me.

12:47:46 22 Q. Take a look at HC-13 again, please.

12:47:52 23 A. HC-13, okay.

12:47:54 24 Q. Read the last sentence of the second paragraph.

12:48:01 25 A. "As such you are hereby directed to sign this

12:48:04 1 representation letter or respond in writing as to your  
12:48:06 2 concerns attaching your requested modifications."

12:48:10 3 Q. So your direction to them was not just to sign,  
12:48:19 4 correct, it was to sign or indicate why they couldn't?

12:48:27 5 A. That's what it says, yes.

12:48:29 6 Q. Okay. All right.

12:48:30 7 Now, would you look at the front sheet of PB-34?

12:48:42 8 A. PB-34, oh, here it is. Okay.

12:48:50 9 Q. Ms. Yard, can I just borrow that from you for a  
12:48:55 10 second? I am going to give it right back to you.

12:49:02 11 Why don't you read the whole thing, please.

12:49:08 12 A. "This letter is in response to your request for  
12:49:11 13 our signatures on the 2012 Audit Management  
12:49:14 14 Representation Rep letter. We were given a copy of an  
12:49:19 15 e-mail from Dave Gannon which included the management  
12:49:21 16 letter. There was no indication that a response was  
12:49:23 17 necessary to your office. You were informed previously  
12:49:27 18 through your inquiries with Sheriff Brown and Public  
12:49:30 19 Safety Director Wagner that we were not comfortable  
12:49:33 20 signing this letter. We cannot sign off on any  
12:49:36 21 financial issues while there is an acting CFO serving in  
12:49:40 22 our office.

12:49:41 23 "In addition, we have concerns about the  
12:49:43 24 following items in the management letter, 2, 4, 7, 8, 9,  
12:49:49 25 12b and d, 14, 15-all, 16, 20, 21, 23, 28, 31, 43, 44,

12:49:57 1 47, 49 b-c-f-i-k-r-s and v. We were not involved in an  
12:50:05 2 exit conference with Wiss which may have cleared up some  
12:50:08 3 of these items. Also many statements request our  
12:50:11 4 confirmation of events requests through the date of the  
12:50:13 5 letter, which is August 12, 2013. Obviously we cannot  
12:50:17 6 confirm anything past the date of June 25, 2013."

12:50:21 7 Q. So after you received that response, did you ask  
12:50:26 8 either Ms. Browne or Ms. Pasqua to meet with you?

12:50:32 9 A. I can't ask you a question. I was going to ask a  
12:50:35 10 question.

12:50:35 11 Q. Did you ask them to meet with you?

12:50:36 12 A. No, I didn't. They were reassigned at the  
12:50:38 13 direction and the recommendations of the prosecutor and,  
12:50:43 14 no, I did not speak with them.

12:50:44 15 Q. They were still County employees. Correct?

12:50:47 16 A. Oh, absolutely.

12:50:49 17 Q. They were still working for you. Correct?

12:50:51 18 A. Yes. They were reassigned, yes, sir.

12:50:53 19 Q. You issued them a memo that said, "Either sign or  
12:50:56 20 respond," or "Respond in writing as to your concerns."  
12:51:01 21 Correct?

12:51:02 22 A. That was after the auditor had reached out and  
12:51:05 23 asked them to sign and/or contact him on August 12th of  
12:51:14 24 2013.

12:51:15 25 Q. Okay. Well, your direction to them was on

12:51:22 1 September 9th, 2013. Correct?

12:51:25 2 A. Yes. After -- yes.

12:51:26 3 Q. And you asked them to either sign or "respond in  
12:51:30 4 writing" as to your concerns. Correct?

12:51:33 5 A. Yes.

12:51:34 6 Q. And when you received their concerns, didn't you  
12:51:38 7 ask to meet with them?

12:51:41 8 A. No.

12:51:42 9 Q. Did you review their concerns to see whether they  
12:51:45 10 were legitimate?

12:51:51 11 A. I did not review them with them, no.

12:51:53 12 Q. Okay. Did you review them with somebody else to  
12:51:57 13 see whether they were legitimate?

12:52:01 14 A. No.

12:52:02 15 Q. Okay. Charge number six in HC-4 and charge  
12:52:40 16 number seven in HC-5 is entitled, "Conduct Unbecoming a  
12:52:46 17 Public Employee."

12:52:48 18 A. Yes.

12:52:48 19 Q. You preferred disciplinary charges against  
12:53:00 20 various employees in the County?

12:53:07 21 A. I explained to you the other day when we were  
12:53:11 22 speaking about this that the system that we have set up  
12:53:17 23 in most cases is that the manager speaks with HR because  
12:53:22 24 of the chance that I would be the hearing officer, so if  
12:53:31 25 you are making a general statement about do I prefer



12:53:34 1 charges against employees, it depends on who those  
12:53:39 2 employees are and, typically, the manager deals with HR,  
12:53:48 3 the senior manager.

12:53:50 4 We also make sure that the division managers are  
12:53:53 5 involved because they need to know how to implement a  
12:53:59 6 corrective action disciplinary program.

12:54:01 7 Q. Okay. But in your capacity you are familiar with  
12:54:06 8 the rules and regulations of the New Jersey Civil  
12:54:12 9 Service Commission concerning the circumstances under  
12:54:15 10 which public employees in your jurisdiction can be  
12:54:18 11 disciplined?

12:54:21 12 A. I have been a public employee for 41 years, and I  
12:54:26 13 have had experience with preferring charges against  
12:54:30 14 employees, yes.

12:54:31 15 Q. And --

12:54:32 16 A. We are a Civil Service county.

12:54:35 17 Q. Is conduct unbecoming a public employee, is that  
12:54:38 18 one of the Civil Service -- one of the items for which  
12:54:42 19 Civil Service indicates a public employee can be  
12:54:45 20 disciplined?

12:54:46 21 A. Under 4A, I believe so.

12:54:49 22 Q. Okay. And what is your understanding of what  
12:54:56 23 would constitute "Conduct unbecoming a public employee"?

12:55:05 24 A. It's certainly not as objective as some of the  
12:55:11 25 other charges, but it's either misconduct, a violation

12:55:19 1 of either standards or protocols or policies, so it  
12:55:25 2 could be a wide range from anything -- you know -- from  
12:55:30 3 soup to nuts.

12:55:32 4 Q. So it is not your understanding that "conduct  
12:55:36 5 unbecoming a public employee" has to be personal conduct  
12:55:40 6 or behavior that occurs in the workplace or outside the  
12:55:46 7 workplace that would arise to the level of being  
12:55:52 8 personal misconduct?

12:55:55 9 A. It does not, the table of offense doesn't say  
12:55:59 10 "personal conduct unbecoming a public employee."

12:56:02 11 It says, "Conduct unbecoming an employee," so I  
12:56:09 12 interpreted it the way and thought that was an  
12:56:12 13 appropriate charge that I preferred.

12:56:14 14 Q. Is the definition that the County uses for what  
12:56:21 15 constitutes "conduct unbecoming a public employee," is  
12:56:25 16 that the same definition in your mind as Civil Service's  
12:56:30 17 definition of that?

12:56:35 18 A. The county's interpretation is "conduct." It  
12:56:41 19 doesn't say "personal conduct." "Conduct unbecoming a  
12:56:44 20 public employee."

12:56:48 21 Q. So is your answer it's different than how Civil  
12:56:53 22 Service looks at it?

12:56:53 23 A. My answer is that it says, "Conduct unbecoming a  
12:56:56 24 public employee." It does not say "personal conduct."

12:57:01 25 Q. And is it then different than Civil Service's

12:57:07 1 interpretation?

12:57:09 2 A. I am not familiar with quoting 4A.

12:57:14 3 I am telling you what I did when I considered the  
12:57:18 4 charges.

12:57:20 5 Q. Now, charge E-3, which is number seven in HC-4,  
12:57:31 6 and number eight in HC-5, can we look at PB-23, and is  
12:57:46 7 that on page County-23 of PB-23?

12:57:53 8 A. County-23. Yes. Got it.

12:57:56 9 Q. E-3, "Violation of a rule, regulation, policy or  
12:57:59 10 procedure, order or administrative decision where an  
12:58:03 11 individual was placed in a hazardous situation, property  
12:58:06 12 is damaged, there was a serious breach of security or  
12:58:09 13 financial loss to the County."

12:58:14 14 What rule, regulation, policy, procedure, order  
12:58:19 15 or administrative decision did either of these employees  
12:58:23 16 violate?

12:58:25 17 A. It was the regulations of the DCA, local  
12:58:31 18 government finance services that regulates their  
12:58:36 19 license, that requires them to perform 14  
12:58:40 20 responsibilities of which is very specifically  
12:58:45 21 prescribed.

12:58:47 22 It regulates their behavior as licensed CFMO or  
12:58:53 23 CCFO, and it absolutely caused financial loss to the  
12:59:00 24 County.

12:59:00 25 Q. Is there an actual regulation that you contend

12:59:03 1 that they violated?

12:59:06 2 A. Actually part of the responsibility of the 14  
12:59:11 3 points, as you had called them, the 14 points of light,  
12:59:16 4 but they are the 14 responsibilities of their license.

12:59:21 5 They refer to NJSA 40A, NJSA 30-5, I believe, and  
12:59:30 6 all DCA local government finance directives, and that's  
12:59:36 7 part of the 14 responsibilities of their license.

12:59:42 8 Q. Can you point to one statute that either of them  
12:59:44 9 violated?

12:59:47 10 A. All of the -- on the responsibility list, as I  
12:59:53 11 said, it talks about NJSA 30-5 and 40A, and they give  
13:00:01 12 specific statutes, but it's the regulatory guidelines,  
13:00:08 13 it's a regulation of the terms and conditions of their  
13:00:11 14 license.

13:00:12 15 Q. Can you point to one statute that either of them  
13:00:15 16 violated?

13:00:17 17 "Yes" or "no."

13:00:20 18 A. I am not well-versed in the NJSA. I do know that  
13:00:24 19 it says, "Compliance with NJSA 40A and 5:30," but they  
13:00:34 20 are licensed. It's the regulatory standards of practice  
13:00:38 21 for their license.

13:00:38 22 Q. So the answer is "no." Correct?

13:00:41 23 A. The answer is "no," I could not quote from a  
13:00:44 24 statute.

13:00:45 25 Q. Okay. Did you refer to title 30 or did you refer

13:00:58 1 to title 5:30?

13:01:00 2 A. I believe it was -- I believe the  
13:01:03 3 responsibilities is, and I believe the third one refers  
13:01:07 4 to NJSA 5, I think, 30. I may be incorrect.

13:01:15 5 Q. Do you understand that to be the administrative  
13:01:17 6 regulations that the Division of Local Government  
13:01:22 7 Services have promulgated?

13:01:25 8 A. I understand that it's one of the statutes that  
13:01:29 9 they refer to in the responsibilities of their license.

13:01:32 10 Q. Okay. A statute or a regulation?

13:01:36 11 A. NJSA, I believe, NJSA is a statute, so, as I  
13:01:44 12 said, it's part of the 14 responsibilities, compliance  
13:01:48 13 with those two they refer to as well as all DCA  
13:01:52 14 guidelines and directives.

13:01:55 15 Q. Can you refer us to one provision of 5:30 that  
13:02:00 16 either of these employees violated?

13:02:06 17 A. I am not versed in the statutes. I do know the  
13:02:11 18 terms and conditions and standards of practice, and I  
13:02:15 19 chose this charge because of the regulations, the  
13:02:20 20 regulatory responsibilities of a CMFO or a CCFO license.

13:02:27 21 Q. So the answer is "no." Correct?

13:02:30 22 A. The answer is, "I am not versed in the NJSA  
13:02:38 23 statutes regarding a licensed CMFO or CCFO."

13:02:40 24 Q. Can you refer us to one written policy procedure  
13:02:44 25 or order of the Department of Community Affairs that

13:02:48 1 either of these employees have violated?

13:02:55 2 A. Yes. They violated their regulatory terms and  
13:03:00 3 conditions, the 14 responsibilities of their license.

13:03:06 4 Number seven is, "Develop internal controls to  
13:03:09 5 protect the county's assets."

13:03:11 6 "Custody of public funds" is another one.

13:03:15 7 "Compliance with a single audit."

13:03:18 8 I can go on and on. There are 14 steps that they  
13:03:23 9 violated those 14 responsibilities, maybe not all 14,  
13:03:29 10 but significantly enough. The depth and breadth and the  
13:03:33 11 gravity of the 2012 audit clearly violated their  
13:03:37 12 regulatory responsibility to their license.

13:03:44 13 Q. Were any of those things that you just referred  
13:03:46 14 to promulgated in a policy, rule, regulation, procedure  
13:03:53 15 or order of the Department of Community Affairs?

13:03:56 16 A. It's the terms and conditions and the standards  
13:03:58 17 of practice of their license. There are 14 points, and  
13:04:03 18 those licenses are renewed every year. They have to  
13:04:07 19 maintain CEUs to maintain those licenses, and, as a  
13:04:15 20 matter of fact, Margaret Pasqua attended a CEU class, or  
13:04:21 21 whether it was online or offsite, on internal controls.

13:04:27 22 So that license that they have, they have a duty  
13:04:31 23 to that license, and their behavior is regulated. It's  
13:04:35 24 a regulation of holding that license.

13:04:38 25 Q. So the answer is "no." Correct?

13:04:41 1 A. That's incorrect.

13:04:43 2 Q. Can you point us to a written promulgated policy,  
13:04:47 3 procedure, rule, regulation?

13:04:49 4 A. I can point to the DCA, State of New Jersey 14  
13:04:55 5 responsibilities of a licensed CMFO and CCFO, and  
13:05:03 6 through the 2012 audit there was a violation of a rule,  
13:05:11 7 regulation policy, procedure, order or administrative  
13:05:14 8 decision, and there was financial loss to the County.

13:05:20 9 The administrative decision -- I believe it's  
13:05:25 10 number four, I am not quite sure -- that says to comply  
13:05:30 11 with all of the local finance directives from the DCA.  
13:05:37 12 That's a directive.

13:05:39 13 Certainly administrative in nature they hold the  
13:05:42 14 license.

13:05:44 15 Q. Now, does the County pay for continued education  
13:05:49 16 courses or courses designed for people to obtain  
13:05:56 17 licenses?

13:05:58 18 A. Yes. That's one of the few things that the  
13:06:02 19 County in the March 17th resolution -- I know you hate  
13:06:08 20 me to say this, Guy, that you wrote on the restrictions  
13:06:11 21 on the trips, traveling, conferences, meetings -- that  
13:06:17 22 was one of the few things that the County would continue  
13:06:20 23 to pay for if we require a license or a certification  
13:06:26 24 for someone to perform their duties.

13:06:29 25 The County not only pays for the person to

13:06:32 1 receive the license but then also the continuing  
13:06:36 2 education units that they are required to maintain that  
13:06:40 3 license.

13:06:42 4 Q. Now, I believe you said that you felt that even  
13:06:46 5 though a CFO license was not required for Kim Browne to  
13:06:52 6 initially be appointed to a position, that once the  
13:06:56 7 County paid for that license it somehow became a part of  
13:07:01 8 her job duties or description.

13:07:04 9 Is that a fair characterization of your  
13:07:06 10 testimony?

13:07:06 11 A. The County would only pay for it if they felt  
13:07:09 12 that the license was necessary for her to perform her  
13:07:12 13 duties.

13:07:13 14 We have other folks here that don't require a  
13:07:15 15 license to do a particular duty, and the County will not  
13:07:20 16 pay for it, so, yes.

13:07:24 17 Q. Did the County pay for you to get a paralegal  
13:07:28 18 certificate?

13:07:29 19 A. Yes, they -- tuition reimbursement. They didn't  
13:07:31 20 pay for it. It was tuition reimbursement.

13:07:34 21 Q. Tuition reimbursement?

13:07:36 22 A. Yes. I paid for the balance of the tuition  
13:07:39 23 reimbursement.

13:07:40 24 Q. Does that mean your responsibility now includes  
13:07:43 25 responsibility to review and monitor all legal issues



13:07:48 1 that occur within the County?

13:07:49 2 A. No. As a matter of fact, in the statement that I  
13:07:52 3 just made before, when the County decides that a license  
13:07:55 4 is required for someone to perform their duties, they  
13:07:58 5 will pay for it.

13:07:59 6 The County taxpayers pay for that.

13:08:02 7 If someone is wanting to get a subject matter or  
13:08:08 8 a course or courses, and it's in a related field and it  
13:08:12 9 is approved by the governing body, then they can benefit  
13:08:17 10 from the tuition reimbursement program, and there is a  
13:08:22 11 dollar amount -- again, you would remember this because  
13:08:25 12 you negotiated all of our contracts up until 2010 or  
13:08:30 13 whenever you were no longer County counsel -- but it was  
13:08:35 14 the fringe benefit package for unclassified included  
13:08:40 15 tuition reimbursement for related, in other words, I  
13:08:46 16 couldn't go and learn to basket weave or to make a rug,  
13:08:51 17 but if it was deemed a related field or a related  
13:08:58 18 subject matter, and the freeholders approved it, then  
13:09:02 19 indeed I could benefit from the tuition reimbursement.

13:09:25 20 MR. DESAPIO: Okay. One final item.

13:09:27 21 What are we up to? 35?

13:09:31 22 MR. FLORIO: Yes.

13:09:58 23 (Letter from Donohue, Gironde & Doria to  
13:10:09 24 Shana Taylor dated June 17, 2013, is marked as Exhibit  
13:10:17 25 PB-35 for identification.)

13:10:48 1 Q. PB-34 for identification is dated June 17,  
13:10:52 2 2000 -- it must be referring to something else.

13:10:58 3 PB-35 -- I am sorry -- PB-35 for identification  
13:11:01 4 is dated June 17, 2013, on the letterhead of Donohue,  
13:11:07 5 Gironda & Doria addressed to Shana Taylor, County  
13:11:10 6 counsel, County of Hunterdon, and the first sentence  
13:11:13 7 says, "We are pleased to present this proposal to  
13:11:15 8 provide services to the County of Hunterdon."

13:11:18 9 Are you familiar with that proposal?

13:11:21 10 A. Yes, I am.

13:11:21 11 Q. Okay. Would you flip to Page 2.

13:11:31 12 Under the paragraph that's headed, "Other  
13:11:33 13 services," would you read the last sentence.

13:11:39 14 A. "Because we will not be independent as defined  
13:11:42 15 under 'Generally accepted auditing standards,' we will  
13:11:46 16 not issue a report on 'Performance' with an opinion."

13:11:49 17 Q. Do you understand why that is?

13:11:53 18 A. I am not an auditor, no, I don't. And I am  
13:11:56 19 not -- no, I don't understand what it is.

13:12:01 20 Q. Is it a condition of the engagement that the  
13:12:14 21 County undertook of Donohue, Gironda & Doria?

13:12:22 22 A. It says -- do you want me to read it?

13:12:25 23 Q. That one sentence, is that a part of the  
13:12:29 24 engagement that the County undertook with that firm?

13:12:34 25 A. It says that they were going to "review the

13:12:37 1 internal control systems in place and make  
13:12:39 2 recommendations for changes and improvements as we  
13:12:42 3 progress," is what it says.

13:12:43 4 Q. What about the sentence that I asked you to read?  
13:12:46 5 Is that a part of their engagement?

13:12:48 6 A. Let me read it to you then.

13:12:49 7 "Because we will not be independent as defined  
13:12:53 8 under 'generally accepted auditing standards,' we will  
13:12:57 9 not be able to issue an opinion."

13:13:00 10 Q. Is that a condition of their engagement, that  
13:13:02 11 sentence, that you just read now for the second time?

13:13:09 12 A. Are you asking me if it's not supposed to be in  
13:13:13 13 there?

13:13:13 14 Q. No. I am asking you if that's part of what the  
13:13:15 15 County agreed to with them.

13:13:17 16 A. Well, evidently it's signed, not by me, and the  
13:13:23 17 sentence is in there.

13:13:25 18 Q. Okay.

13:13:27 19 MR. DESAPIO: I don't have anything further  
13:13:28 20 at this time.

13:13:29 21 I would like to ask that all of the PB  
13:13:34 22 exhibits, with the exception of PB-31, PB-32 and PB-33,  
13:13:46 23 which I understand I will have to present some more  
13:13:48 24 testimony to tie in, be offered in evidence.

13:13:54 25 MR. FLORIO: Counsel.

13:13:54 1 MR. GANTNER: No objection.

13:13:56 2 MR. FLORIO: All right.

13:13:58 3 Then all the PB exhibits not previously  
13:14:01 4 moved into evidence, up to and including -- excluding  
13:14:09 5 PB-31, PB-32 and PB-33, subject to later authentication,  
13:14:16 6 are admitted in evidence through 34 and 35.

13:14:50 7 Redirect.

13:14:51 8 MR. GANTNER: Yes, please.

13:14:52 9 REDIRECT EXAMINATION BY MR. GANTNER:

13:14:54 10 Q. Ms. Yard, first of all, good afternoon.

13:14:57 11 A. Good afternoon.

13:14:58 12 Q. I would like to direct your attention to the  
13:15:00 13 electronic certification on PB-31, 32 and 33.

13:15:09 14 Will you tell us who electronically certified  
13:15:11 15 those documents on behalf of the County of Hunterdon?

13:15:16 16 A. Well, the only one that I can read --

13:15:21 17 Q. Lower left?

13:15:22 18 A. Yes. There is only one that I can read, and that  
13:15:25 19 is from 2009, the rest is all written over, but it's  
13:15:31 20 Kimberly Browne.

13:15:34 21 Q. Right here.

13:15:35 22 Do you see the name?

13:15:37 23 A. Yes, I do.

13:15:37 24 Q. Was Ms. Browne under a business duty to maintain  
13:15:41 25 accurate records on behalf of the County of Hunterdon

13:15:44 1 when she electronically certified those documents on  
13:15:47 2 March 7th, 2013?

13:15:51 3 A. Was she -- I am sorry.

13:15:52 4 Q. Was she under a business duty to maintain  
13:15:55 5 accurate records on behalf --

13:15:56 6 A. She is the manager -- managerial executive and  
13:16:00 7 the director of finance in Hunterdon County.

13:16:03 8 Q. So she was under a business duty --

13:16:05 9 A. Yes. I am sorry.

13:16:05 10 Q. -- to maintain an accurate record?

13:16:08 11 A. Yes.

13:16:08 12 MR. GANTNER: The County requests PB-31, 32  
13:16:13 13 and 33 be moved into evidence.

13:16:16 14 MR. FLORIO: Any objection?

13:16:16 15 MR. DESAPIO: No objection.

13:16:17 16 MR. FLORIO: PB-31, 32, and 33 are now in  
13:16:20 17 evidence as well.

13:16:21 18 Q. You were asked to review these by counsel a few  
13:16:23 19 moments ago, and you had not seen them before. You said  
13:16:26 20 you had not reviewed them before today.

13:16:28 21 Did you see anywhere in your review of PB-31, 32  
13:16:33 22 and 33 references to the Departments of Housing and  
13:16:37 23 Social Services being listed on the schedule of federal  
13:16:42 24 and state grants?

13:16:47 25 A. I am just looking at it for the first time.

13:16:59 1 Let's see, a reference to the housing.

13:17:05 2 Q. They are not on there. Right?

13:17:07 3 A. No. I don't see they are listed or noted here.

13:17:10 4 Q. Not listed at all?

13:17:11 5 A. Right.

13:17:12 6 Q. Filed late, three years worth, in March of 2013,  
13:17:20 7 two departments left off even on the late filings?

13:17:23 8 MR. DESAPIO: Objection to the form of the  
13:17:24 9 question.

13:17:26 10 Q. You testified in some detail during your cross  
13:17:39 11 about bills and whose responsibility it was to pay  
13:17:39 12 bills.

13:17:39 13 Let's be clear.

13:17:39 14 Are you telling Mr. Florio that your expectation  
13:17:43 15 was that Ms. Pasqua personally review every bill, no  
13:17:48 16 matter how large or small, track it back to its  
13:17:53 17 originating department, test it for accuracy, before she  
13:17:57 18 could write the check?

13:18:00 19 A. No. That was never an expectation that she would  
13:18:03 20 look at everything.

13:18:04 21 Q. What was not an expectation?

13:18:06 22 A. As I have testified throughout this, my  
13:18:11 23 presentation, my expectation was, as well as the  
13:18:19 24 governing bodies', that had the proper internal  
13:18:29 25 controls, the checks and balances, been done, that is

13:18:33 1 the last stop before the public's money is released, and  
13:18:40 2 even if it was a random or some sort of controls were in  
13:18:47 3 place, some sort of acceptable internal controls, the  
13:18:54 4 2012 audit and the gross mismanagement of the Finance  
13:19:03 5 Department headed by Margaret Pasqua and Kimberly  
13:19:09 6 Browne, headed by them, we wouldn't be here today.

13:19:14 7 Q. I am going to move through these topics sort of  
13:19:16 8 quickly.

13:19:16 9 This was all discussed during the cross, and I  
13:19:20 10 just want to clarify certain things.

13:19:21 11 You talked about a Ms. Cheryl Wieder.

13:19:25 12 A. Yes, sir.

13:19:26 13 Q. Ms. Wieder left the County of Hunterdon when?

13:19:31 14 A. At the end of March of 2013.

13:19:36 15 Q. 2000 --

13:19:37 16 A. 2013.

13:19:38 17 Q. And the departure of Ms. Wieder was before you  
13:19:46 18 got any feedback from Wiss?

13:19:51 19 A. The issues that are at hand were not prevalent or  
13:19:57 20 identified at that time.

13:19:59 21 Q. Who is John Davenport?

13:20:02 22 A. John Davenport is the purchasing director. He is  
13:20:08 23 under Kimberly Browne. That's one of her areas that she  
13:20:14 24 is the managerial executive of as the director of  
13:20:17 25 Finance and Administration.

13:20:19 1 Q. I think you anticipated my question.

13:20:21 2 Just for clarification purposes --

13:20:22 3 A. Sorry.

13:20:23 4 Q. -- to whom does John Davenport report?

13:20:27 5 A. Kimberly Browne.

13:20:28 6 Q. And who does the payroll administrator report to?

13:20:33 7 A. Kimberly Browne.

13:20:35 8 Q. As the County administrator and charging party in  
13:20:45 9 this matter, in your view, who should have ensured that  
13:20:50 10 a control was in place to ensure the County didn't pay  
13:20:55 11 vendors who were suspended or debarred?

13:21:00 12 A. As a managerial executive, Kimberly Browne had  
13:21:03 13 the responsibility to effectuate policies and procedures  
13:21:09 14 that are relative to her area of assignment and her area  
13:21:14 15 of responsibility.

13:21:16 16 Q. Did Ms. Pasqua have any responsibility for that  
13:21:21 17 in your view?

13:21:22 18 A. As a CFO or the designated CFO/treasurer,  
13:21:27 19 absolutely. There was a responsibility.

13:21:31 20 Q. As the County administrator and the charging  
13:21:34 21 party in this matter, from 2008 to the present, which  
13:21:38 22 individual, in your view, had the responsibility to make  
13:21:45 23 sure that the County wasn't paying insured's premiums  
13:21:49 24 for people who either had died or were no longer  
13:21:53 25 eligible to receive benefits?



13:21:57 1 A. Under the table of organization that was brought  
13:22:01 2 to me as part of the evidence, Kimberly Browne is also  
13:22:09 3 part of the Director of Finance and Administrative  
13:22:15 4 Support of Insurances and also Margaret Pasqua.

13:22:24 5 Q. Who, in your view, was responsible for the  
13:22:29 6 correct placement pursuant to Chapter 78, correct tier  
13:22:33 7 placement, for insured individuals?

13:22:39 8 A. Margaret Pasqua and Kimberly Browne.

13:22:43 9 Q. And who was responsible to make sure that  
13:22:45 10 financial records presented to auditors were, in fact,  
13:22:50 11 accurate?

13:22:53 12 A. Margaret Pasqua and Kimberly Browne.

13:22:57 13 Q. Was there an acknowledgment from Ms. Pasqua in  
13:23:03 14 2010 that she had a responsibility for the insurance  
13:23:08 15 being handled accurately?

13:23:10 16 MR. DESAPIO: Is that a date, 2010?

13:23:13 17 What was the question?

13:23:19 18 Q. Do you have HC-16?

13:23:23 19 A. Not in front of me, but I am familiar -- I have  
13:23:27 20 been asked to testify from it before.

13:23:29 21 Q. Do you recall what HC-16 is?

13:23:32 22 A. It was the Corrective Action Plan submitted and  
13:23:35 23 signed by Margaret Pasqua submitted to the DCA regarding  
13:23:40 24 the 2010 audit.

13:23:47 25 Q. As the County administrator and the charging

13:23:50 1 party in this matter, who do you feel should have had  
13:23:54 2 the responsibility of ensuring that the federal data  
13:23:58 3 collection forms were actually filed on time?

13:24:02 4 A. Margaret Pasqua and Kimberly Browne.

13:24:09 5 Q. Now, what was Ms. Browne's responsibility in all  
13:24:15 6 this?

13:24:15 7 A. As the --

13:24:18 8 MR. DESAPIO: I object to the question.

13:24:20 9 "In all what"?

13:24:21 10 Q. What was Ms. Browne's responsibility with respect  
13:24:24 11 to the operation of the Department of Finance?

13:24:28 12 A. Kimberly Browne was designated as the Director of  
13:24:32 13 Finance. She was then moved to a senior manager. She  
13:24:37 14 was the director of Finance and Administrative Support.

13:24:41 15 There is several case law that talks about what a  
13:24:44 16 managerial executive is, and, in fact, it was included  
13:24:48 17 in a certification that I did with regard to a PERC  
13:24:53 18 decision that was made on behalf of employees wanting to  
13:24:57 19 organize.

13:24:58 20 A managerial executive is ultimately responsible  
13:25:02 21 for the effectuation of the policies and procedures of  
13:25:05 22 the area of which they are responsible.

13:25:09 23 Q. There was some testimony about "access to health  
13:25:14 24 benefits."

13:25:15 25 Was there ever a time when Ms. Browne did not

13:25:23 1 have access to health benefits records?

13:25:23 2 A. No. She was one of the two people assigned,  
13:25:27 3 recognized by the governing body, to administer our  
13:25:32 4 health benefits system program.

13:25:43 5 Q. Let me show you HC-8 in evidence.

13:25:48 6 I draw your attention to the last -- this is --  
13:25:57 7 so that Mr. Florio knows what we are talking about, this  
13:26:00 8 is an e-mail from Kimberly Browne in response to your  
13:26:05 9 direction to reconcile health benefits billing.

13:26:09 10 If you take a look at the last full paragraph,  
13:26:12 11 she states, and I will read it into the record, "I would  
13:26:16 12 have no issues with accepting this responsibility if I  
13:26:20 13 truly felt it belonged to Finance, but I do not believe  
13:26:24 14 it does."

13:26:26 15 What was your reaction to that?

13:26:29 16 A. I had sent an e-mail prior to that that said that  
13:26:40 17 the responsibility rested in Finance and that I wanted  
13:26:42 18 them to establish internal controls because evidently  
13:26:48 19 there were none, that I said it rested in Finance.

13:26:53 20 Q. What was your reaction to that in respect to your  
13:26:55 21 charge of insubordination?

13:26:57 22 A. It was insubordinate.

13:27:00 23 Q. Which insubordination against which individual?

13:27:03 24 A. It was -- the insubordination was Kim Browne to  
13:27:08 25 me, her supervisor, when I made a reasonable request for

13:27:12 1 them to develop internal controls, because obviously  
13:27:17 2 there weren't any.

13:27:18 3 Q. Take a look at HC-9 in evidence.

13:27:23 4 Please explain to Mr. Florio how that speaks to  
13:27:26 5 insubordination.

13:27:33 6 A. On May 24 -- well, she talked about disagreeing  
13:27:41 7 with the shift in responsibility with the reconciliation  
13:27:45 8 of the health benefits to Finance, and this is after I  
13:27:52 9 had made the request for them to establish and develop  
13:27:56 10 internal controls and put the checks and balances in  
13:28:00 11 place as the ultimate last stop before the public's  
13:28:04 12 money is spent.

13:28:05 13 Q. Were you her supervisor at the time that you  
13:28:08 14 asked her to do that?

13:28:09 15 A. I continue to be her supervisor. I have been her  
13:28:12 16 supervisor, her ultimate supervisor, for many years,  
13:28:15 17 ever since she started here.

13:28:16 18 Q. And she is offering to compromise with your  
13:28:19 19 direction?

13:28:20 20 A. Right.

13:28:21 21 Q. How does that speak to the issue of  
13:28:23 22 insubordination, if at all?

13:28:26 23 A. Well, as I was asked to testify against this  
13:28:35 24 Table of Offenses, "insubordination" is defined as  
13:28:39 25 "intentional disobedience or refusal to accept a

13:28:43 1 reasonable order, assaulting or resisting authority,  
13:28:47 2 disrespect or use of insulting or abusive language  
13:28:54 3 to a supervisor."

13:28:59 4 MR. GANTNER: Can I have these marked HC-17  
13:29:02 5 and 18, please.

13:29:03 6 (Chief financial officer document is marked  
13:29:24 7 as Exhibit HC-17 for identification.)

13:30:24 8 (Document entitled "Director of Finance" is  
13:30:28 9 marked as Exhibit HC-18 for identification.)

13:31:10 10 Q. Ms. Yard, would you take a look at HC-17, please.

13:31:15 11 A. Uh-huh.

13:31:16 12 Q. Would you identify it, please.

13:31:20 13 A. It's a New Jersey Civil Service Commission job  
13:31:26 14 specification which defines what a chief financial  
13:31:33 15 officer is and gives us examples.

13:31:36 16 Q. Are those the job specifications to which you  
13:31:39 17 expected Ms. Pasqua to adhere to?

13:31:44 18 A. Yes.

13:31:45 19 Q. And would you please take a look at HC-18.

13:31:52 20 Identify it for the record, please.

13:31:54 21 A. This also appears to be -- not appears -- it is a  
13:31:57 22 New Jersey Civil Service Commission job specification  
13:32:01 23 for the Director of Finance. It defines what a Director  
13:32:06 24 of Finance is and also distinguishing characteristics,  
13:32:13 25 and it also gives examples of work.

13:32:17 1 Q. And does that reflect the job specifications to  
13:32:22 2 which you expected Ms. Browne to adhere?

13:32:26 3 A. Yes.

13:32:30 4 MR. GANTNER: Mr. Florio, the County  
13:32:32 5 requests that HC-17 and HC-18 be moved in evidence.

13:32:37 6 MR. FLORIO: Any objection?

13:32:39 7 MR. DESAPIO: No. I have no objection.

13:32:42 8 I may have some cross on them.

13:32:43 9 MR. FLORIO: HC-17 and HC-18 are in  
13:32:46 10 evidence.

13:32:50 11 Q. Administrator Yard, tell Mr. Florio why the  
13:32:58 12 Finance Department was responsible for the fact that any  
13:33:02 13 bills were paid in error.

13:33:12 14 A. As I said in all my previous testimony, the  
13:33:21 15 Finance Department is the last stop. We are  
13:33:28 16 certainly -- any organization should have checks and  
13:33:31 17 balances at the local level. That's what the public  
13:33:35 18 sector is all about. It's not necessarily that it's the  
13:33:38 19 most efficient, but it is the most effective, because  
13:33:41 20 there are checks and balances.

13:33:43 21 We bring in an outside auditing firm every year  
13:33:47 22 to come and give us a barometer of our success in  
13:33:52 23 delivering financial services, and even though there are  
13:33:59 24 several layers of checks and balances, the ultimate  
13:34:02 25 responsibility of a Finance Department of two licensed

13:34:06 1 people of Margaret Pasqua and Kimberly Browne was to  
13:34:12 2 make sure that we were doing everything within the law  
13:34:19 3 and certainly within all of the standards of practices  
13:34:24 4 of not only their license, but the expectation of the  
13:34:27 5 County.

13:34:29 6 The County -- it's not even a reasonable  
13:34:32 7 expectation, it's an absolute expectation that our  
13:34:40 8 professionals -- if we didn't need our professionals and  
13:34:40 9 have that absolute expectation, we wouldn't need  
13:34:43 10 professionals. I guess I could do it all, but through  
13:34:46 11 the years the County has made decisions to establish  
13:34:51 12 certain departments and require certain licenses to make  
13:34:57 13 sure -- to ensure, and we trust those people that we are  
13:35:03 14 protecting the county's interest and assets.

13:35:07 15 So even though we can certainly say that somebody  
13:35:12 16 didn't do something, or there was a check and balance,  
13:35:16 17 absolutely there are checks and balances. There are  
13:35:19 18 checks and balances at offsite areas, but the County has  
13:35:25 19 made decisions throughout the years to entrust certain  
13:35:30 20 professionals to have, and we had an absolute  
13:35:35 21 expectation that they are going to operate within the  
13:35:38 22 standards of practice of their license and the law.

13:35:42 23 Q. Why was Finance responsible for the fact that  
13:35:46 24 incorrect financials were presented to the auditors?

13:35:51 25 MR. DESAPIO: I object to the form of the

13:35:52 1 question. I object to the question.

13:35:54 2 I don't think that's in evidence yet that  
13:35:56 3 the incorrect financials were presented to the auditor.

13:36:00 4 MR. GANTNER: That was a major cornerstone  
13:36:03 5 of Wiss' testimony.

13:36:04 6 MR. DESAPIO: I don't think he testified the  
13:36:06 7 financials were incorrect.

13:36:07 8 I think he testified that the December 30,  
13:36:10 9 2011 audit -- excuse me -- the December, yes, December  
13:36:14 10 30th, 2011 audit was incorrect.

13:36:18 11 MR. GANTNER: It was testified that  
13:36:19 12 incorrect information was presented in the years 2008  
13:36:24 13 and following to the other audit, the Klein & Company,  
13:36:30 14 the previous auditor.

13:36:34 15 MR. FLORIO: I am going to overrule the  
13:36:35 16 objection.

13:36:36 17 You may ask the question.

13:36:38 18 A. I am sorry. Would you ask it again.

13:36:40 19 Q. Why was Finance responsible for the fact that  
13:36:43 20 incorrect financials were presented to auditors?

13:36:47 21 A. Because the Finance Department are the designated  
13:36:53 22 people to interact with the auditors, to answer their  
13:36:59 23 questions, to provide all of the information, and to  
13:37:03 24 represent how we are delivering financial services.

13:37:07 25 Q. Why was Finance responsible for the filing of



13:37:10 1 federal data collection forms incorrectly or not filed?

13:37:16 2 MR. DESAPIO: That I am going to object to  
13:37:17 3 because there is no testimony that they were incorrect.

13:37:22 4 MR. FLORIO: Sustained.

13:37:24 5 Q. Why was Finance responsible for the fact that  
13:37:28 6 federal data collection forms were not filed at all for  
13:37:31 7 three years?

13:37:33 8 A. Because Finance has the ultimate responsibility.  
13:37:40 9 It has to be certified by a CFO or, in the case of 2013,  
13:37:44 10 it was certified by the director of finance, also a  
13:37:46 11 licensed CCFO, and it was their ultimate responsibility  
13:37:51 12 to submit those forms.

13:37:54 13 Q. Why was Finance responsible for the failure to  
13:37:58 14 include the Department of Housing and the Department of  
13:38:00 15 Social Services on the schedule in the data collection  
13:38:04 16 forms?

13:38:04 17 MR. DESAPIO: Objection.

13:38:05 18 There has been no foundation laid that they  
13:38:08 19 had to be included in there.

13:38:09 20 MR. FLORIO: Sustained.

13:38:11 21 MR. GANTNER: I believe that Mr. Gannon  
13:38:14 22 testified that the failure to include those two  
13:38:19 23 departments, will be identified in the single audit as  
13:38:23 24 the second material weakness in that audit.

13:38:26 25 MR. DESAPIO: That's not my recollection,

13:38:28 1 but I didn't think he testified to that in regard to  
13:38:32 2 these forms.

13:38:33 3 That was the question.

13:38:35 4 MR. FLORIO: Given that we are all utilizing  
13:38:40 5 recollection of prior testimony, I am going to allow the  
13:38:45 6 question.

13:38:45 7 You can clarify it when we have transcripts,  
13:38:47 8 which will be sometime in the very near future, as I  
13:38:51 9 understand it.

13:38:53 10 You may answer.

13:38:56 11 A. Will you ask -- I am sorry.

13:38:58 12 MR. GANTNER: Can I have the reporter read  
13:39:00 13 back?

13:39:00 14 (Whereupon, the court reporter reads as  
13:39:20 15 requested.)

13:39:20 16 A. Because Finance, namely, Margaret Pasqua and  
13:39:25 17 Kimberly Browne, are responsible for compliance with  
13:39:29 18 single audit.

13:39:32 19 MR. GANTNER: I have nothing further at this  
13:39:33 20 time.

13:39:34 21 CROSS-EXAMINATION BY MR. DESAPIO:

13:39:36 22 Q. Okay. Ms. Yard, there was some testimony on the  
13:39:40 23 redirect about John Davenport.

13:39:44 24 Does John Davenport hold some kind of license for  
13:39:49 25 his position?

13:39:49 1 A. He holds a QPA, yes, he does.

13:39:53 2 Q. Is he also a department head?

13:39:54 3 A. No, he is not.

13:39:55 4 Q. He is no longer a department head?

13:39:57 5 A. No, he is not.

13:39:58 6 Q. Was he at some point a department head?

13:40:00 7 A. He was until we had the decision from PERC that  
13:40:05 8 explained -- and again I know you don't want me to say  
13:40:08 9 that, but you helped us out with that -- that we took it  
13:40:12 10 to PERC about managerial executives, and it was deemed  
13:40:14 11 that they were not managerial executives, and the County  
13:40:19 12 went ahead and reorganized and restructured the  
13:40:22 13 organization.

13:40:23 14 There is a division manager under Kimberly  
13:40:26 15 Browne, the Director of Finance and Administrative  
13:40:28 16 Support.

13:40:29 17 Q. Okay. And there was some testimony about  
13:40:34 18 determining whether contractors were on the federal  
13:40:38 19 debarred list.

13:40:39 20 Do you remember that testimony? Do you remember  
13:40:41 21 that issue?

13:40:41 22 A. Yes, I remember, Guy.

13:40:43 23 Q. Isn't it a fact that nobody was paid who was on  
13:40:48 24 the federal debarred list?

13:40:50 25 A. I don't know that. I am sorry. I don't know the

13:40:52 1 answer to that question.

13:40:53 2 Q. All right.

13:40:54 3 Now, you had said or suggested that Kimberly  
13:40:57 4 Browne was responsible for John Davenport not checking  
13:41:00 5 the federal debarred list.

13:41:03 6 A. No.

13:41:04 7 What I said was Kimberly Browne is the Director  
13:41:11 8 of Finance and Administrative Support.

13:41:11 9 As such, she is the department head of that  
13:41:13 10 cluster of services.

13:41:14 11 John Davenport is under her.

13:41:17 12 As far as a subordinate, he is under her.

13:41:20 13 Again, going back to Finance, they have the  
13:41:23 14 ultimate responsibility of internal controls, checks and  
13:41:27 15 balances, and so she is his supervisor.

13:41:32 16 Q. And so she is not responsible for his failure to  
13:41:35 17 check the debarred list?

13:41:40 18 A. It would certainly be her responsibility.

13:41:42 19 Q. She's responsible?

13:41:44 20 A. Well, she is responsible, yes, she is the senior  
13:41:49 21 manager to effectuate policies and practices for the  
13:41:53 22 department that she supervises.

13:41:55 23 Q. Okay. Who is the supervisor of the Division of  
13:41:57 24 Human Resources?

13:42:01 25 A. The Department of Human -- the HR is under -- is

13:42:06 1 under me. Actually, it's to the left.

13:42:09 2 Q. Does that mean you are responsible for Cheryl  
13:42:13 3 Wieder's failure to check the health insurance bills and  
13:42:15 4 to sign off on them when they were inaccurate, does that  
13:42:18 5 make you responsible for that?

13:42:19 6 A. No, I am not.

13:42:20 7 Q. You are not.

13:42:23 8 You have no responsibility for the department  
13:42:26 9 that you supervise?

13:42:29 10 A. Yes. My responsibility is once -- once these  
13:42:33 11 issues came, then we made sure that we looked into it  
13:42:36 12 and we took appropriate action.

13:42:38 13 Q. So Margaret Pasqua or Kim Browne, Kimberly  
13:42:45 14 Browne, are responsible for John Davenport, but you are  
13:42:47 15 not responsible for Cheryl Wieder?

13:42:50 16 A. No. No.

13:42:52 17 Margaret Pasqua is not responsible for John  
13:42:55 18 Davenport.

13:42:55 19 Margaret Pasqua is subordinate to Kimberly Browne  
13:43:01 20 as the managerial executive, Kimberly Browne as the  
13:43:05 21 Director of Finance, to demonstrate and to effectuate  
13:43:10 22 those final internal controls to make sure that the  
13:43:15 23 county's assets are protected.

13:43:18 24 Q. Okay. Now, thank you to your attorney for  
13:43:23 25 helping out with P-31, P-32 and P-33.

13:43:27 1 I am going to ask you to look at P-31.

13:43:30 2 A. I have one here.

13:43:31 3 Q. You have it there. All right.

13:43:34 4 A. PB-31. Okay.

13:43:36 5 Q. Look in box five.

13:43:38 6 Who is the auditee?

13:43:44 7 A. Kimberly Browne.

13:43:45 8 Q. Box 5A, who is the auditee?

13:43:48 9 A. Hunterdon County. I am sorry.

13:43:50 10 Q. Now --

13:43:52 11 A. I am looking under "C."

13:43:53 12 Q. Look under "Part one," the top of the page, "Part

13:43:57 13 one," "General information."

13:43:59 14 What does it say that the auditee is supposed to

13:44:01 15 complete on this form?

13:44:05 16 A. "General information to be completed by auditee,

13:44:09 17 except for 6, 7 and 8."

13:44:11 18 Q. So "Part one" is to be completed by the auditee,

13:44:16 19 except for 6, 7 and 8. Correct?

13:44:18 20 A. That's what it says.

13:44:20 21 Q. And 6, 7 and 8, is that the information about the

13:44:24 22 name of the auditor?

13:44:26 23 A. Uh-huh.

13:44:27 24 Q. Okay.

13:44:28 25 A. Excuse me, Guy, "Yes."

13:44:31 1 Q. Now let's look on Page 2, "Part two."

13:44:35 2 "Financial statements," who does it say is  
13:44:38 3 supposed to complete that?

13:44:40 4 A. "To be completed by the auditor."

13:44:42 5 Q. Okay. A third of the way down the page, "Part  
13:44:49 6 three," "Federal programs," who is supposed to complete  
13:44:52 7 that?

13:44:53 8 A. "To be completed by the auditor."

13:44:55 9 Q. Is there anything on this form that's supposed to  
13:44:59 10 be completed by the auditee, that's the County, other  
13:45:05 11 than on Page 1, boxes one, two, three, four, and five?

13:45:11 12 A. Well, most importantly, I think, is that it has  
13:45:14 13 to be certified by --

13:45:16 14 Q. That isn't the question.

13:45:17 15 The question is --

13:45:19 16 MR. FLORIO: Can the witness finish the  
13:45:20 17 answer, please?

13:45:21 18 MR. DESAPIO: Very good.

13:45:26 19 A. Part of the responsibility by the auditee is a  
13:45:34 20 Certification with her title.

13:45:39 21 Q. Okay. All right.

13:45:40 22 Well, now that you are talking about that read  
13:45:43 23 the Certification.

13:45:46 24 A. "This is to certify that to the best of my  
13:45:49 25 knowledge and belief the auditee has, one, engaged an

13:45:54 1 auditor to perform an audit in accordance with the  
13:45:55 2 provisions of OMB Circular A-133 for the period  
13:46:00 3 described in Part one, items one and three; two, the  
13:46:07 4 auditor has completed such audit and presented a signed  
13:46:10 5 audit report which states that the audit was conducted  
13:46:14 6 in accordance with the provisions of the circular; and,  
13:46:19 7 number three, the information included in Parts one, two  
13:46:22 8 and three of this data collection form is accurate and  
13:46:26 9 complete. I declare that the foregoing is true and  
13:46:31 10 correct."

13:46:32 11 Q. Okay. So the auditee certifies that an auditor  
13:46:37 12 has been engaged, correct, number one?

13:46:39 13 A. Uh-huh.

13:46:40 14 Q. That the auditor completed the audit and  
13:46:43 15 presented the audit?

13:46:44 16 A. Uh-huh.

13:46:45 17 Q. Okay.

13:46:46 18 A. "Yes." Excuse me.

13:46:47 19 Q. That the information in Part one, which is the  
13:46:50 20 page we are reading now, right, and then two and three  
13:46:53 21 is accurate and complete.

13:47:00 22 Now, Parts two and three are the part that's to  
13:47:00 23 be completed by the auditor.

13:47:01 24 MR. GANTNER: Objection.

13:47:01 25 Q. Correct?



13:47:02 1 MR. GANTNER: Objection.

13:47:05 2 It's his reading of what it says.

13:47:07 3 Part three is the auditee agreeing that the  
13:47:13 4 information included is correct.

13:47:16 5 It's not agreeing that the auditor says it's  
13:47:19 6 correct.

13:47:20 7 Q. Ms. Yard, is Part two and three, does it say --

13:47:23 8 MR. FLORIO: Objection sustained.

13:47:24 9 Q. Part two and three, who does it say is supposed  
13:47:28 10 to put the information in those sections?

13:47:33 11 A. In Part two it says, "To be completed by the  
13:47:36 12 auditor," and Part three says, "It's to be completed by  
13:47:40 13 the auditor," but it also has to be certified -- you  
13:47:43 14 know -- by in this case, the certifying official.

13:47:47 15 Q. The federal government is saying the auditor has  
13:47:50 16 to complete those sections.

13:47:51 17 It would be impossible, wouldn't it, for whoever  
13:47:55 18 certifies to this form to certify to it unless the  
13:47:59 19 auditor had done or performed its work first?

13:48:08 20 A. It is the certifying official's responsibility to  
13:48:13 21 certify this data collection form or whatever.

13:48:19 22 I don't know the mechanics of how it gets there,  
13:48:23 23 how it's done, but it's their responsibility. It's  
13:48:26 24 ultimately the auditee's responsibility to certify the  
13:48:31 25 federal ID form.

13:48:34 1 Q. Let's look at HC-17.

13:48:37 2 This is a job description for chief financial  
13:48:40 3 officer?

13:48:40 4 A. Uh-huh.

13:48:41 5 Q. You indicated that it was your expectation that  
13:48:45 6 Margaret Pasqua would perform in accordance with this  
13:48:49 7 job description. Correct?

13:48:51 8 A. Yes.

13:48:52 9 Q. Okay. But based upon what you have testified to  
13:48:57 10 the other day, this was never presented to Margaret  
13:49:00 11 Pasqua at any time?

13:49:01 12 A. Right. I also at that time, Guy, thanks for  
13:49:05 13 bringing that up again, because I did also testify that  
13:49:08 14 as of May of 2012, when we underwent this new  
13:49:13 15 restructuring, that each of the senior managers, the  
13:49:19 16 managerial executives were responsible to develop job  
13:49:24 17 expectations for each one of their unclassified, so you  
13:49:28 18 are correct that prior to May of 2012 this particular  
13:49:34 19 Civil Service Commission was not -- job description --  
13:49:38 20 was not used.

13:49:39 21 The question was by Mr. Gantner, "Were these the  
13:49:43 22 expectations," which I responded "Yes."

13:49:47 23 Q. Okay. Now, looking at HC-17, show me anyplace in  
13:49:55 24 there that it says that it's the responsibility or  
13:49:58 25 expectation of the chief financial officer to develop

13:50:02 1 internal controls.

13:50:08 2 A. Right in the definition it says, "Monitoring  
13:50:12 3 internal financial controls, developing budgeting  
13:50:15 4 systems, evaluating the organizational financial  
13:50:19 5 condition, bonds and notes," and these are, as you well  
13:50:23 6 know, from being County counsel for 30 years, the Civil  
13:50:27 7 Service Commissions are examples of work, it goes on to  
13:50:30 8 say, "All duties performed on the job may not be  
13:50:34 9 listed."

13:50:35 10 Q. So it says, "Developing budget systems." Right?

13:50:40 11 A. Uh-huh.

13:50:40 12 Q. Okay. It doesn't say, "Developing internal  
13:50:43 13 controls," does it?

13:50:45 14 A. But -- no. But --

13:50:47 15 Q. Okay.

13:50:47 16 A. But when you monitor internal financial controls  
13:50:50 17 you would certainly have a duty to change them if they  
13:50:53 18 were incorrect, or if they didn't exist at all, to  
13:50:56 19 develop them.

13:50:56 20 Q. Unless the expectation was that the freeholders  
13:50:59 21 as the managerial -- having the managerial  
13:51:02 22 responsibility for the County would develop and adopt  
13:51:06 23 the internal controls as they did with the purchasing  
13:51:09 24 manual. Correct?

13:51:14 25 A. I don't agree with that statement.

13:51:17 1 Q. Now let's look further on down, on Page 2, one,  
13:51:28 2 two, three, four, five, six, seven, eighth one.

13:51:32 3 MR. FLORIO: Still on 17, Counsel?

13:51:34 4 MR. DESAPIO: On 17.

13:51:35 5 A. Okay. Say it again. Read it to me.

13:51:39 6 Q. The eighth bullet point.

13:51:40 7 A. Okay.

13:51:41 8 Q. What does that say?

13:51:45 9 A. "Monitors internal financial controls," if you  
13:51:49 10 look one, two, three, four, five up from the bottom, it  
13:51:53 11 says, "Develops and monitors internal audit systems."

13:51:56 12 Q. Is there a difference between an "internal audit  
13:51:59 13 system" and an "internal control"?

13:52:01 14 A. Not really.

13:52:02 15 Q. No?

13:52:02 16 A. I don't believe so, no. I believe that internal  
13:52:05 17 controls -- and it was actually defined somewhere on the  
13:52:10 18 audits -- in order to have internal controls you may  
13:52:15 19 develop an audit, a way to do the checks and balances to  
13:52:20 20 make sure that the objectives are achieved, so I mean it  
13:52:26 21 could be semantics, but it says right here, "Develops  
13:52:29 22 and monitors internal audit systems."

13:52:31 23 Q. Okay. So in an official job description they  
13:52:35 24 have two different duties, and one says, "internal  
13:52:39 25 controls," and the other says, "internal audit," and you

13:52:42 1 are saying those are the exact same functions?

13:52:46 2 A. I am saying it's all related to ultimately the  
13:52:52 3 final check and balance, the final internal controls,  
13:52:55 4 whether it's by developing an audit form to check those  
13:52:59 5 internal controls is the responsibility, the last stop  
13:53:08 6 on the train, is the Finance Department, Margaret Pasqua  
13:53:08 7 and Kimberly Browne to protect the county's assets.

13:53:12 8 Q. Is Wiss or was Wiss an auditor or an internal  
13:53:15 9 control?

13:53:17 10 A. I believe they are an auditing firm. I believe  
13:53:21 11 that was probably established.

13:53:22 12 Q. So the term "internal auditor," that doesn't have  
13:53:25 13 any meaning to you other than "internal control"?

13:53:29 14 A. No. "Internal" meaning what's on the inside,  
13:53:33 15 what do we do, what are our checks and balances, what is  
13:53:37 16 our internal controls, what controls do we have in  
13:53:41 17 place. And the way that you find that, I would believe,  
13:53:44 18 part of it is to audit, but certainly when you have an  
13:53:48 19 outside independent auditing firm come in and audit, a  
13:53:56 20 financial service delivery system, that is clearly,  
13:54:01 21 clearly, an objective barometer of our success.

13:54:06 22 Q. Does the County have an internal auditing  
13:54:08 23 department or an internal auditor?

13:54:13 24 A. No. As a matter of fact, it's only -- I checked  
13:54:16 25 all the licenses for everybody, because I was concerned

13:54:18 1 about this, Guy, and actually the two Finance employees  
13:54:24 2 who are certified, CMFOs and CCFOs, they are -- that is  
13:54:29 3 the only license that specifically prescribes  
13:54:35 4 responsibilities, and number seven is, "Develop internal  
13:54:39 5 controls to protect the county's assets."

13:54:42 6 Q. Okay. Please look at HC-18.

13:54:49 7 You identify that as the job description for  
13:54:52 8 Kimberly Browne and your expectations that she would  
13:54:56 9 perform in accordance with that. Correct?

13:54:58 10 A. I did not identify it as her job description.

13:55:01 11 I identified it -- Mr. Gantner asked me if those  
13:55:05 12 would be the expectations of the director of finance,  
13:55:09 13 and as I explained to you the other day, we rolled out  
13:55:14 14 our new performance appraisal in July, and so there  
13:55:22 15 are -- I am not sure of Mrs. Browne, because she was  
13:55:25 16 reassigned, but there is a completed job description  
13:55:32 17 for, we call them "job expectations and standards,  
13:55:36 18 position standards," but this is -- Mr. Gantner did ask  
13:55:42 19 me if this was an example of expectations for the  
13:55:46 20 director of finance.

13:55:48 21 Q. Can you identify anyplace in there where it talks  
13:55:56 22 about Ms. Browne developing internal controls?

13:56:01 23 A. Yes. Number -- the third paragraph under  
13:56:04 24 "Distinguishing characteristics."

13:56:07 25 The function of this position also involves

13:56:09 1 responsibility for developing, coordinating and  
13:56:11 2 implementing financial policies, procedures and plans as  
13:56:15 3 well as the development, coordination and maintenance of  
13:56:18 4 a comprehensive system for the analysis, evaluation and  
13:56:23 5 synthesis of financial data to provide management with  
13:56:26 6 effective financial controls.

13:56:29 7 Q. For effective financial control?

13:56:32 8 A. Yes.

13:56:33 9 Q. But it doesn't use the word "internal controls."  
13:56:38 10 Correct?

13:56:39 11 A. No, but it certainly uses the word "controls."

13:56:42 12 Q. And do you think in your experience with the New  
13:56:50 13 Jersey Civil Service Commission, do they choose their  
13:56:53 14 words carefully in these job descriptions?

13:56:58 15 MR. GANTNER: Objection.

13:56:59 16 A. It says --

13:57:00 17 MR. FLORIO: There is an objection.

13:57:01 18 THE WITNESS: I am sorry.

13:57:02 19 MR. GANTNER: Objection.

13:57:04 20 She's being asked to speculate about what  
13:57:09 21 thought processes go through the mind of the drafters.

13:57:13 22 MR. FLORIO: I will sustain the objection to  
13:57:15 23 the extent that the witness cannot see inside the mind  
13:57:18 24 of any other person, but that she may have insight into  
13:57:24 25 some of the elements utilized by Civil Service in

13:57:32 1 establishing these kinds of definitions, so to the  
13:57:35 2 extent that she has the ability to answer that question,  
13:57:39 3 she may do so, but not with the understanding that she  
13:57:43 4 can see inside the minds of those people who constitute  
13:57:48 5 the New Jersey Civil Service Commission.

13:57:49 6 MR. DESAPIO: That's fine.

13:57:50 7 I will withdraw the question in my recross.

13:57:56 8 MR. FLORIO: Recross is concluded.

13:57:57 9 MR. GANTNER: Just one.

13:57:59 10 REDIRECT EXAMINATION BY MR. GANTNER:

13:58:00 11 Q. You were asked a number of questions about Ms.  
13:58:02 12 Wieder.

13:58:03 13 I believe you said on your own you discovered  
13:58:05 14 some performance issues with Ms. Wieder.

13:58:07 15 Did I understand that correctly?

13:58:09 16 A. I testified that, yes, there is issues absolutely  
13:58:14 17 unrelated to what has since become evident in the  
13:58:21 18 deficiencies.

13:58:24 19 Q. And as the supervisor of Ms. Wieder, what action  
13:58:28 20 did you take?

13:58:36 21 A. I also testified that Ms. Wieder was given  
13:58:40 22 alternatives, and she chose to retire.

13:58:48 23 MR. GANTNER: I have nothing else.

13:58:49 24 MR. DESAPIO: Nothing else for this witness.

13:58:51 25 MR. FLORIO: Then the witness is excused.



13:58:55 1 MR. DESAPIO: Can I just ask one question.

13:58:57 2 MR. FLORIO: Of the witness?

13:58:58 3 MR. DESAPIO: No. I am sorry. I thought we

13:59:00 4 were done with the witness.

13:59:02 5 MR. FLORIO: Sir.

13:59:03 6 MR. DESAPIO: Did I shake everybody up with

13:59:04 7 that one?

13:59:07 8 MR. FLORIO: I thought the witness --

13:59:08 9 MR. DESAPIO: On Thursday then, am I

13:59:11 10 expected to be prepared to proceed with my case or are

13:59:16 11 they reserving Thursday for their -- finish their case

13:59:20 12 only?

13:59:21 13 MR. FLORIO: We are on a shorter schedule,

13:59:24 14 as I understand it for Thursday, nine to one, so, Mr.

13:59:29 15 Gantner, what's your view on that?

13:59:33 16 MR. GANTNER: I believe that brevity is the

13:59:36 17 soul of wit.

13:59:37 18 I am going to be rather brief with Mr.

13:59:41 19 Tompkins. I don't know how long the cross will be. I

13:59:44 20 would leave that to counsel to decide whether he will

13:59:55 21 have time to start his case.

13:59:55 22 MR. FLORIO: I don't know if Mr. DeSapio has

13:59:55 23 heard the expression "brevity is the soul of wit."

13:59:56 24 MR. DESAPIO: I am witless. I got the

13:59:58 25 point.

13:59:59 1 MR. GANTNER: It certainly was not intended  
14:00:00 2 that way.

14:00:01 3 MR. DESAPIO: I understand that.

14:00:02 4 MR. FLORIO: Mr. DeSapio, just for the  
14:00:04 5 record, it is a lighthearted moment which might not  
14:00:08 6 translate on a cold transcript, however.

14:00:12 7 MR. GANTNER: I thought we were off the  
14:00:13 8 record discussing the schedule.

14:00:14 9 MR. FLORIO: No, we are on the record.  
14:00:16 10 Mr. DeSapio, your call.

14:00:21 11 MR. DESAPIO: Okay.

14:00:21 12 MR. FLORIO: Your call.

14:00:22 13 MR. DESAPIO: Very good.

14:00:23 14 MR. FLORIO: I am going to be here, and when  
14:00:28 15 you finish with the cross of Mr. Tompkins, and if you  
14:00:30 16 want to start your direct, your direct case -- you know  
14:00:33 17 -- it's up to you.

14:00:34 18 MR. DESAPIO: If we weren't prepared that  
14:00:36 19 will not be a big problem for everybody.

14:00:37 20 I understand it's a preference that we do  
14:00:39 21 it. I am just asking.

14:00:40 22 MR. FLORIO: It wouldn't be for me.

14:00:41 23 MR. GANTNER: I wouldn't object.

14:00:43 24 MR. DESAPIO: Okay. Thank you.

14:00:44 25 MR. FLORIO: Thank you.

14:00:44

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We are off the record.

14:00:45

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(Off the record discussion.)

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C E R T I F I C A T E

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

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

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

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PHILIP A. FISHMAN, CSR

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20 Dated: \_\_\_\_\_

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