

COUNTY OF HUNTERDON  
 NOTICE OF DISCIPLINARY ACTION  
 Monday, October 21, 2013  
 11:00 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

11:14:06 1 (Profile is marked as Exhibit County of  
 11:14:12 2 Hunterdon-1 for identification.)  
 11:14:58 3 (Independent auditor's report is marked as  
 11:15:03 4 Exhibit County of Hunterdon-2 for identification.)  
 11:15:18 5 (County of Hunterdon financial statements  
 11:15:25 6 are marked as Exhibit County of Hunterdon-3 for  
 11:18:12 7 identification.)  
 11:18:12 8 (Notice of disciplinary action is marked as  
 11:18:18 9 Exhibit County of Hunterdon-4 for identification.)  
 11:18:22 10 (Notice of disciplinary action is marked as  
 11:18:26 11 Exhibit County of Hunterdon-5 for identification.)  
 11:19:21 12 MR. FLORIO: This is the return date for the  
 11:19:27 13 disciplinary hearing for two employees, Margaret Pasqua  
 11:19:34 14 and Kimberly Browne.  
 11:19:35 15 I understand that the parties have reached  
 11:19:39 16 an agreement on which of the employees is going to be --  
 11:19:45 17 upon whose hearing charges were going to go first.  
 11:19:49 18 MR. GIACOBBE: Well, sir, what we would like  
 11:19:51 19 to do is make an application.  
 11:19:52 20 Mr. DeSapio is asserting that they are  
 11:19:56 21 entitled to two separate hearings.  
 11:19:58 22 Frankly under 40A:9-25, Ms. Pasqua is the  
 11:20:03 23 only individual who is entitled to a statutory hearing.  
 11:20:05 24 She serves as the county treasurer and has  
 11:20:08 25 been appointed for a three-year term, which runs from

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WITNESS: DIRECT CROSS REDIRECT RECROSS

DAVID GANNON

By Mr. Gantner 66  
 Mr. DeSapio 101

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11:14:04 25

11:20:12 1 May 1st, 2011 through April 30th, 2014.  
 11:20:17 2 As such, she is the only individual who is  
 11:20:21 3 to be afforded a hearing pursuant to 40A:9-25.  
 11:20:25 4 Ms. Browne is a department head. She is the  
 11:20:28 5 department head of finance. She is not a recognized  
 11:20:32 6 position under the Civil Service Commission. She does  
 11:20:35 7 not have a classified position, has no contractual  
 11:20:40 8 rights and/or county rights to proceed with a hearing.  
 11:20:42 9 We would not object to have her participate  
 11:20:47 10 in this hearing, but what you will hear is Mr. DeSapio  
 11:20:51 11 is seeking to have two separate hearings entirely.  
 11:20:53 12 We have a series of witnesses, Mr. Gannon,  
 11:20:56 13 Mr. Tompkins and Ms. Yard.  
 11:20:58 14 They are going to be testifying about the  
 11:21:00 15 financial situation of the County of Hunterdon's finance  
 11:21:03 16 department, and we don't believe it's appropriate to  
 11:21:06 17 have duplicative hearings where Mr. Gannon has to come  
 11:21:11 18 in on two separate occasions, Mr. Thompson has to come  
 11:21:14 19 in on two separate occasions. They are going to be  
 11:21:16 20 testifying on the same thing, their reports of the  
 11:21:20 21 finance of the County of Hunterdon.  
 11:21:22 22 It's our position we would absolutely  
 11:21:24 23 consent to allow Ms. Browne, who is an unclassified  
 11:21:27 24 department head who serves at the Board of Chosen  
 11:21:32 25 Freeholders, to participate in this hearing, but we will

11:21:33 **1** not consent to having two separate hearings to try to  
 11:21:36 **2** unnecessarily delay this matter.  
 11:21:39 **3** MR. FLORIO: Before we go any further, since  
 11:21:42 **4** we have numerous people sitting at the table, and I  
 11:21:45 **5** don't know who everybody is, why don't we put our  
 11:21:48 **6** appearances on the record, gentlemen, starting with you,  
 11:21:51 **7** Mr. Giacobbe, and working around the table.  
 11:21:55 **8** MR. GIACOBBE: Sure.  
 11:21:55 **9** Matthew Giacobbe, special labor counsel to  
 11:21:59 **10** the County of Hunterdon.  
 11:22:00 **11** MR. GANTNER: Richard Gantner from the  
 11:22:04 **12** Cleary, Giacobbe, Alfieri & Jacobs firm for the County  
 11:22:06 **13** of Hunterdon.  
 11:22:06 **14** MR. DESAPIO: Good morning.  
 11:22:07 **15** Antoine DeSapio, Frenchtown, New Jersey,  
 11:22:10 **16** here for the public official, Margaret Pasqua.  
 11:22:12 **17** When we get to Ms. Browne's hearing, I am  
 11:22:15 **18** here for Kim Browne.  
 11:22:17 **19** MR. FLORIO: Okay. Counsel, would you like  
 11:22:18 **20** to be heard on the application just made by Mr.  
 11:22:23 **21** Giacobbe?  
 11:22:23 **22** MR. DESAPIO: Yes, very definitely, and  
 11:22:27 **23** besides the fact that I thought this issue was resolved,  
 11:22:31 **24** I will go into it again, because now I am totally  
 11:22:35 **25** confused.

11:22:36 **1** He is saying -- Mr. Giacobbe said that Ms.  
 11:22:42 **2** Pasqua is entitled to a hearing under NJSA 40A:9-25, and  
 11:22:49 **3** he said something about if Ms. Browne wants to consent  
 11:22:52 **4** to participate in that, that I don't understand what  
 11:22:56 **5** that means, because he is saying she is not entitled to  
 11:22:59 **6** a hearing under that statute, but they provided her with  
 11:23:02 **7** a notice that says she is entitled to a hearing,  
 11:23:06 **8** disciplinary notice. It says she is entitled to a  
 11:23:09 **9** hearing, so if she is not entitled to a hearing under  
 11:23:14 **10** 40A:9-25, how the county can propose to force her to  
 11:23:23 **11** participate in that hearing and then to characterize it  
 11:23:26 **12** as if she consents to do it, we will let her do it, it's  
 11:23:30 **13** very confusing to me.  
 11:23:31 **14** What should be the case then is obvious.  
 11:23:36 **15** Each of these employees are separate individuals. Each  
 11:23:40 **16** of them received separate disciplinary notices.  
 11:23:45 **17** The county is obligated to prove or show for  
 11:23:49 **18** the hearing officer that each person individually did  
 11:23:57 **19** something which warrants their discipline.  
 11:23:59 **20** To have a hearing and just throw a lot of  
 11:24:01 **21** facts out and kind of suggest, "Well, they are both  
 11:24:03 **22** responsible for all these facts," that is entirely  
 11:24:08 **23** inappropriate, because they can't both be responsible  
 11:24:11 **24** for all these facts.  
 11:24:13 **25** If there is something that they are commonly

11:24:16 **1** responsible for, the county can present that in each of  
 11:24:19 **2** the separate hearings, but they are separate  
 11:24:22 **3** individuals, and they are entitled to separate hearings,  
 11:24:27 **4** they were noticed separately, a joint disciplinary  
 11:24:32 **5** notice, and besides, I am going to ask the county to  
 11:24:34 **6** proffer what kind of hearing are they giving Ms. Browne.  
 11:24:39 **7** If they are not giving her a hearing under 40A:9-25, and  
 11:24:43 **8** she is not entitled to that, what is this hearing that's  
 11:24:47 **9** set up? And once they answer that I would like to be  
 11:24:51 **10** heard again.  
 11:24:51 **11** I think -- they are definitely entitled to  
 11:24:53 **12** two separate hearings, and to conduct one hearing  
 11:24:56 **13** together is prejudicial, and the fact that the county  
 11:24:59 **14** may have to produce in order to justify their proposed  
 11:25:05 **15** termination of the two highest ranking officials in  
 11:25:10 **16** their finance department, they may have to produce  
 11:25:13 **17** witnesses to testify twice is not the employees'  
 11:25:19 **18** problems. They need to do that.  
 11:25:25 **19** I think both of these employees will be  
 11:25:27 **20** vindicated, but there is always a possibility that one  
 11:25:30 **21** could be and one could not be, and that's because the  
 11:25:35 **22** facts will display that if that were the case  
 11:25:37 **23** theoretically.  
 11:25:38 **24** MR. FLORIO: Would you like to respond,  
 11:25:40 **25** Counsel?

11:25:42 **1** MR. GIACOBBE: Absolutely.  
 11:25:42 **2** If you look at 40A:9-25, it talks about -- I  
 11:25:46 **3** will read it to you in the record -- "In any county  
 11:25:48 **4** wherein title 11, Civil Service, of the revised statutes  
 11:25:52 **5** is not operative and unless otherwise provided by law,  
 11:25:56 **6** any officer or employees of such county who shall be  
 11:25:59 **7** removed from his office or position only for cause,  
 11:26:03 **8** shall not be removed from his office or position until  
 11:26:06 **9** after written charges of the cause of the Complaint  
 11:26:09 **10** shall have been proffered against him, signed by the  
 11:26:13 **11** person making such charges." Then it goes on.  
 11:26:16 **12** This is a Civil Service jurisdiction.  
 11:26:17 **13** Neither Ms. Pasqua nor Ms. Browne are protected by Civil  
 11:26:22 **14** Service; therefore, this is the operative statute.  
 11:26:24 **15** What's operative about this statute, 9-25,  
 11:26:27 **16** sir, is it says, "who shall be removed from his or her  
 11:26:31 **17** office only for cause."  
 11:26:33 **18** Ms. Pasqua is appointed pursuant to  
 11:26:35 **19** 40A:9-27, which is the county treasurer's statute, which  
 11:26:39 **20** provides that she can only be removed for cause. There  
 11:26:43 **21** is no corollary statute for Ms. Browne whatsoever.  
 11:26:46 **22** There is no contractual rights, et cetera.  
 11:26:49 **23** Ms. Browne is being provided rudimentary due  
 11:26:52 **24** process about charges being proffered against her. What  
 11:26:54 **25** we object to is having to call at the county's expense

11:26:58 **1** the independent auditor on two separate occasions, Fred  
 11:27:02 **2** Tompkins, on two separate occasions. That is patently  
 11:27:04 **3** unfair not only to the County of Hunterdon, but also the  
 11:27:07 **4** taxpayers.  
 11:27:08 **5** I venture to guess I have seen many a trial  
 11:27:11 **6** in Federal District Court where they have multiple  
 11:27:14 **7** defendants being tried together. We have no objection,  
 11:27:17 **8** and if we would like to put our witnesses on one time.  
 11:27:22 **9** There is a verbatim transcript being created  
 11:27:25 **10** from the testimony of Mr. Gannon. There will be  
 11:27:28 **11** verbatim transcripts from the testimony created by Ms.  
 11:27:31 **12** Yard and also Fred Tompkins.  
 11:27:33 **13** Mr. DeSapio will have copies of that and can  
 11:27:36 **14** utilize those in dealing with Ms. Browne, but we believe  
 11:27:39 **15** these should be combined, especially for our witnesses,  
 11:27:43 **16** for judicial economy and for cost factors of the County  
 11:27:47 **17** of Hunterdon.  
 11:27:48 **18** These individuals are not going to be  
 11:27:49 **19** prejudiced in any way, and what's really compelling is  
 11:27:52 **20** that Mr. DeSapio is representing both of them. It's not  
 11:27:56 **21** like you have two separate attorneys representing Ms.  
 11:27:59 **22** Pasqua and Ms. Browne.  
 11:28:00 **23** Mr. DeSapio is representing both individuals  
 11:28:02 **24** in this hearing, so for Mr. DeSapio to proffer they are  
 11:28:06 **25** going to be prejudiced, he is free to ask these

11:28:08 **1** witnesses on cross-examination any and all questions  
 11:28:11 **2** that he desires as appropriate in the defense of either  
 11:28:14 **3** Ms. Browne and/or Ms. Pasqua, so it's for those reasons  
 11:28:18 **4** we request that this hearing be consolidated into one  
 11:28:20 **5** hearing.  
 11:28:21 **6** If he wants to call separate witnesses for  
 11:28:23 **7** each individual as it goes forward, that's fine, but for  
 11:28:26 **8** our witnesses, we believe we shall have to call them at  
 11:28:29 **9** one time.  
 11:28:29 **10** MR. FLORIO: Mr. DeSapio.  
 11:28:30 **11** MR. DESAPIO: Here is why it's very  
 11:28:32 **12** prejudicial: The fact they have the same attorney is  
 11:28:35 **13** irrelevant to their rights.  
 11:28:36 **14** I see Mr. Gannon sitting in the chair there.  
 11:28:40 **15** He is going to testify.  
 11:28:42 **16** For every question that's asked do they  
 11:28:46 **17** propose to say, "Does this apply to Margaret Pasqua or  
 11:28:50 **18** does this apply to Kim Browne?"  
 11:28:51 **19** For every answer that he gives us are they  
 11:28:54 **20** going to ask, "Does this apply to one or the other or  
 11:28:57 **21** both?"  
 11:28:57 **22** It's illogical to do them together,  
 11:29:04 **23** absolutely.  
 11:29:04 **24** They say, well, it's going to cost them  
 11:29:12 **25** money. Well, they want to terminate somebody. They

11:29:12 **1** have to comply with basic due process.  
 11:29:13 **2** They can't say, "Well, it's going to cost us  
 11:29:15 **3** money to have two hearings." We are going to treat  
 11:29:17 **4** these two employees together, and, besides, one is  
 11:29:20 **5** having a hearing under one procedure and the other one  
 11:29:22 **6** is having a hearing under another procedure, and if the  
 11:29:25 **7** other one wants to consent to participate in the first  
 11:29:27 **8** hearing, we are okay with it. It doesn't make any  
 11:29:31 **9** sense, and it's definitely prejudicial, and to have  
 11:29:35 **10** separate hearings, then Mr. Gannon's testimony can be  
 11:29:39 **11** limited in the first hearing to his presentation as to  
 11:29:43 **12** Ms. Pasqua and every other witness.  
 11:29:48 **13** My cross-examination can be directed to  
 11:29:50 **14** that, and you will have a clear record as to what Ms.  
 11:29:54 **15** Pasqua allegedly did wrong, and you will have our  
 11:29:56 **16** defense.  
 11:29:57 **17** When Ms. Browne has her hearing they can  
 11:30:00 **18** testify separately about what she supposedly did wrong.  
 11:30:05 **19** For example, there is an insubordination  
 11:30:09 **20** charge in here.  
 11:30:10 **21** MR. GIACOBBE: I am going to object.  
 11:30:11 **22** If we are going to go into the charges, I  
 11:30:14 **23** want to make a motion to sequester the witnesses. We  
 11:30:16 **24** are talking procedural substances, sir. I am going to  
 11:30:20 **25** object if he is going to start going into the charges.

11:30:22 **1** MR. FLORIO: I am going to grant your  
 11:30:25 **2** objection.  
 11:30:25 **3** That's sustained on the basis that there are  
 11:30:29 **4** people in the room. We don't want to get into the  
 11:30:32 **5** subject matter of the actual charges, and we are trying  
 11:30:38 **6** to straighten out a procedural issue, which may be one  
 11:30:45 **7** of several housekeeping matters that we will need to  
 11:30:47 **8** address before we begin testimony from any witnesses, so  
 11:30:53 **9** I think I understand the point that both counsel are  
 11:30:59 **10** trying to present to this tribunal.  
 11:31:02 **11** Having said that, why don't we move on to a  
 11:31:05 **12** couple of other housekeeping issues starting with the  
 11:31:08 **13** time, which is now 11:30.  
 11:31:11 **14** In my experience, these kinds of hearings  
 11:31:16 **15** normally don't become very protracted. However, I have  
 11:31:21 **16** a sense that based upon the nature of these charges and  
 11:31:27 **17** the nature and substance of the presentations to this  
 11:31:32 **18** point that we may become -- we may become constrained by  
 11:31:37 **19** time during the day today, so let me start with you  
 11:31:39 **20** first, Mr. Giacobbe.  
 11:31:42 **21** Do you have any kind of time frame that you  
 11:31:45 **22** are working on as far as when you believe this hearing  
 11:31:48 **23** today is going to conclude?  
 11:31:52 **24** MR. GIACOBBE: No, sir. I have to be in Old  
 11:31:54 **25** Bridge by 9 PM this evening for a meeting, so I am good

11:31:58 **1** until about eight o'clock tonight.  
 11:32:02 **2** MR. FLORIO: Mr. DeSapio.  
 11:32:03 **3** MR. DESAPIO: I understood from Mr. Gantner  
 11:32:05 **4** they have one witness who can't be here today, so I  
 11:32:09 **5** imagine we are going beyond today, and I do have a  
 11:32:14 **6** hearing at 7:30 someplace else tonight, and I think it's  
 11:32:18 **7** not inappropriate to ask, given the fact that we are  
 11:32:21 **8** definitely coming back another day, this conclude at  
 11:32:24 **9** some reasonable hour, like, four or 4:30.  
 11:32:27 **10** MR. GIACOBBE: We have no objection to that  
 11:32:28 **11** at all, sir.  
 11:32:29 **12** MR. FLORIO: Since four or 4:30 is generally  
 11:32:32 **13** the time that government operations of a regular nature  
 11:32:38 **14** conclude, we will proceed today until four o'clock, so  
 11:32:44 **15** that's my first ruling.  
 11:32:45 **16** My next ruling is on the application for one  
 11:32:51 **17** presentation of witnesses. I am going to reserve on  
 11:32:55 **18** that for now, and we are going to proceed momentarily  
 11:32:59 **19** with the county's first witness, and I am going to tell  
 11:33:03 **20** both counsel that based upon the nature of the testimony  
 11:33:07 **21** by this witness and the success of the parties I am  
 11:33:13 **22** getting at the heart of the matter from this witness, I  
 11:33:16 **23** may be prepared at the conclusion of this witness'  
 11:33:18 **24** testimony to present a ruling on whether this witness  
 11:33:25 **25** will be called to return at another time, and I am going

11:33:27 **1** to reserve on any of the other witnesses until later in  
 11:33:31 **2** the day, and so if there is nothing else on that issue,  
 11:33:38 **3** Mr. Giacobbe suggested you had another application.  
 11:33:43 **4** MR. GIACOBBE: I make another motion to  
 11:33:44 **5** sequester all witnesses who will be testifying in this  
 11:33:47 **6** matter and/or the Kim Browne matter.  
 11:33:49 **7** The only person that we have present as a  
 11:33:51 **8** representative of the county is the county counsel,  
 11:33:56 **9** Shana Taylor. We are permitted to have a representative  
 11:33:59 **10** present, but we would ask that all other witnesses be  
 11:34:02 **11** sequestered if there is any opportunity or chance that  
 11:34:06 **12** they will be testifying in this hearing or if you rule  
 11:34:09 **13** there will be two hearings in a subsequent hearing.  
 11:34:12 **14** MR. DESAPIO: And I totally object to that.  
 11:34:17 **15** There was some discussion between Mr.  
 11:34:19 **16** Giacobbe and myself as to whether this would be a public  
 11:34:22 **17** hearing or a private hearing. It's a public hearing.  
 11:34:26 **18** People are entitled to come and listen.  
 11:34:31 **19** There are two people who are present here  
 11:34:35 **20** who I currently intend to call and who are on my witness  
 11:34:40 **21** list. They are the former chief financial officer and  
 11:34:47 **22** treasurer of the county and director of Division of  
 11:34:51 **23** Finance. I think they are entitled to hear what Mr.  
 11:34:55 **24** Gannon has to say and what the county is proposing,  
 11:35:00 **25** because in part, based upon what's been presented to us

11:35:03 **1** in discovery, it's based upon historical information,  
 11:35:07 **2** and I think my clients would be absolutely prejudiced if  
 11:35:12 **3** they were not entitled to hear the presentation.  
 11:35:15 **4** I don't know what the basis is for  
 11:35:22 **5** sequestering except -- I don't know, just to suggest  
 11:35:22 **6** they want to make it more difficult for these employees  
 11:35:23 **7** to defend themselves.  
 11:35:25 **8** MR. GIACOBBE: I take umbrage with that  
 11:35:27 **9** statement.  
 11:35:28 **10** It's not to make it more difficult. It's  
 11:35:30 **11** common practice in courthouses which are open to the  
 11:35:32 **12** public and trials that occur in the public domain that  
 11:35:37 **13** there are motions to sequester witnesses.  
 11:35:39 **14** Mr. DeSapio just testified he plans on  
 11:35:42 **15** calling these two individuals, I assume, as fact  
 11:35:45 **16** witnesses at some point in this hearing, they should be  
 11:35:51 **17** sequestered. They should not be influenced by the  
 11:35:53 **18** testimony that's being adduced here.  
 11:35:55 **19** Mr. Gannon's report has been produced. They  
 11:35:57 **20** can review the report, and then they can come in and  
 11:36:00 **21** testify fully.  
 11:36:00 **22** I think it's highly prejudicial to allow  
 11:36:03 **23** people to sit here and listen to the testimony and then  
 11:36:06 **24** come in and testify themselves.  
 11:36:07 **25** They should be coming in on a clean slate

11:36:11 **1** and providing their testimony and subject to  
 11:36:13 **2** cross-examination when and if they are called as  
 11:36:16 **3** witnesses.  
 11:36:17 **4** We would renew our application and request  
 11:36:19 **5** that you sequester any and all witnesses from this  
 11:36:22 **6** hearing.  
 11:36:22 **7** MR. DESAPIO: For the record, they are also  
 11:36:24 **8** listed as proposed expert witnesses.  
 11:36:26 **9** MR. GIACOBBE: We absolutely object to that.  
 11:36:31 **10** I would like to make another motion.  
 11:36:32 **11** MR. FLORIO: Let me rule on that motion  
 11:36:34 **12** first. I want to keep the record clean.  
 11:36:37 **13** MR. GIACOBBE: It does impact this ruling.  
 11:36:39 **14** Mr. DeSapio says that he is going to call  
 11:36:41 **15** them as expert witnesses. We have asked repeatedly in  
 11:36:44 **16** letters for any and all documentary evidence that Mr.  
 11:36:49 **17** DeSapio intends to utilize at this hearing prior to  
 11:36:51 **18** today, including expert reports.  
 11:36:54 **19** As we sit here right now we have been  
 11:36:56 **20** provided with nothing, not one piece of paper, not one  
 11:36:58 **21** report, not one expert report, et cetera.  
 11:37:01 **22** For Mr. DeSapio to come before you and say  
 11:37:03 **23** they are going to be experts, we would again renew our  
 11:37:06 **24** application for sequestration.  
 11:37:08 **25** We don't have any expert reports. We will

11:37:10 **1** object to them being introduced as experts for this  
 11:37:14 **2** failure to produce those.  
 11:37:16 **3** MR. FLORIO: I will rule on the  
 11:37:19 **4** sequestration application first.  
 11:37:19 **5** Although we all know that the rules of  
 11:37:23 **6** evidence are relaxed for these kinds of proceedings, we  
 11:37:26 **7** also are aware that in any hearing or any quasi-judicial  
 11:37:33 **8** proceeding there are proof issues, and it is my view  
 11:37:40 **9** that there should be no prejudice to either party on the  
 11:37:44 **10** issues of proof and the manner by which we will proceed.  
 11:37:49 **11** The point that courthouses are public places  
 11:37:53 **12** where trials occur with members of the public present is  
 11:37:58 **13** well-taken, and in those very trials motions for  
 11:38:04 **14** sequestration for good cause are routinely granted, so  
 11:38:07 **15** on that basis I am going to grant the motion for  
 11:38:10 **16** sequestration of witnesses.  
 11:38:13 **17** That will not affect the fact that the  
 11:38:16 **18** parties have agreed to proceed with this hearing in a  
 11:38:23 **19** public forum, which is a bit unusual. These are usually  
 11:38:26 **20** done in a private session, but both parties have agreed  
 11:38:30 **21** to proceed in public chambers, so members of the public  
 11:38:34 **22** who will not be called as witnesses will be permitted,  
 11:38:38 **23** subject to objection by either party, to be present in  
 11:38:42 **24** the hearing room during the proceedings, but any  
 11:38:48 **25** witnesses who are on the lists of either of the parties

11:38:51 **1** or anyone that is anticipated to be called as a witness  
 11:38:55 **2** or who may become a witness during the course of the  
 11:38:58 **3** hearing will not be permitted to be present in the  
 11:39:02 **4** hearing room while testimony by any other witnesses is  
 11:39:07 **5** being heard.  
 11:39:08 **6** That's my ruling on the issue of  
 11:39:11 **7** sequestration.  
 11:39:12 **8** I don't believe that the issue of expert  
 11:39:16 **9** witness is ripe for me to rule upon at this time, and I  
 11:39:21 **10** don't know that the witness who is going to testify  
 11:39:23 **11** first is going to be presented as an expert witness, and  
 11:39:27 **12** I don't think it's necessary for me to address that  
 11:39:30 **13** particular application at this time, but thank you for  
 11:39:34 **14** the advance notice.  
 11:39:35 **15** MR. DESAPIO: On the sequestration issue,  
 11:39:37 **16** can I ask two things? I ask for a three-minute break to  
 11:39:41 **17** explain to Mr. Balogh and Mr. Matthews the situation.  
 11:39:46 **18** Also I am assuming then we are not going to  
 11:39:49 **19** get to them today, so they can go home, and whatever day  
 11:39:54 **20** the employees put their case in would be the day for  
 11:39:57 **21** them to return.  
 11:39:58 **22** Right.  
 11:39:59 **23** MR. FLORIO: Mr. Giacobbe.  
 11:40:02 **24** MR. GIACOBBE: That would be correct, your  
 11:40:03 **25** Honor.

11:40:03 **1** MR. DESAPIO: Also I have Ms. Taylor on my  
 11:40:06 **2** witness list for non-attorney/client privilege items,  
 11:40:09 **3** meetings she participated in, so somebody is going to  
 11:40:14 **4** have to decide whether she needs to leave the room.  
 11:40:16 **5** MR. GIACOBBE: First and foremost, just like  
 11:40:19 **6** Ms. Pasqua and Ms. Browne will be present during this  
 11:40:22 **7** hearing, and they will be testifying, we, as a county,  
 11:40:25 **8** are permitted to have a representative.  
 11:40:27 **9** If you will notice, the county administrator  
 11:40:29 **10** who is being called as one of our witnesses is not here,  
 11:40:32 **11** and she will not be present until she testified fully in  
 11:40:39 **12** this case. We, as the county, are absolutely permitted  
 11:40:39 **13** to have a representative of the county present, and we  
 11:40:42 **14** have selected to have the county counsel, Shana Taylor,  
 11:40:45 **15** present during the duration of this hearing.  
 11:40:47 **16** If Mr. DeSapio intends to call her, we will  
 11:40:50 **17** make our motions to object to that at that time, but at  
 11:40:54 **18** this juncture we are permitted to have her present.  
 11:40:58 **19** MR. FLORIO: Mr. DeSapio, I am going to deny  
 11:41:00 **20** that motion on the basis of Ms. Taylor's representation  
 11:41:05 **21** of the county as county counsel, and if it should become  
 11:41:09 **22** an issue at a time during the course of the proceedings  
 11:41:11 **23** and you wish to renew your application because there is  
 11:41:14 **24** a question of non-attorney/client matters being  
 11:41:19 **25** presented in the hearing, we will cross that bridge when

11:41:22 **1** we come to it.  
 11:41:23 **2** MR. DESAPIO: Thank you.  
 11:41:24 **3** MR. FLORIO: Otherwise, we will take a short  
 11:41:27 **4** recess --  
 11:41:27 **5** MR. DESAPIO: Very short.  
 11:41:29 **6** MR. FLORIO: -- for you to inform your  
 11:41:30 **7** clients or witnesses of what has happened to this point.  
 11:41:38 **8** (Whereupon, a short recess is taken.)  
 11:42:41 **9** MR. DESAPIO: Can I ask everybody's  
 11:42:43 **10** indulgence?  
 11:42:44 **11** My two potential witnesses are asking if  
 11:42:47 **12** this might be continued until tomorrow or we are going  
 11:42:49 **13** to pick some other dates later.  
 11:42:53 **14** MR. FLORIO: I don't think I am available  
 11:42:54 **15** tomorrow. We are going to have to agree on dates later  
 11:42:59 **16** on.  
 11:42:59 **17** MR. GIACOBBE: If I could make a suggestion.  
 11:43:00 **18** Do you want to look at our calendars right now and look  
 11:43:04 **19** at the next week or the week after to pick some dates so  
 11:43:06 **20** the people can plan accordingly?  
 11:43:09 **21** MR. DESAPIO: I understand we are not  
 11:43:29 **22** looking at any dates this week.  
 11:43:32 **23** MR. GIACOBBE: I am on trial this week.  
 11:43:34 **24** Let me give you what my availability is,  
 11:43:37 **25** your indulgence, I am free Wednesday, the 30th, Friday,

11:43:44 **1** the 1st, Monday, the 4th, Tuesday, the 5th, and also the  
 11:43:54 **2** 29th, 30th, or 1st of next week.  
 11:43:58 **3** MR. FLORIO: Mr. DeSapio.  
 11:44:12 **4** MR. GIACOBBE: Let me just check with Mr.  
 11:44:16 **5** Gantner.  
 11:44:20 **6** MR. GANTNER: I am available on Monday, the  
 11:44:26 **7** 4th, I am available on -- that's the only day I have  
 11:44:36 **8** until the following week. I have got the 11th and the  
 11:44:40 **9** 12th available.  
 11:44:43 **10** MR. GIACOBBE: I am out of the country. You  
 11:44:47 **11** are not available this week at all?  
 11:44:48 **12** MR. GANTNER: No.  
 11:44:50 **13** MR. DESAPIO: Is the only date we are  
 11:44:51 **14** talking about is Monday, the 4th? Is that what I  
 11:44:56 **15** understand?  
 11:44:56 **16** MR. GANTNER: That's the way it looks.  
 11:44:58 **17** MR. DESAPIO: I have to be before Judge  
 11:45:00 **18** Miller at 3 PM on that Monday, the 4th. That's 45  
 11:45:05 **19** minutes from here. I would have to leave by 2:15.  
 11:45:09 **20** If they want to start a hearing at nine  
 11:45:11 **21** o'clock in the morning or something, I guess we can get  
 11:45:13 **22** a few hours in. I don't anticipate we are going to get  
 11:45:16 **23** done if we do it that way.  
 11:45:19 **24** MR. GIACOBBE: Hold on.  
 11:46:06 **25** MR. GANTNER: I can do the 28th if we start

11:46:09 **1** promptly at nine. I have to be out of here pretty  
 11:46:12 **2** quickly. I am going to put on the one witness, and Mr.  
 11:46:16 **3** Giacobbe can pick it up from there, assuming we get  
 11:46:19 **4** through two today, which I expect we will.  
 11:46:22 **5** MR. FLORIO: 28th is good for you?  
 11:46:25 **6** MR. GIACOBBE: I can do the 28th.  
 11:46:27 **7** MR. FLORIO: Mr. DeSapio.  
 11:46:28 **8** MR. DESAPIO: The 28th of October? Okay.  
 11:46:33 **9** The 28th and what other dates? Just want to know the  
 11:46:38 **10** 28th first.  
 11:46:38 **11** MR. FLORIO: I think right now we are  
 11:46:40 **12** looking at the 28th, and if everybody is amenable to  
 11:46:44 **13** starting early and make as much progress on that date as  
 11:46:49 **14** we can.  
 11:46:51 **15** MR. DESAPIO: A week from today.  
 11:46:53 **16** MR. FLORIO: A week from today at nine  
 11:46:55 **17** o'clock.  
 11:46:55 **18** MR. DESAPIO: I have some depositions  
 11:46:56 **19** scheduled. I will get them adjourned.  
 11:47:01 **20** Okay. Now, the 28th, a week from today.  
 11:47:06 **21** MR. GIACOBBE: Why don't we pick one more  
 11:47:13 **22** date that week.  
 11:47:14 **23** The 30th or the 1st, do you have any of  
 11:47:17 **24** those dates?  
 11:47:21 **25** MR. GANTNER: I am good on the 30th as long

11:47:23 **1** as I can be out of here by four.  
 11:47:26 **2** MR. GIACOBBE: We can do the 28th or the  
 11:47:31 **3** 30th.  
 11:47:31 **4** MR. FLORIO: The 30th works for me as well.  
 11:47:34 **5** MR. DESAPIO: Well, the same case that I  
 11:47:36 **6** have -- I want to get these depositions adjourned on the  
 11:47:39 **7** 28th. I have different depositions on the 30th. I  
 11:47:44 **8** might have a little problem with the attorney and the  
 11:47:46 **9** court adjourning both of them.  
 11:47:48 **10** What do we have, the 1st? Does the 1st work  
 11:47:51 **11** for everybody or no?  
 11:47:52 **12** MR. GANTNER: I am not available on the 1st.  
 11:47:58 **13** MR. DESAPIO: All right. I will figure  
 11:47:59 **14** something out. Let's keep moving.  
 11:48:02 **15** MR. GIACOBBE: The 28th and the 30th, why  
 11:48:04 **16** don't we start them both at nine o'clock.  
 11:48:17 **17** MR. DESAPIO: October 28th.  
 11:48:20 **18** MR. FLORIO: The 28th at nine AM and the  
 11:48:22 **19** 30th at nine AM?  
 11:48:25 **20** MR. GIACOBBE: That's correct, sir.  
 11:48:31 **21** MR. FLORIO: Are there any other procedural  
 11:48:34 **22** or housekeeping issues?  
 11:48:37 **23** MR. DESAPIO: I do have one.  
 11:48:40 **24** I am sorry.  
 11:48:41 **25** MR. FLORIO: Please go ahead.

11:48:42 **1** MR. DESAPIO: Okay. I just want to note for  
 11:48:47 **2** the record it's not something that you have to rule on,  
 11:48:48 **3** I want to note for the record, Mr. Giacobbe is  
 11:48:51 **4** indicating this is a proceeding under 40A:9-25 in regard  
 11:48:56 **5** to Ms. Pasqua and that Ms. Pasqua's participating  
 11:49:00 **6** without prejudice to her position as we articulated in a  
 11:49:05 **7** declaratory judgment action which she filed and that she  
 11:49:12 **8** can only be removed from her position as chief financial  
 11:49:12 **9** officer under NJSA 40A:9-28.6, and if that issue needs  
 11:49:18 **10** to be resolved, I imagine the courts are going to  
 11:49:20 **11** resolve it.  
 11:49:21 **12** I would also like an indication --  
 11:49:23 **13** MR. FLORIO: Is that 9-26, Counsel?  
 11:49:26 **14** MR. GANTNER: 28 point.  
 11:49:28 **15** MR. DESAPIO: 40A:9-28.6.  
 11:49:34 **16** I would also like a clarification on the  
 11:49:36 **17** record that Cynthia J. Yard is the charging party.  
 11:49:43 **18** There was some confusion in my mind looking at the  
 11:49:47 **19** charges, and it says, "Charging party Complaint made by  
 11:49:51 **20** the County of Hunterdon," and as I have indicated  
 11:49:54 **21** previously to Mr. Giacobbe, the statute that he says we  
 11:49:58 **22** are operating under indicates that it has to be signed  
 11:50:01 **23** by the person who is making the Complaint, and at one  
 11:50:06 **24** point he represented that was Ms. Yard.  
 11:50:11 **25** MR. GIACOBBE: First and foremost, are you

11:50:12 **1** finished?

11:50:13 **2** MR. DESAPIO: With that question.

11:50:15 **3** MR. GIACOBBE: Then I will wait until all

11:50:17 **4** your questions are done.

11:50:18 **5** MR. DESAPIO: Okay. All right.

11:50:19 **6** The last thing has to do with discovery.

11:50:23 **7** I want to get this hearing started, and I

11:50:33 **8** don't want to belabor this, but I do want to have some

11:50:36 **9** things marked to serve as a basis for final questioning

11:50:43 **10** that I am going to raise here.

11:50:51 **11** Are we going to mark employee exhibits as

11:50:54 **12** Employee-1 or something, E-1?

11:50:58 **13** MR. FLORIO: What were the prior documents

11:50:59 **14** marked as?

11:51:01 **15** MR. GIACOBBE: I believe they are

11:51:02 **16** Hunterdon-1. They are marked as Hunterdon-1.

11:51:06 **17** MR. GANTNER: 2 and 3.

11:51:08 **18** MR. FLORIO: If you are going to have

11:51:12 **19** parties specify documents, why don't you label them, why

11:51:15 **20** don't we mark them Pasqua-1 or Browne-1, however you see

11:51:20 **21** fit.

11:51:20 **22** MR. DESAPIO: Since this is a joint hearing

11:51:22 **23** at this point yet, at least to start off, I guess we

11:51:26 **24** need to mark them PB-1.

11:51:29 **25** Would you mark these two PB-1.

11:51:34 **1** MR. FLORIO: Fine.

11:51:36 **2** MR. GIACOBBE: Do you have copies for us?

11:51:37 **3** MR. DESAPIO: Yes, I have one for you and

11:51:39 **4** one for the hearing officer, if you would.

11:51:47 **5** Excuse me.

11:51:49 **6** Rich, I think I handed you the wrong thing.

11:51:54 **7** Thank you.

11:52:31 **8** (E-mail, October 11th, 2013, is marked as

11:52:39 **9** Exhibit PB-1 for identification.)

11:52:54 **10** MR. DESAPIO: PB-1 for identification is an

11:52:56 **11** e-mail dated Friday, October 11th, addressed to the

11:53:01 **12** hearing officer, with copies to Mr. Giacobbe and others.

11:53:07 **13** It is just being marked at this point to set

11:53:14 **14** forth my recitation of discovery issues leading up to

11:53:20 **15** what I want to ask and state today.

11:53:25 **16** We initially made a verbal discovery request

11:53:29 **17** on September 30th and followed up on October 2nd and

11:53:32 **18** there is a history of our efforts to get the material.

11:53:38 **19** The initial discovery package, which was not

11:53:45 **20** delivered until three PM Monday, October 14th, which was

11:53:52 **21** actually an office holiday for me, but I waited there in

11:53:56 **22** the hopes of expediting this hearing, and I would like

11:53:59 **23** to mark this as PB-2.

11:54:25 **24** (E-mail, dated October 18, 2013, is marked

11:54:34 **25** as Exhibit PB-2 for identification.)

11:54:49 **1** MR. DESAPIO: PB-2 is an e-mail which I sent

11:54:54 **2** to Mr. Giacobbe on Friday, October 18th, after I had

11:55:03 **3** reviewed, not only the package that was delivered the

11:55:06 **4** previous Monday, but a supplemental package which was

11:55:12 **5** delivered on Wednesday, October 16th, and I recited in

11:55:18 **6** PB-2, I passed that up, I recited in PB-2 the items that

11:55:24 **7** the packages failed to request, address, and numbered to

11:55:34 **8** correlate to my --

11:55:37 **9** MR. GIACOBBE: I am going to continue the

11:55:38 **10** objection.

11:55:39 **11** We still have the witnesses sitting here.

11:55:41 **12** No one is listening to your sequestration. We have

11:55:44 **13** another person coming in. I don't know if he is going

11:55:46 **14** to testify.

11:55:47 **15** We have to address the sequestration, and,

11:55:49 **16** frankly, Mr. DeSapio is sitting up here putting on an

11:55:52 **17** entire display.

11:55:55 **18** All the discovery has been provided and yet

11:55:56 **19** again if you recall I made a motion earlier on three

11:55:59 **20** separate occasions, sir, I have requested discovery from

11:56:02 **21** Mr. DeSapio.

11:56:03 **22** As we sit here today I have been provided

11:56:05 **23** with nothing, not one shred of evidence, not one

11:56:09 **24** document from Mr. DeSapio.

11:56:10 **25** So for Mr. DeSapio to come before you and

11:56:13 **1** talk about over 500 pages of documents that we provided

11:56:18 **2** along with the supplemental requests and documents that

11:56:23 **3** have been provided to him well before this hearing had

11:56:25 **4** even occurred, I find a little disingenuous, but I

11:56:29 **5** think at a minimum, we have to have these people

11:56:32 **6** sequestered.

11:56:33 **7** MR. FLORIO: Before you proceed, Counsel --

11:56:35 **8** MR. DESAPIO: Yes.

11:56:36 **9** MR. FLORIO: -- I think you were going to

11:56:38 **10** accede to that request, so at this time we are going to

11:56:42 **11** sequester any other witnesses aside from the two

11:56:46 **12** individuals who are the recipients of these notices of

11:56:50 **13** discipline.

11:56:53 **14** We have addressed the calendar issues for

11:56:56 **15** the next two days so everybody knows when they need to

11:57:06 **16** be back to attend to that circumstance.

11:57:06 **17** I will also note for the record now, as I

11:57:07 **18** look out into the gallery, that there are six

11:57:10 **19** individuals sitting in the audience.

11:57:14 **20** Counsel for both parties, I will ask you

11:57:17 **21** both to ascertain for the record that none of those

11:57:22 **22** individuals are going to be called upon as witnesses at

11:57:25 **23** any point in the proceedings as we go forward.

11:57:29 **24** MR. DESAPIO: I don't see anybody that I

11:57:31 **25** intend to call at this time.

11:57:34 **1** MR. GIACOBBE: Well, it's not "intend to  
 11:57:35 **2** call," but "There is not one person out here that we  
 11:57:38 **3** will call at this proceeding."  
 11:57:39 **4** I would like to see representation from Mr.  
 11:57:41 **5** DeSapio he will not call any of these people.  
 11:57:43 **6** MR. FLORIO: I think that's a fair request,  
 11:57:45 **7** Counsel.  
 11:57:47 **8** MR. DESAPIO: I don't know the gentleman all  
 11:57:49 **9** the way in the back. He is not on my witness list.  
 11:57:51 **10** That's the case, I don't intend to call anybody.  
 11:57:54 **11** MR. GIACOBBE: If you recall, Mr. Hearing  
 11:57:56 **12** Officer, Mr. DeSapio is making this application about  
 11:57:59 **13** discovery, but previously I made the application about  
 11:58:01 **14** his failure to produce any discovery whatsoever, so my  
 11:58:05 **15** application was that Mr. DeSapio, because of his failure  
 11:58:08 **16** to produce any discovery, should be barred from  
 11:58:11 **17** introducing anything that hasn't been provided to us.  
 11:58:14 **18** I would like to get a ruling on that  
 11:58:15 **19** application before we now have Mr. DeSapio talking about  
 11:58:18 **20** the discovery that has been produced to him and he has  
 11:58:22 **21** not been prejudiced. He has time, and what's even more  
 11:58:25 **22** compelling is the fact that Mr. DeSapio now knows that  
 11:58:28 **23** we are not having a hearing, the second and third days  
 11:58:32 **24** will be next week, Monday and Wednesday, so Mr. DeSapio  
 11:58:35 **25** has more than enough time to review the documents that

11:58:39 **1** he has.  
 11:58:39 **2** I should also note Mr. DeSapio filed a  
 11:58:41 **3** number of OPRA requests long ago and got most of these  
 11:58:44 **4** documents through OPRA.  
 11:58:46 **5** Putting that aside, our motion dealing with  
 11:58:48 **6** Mr. DeSapio's repeated failure and, I think, we should  
 11:58:52 **7** probably introduce this.  
 11:58:55 **8** MR. DESAPIO: Can I just ask, my normal  
 11:58:57 **9** practice and experience is that if an attorney makes an  
 11:59:00 **10** application that the other attorney doesn't jump in and  
 11:59:03 **11** start making his application before I am done.  
 11:59:06 **12** MR. GIACOBBE: I think I made my application  
 11:59:07 **13** before yours, sir.  
 11:59:08 **14** MR. DESAPIO: I don't remember any previous  
 11:59:09 **15** application about discovery this morning. I remember  
 11:59:11 **16** some comments about it, but no previous application, and  
 11:59:15 **17** I would respectfully request the opportunity to lay out  
 11:59:18 **18** what I want to lay out and then we can address that and  
 11:59:22 **19** then we can address Mr. Giacobbe's concerns.  
 11:59:25 **20** MR. GIACOBBE: You are the hearing officer.  
 11:59:26 **21** MR. FLORIO: We will proceed on Mr.  
 11:59:29 **22** Giacobbe's motion, which is of a discovery nature.  
 11:59:33 **23** MR. DESAPIO: Yes, it's related.  
 11:59:35 **24** MR. FLORIO: And then we will hear counsel  
 11:59:36 **25** for the county either on response or a cross motion.

11:59:41 **1** MR. DESAPIO: So PB-2 is an e-mail that was  
 11:59:47 **2** sent on Friday, after having received the supplemental  
 11:59:49 **3** package on the previous Wednesday, October 16th, and  
 11:59:55 **4** reciting the things that were missing that had been  
 11:59:58 **5** requested in my letter of October 2nd by number where no  
 12:00:04 **6** response had been provided at all.  
 12:00:06 **7** PB-3 for identification, please.  
 12:00:13 **8** (E-mail dated October 18th, 2013, is marked  
 12:00:27 **9** as Exhibit PB-3 for identification.)  
 12:00:53 **10** MR. DESAPIO: PB-3 is an e-mail that was  
 12:00:56 **11** received at 5:43 PM Friday, what is to be Friday, before  
 12:01:00 **12** the hearing and attached to which is the rest of the  
 12:01:05 **13** purported discovery.  
 12:01:07 **14** Now, my clients are anxious to get this  
 12:01:11 **15** started, so this application is not about adjourning  
 12:01:15 **16** today's proceeding, okay, but it is about addressing  
 12:01:19 **17** some issues and getting them clarified and getting them  
 12:01:22 **18** resolved.  
 12:01:24 **19** The first is in the Notice of Discipline,  
 12:01:31 **20** which has been marked as -- are those marked already,  
 12:01:36 **21** Counsel, at this point?  
 12:01:37 **22** MR. GIACOBBE: The notices of discipline  
 12:01:39 **23** that are marked as Hunterdon-4 is Margaret Pasqua, and  
 12:01:46 **24** Hunterdon-5 is Kim Browne.  
 12:01:49 **25** MR. DESAPIO: Okay. Can I have them?

12:01:51 **1** MR. GIACOBBE: You have copies of them.  
 12:01:52 **2** These are the originals.  
 12:01:53 **3** MR. DESAPIO: They are sitting right there  
 12:01:55 **4** on the table.  
 12:01:56 **5** MR. GIACOBBE: I will give you a copy of  
 12:01:57 **6** them.  
 12:01:57 **7** MR. DESAPIO: I want to refer to them a  
 12:01:59 **8** second. They are sitting right there. I want to refer  
 12:02:01 **9** to them as I am talking.  
 12:02:08 **10** Hunterdon-4 recites in Section 1 at the  
 12:02:15 **11** bottom where it says, "Incident," it says, "The  
 12:02:19 **12** September 12th preliminary results of the audit  
 12:02:22 **13** investigation will be supplemented by the final report  
 12:02:25 **14** from the firm of Donohue, Gironde & Doria and provided  
 12:02:29 **15** to you prior to the hearing date."  
 12:02:33 **16** H-5 says, again, Section 1, "Incident," last  
 12:02:38 **17** sentence, "The September 12, 2013 preliminary results of  
 12:02:42 **18** the audit investigation will be supplemented by the  
 12:02:45 **19** final report from the firm of Donohue, Gironde & Doria  
 12:02:49 **20** and provided to you prior to the hearing date."  
 12:02:53 **21** Last Wednesday in their discovery package  
 12:03:00 **22** they delivered a report that refers to an October 9th  
 12:03:09 **23** letter that that firm did. All right?  
 12:03:12 **24** A week earlier.  
 12:03:14 **25** On Friday afternoon we get the October 9th



12:03:20 **1** letter, because I demanded and I say the disciplinary  
 12:03:24 **2** charge -- this is not even a discovery issue -- the  
 12:03:26 **3** disciplinary charges say they are not complete until you  
 12:03:28 **4** furnish that.  
 12:03:29 **5** Now, you furnish me a letter, and it refers  
 12:03:32 **6** to an October 9th letter which was never sent to me.  
 12:03:35 **7** Over the weekend or Friday evening, they send me the  
 12:03:38 **8** October 9th letter, and the October 9th letter refers to  
 12:03:43 **9** a matrix attached prepared by the county administrator.  
 12:03:48 **10** This is in the county's discovery package, Bates stamped  
 12:03:54 **11** page 433.  
 12:03:56 **12** My first request is that they furnish that  
 12:04:00 **13** matrix because it's a copy of the report, it's attached  
 12:04:07 **14** to the report that is referred to in the disciplinary  
 12:04:11 **15** charges, and we are entitled to have that so we can  
 12:04:13 **16** evaluate and respond to it.  
 12:04:16 **17** That's number one.  
 12:04:18 **18** Number two, I had asked in the discovery  
 12:04:23 **19** letters for copies of all invoices and purchase orders  
 12:04:36 **20** for health benefit payments for the period April 2012  
 12:04:40 **21** through to date, and by reference to the disciplinary  
 12:04:46 **22** charges one of the things that they are complaining  
 12:04:48 **23** about is that there were erroneous payments made on  
 12:04:52 **24** health benefit invoices.  
 12:04:54 **25** In the discovery package Friday, at 5:43, we

12:05:00 **1** get the purchase order and the cover sheet to the  
 12:05:04 **2** invoice. These invoices are critical to this case and  
 12:05:12 **3** to our preparation of a defense, and we don't even get  
 12:05:17 **4** the ones going back to April 2012. I think the earliest  
 12:05:20 **5** one was sometime in the fall, so I want them produced in  
 12:05:23 **6** a timely manner, the invoices.  
 12:05:27 **7** The items 12 and 13 in my discovery  
 12:05:44 **8** letters --  
 12:05:44 **9** MR. FLORIO: Are you referring to a  
 12:05:45 **10** particular document that you have presented for  
 12:05:52 **11** identification?  
 12:05:54 **12** MR. DESAPIO: When I say "discovery  
 12:05:55 **13** letters"?  
 12:05:56 **14** MR. FLORIO: Yes. Reference the exhibit  
 12:05:59 **15** number so we have a clarity of record.  
 12:06:01 **16** MR. DESAPIO: PB-1, PB-1, Page 4 of PB-1 is  
 12:06:06 **17** the discovery letter for Ms. Browne and Page 7 of PB-1  
 12:06:15 **18** is the discovery letter for Margaret Pasqua.  
 12:06:37 **19** Item number 12, we ask for "Copies of any  
 12:06:43 **20** e-mails or other internal communication related to the  
 12:06:46 **21** charges proffered," and the answer we get back is that,  
 12:06:49 **22** "They are all confidential due to attorney/client  
 12:06:52 **23** privilege."  
 12:06:53 **24** That's hard to believe because we have  
 12:06:57 **25** disciplinary charges proposed, a whole series of

12:07:01 **1** incidents. They want to terminate these people, and  
 12:07:03 **2** they have no internal communications that are other than  
 12:07:06 **3** attorney/client privilege?  
 12:07:08 **4** I want those produced.  
 12:07:10 **5** Now, the final thing, which is relevant to  
 12:07:12 **6** how we proceed this morning, I have been asking since  
 12:07:18 **7** October 2nd for the accountant's work papers, because  
 12:07:24 **8** they had made obvious in the disciplinary charges that  
 12:07:27 **9** they are going to rely on the accountant's audit, so I  
 12:07:32 **10** asked since October 2nd -- it is now what -- almost  
 12:07:35 **11** three weeks, and the accountant is sitting here.  
 12:07:39 **12** This morning I have been presented, I don't  
 12:07:44 **13** know what this is, it looks like three to 500 pages of  
 12:07:49 **14** the accountant's work papers on the morning when they  
 12:07:54 **15** propose to have the accountant testify.  
 12:07:56 **16** Now, my feeling is that either they should  
 12:08:01 **17** put Mrs. Yard on first, which I know I can't control the  
 12:08:04 **18** way they present their case, all right, but I do want to  
 12:08:08 **19** say that if Mr. Gannon is going to be put on, all right,  
 12:08:13 **20** I need to reserve the opportunity to recall him to  
 12:08:18 **21** finish cross-examination because it is totally, totally  
 12:08:22 **22** unreasonable to expect that I am going to sit here being  
 12:08:29 **23** given at 10:55, three to 500 pages of documents and say,  
 12:08:35 **24** "Here, you can use this when you cross-examine our  
 12:08:38 **25** witness."

12:08:39 **1** So my application is, one, to have an  
 12:08:46 **2** indication as to who the discharging party is; two,  
 12:08:51 **3** provide the matrix that's referred to in the October 9th  
 12:08:54 **4** letter from Dorio, which is referred to in the  
 12:09:00 **5** disciplinary charges; three, get complete copies of all  
 12:09:04 **6** the purchase orders going back -- for health benefits  
 12:09:07 **7** going back to April 2012; or, have a definitive  
 12:09:16 **8** indication or furnish any internal e-mails that relate  
 12:09:19 **9** to these disciplinary charges that are not covered by  
 12:09:22 **10** attorney/client; and five, to have Mr. Gannon be the  
 12:09:30 **11** second witness today so that I have adequate opportunity  
 12:09:34 **12** to take a look at this or at least reserve the right to  
 12:09:38 **13** recall him for cross-examination after I had an  
 12:09:41 **14** opportunity to review this material.  
 12:09:43 **15** MR. FLORIO: Before I turn this over to you  
 12:09:45 **16** for response, Mr. Giacobbe, I am going to deny your last  
 12:09:48 **17** application.  
 12:09:49 **18** Mr. Gannon is sitting here. The county can  
 12:09:56 **19** present their witnesses in the order in which they  
 12:09:56 **20** choose.  
 12:09:56 **21** I will grant your request that if you need  
 12:09:59 **22** to bring him back to cross-examine, then you will be  
 12:10:03 **23** permitted to do so.  
 12:10:04 **24** Just so everyone knows, my inclination  
 12:10:07 **25** generally is to let you make your record, Counsel, for

12:10:12 **1** both parties, so while I don't want to belabor any  
 12:10:18 **2** issue, anything you need to get on the record will be  
 12:10:20 **3** permitted to be placed on the record, so for score  
 12:10:24 **4** keeping purposes, Mr. Giacobbe, you're up, and on the  
 12:10:27 **5** question of the charging party, do you have a response?  
 12:10:32 **6** MR. GIACOBBE: Yes, the charging party, both  
 12:10:34 **7** charges were signed by Cindy Yard, who is the county  
 12:10:36 **8** administrator.  
 12:10:37 **9** In a Civil Service community Ms. Yard is  
 12:10:39 **10** deemed the appointing authority, but she was directed to  
 12:10:44 **11** do these charges by the Board of Chosen Freeholders, so  
 12:10:48 **12** the charging party is Cindy Yard on behalf of the Board  
 12:10:52 **13** of Chosen Freeholders of the County of Hunterdon.  
 12:10:53 **14** Mr. DeSapio was present for a number of  
 12:10:56 **15** meetings before the freeholders, at which time he heard  
 12:11:00 **16** that the freeholders were directing Ms. Yard to proffer  
 12:11:03 **17** these charges.  
 12:11:04 **18** So that's the response to number one.  
 12:11:06 **19** Number two, let's go --  
 12:11:09 **20** MR. FLORIO: On the matrix.  
 12:11:10 **21** MR. GIACOBBE: On the matrix, maybe if Mr.  
 12:11:14 **22** DeSapio had reviewed the comments we provided at Page  
 12:11:18 **23** 192, Bates stamped -- everything is Bates stamped,  
 12:11:21 **24** County Bates stamp -- states at 191 it's attached to the  
 12:11:26 **25** Tompkins report dated October 11th, 2013, which was

12:11:30 **1** provided to Mr. DeSapio. The matrix runs from Page 191,  
 12:11:41 **2** 192, County-192, and is attached right there, so that  
 12:11:46 **3** was provided, so Mr. DeSapio has been provided that  
 12:11:50 **4** document.  
 12:11:51 **5** Third, he makes mention of "working papers."  
 12:11:56 **6** For the record, we got the working papers  
 12:11:59 **7** this morning from Mr. Gannon. Mr. Gannon had to talk to  
 12:12:03 **8** his own internal attorneys about whether or not Wiss and  
 12:12:06 **9** Company will produce those papers. We have never seen  
 12:12:09 **10** them yet either.  
 12:12:10 **11** We are absolutely prepared to go forward  
 12:12:12 **12** with Mr. Gannon. The basis of his testimony is going to  
 12:12:16 **13** be his audited report. It has to be accepted by the  
 12:12:19 **14** county, filed with the county, and that's going to be  
 12:12:21 **15** the basis of his testimony before us. The working  
 12:12:23 **16** papers are just the papers that culminated in his  
 12:12:26 **17** report.  
 12:12:27 **18** MR. FLORIO: How about on the issue of  
 12:12:28 **19** invoices and health benefit payments?  
 12:12:31 **20** MR. GIACOBBE: Well, Mr. DeSapio, his  
 12:12:33 **21** request, if I look at what he has asked for is -- we  
 12:12:40 **22** have provided those to him.  
 12:12:43 **23** This is a disciplinary charge dealing with  
 12:12:47 **24** the individuals who remain on health benefits when they  
 12:12:54 **25** shouldn't have. That's one of the charges before you.

12:12:57 **1** And the mere fact that we were spending  
 12:12:59 **2** money to Horizon Blue Cross and Blue Shield over a  
 12:13:03 **3** period of years, I don't know what that will ultimately  
 12:13:08 **4** produce other than the fact that we were spending money  
 12:13:11 **5** to Blue Cross and Blue Shield over a period of years.  
 12:13:14 **6** Mr. DeSapio has been provided those  
 12:13:16 **7** documents. We can go back and see if we can provide  
 12:13:20 **8** additional documents.  
 12:13:20 **9** Interesting, Mr. Tompkins, the individual,  
 12:13:23 **10** is not able to be here today, so Mr. DeSapio will have  
 12:13:27 **11** more than adequate time to review what's been provided  
 12:13:29 **12** to him and to review to find out if the invoices that we  
 12:13:37 **13** have provided are sufficient.  
 12:13:38 **14** What I should also tell you, Mr. DeSapio,  
 12:13:41 **15** and the record should be clear, Mr. DeSapio served an  
 12:13:43 **16** OPRA request on these documents for all the invoices on  
 12:13:46 **17** health benefits back in September, and they were already  
 12:13:49 **18** provided to him.  
 12:13:50 **19** Mr. DeSapio likes to come before you and  
 12:13:52 **20** say, "I got them once, but let me ask for them again,  
 12:13:54 **21** and I will get them again."  
 12:13:56 **22** So he has been provided them, not only on  
 12:13:59 **23** one occasion, but two occasions, all the invoices he  
 12:14:02 **24** requested.  
 12:14:03 **25** MR. FLORIO: E-mails or other

12:14:05 **1** communications?  
 12:14:06 **2** MR. GIACOBBE: Finally, we have responded to  
 12:14:09 **3** Mr. DeSapio.  
 12:14:10 **4** He wants -- his request was any  
 12:14:14 **5** communications dealing with the charges that have been  
 12:14:17 **6** proffered. Very clearly we responded that it's  
 12:14:21 **7** attorney/client privilege and, therefore, if any of the  
 12:14:24 **8** e-mails involved to or from were copied to county  
 12:14:28 **9** counsel or county counsel's office. Those are  
 12:14:31 **10** attorney/client privilege.  
 12:14:32 **11** I find it somewhat perplexing that Mr.  
 12:14:36 **12** DeSapio is making these motions when he served as county  
 12:14:40 **13** counsel for 30 years here through December of 2011. Mr.  
 12:14:43 **14** DeSapio understands the county counsel is intimately  
 12:14:47 **15** involved in the proffering of charges, et cetera. For  
 12:14:49 **16** him now to try to get that and to impugn us to say we  
 12:14:54 **17** are not turning over documents, is, I think, a little  
 12:14:58 **18** salacious.  
 12:14:58 **19** Any document that he has requested has been  
 12:15:07 **20** turned over. The only documents we are not turning over  
 12:15:07 **21** are attorney/client privilege. We are not turning those  
 12:15:07 **22** over. Other than attorney/client communications, there  
 12:15:11 **23** are no other attorney/client communications which have  
 12:15:14 **24** been marked as Hunterdon-4 and Hunterdon-5.  
 12:15:17 **25** I would like to make a cross motion, sir.

12:15:19 **1** MR. FLORIO: Cross motion.  
 12:15:20 **2** MR. GIACOBBE: Mr. DeSapio has come before  
 12:15:22 **3** you and demanded documents and how we haven't complied.  
 12:15:25 **4** Mr. DeSapio does that on three separate occasions.  
 12:15:28 **5** Let me back up.  
 12:15:29 **6** Mr. DeSapio made an application before the  
 12:15:31 **7** Superior Court to try to prevent this hearing; the court  
 12:15:34 **8** denied that application.  
 12:15:35 **9** Following that hearing in the hallway I  
 12:15:40 **10** asked Mr. DeSapio I am going to need a list of his  
 12:15:42 **11** witnesses, and all documents that he is going to rely  
 12:15:46 **12** upon. I followed that up three times.  
 12:15:48 **13** If you actually look at PB-1, I believe it  
 12:15:55 **14** is, hold on one second, where is PB-3. PB-3, PB-3, my  
 12:16:05 **15** letter of October 18th with which Mr. DeSapio turned in,  
 12:16:10 **16** look at the last paragraph, "Additionally, this letter  
 12:16:12 **17** serves as the county's third attempt to request  
 12:16:16 **18** discovery. To date you have failed to provide my office  
 12:16:19 **19** with any documentary evidence but rather only a list of  
 12:16:22 **20** potential witnesses and potential documents to be relied  
 12:16:25 **21** upon. Please ensure that any and all documentary  
 12:16:28 **22** discovery is provided prior to the hearing or I will  
 12:16:30 **23** make an immediate objection to the introduction of such  
 12:16:33 **24** evidence for your failure to timely respond to the  
 12:16:36 **25** County of Hunterdon's repeated discovery."

12:16:38 **1** As we sit here right now, sir, at 12:25 or  
 12:16:42 **2** 12:20 in the morning, afternoon, on October 21st, Mr.  
 12:16:45 **3** DeSapio has provided not one document to us.  
 12:16:49 **4** So I will absolutely object. Mr. DeSapio is  
 12:16:53 **5** talking about discovery. I object because Mr. DeSapio,  
 12:16:58 **6** I think, comes before you with absolutely no explanation  
 12:17:01 **7** as to why he is not providing any document. Possibly  
 12:17:04 **8** Mr. DeSapio doesn't intend to rely upon any document,  
 12:17:07 **9** but I think we should know that before we commence  
 12:17:09 **10** today, and if he does have documents he is going to rely  
 12:17:13 **11** upon, I think he should be ordered to turn them over to  
 12:17:16 **12** us today so we can review them.  
 12:17:18 **13** MR. FLORIO: Mr. DeSapio.  
 12:17:18 **14** MR. DESAPIO: Okay. Can I go back to the  
 12:17:21 **15** first issue and respond to Mr. Giacobbe's comments with  
 12:17:26 **16** regard to the three areas and then talk about my  
 12:17:27 **17** discovery?  
 12:17:28 **18** MR. FLORIO: Well, I am going to rule on  
 12:17:31 **19** your application, and I will do that now before you  
 12:17:36 **20** respond.  
 12:17:37 **21** MR. DESAPIO: Well, I would like to address  
 12:17:39 **22** some things that he represented.  
 12:17:40 **23** MR. FLORIO: In his motion, in his cross  
 12:17:43 **24** motion or response motion?  
 12:17:44 **25** MR. DESAPIO: In his response.

12:17:46 **1** MR. FLORIO: All right. Go ahead.  
 12:17:47 **2** MR. DESAPIO: First of all, all right. What  
 12:17:50 **3** they provided on Friday in terms of invoices are not the  
 12:17:54 **4** complete invoices. They are the purchase order cover  
 12:18:00 **5** and the first page of the invoice. We need the complete  
 12:18:03 **6** invoices. They are public records. I guess I could  
 12:18:06 **7** OPRA them. I thought they would be easily produced.  
 12:18:09 **8** That's number one.  
 12:18:10 **9** Second of all, he misrepresented something.  
 12:18:13 **10** He said, "I got them through the OPRA  
 12:18:14 **11** request."  
 12:18:15 **12** First of all, the OPRA request was made in  
 12:18:18 **13** July, well before these charges were even filed, and the  
 12:18:21 **14** OPRA request was not for the complete invoices. It's  
 12:18:25 **15** irrelevant.  
 12:18:25 **16** And the third thing, Mr. Giacobbe and county  
 12:18:28 **17** counsel should be aware that when somebody makes an OPRA  
 12:18:30 **18** request, the nature of the person making the OPRA  
 12:18:33 **19** request isn't disclosable.  
 12:18:36 **20** It is irrelevant, but I just want to make  
 12:18:37 **21** that point.  
 12:18:38 **22** As far as the matrix, he referred to the  
 12:18:42 **23** matrix that's set forth in his Bates stamped document  
 12:18:48 **24** County-191 and 192.  
 12:18:55 **25** It's nice that he represented that I already

12:18:57 **1** had it, but the letter that I am referring to is  
 12:19:00 **2** County-432 and 433, which refers to the matrix.  
 12:19:04 **3** It sounds like he is making a representation  
 12:19:07 **4** that that matrix should have been attached to this  
 12:19:11 **5** October 9th letter. If that's what he wants to  
 12:19:14 **6** represent, that satisfies my concern.  
 12:19:20 **7** Would you like to now rule on that motion or  
 12:19:24 **8** have me address his discovery motion?  
 12:19:27 **9** MR. FLORIO: Let me answer your application  
 12:19:29 **10** first.  
 12:19:30 **11** It seems that in order -- that we have  
 12:19:33 **12** clarified the charging party question.  
 12:19:36 **13** MR. DESAPIO: Yes.  
 12:19:37 **14** MR. FLORIO: So that one is done.  
 12:19:40 **15** You raise an additional issue on the matrix  
 12:19:44 **16** production, which Mr. Giacobbe has presented has already  
 12:19:51 **17** been produced and points out that it has been provided  
 12:19:54 **18** at, I think, Bates stamp pages 191 and 192 in the  
 12:20:00 **19** package presented to you.  
 12:20:01 **20** MR. GIACOBBE: That's correct.  
 12:20:01 **21** MR. FLORIO: To my satisfaction that  
 12:20:02 **22** document has been provided to you.  
 12:20:04 **23** You maintain that you still do not have  
 12:20:10 **24** copies of invoices and health benefit payments and that  
 12:20:18 **25** you have only received purchase orders and cover sheets,

12:20:18 **1** although Mr. Giacobbe represents that he has provided to  
 12:20:21 **2** you everything that there is to provide on that issue,  
 12:20:25 **3** and lastly, the question of e-mails or other  
 12:20:31 **4** communications, Mr. Giacobbe stands by his  
 12:20:37 **5** representation as those items being governed by  
 12:20:41 **6** attorney/client privilege, I am inclined to agree with  
 12:20:43 **7** him.  
 12:20:44 **8** I do not believe that the issue of resolving  
 12:20:50 **9** a question of attorney/client privilege would be within  
 12:20:56 **10** the authority of a hearing officer in a disciplinary  
 12:21:01 **11** proceeding.  
 12:21:02 **12** I would imagine that you have other remedies  
 12:21:04 **13** available to you if you wish to compel a production of  
 12:21:07 **14** such documents, but I am not going to compel them at  
 12:21:10 **15** this proceeding.  
 12:21:13 **16** So having said that --  
 12:21:16 **17** MR. GIACOBBE: Sir, I want to be clear.  
 12:21:16 **18** Mr. DeSapio said copies of all invoices and  
 12:21:19 **19** purchase orders for health benefit payments from a  
 12:21:23 **20** period of April 2012 through to date.  
 12:21:27 **21** I believe -- and county counsel can correct  
 12:21:30 **22** me if I am wrong -- we have provided those documents.  
 12:21:32 **23** If there is some clarity that Mr. DeSapio is  
 12:21:34 **24** seeking, it sounds like he is talking about something  
 12:21:37 **25** behind an invoice and a purchase order. He was provided

12:21:41 **1** the invoices and purchase orders. Maybe Mr. DeSapio can  
 12:21:45 **2** write us a letter and tell us what else he is looking  
 12:21:47 **3** for, we will be glad to provide that, but invoices and  
 12:21:50 **4** purchase orders have been provided.  
 12:21:53 **5** He said he has been provided with invoices  
 12:21:56 **6** and purchase orders. Now he is looking for some  
 12:21:58 **7** backup. That is contained in his April 2nd, 2013 letter  
 12:22:02 **8** which is attached to PB-1, and so our feeling is that we  
 12:22:07 **9** did comply with his request of April 2nd, 2013,  
 12:22:10 **10** contained in PB-1.  
 12:22:12 **11** If Mr. DeSapio wants to send us a letter  
 12:22:15 **12** seeking other documents that he thinks will assist him  
 12:22:18 **13** in the defense of these two individuals, we will be glad  
 12:22:21 **14** to provide those and make no objection to that  
 12:22:24 **15** whatsoever.  
 12:22:24 **16** MR. FLORIO: Mr. DeSapio.  
 12:22:25 **17** MR. DESAPIO: It's not "other documents."  
 12:22:27 **18** The county has -- I don't know how many  
 12:22:29 **19** employees now, three or 400 -- when they paid an invoice  
 12:22:34 **20** for health benefits there is a cover sheet with a  
 12:22:36 **21** summary, and then there is attached, not even attached,  
 12:22:40 **22** it's part of the invoice, it lists how that bill is  
 12:22:44 **23** calculated and who all the employees are, all right, and  
 12:22:47 **24** that's in the county records, because what they copied  
 12:22:51 **25** was the purchase order and the first page, the summary

12:22:55 **1** page.  
 12:22:55 **2** We need to see those attachments because  
 12:22:58 **3** they are saying somebody paid for people who shouldn't  
 12:23:01 **4** be on there. If they can't figure out how to do it, I  
 12:23:06 **5** guess, I can subpoena it. It exists. It's upstairs.  
 12:23:08 **6** In fact, if my client were given access to the finance  
 12:23:11 **7** department, they may be able to find it, it exists, and  
 12:23:16 **8** part of their case is that these clients, these  
 12:23:21 **9** employees, made payments, the finance department made  
 12:23:23 **10** payments on those invoices when they shouldn't have  
 12:23:26 **11** because the invoices were accurate.  
 12:23:28 **12** Well, if the invoice was only one page,  
 12:23:31 **13** where is that argument going? It wasn't just one page.  
 12:23:35 **14** It's a series of pages just like when you used to get  
 12:23:39 **15** your phone bill, how you get your phone bill now. If  
 12:23:41 **16** you attach only the cover, you wouldn't be able to tell  
 12:23:44 **17** who made the calls.  
 12:23:44 **18** MR. FLORIO: I think I understand.  
 12:23:46 **19** MR. GIACOBBE: His requested copy of all  
 12:23:48 **20** invoices and purchase orders, that's what was provided.  
 12:23:52 **21** He didn't say "copies of invoices and backup data."  
 12:23:54 **22** And first and foremost, I would absolutely  
 12:23:57 **23** object to providing the backup data.  
 12:24:00 **24** Mr. DeSapio has requested this be conducted  
 12:24:02 **25** in public. That's his request. As you noted, sir,

12:24:06 **1** these are generally held in private because you are  
 12:24:08 **2** dealing with personnel matters, and, as I am sure you  
 12:24:12 **3** are well aware, Mr. DeSapio is aware, the courts have  
 12:24:16 **4** repeatedly held the individual selection of insurance --  
 12:24:19 **5** for example, if I select family or husband and spouse or  
 12:24:23 **6** civil union partner, that's confidential, and so he  
 12:24:27 **7** didn't ask for redacted documents, saying what these  
 12:24:32 **8** people are.  
 12:24:33 **9** We will produce the evidence through the  
 12:24:34 **10** matrix, et cetera, as to the folks who had health  
 12:24:39 **11** benefits and who didn't have health benefits.  
 12:24:41 **12** For him to make a blanket request which is  
 12:24:44 **13** not contained in his October 2nd e-mail to now come  
 12:24:47 **14** before you and say we didn't provide documents, we did  
 12:24:50 **15** provide the documents he requested. What he is asking  
 12:24:52 **16** for now on October 24th is "we want some more  
 12:24:56 **17** documents," but again because he selected this to occur  
 12:25:00 **18** in public, I am not going to produce those in public.  
 12:25:02 **19** Those employees have a fundamental right to  
 12:25:05 **20** privacy. Mr. DeSapio and his clients have waived their  
 12:25:16 **21** right to privacy. They don't have the right to waive  
 12:25:16 **22** privacy of other county employees dealing with their  
 12:25:16 **23** health benefit selections, what their current situation  
 12:25:16 **24** is, et cetera, so I would object to producing those  
 12:25:19 **25** documents.

12:25:21 **1** Unless Mr. DeSapio wants to -- you know --

12:25:24 **2** do this hearing in private, that would be his decision,

12:25:27 **3** then we can produce those. We have to fundamentally

12:25:29 **4** protect the privacy rights of the other employees.

12:25:33 **5** MR. DESAPIO: On privacy issues.

12:25:34 **6** MR. FLORIO: Last word on that.

12:25:36 **7** MR. DESAPIO: Privacy issue?

12:25:37 **8** MR. FLORIO: Yes.

12:25:44 **9** MR. DESAPIO: I am not asking for the

12:25:48 **10** invoices to be made public of the employees' names. I

12:25:53 **11** did ask for the invoices. I don't know why there is

12:25:55 **12** such confusion. I don't know why there is such

12:25:58 **13** resistance. All right?

12:26:00 **14** I would like the invoices produced in

12:26:02 **15** discovery.

12:26:04 **16** If during the course of this hearing, which

12:26:06 **17** is public, okay, we get to a point where there is a

12:26:11 **18** privacy issue, we will consent to exclude the public for

12:26:17 **19** that portion of the testimony if necessary, but we don't

12:26:20 **20** even know that yet until we see those invoices, and to

12:26:28 **21** ask for the purchase order and invoices and then say,

12:26:31 **22** "We are asking for something else when we ask for the

12:26:33 **23** backup," everybody knows what an "invoice" is. It comes

12:26:36 **24** in the mail. It's addressed to somebody. It's got a

12:26:39 **25** number of pages, and one page doesn't do it. The top

12:26:44 **1** page doesn't do it.

12:26:48 **2** MR. GIACOBBE: First and foremost, I want to

12:26:50 **3** show you for the record, these are purchase orders and

12:26:53 **4** invoices that were provided to Mr. DeSapio. He has them

12:26:56 **5** all. Mr. Gannon has indicated the work papers provided

12:27:01 **6** to Mr. DeSapio, which he has.

12:27:03 **7** MR. FLORIO: Provided today?

12:27:05 **8** MR. GIACOBBE: Provided today. He has

12:27:06 **9** redacted the Social Security numbers of all of the

12:27:09 **10** employees in those papers, but we would respectfully

12:27:11 **11** request that those work papers, that Mr. DeSapio keep

12:27:14 **12** those confidential dealing with the employees selection

12:27:18 **13** of whether it's parent/child, family, husband, spouse,

12:27:23 **14** that is a confidential matter for those employees.

12:27:25 **15** We would ask that Mr. DeSapio keep the work

12:27:28 **16** papers that deal with the individual employees

12:27:30 **17** confidential to the extent that their selection of

12:27:36 **18** health benefits is revealed.

12:27:37 **19** MR. FLORIO: You will agree to that, Mr.

12:27:38 **20** DeSapio?

12:27:39 **21** MR. DESAPIO: Confidentiality, yes, with

12:27:41 **22** regard to Mr. Gannon's work papers, these are his

12:27:43 **23** summaries from examining something. Maybe we need a

12:27:47 **24** little voir dire what he examined. I believe he

12:27:49 **25** examined the invoices to prepare this Excel summary, and

12:27:53 **1** we are entitled to see those invoices.

12:27:54 **2** MR. FLORIO: We will handle that in the

12:27:56 **3** course of testimony when we get to that.

12:28:01 **4** I think that, however, the issue on these

12:28:06 **5** invoices that you have requested has been argued in

12:28:13 **6** completeness at this point, and if it becomes necessary

12:28:17 **7** for us to revisit that issue either during the testimony

12:28:21 **8** of this witness or any other, we will revisit it.

12:28:26 **9** I would like to set forth for the record

12:28:30 **10** that while both parties have been referring to a

12:28:34 **11** "package of documents" that has been presented by Mr.

12:28:37 **12** Giacobbe to Mr. DeSapio, that I haven't received

12:28:40 **13** anything yet, so anything that anybody is referring to

12:28:44 **14** is an unknown to me either by a general reference or by

12:28:51 **15** a Bates stamp reference, so, I guess, I will be getting

12:28:55 **16** a copy of that at some point.

12:28:57 **17** MR. GIACOBBE: You will, sir.

12:28:58 **18** MR. FLORIO: Okay. So I think we have

12:29:01 **19** covered all the issues in your application, Mr. DeSapio,

12:29:05 **20** and so now you want to be heard on Mr. Giacobbe's cross

12:29:09 **21** motion?

12:29:10 **22** MR. DESAPIO: Yes.

12:29:12 **23** I would like to have this marked PB-4.

12:29:15 **24** (Letter dated October 21, 2013, is marked as

12:29:34 **25** Exhibit PB-4 for identification.)

12:30:03 **1** MR. DESAPIO: PB-4 for identification is a

12:30:05 **2** letter to Mr. Giacobbe dated October 21st, 2013,

12:30:10 **3** responding to his discovery request dated October 11,

12:30:16 **4** 2013.

12:30:17 **5** First, these disciplinary charges have been

12:30:22 **6** pending a while, as reflected in PB-1, and we made a

12:30:27 **7** discovery request on October 2nd.

12:30:30 **8** As the record will reflect or as

12:30:32 **9** everybody -- it's not in the record yet -- as everybody

12:30:34 **10** will recall, these hearings were first scheduled for

12:30:37 **11** October 10th.

12:30:39 **12** I first received a discovery verbal request

12:30:44 **13** from the county on October 10th, which is the date that

12:30:49 **14** the hearing was supposed to start.

12:30:51 **15** Mr. Giacobbe said, "Who are your witnesses?"

12:30:54 **16** I said, "I can give you a list of that." I

12:30:56 **17** said, "I need some discovery."

12:30:59 **18** He said, "Well, I can't tell you what we

12:31:01 **19** might provide to answer the charges since I haven't seen

12:31:06 **20** any discovery from you at all."

12:31:10 **21** I said, "I will need to see what the basis

12:31:12 **22** is for the charges, then I can formulate and see what I

12:31:17 **23** will need to get together to provide."

12:31:20 **24** So their first discovery request in writing

12:31:25 **25** was a week ago Friday.

12:31:27 **1** Early the following week I responded in  
 12:31:37 **2** PB-4, and I said just what I am saying now, until I had  
 12:31:37 **3** the opportunity to review the county's discovery I  
 12:31:38 **4** cannot indicate fully what Kimberly Browne intends to  
 12:31:42 **5** rely on at the hearing; however, she intends to rely on  
 12:31:45 **6** previous audits performed by Samuel Klein & Company,  
 12:31:48 **7** which the county would have to provide to us in the  
 12:31:50 **8** discovery, which they did, as well as the finding of  
 12:31:53 **9** Samuel Klein & Company and the county's action plans for  
 12:31:58 **10** those three periods.  
 12:31:59 **11** We don't have that stuff. We had asked for  
 12:32:01 **12** it in discovery. We were going to be relying on it.  
 12:32:04 **13** There may be other material which will prove to be  
 12:32:07 **14** relevant after the county presents its case.  
 12:32:09 **15** Now, we just went over this morning, we  
 12:32:13 **16** didn't get the final county discovery package until 5:43  
 12:32:17 **17** on Friday, and now we get a big package this morning.  
 12:32:23 **18** All right. I could not say until I have this, until I  
 12:32:29 **19** know what the basis for the charges are, whether there  
 12:32:31 **20** is any documentary material that I need to submit.  
 12:32:35 **21** Now that I have it -- we have a hearing date  
 12:32:37 **22** for next week -- I will certainly go through it all, but  
 12:32:41 **23** it isn't that I ignored their late discovery request.  
 12:32:46 **24** Discovery request was made a day after the hearing was  
 12:32:49 **25** supposed to start. That's all right. I am still going

12:32:51 **1** to cooperate, but don't try to hang me out as if I am  
 12:32:55 **2** being uncooperative. I needed the stuff from them. I  
 12:32:59 **3** now have the stuff from them. I now can take a look at  
 12:33:01 **4** it and before next week if there is anything else that  
 12:33:04 **5** we need to furnish that isn't already in all of these  
 12:33:07 **6** packages, I will furnish it.  
 12:33:10 **7** Finally, I answered items three, four, five,  
 12:33:15 **8** and six of their discovery letter by saying there were  
 12:33:18 **9** none, and also they wanted the witnesses. There is a  
 12:33:21 **10** complete list of witnesses as far as I knew at the time  
 12:33:24 **11** on October 21st.  
 12:33:26 **12** MR. FLORIO: All right.  
 12:33:26 **13** Mr. Giacobbe, I am going to reserve on your  
 12:33:28 **14** cross motion to bar discovery --  
 12:33:31 **15** MR. GIACOBBE: Okay.  
 12:33:32 **16** MR. FLORIO: -- because we have now  
 12:33:33 **17** established a hearing date, a next hearing date of  
 12:33:37 **18** October 28th.  
 12:33:38 **19** Counsel's representation that he will  
 12:33:41 **20** produce all of his documentation evidence prior to that  
 12:33:46 **21** time is, I think, presented in good faith.  
 12:33:49 **22** However, I think in order to be fair to the  
 12:33:51 **23** county, Mr. DeSapio, that you should be able or prepared  
 12:33:56 **24** to produce all of that discovery by no later than the  
 12:34:00 **25** end of business on Wednesday of this week.

12:34:03 **1** Today is the 21st, that's the 23rd, that  
 12:34:08 **2** will give ample time to Mr. Giacobbe to prepare or to  
 12:34:11 **3** review any documentary evidence prior to the next  
 12:34:13 **4** hearing date, and you can feel free, Mr. Giacobbe, to  
 12:34:22 **5** re-raise that issue if it should become relevant at any  
 12:34:25 **6** point either on cross-examination by Mr. DeSapio or on  
 12:34:30 **7** presentation of his defense.  
 12:34:32 **8** MR. GIACOBBE: Thank you.  
 12:34:32 **9** MR. DESAPIO: Thank you.  
 12:34:33 **10** MR. FLORIO: I am not going to rule with  
 12:34:35 **11** finality on that right now.  
 12:34:37 **12** MR. DESAPIO: Since we seem to spend a lot  
 12:34:39 **13** of time on this introductory stuff, can I get a  
 12:34:41 **14** clarification?  
 12:34:43 **15** If I am going to rely on something the  
 12:34:46 **16** county has produced, and it's Bates stamped material, I  
 12:34:49 **17** don't imagine I need to make a copy, I can refer to it.  
 12:34:52 **18** MR. GIACOBBE: He does not need to give us  
 12:34:54 **19** back what he already produced -- I am talking about Mr.  
 12:34:59 **20** DeSapio's PB-4, so we are clear -- Mr. DeSapio says  
 12:35:03 **21** there may be other material which will prove to be  
 12:35:05 **22** relevant after the county presents its case.  
 12:35:07 **23** If he has other relevant material that has  
 12:35:09 **24** not been produced, that's what we want produced. If he  
 12:35:12 **25** has internal e-mails, if he has communications, et

12:35:15 **1** cetera.  
 12:35:15 **2** The other thing that we ask to be produced  
 12:35:17 **3** were witness reports, expert witness reports if he  
 12:35:21 **4** intended to rely upon any, and if you look at his  
 12:35:27 **5** response to No. 9, PB-4, "One or more witnesses set  
 12:35:31 **6** forth in Paragraph 7 may be qualified as an expert  
 12:35:35 **7** depending on whether their area of expertise is relevant  
 12:35:37 **8** to the resolution of the factual and legal questions in  
 12:35:39 **9** the case. At this time the people who may be qualified  
 12:35:42 **10** as experts, John Davenport, Charles Balogh, and Ronald  
 12:35:46 **11** Matthews, and if that's the case, I need to have their  
 12:35:49 **12** reports by Wednesday so that we can be adequately  
 12:35:51 **13** prepared."  
 12:35:51 **14** Finally, he identifies Mr. Davenport as one  
 12:35:55 **15** of his experts. Mr. Davenport is the purchasing agent  
 12:35:59 **16** of the county, and I am sure that Mr. DeSapio is aware  
 12:36:04 **17** he is clearly a member of the county's litigation  
 12:36:06 **18** control group, so I am hoping Mr. DeSapio has not had  
 12:36:10 **19** communications with our employee -- active employee, Mr.  
 12:36:14 **20** Davenport, relevant to this case, asking him to produce  
 12:36:19 **21** anything. If he has, I would like to have that by  
 12:36:22 **22** Wednesday as well.  
 12:36:23 **23** MR. DESAPIO: Can we clarify and be done  
 12:36:25 **24** with it.  
 12:36:25 **25** I haven't talked to Mr. Davenport or any of

12:36:28 **1** the county's employees since this matter has been  
 12:36:29 **2** pended.  
 12:36:30 **3** Number two, I have no written expert reports  
 12:36:39 **4** from anybody other than what I see, Mr. Davenport is, on  
 12:36:39 **5** their witness list. I am assuming they are going to  
 12:36:40 **6** agree they are an expert in purchasing proceedings; if  
 12:36:43 **7** not, it may be a different issue.  
 12:36:46 **8** And finally, I can only anticipate what we  
 12:36:50 **9** may provide on our direct case to defend against the  
 12:36:55 **10** documentary material that we have been provided with. I  
 12:36:59 **11** reserve the right -- and I think I am correct in this --  
 12:37:02 **12** that if a witness should testify to something and on  
 12:37:07 **13** cross-examination there is some document or something  
 12:37:09 **14** floating around there that I need to use to  
 12:37:11 **15** cross-examine him, that I was not aware of that I would  
 12:37:14 **16** put on my direct case, but because it's relevant to  
 12:37:17 **17** cross-examination, that I can ask the witness about that  
 12:37:21 **18** document without having produced it prior, because I  
 12:37:26 **19** have no idea what they are going to testify to until  
 12:37:28 **20** they open their mouth.  
 12:37:31 **21** MR. FLORIO: Mr. Giacobbe.  
 12:37:32 **22** MR. GIACOBBE: Again, if Mr. DeSapio is  
 12:37:34 **23** aware of documents that he believes may be relevant to  
 12:37:37 **24** this matter, he needs to produce them.  
 12:37:40 **25** If something comes up that no one

12:37:44 **1** anticipated, we can then have a ruling on that  
 12:37:47 **2** specifically, but if he is anticipating utilizing any  
 12:37:50 **3** document, we are entitled to review those documents  
 12:37:54 **4** ahead of the next hearing, especially before he starts  
 12:37:56 **5** calling his witnesses.  
 12:37:57 **6** MR. FLORIO: I stand by my earlier ruling.  
 12:38:00 **7** Any documents that the defense is in possession of and  
 12:38:06 **8** intends to utilize in its case has to be produced by the  
 12:38:10 **9** end of business on October 23rd, and I accept your  
 12:38:17 **10** representation, Counsel, that you haven't spoken to any  
 12:38:20 **11** employees of the county in preparation for this  
 12:38:25 **12** proceeding.  
 12:38:27 **13** Any expert documents that you have to  
 12:38:31 **14** qualify any of the individuals you have named in your  
 12:38:35 **15** response, which is marked PB-4 for identification, to  
 12:38:41 **16** No. 9, you should also produce those, either reports or  
 12:38:48 **17** qualification documents, to the county counsel and her  
 12:38:54 **18** representatives by the end of business on October 23rd,  
 12:38:59 **19** and if you don't have anything else --  
 12:39:01 **20** MR. GIACOBBE: Nothing else.  
 12:39:02 **21** MR. FLORIO: We have a witness sitting on  
 12:39:05 **22** ice here.  
 12:39:05 **23** MR. DESAPIO: Sorry. I realize I missed one  
 12:39:08 **24** thing, not a discovery issue.  
 12:39:10 **25** I just need clarity as to the county

12:39:14 **1** proposing to terminate Ms. Pasqua as treasurer or as  
 12:39:21 **2** treasurer and chief financial officer because the  
 12:39:25 **3** disciplinary charges only speaks to "treasurer."  
 12:39:28 **4** MR. FLORIO: Counsel.  
 12:39:30 **5** MR. GIACOBBE: Sir, Mr. DeSapio argued the  
 12:39:33 **6** exact same motion before the Superior Court on his Order  
 12:39:39 **7** to Show Cause.  
 12:39:39 **8** What was pointed out to Mr. DeSapio at the  
 12:39:42 **9** Order to Show Cause was that Ms. Pasqua was appointed as  
 12:39:47 **10** the county treasurer, and the county treasurer's  
 12:39:52 **11** statute, which we cited before, 40A:9-27, talks about a  
 12:39:56 **12** three-year appointment.  
 12:39:57 **13** Ms. Pasqua was appointed as the county  
 12:40:04 **14** treasurer. It's Bates stamped 26, County-26, it's a  
 12:40:11 **15** resolution appointing Ms. Pasqua, Margaret Pasqua, as  
 12:40:15 **16** the unclassified county treasurer for a three-year term  
 12:40:18 **17** from May 1st, 2011 through April 2014.  
 12:40:23 **18** Ms. Pasqua was never appointed the chief  
 12:40:27 **19** financial officer. There are no documents appointing  
 12:40:30 **20** Ms. Pasqua as the chief financial officer.  
 12:40:33 **21** What I find incredibly troublesome is that  
 12:40:37 **22** when Ms. Pasqua was appointed the county treasurer, Mr.  
 12:40:41 **23** DeSapio was the county counsel proffering advice to the  
 12:40:45 **24** County Board of Chosen Freeholders.  
 12:40:49 **25** Now, Mr. DeSapio comes in and doing a

12:40:53 **1** "gotcha." Ms. Pasqua was only appointed county  
 12:40:57 **2** treasurer according to the 40A:9-27, but was not  
 12:41:00 **3** appointed as the chief county officer, 49-.6.  
 12:41:08 **4** He was the county counsel, and we have  
 12:41:12 **5** raised this issue with Mr. DeSapio prior to this.  
 12:41:15 **6** Regardless, if you look at 40A:9-28.6 or  
 12:41:20 **7** 40A:9-27, they are both three-year terms.  
 12:41:24 **8** In either case, whether she was appointed as  
 12:41:27 **9** a county treasurer, which she was, or if she had been  
 12:41:29 **10** appointed as a county chief financial officer, which  
 12:41:32 **11** there is no resolution supporting that, either of those  
 12:41:35 **12** cases are three-year appointments that require removal  
 12:41:39 **13** for cause, and that's what we are here for, a case  
 12:41:42 **14** seeking to remove Ms. Pasqua as a county treasurer for  
 12:41:45 **15** cause.  
 12:41:46 **16** MR. FLORIO: Mr. DeSapio.  
 12:41:50 **17** MR. DESAPIO: I hope I am not totally  
 12:41:52 **18** stupid, but maybe I am.  
 12:41:55 **19** I don't understand that response.  
 12:41:56 **20** My question was, are they proposing to  
 12:42:00 **21** terminate her as the county's chief financial officer,  
 12:42:05 **22** simple proposition, "yes" or "no." There is no motion.  
 12:42:08 **23** I didn't make a motion.  
 12:42:12 **24** Was there a resolution or not a resolution,  
 12:42:15 **25** she is the county's chief financial officer. Does this

12:42:18 **1** proceeding include proposal to terminate her as the  
 12:42:23 **2** chief financial officer?  
 12:42:23 **3** MR. FLORIO: Mr. Giacobbe's representation,  
 12:42:25 **4** this issue was litigated in the Superior Court.  
 12:42:28 **5** Correct?  
 12:42:28 **6** MR. DESAPIO: No.  
 12:42:36 **7** MR. GIACOBBE: Mr. DeSapio, you absolutely  
 12:42:36 **8** raised the issue of her being the chief financial  
 12:42:36 **9** officer. You absolutely argued before a Superior Court  
 12:42:40 **10** judge that if she was the chief financial officer she  
 12:42:43 **11** can't be removed because only DCA could do that.  
 12:42:46 **12** That was your argument.  
 12:42:47 **13** MR. DESAPIO: Right.  
 12:42:48 **14** MR. GIACOBBE: The judge advises you the  
 12:42:50 **15** proceedings should occur here in accordance with 40A-25,  
 12:42:54 **16** and your application was denied, the issue and argument  
 12:42:57 **17** was raised in Superior Court.  
 12:42:58 **18** I believe we should go forward.  
 12:42:59 **19** We will present our proofs, and if Mr.  
 12:43:01 **20** DeSapio wants to demonstrate that she was appointed, if  
 12:43:04 **21** he has a resolution we are not aware of that she was  
 12:43:06 **22** appointed the chief financial officer, so be it.  
 12:43:09 **23** Produce it.  
 12:43:09 **24** Second and foremost, as the county  
 12:43:13 **25** treasurer, she signed many documents that have been

12:43:15 **1** produced as the chief financial officer, because some of  
 12:43:20 **2** the documents that you file with the federal government  
 12:43:22 **3** have CFO and the county treasurer, Ms. Pasqua signed  
 12:43:27 **4** those documents as the CFO. In fact, she was appointed  
 12:43:31 **5** as the county treasurer, and she has the requisite  
 12:43:35 **6** license and certificate from DCA.  
 12:43:39 **7** She is -- and you will notice through  
 12:43:41 **8** discovery, sir, that the only people who can sign these  
 12:43:43 **9** documents of financial natures, are people who hold the  
 12:43:48 **10** requisite license from DCA. The only two people in the  
 12:43:51 **11** county that hold those licenses are Ms. Pasqua and Ms.  
 12:43:54 **12** Browne.  
 12:43:54 **13** Ms. Pasqua was appointed as treasurer. If  
 12:43:58 **14** Mr. DeSapio wants to assert, and we understand there is  
 12:44:00 **15** many a document in here where she signs it as CFO,  
 12:44:04 **16** that's her signature, but both positions are statutory  
 12:44:08 **17** positions appointed for three years. There is no  
 12:44:11 **18** resolution appointing her as the CFO.  
 12:44:14 **19** If he wants to make the argument she was  
 12:44:16 **20** acting in that capacity under the umbrella of her being  
 12:44:19 **21** the county treasurer, we have no objection to him making  
 12:44:23 **22** that argument. That's his right to do so.  
 12:44:25 **23** In either event whether she was appointed as  
 12:44:28 **24** the county treasurer and/or the county CFO, they both  
 12:44:31 **25** require removal pursuant though 49-25; that's what we

12:44:35 **1** are here for.  
 12:44:35 **2** MR. FLORIO: Your position in response to  
 12:44:36 **3** Mr. DeSapio is that you're here to remove Ms. Pasqua  
 12:44:43 **4** from all employment with the county --  
 12:44:46 **5** MR. GIACOBBE: That's correct.  
 12:44:47 **6** MR. FLORIO: -- regardless of how one party  
 12:44:48 **7** or the other would characterize its position.  
 12:44:52 **8** MR. GIACOBBE: That's correct.  
 12:44:53 **9** MR. FLORIO: I think that's clear. It's  
 12:44:54 **10** clear enough for me.  
 12:44:55 **11** MR. DESAPIO: That helps.  
 12:44:56 **12** MR. FLORIO: Are we ready to start?  
 12:44:59 **13** MR. GIACOBBE: Can we take a short recess?  
 12:45:02 **14** If we can use the restroom, I would appreciate it.  
 12:45:05 **15** MR. FLORIO: We will take ten minutes.  
 12:45:07 **16** MR. GIACOBBE: Thank you, sir.  
 12:46:53 **17** (Whereupon, a short recess is taken.)  
 12:54:02 **18** MR. FLORIO: Are we all ready?  
 12:54:04 **19** MR. GANTNER: We are ready.  
 12:54:05 **20** MR. FLORIO: On the record. Swear the  
 12:54:06 **21** witness, please.  
 12:54:07 **22** MR. GANTNER: Excuse me.  
 12:54:09 **23** Will you be taking openings?  
 12:54:10 **24** MR. FLORIO: If you want to make openings.  
 12:54:12 **25** MR. GANTNER: May I?

12:54:12 **1** By the way, for the record, I am Rich  
 12:54:16 **2** Gantner.  
 12:54:16 **3** I am here on behalf of the County of  
 12:54:17 **4** Hunterdon.  
 12:54:19 **5** So much has been said this morning that I  
 12:54:22 **6** feel the necessity to sort of reorient us all to what  
 12:54:29 **7** this is about.  
 12:54:29 **8** I think it all boils down to a single  
 12:54:32 **9** question, how long must the County of Hunterdon, or any  
 12:54:37 **10** employer, for that matter maintain employees who,  
 12:54:41 **11** according to learned counsel, the highest rank officials  
 12:54:45 **12** in the finance department, who have made errors or  
 12:54:50 **13** perpetuated errors in the financial books and records of  
 12:54:54 **14** the county that fall into, in terms of categories, the  
 12:54:59 **15** highest level of error that you can make, what in the  
 12:55:06 **16** parlance of accountants and auditors is known as  
 12:55:10 **17** "material weaknesses."  
 12:55:13 **18** The evidence is going to show that there  
 12:55:16 **19** have been a number of material weaknesses identified.  
 12:55:19 **20** We will present the testimony of Dave Gannon  
 12:55:23 **21** of Wiss & Company, who has the same qualifications as  
 12:55:28 **22** Ms. Pasqua and Ms. Browne, and conducted a number of  
 12:55:37 **23** audits.  
 12:55:39 **24** He conducted a single audit which has yet to  
 12:55:42 **25** be comprised as well as a financial audit.



12:55:45 **1** He already identified two material  
 12:55:48 **2** weaknesses which should be enough by itself to  
 12:55:50 **3** demonstrate good cause, but in addition to that, he is  
 12:55:53 **4** going to testify that the single audit when it is  
 12:55:56 **5** produced will also identify additional material  
 12:56:01 **6** weaknesses.  
 12:56:03 **7** Mr. Gannon is going to tell you, the  
 12:56:07 **8** evidence will show, that the problem with the material  
 12:56:09 **9** weaknesses that not only does it exist as an error by  
 12:56:15 **10** itself, but because of the lack of internal control that  
 12:56:19 **11** it demonstrates, it allows a condition to exist where  
 12:56:22 **12** more errors can be made and will be left undetected.  
 12:56:27 **13** When you have heard the evidence in this  
 12:56:29 **14** matter we are going to ask you to answer that question,  
 12:56:31 **15** how long must the county maintain employees in the  
 12:56:35 **16** finance department or running the finance department  
 12:56:39 **17** when making errors of such a magnitude, and we are going  
 12:56:46 **18** to ask you to make the finding that the answer to that  
 12:56:46 **19** question is no longer.  
 12:56:47 **20** We are going to ask you to make the finding  
 12:56:50 **21** that the county has demonstrated good cause at a  
 12:56:54 **22** minimum, whether it's required in the case of both  
 12:56:56 **23** individuals, but at a minimum the county has  
 12:56:59 **24** demonstrated good cause to terminate the employment of  
 12:57:02 **25** Margaret Pasqua and Kimberly Browne.

12:57:06 **1** MR. FLORIO: Counsel, opening statement.  
 12:57:08 **2** MR. DESAPIO: I would like to reserve  
 12:57:09 **3** until -- before we present our case. Is that okay?  
 12:57:12 **4** MR. FLORIO: That's fine. We are prepared  
 12:57:16 **5** to proceed with the first witness.  
 12:57:18 **6** MR. GANTNER: Yes, please call Dave Gannon.  
 12:57:22 **7** MR. FLORIO: Mr. Gannon.  
 12:57:22 **8** Will you swear the witness.  
 12:57:39 **9** MR. GANNON: David, D-a-v-i-d, Justin,  
 12:57:42 **10** J-u-s-t-i-n, Gannon, G-a-n-n-o-n. My business address  
 12:57:49 **11** is 45C Route 1 South, Iselin, I-s-e-l-i-n, New Jersey  
 12:58:02 **12** 00830.  
 12:58:02 **13** MR. FLORIO: What's the name of the company  
 12:58:03 **14** you work for?  
 12:58:04 **15** THE WITNESS: Wiss & Company, W-i-s-s.  
 12:58:07 **16** DIRECT EXAMINATION BY MR. GANTNER:  
 12:58:11 **17** MR. GANTNER: I assume there is no objection  
 12:58:13 **18** to me standing.  
 12:58:13 **19** MR. FLORIO: I have no problem with that.  
 12:58:15 **20** **Q.** Mr. Gannon, good afternoon.  
 12:58:20 **21** What do you do for a living?  
 12:58:22 **22** **A. I am an accountant.**  
 12:58:24 **23** **Q.** And I note that you have a Bachelor of Science.  
 12:58:29 **24** What is that in?  
 12:58:30 **25** **A. I have a four-year degree, an accounting degree.**

12:58:35 **1** **Q.** If you could describe it in a sentence or two,  
 12:58:40 **2** what is an "accountant"?  
 12:58:41 **3** **A. Well, an accountant or auditor, my field is**  
 12:58:47 **4** **audit, so government entities hire me to provide audit**  
 12:58:51 **5** **services to provide an opinion on financial statements.**  
 12:58:55 **6** **Q.** I am going to ask you a couple of questions about  
 12:58:57 **7** your education, your licensing, and so forth.  
 12:59:00 **8** I notice that you have initials after your name,  
 12:59:04 **9** "CPA," which stands for "Certified Public Accountant"?  
 12:59:07 **10** **A. Correct.**  
 12:59:07 **11** **Q.** How does that differ from a regular accountant?  
 12:59:11 **12** **A. Well, it describes a degree of study, an**  
 12:59:17 **13** **examination is required. It's a uniform exam that's**  
 12:59:20 **14** **administered across the country. CPA is something**  
 12:59:23 **15** **that's recognized throughout the United States as well**  
 12:59:27 **16** **as the world as someone who has an advanced knowledge of**  
 12:59:31 **17** **accounting.**  
 12:59:32 **18** **Q.** And when did you obtain the distinction of CPA?  
 12:59:36 **19** **A. I was first licensed in 1999.**  
 12:59:39 **20** **Q.** Did you have to recertify at some point?  
 12:59:42 **21** **A. No, the only requirement is to continue to**  
 12:59:44 **22** **practice as well as obtain 40 continuing educational**  
 12:59:50 **23** **credits a year in order to maintain that license as well**  
 12:59:55 **24** **as continually reviewing every three years, in essence,**  
 12:59:58 **25** **as long as you renew and keep your education, there is**

13:00:01 **1** **no recertification process that's required.**  
 13:00:03 **2** **Q.** Have you maintained the requisite level of  
 13:00:06 **3** continuing educational requirements since 1999?  
 13:00:09 **4** **A. Yes.**  
 13:00:10 **5** **Q.** What do the letters "PSA" stand for?  
 13:00:12 **6** **A. It's a Public School Accountant.**  
 13:00:14 **7** **Q.** What is that?  
 13:00:15 **8** **A. That's a specific license recognized in the State**  
 13:00:23 **9** **of New Jersey. The requisite experience for that is you**  
 13:00:25 **10** **want to become a Certified Public Accountant as well as**  
 13:00:29 **11** **someone that's versed in public school audits to**  
 13:00:32 **12** **recommend you are going to become a Public School**  
 13:00:35 **13** **Accountant.**  
 13:00:35 **14** **Q.** As long as one has the requisite experience, it's  
 13:00:39 **15** my understanding there is no test for that designation.  
 13:00:44 **16** Right?  
 13:00:44 **17** **A. There is no examination that's required.**  
 13:00:47 **18** **Q.** But there is a more rigorous examination for  
 13:00:52 **19** RMA.  
 13:00:55 **20** Am I right about that?  
 13:00:55 **21** **A. Correct.**  
 13:00:55 **22** **Q.** What is an "RMA"?  
 13:00:57 **23** **A. RMA is a New Jersey specific license which**  
 13:01:01 **24** **initials stand for "Registered Municipal Accountant."**  
 13:01:04 **25** **You are required to be a Registered Municipal Accountant**

13:01:07 **1 in order to sign off on an audit report of a**  
 13:01:10 **2 municipality or county.**  
 13:01:12 **3 Q.** You have been involved in public accounting for a  
 13:01:17 **4** period of 15 years. Is that true?  
 13:01:19 **5 A. A little over 15 years.**  
 13:01:21 **6 Q.** What is the name of the firm that you are with?  
 13:01:25 **7 A. Wiss & Company.**  
 13:01:26 **8 Q.** What is your title at Wiss & Company?  
 13:01:28 **9 A. Partner.**  
 13:01:31 **10 Q.** During the course of that 15-year career, what  
 13:01:36 **11** has the bulk of your time been concerned with in terms  
 13:01:39 **12** of public or private entities?  
 13:01:41 **13 A. The majority has been involved in public sector**  
 13:01:49 **14 activities.**  
 13:01:50 **15 Q.** I am going to show you what was identified as  
 13:01:51 **16** Hunterdon-1.  
 13:01:52 **17** Do you recognize that document?  
 13:01:54 **18 A. I do.**  
 13:01:54 **19 Q.** What is it?  
 13:01:55 **20 A. This is my resume, my profile experience.**  
 13:02:00 **21 Q.** It's called a "profile."  
 13:02:02 **22** That's what it says in the upper right-hand  
 13:02:03 **23** corner?  
 13:02:03 **24 A. Correct.**  
 13:02:04 **25 Q.** Does that appear on the web site of Wiss &

13:02:07 **1** Company?  
 13:02:07 **2 A. It does.**  
 13:02:07 **3 Q.** Have you had an opportunity to review it before  
 13:02:10 **4** today?  
 13:02:10 **5 A. I have.**  
 13:02:11 **6 Q.** Is it accurate?  
 13:02:12 **7 A. It is.**  
 13:02:12 **8 Q.** Is it up-to-date?  
 13:02:16 **9 A. It may not be with over 16-year experience, but**  
 13:02:20 **10 that would be the only thing that would be different.**  
 13:02:22 **11 Q.** Other than we are now at 16 as opposed to 15 --  
 13:02:25 **12 A. Everything else is correct.**  
 13:02:27 **13 Q.** -- it accurately sets forth your education, your  
 13:02:37 **14** professional affiliations?  
 13:02:37 **15 A. Correct.**  
 13:02:37 **16** MR. GANTNER: Mr. Forio, at this point the  
 13:02:38 **17** County of Hunterdon would request that Hunterdon-1 be  
 13:02:43 **18** moved in evidence.  
 13:02:44 **19** MR. FLORIO: Any objection?  
 13:02:45 **20** MR. DESAPIO: No objection.  
 13:02:47 **21** MR. FLORIO: Plaintiff's Exhibit 1 is in  
 13:02:51 **22** evidence.  
 13:02:59 **23 Q.** Mr. Gannon, what was your assignment with the  
 13:03:04 **24** County of Hunterdon?  
 13:03:07 **25 A. Wiss & Company was engaged to provide a financial**

13:03:12 **1 statement, an audited financial statement, and to render**  
 13:03:14 **2 an opinion on the fairness of those financial**  
 13:03:17 **3 statements.**  
 13:03:17 **4 Q.** When were you so assigned?  
 13:03:20 **5 A. We were first assigned approximately March of**  
 13:03:31 **6 2012.**  
 13:03:31 **7 Q.** Were you assigned to conduct one audit or more  
 13:03:35 **8** than one audit?  
 13:03:36 **9 A. We were requested to provide an audit of the**  
 13:03:42 **10 county's financial statements, the county library's**  
 13:03:45 **11 financial statements, the law enforcement trust fund's**  
 13:03:48 **12 financial statements, and provide an opinion on**  
 13:03:51 **13 compliance with the county's federal and state grant**  
 13:03:59 **14 awards.**  
 13:03:59 **15 Q.** The first few that you mentioned, are those  
 13:04:02 **16** financial audits?  
 13:04:04 **17 A. The auditing of the county financial statement,**  
 13:04:08 **18 the county library and law enforcement trust fund, are**  
 13:04:11 **19 audits of financial statements.**  
 13:04:12 **20 Q.** How do financial audits differ from single  
 13:04:15 **21** audits?  
 13:04:16 **22 A. The focus is on the -- the financial audits focus**  
 13:04:21 **23 on the fair presentation of the financial statements.**  
 13:04:24 **24 The federal and state single audit, the objective**  
 13:04:29 **25 of your audit is to express an opinion on an entity's**

13:04:33 **1 compliance with federal and state grant agreements,**  
 13:04:37 **2 regulations and laws.**  
 13:04:38 **3 Q.** Have you rendered your single audit yet?  
 13:04:41 **4 A. I have not.**  
 13:04:42 **5 Q.** Let's talk about the financial audit for a  
 13:04:45 **6** moment.  
 13:04:46 **7** You used a term "fairly stated."  
 13:04:50 **8 A. "Fairly stated," yes.**  
 13:04:51 **9 Q.** What does that mean?  
 13:04:53 **10 A. It means that the financial statements presented**  
 13:04:57 **11 by a government entity are accurate, free of material**  
 13:05:02 **12 misstatement.**  
 13:05:04 **13 Q.** As the accountant who's -- well, let me rephrase.  
 13:05:09 **14** As between the auditor, such as yourself -- you  
 13:05:15 **15** consider yourself an auditor in this situation?  
 13:05:17 **16 A. Yes. Correct.**  
 13:05:18 **17 Q.** And the county finance department, whose  
 13:05:23 **18** responsibility is it to provide accurate financials?  
 13:05:27 **19 A. Management is responsible for preparing accurate**  
 13:05:32 **20 financial statements.**  
 13:05:35 **21 Q.** And who in management provided you with financial  
 13:05:38 **22** statements in this case?  
 13:05:42 **23 A. The unaudited financial statements and books and**  
 13:05:46 **24 records of the county were provided by the finance**  
 13:05:49 **25 department.**

13:05:49 **1 Q.** And who are the individuals in the finance  
 13:05:53 **2** department?  
 13:05:55 **3 A.** **My main point of contact and liaison for audit**  
 13:05:58 **4 purposes was Ms. Browne and Ms. Pasqua.**  
 13:06:07 **5 Q.** Let me show you what's marked for identification  
 13:06:13 **6** as Hunterdon-2.  
 13:06:17 **7** I will ask you to describe what that document is.  
 13:06:33 **8 A.** **Okay. Hunterdon-2 is a multitude of documents,**  
 13:06:39 **9 the first of which, County-167, County-168 is our report**  
 13:06:45 **10 on interim control or financial reporting on compliance**  
 13:06:49 **11 on matters based on -- County-167 and 168 represents our**  
 13:07:00 **12 report, Wiss & Company's report, on internal control**  
 13:07:03 **13 over financial reporting and upon compliance and other**  
 13:07:06 **14 matters based on an audited financial statement**  
 13:07:09 **15 performed in accordance with the governing auditing**  
 13:07:12 **16 statements.**  
 13:07:12 **17 Q.** Is there a signature on County-168?  
 13:07:15 **18 A.** **Yes.**  
 13:07:17 **19 Q.** Whose signature is that?  
 13:07:18 **20 A.** **My signature appears there as well as Wiss &**  
 13:07:21 **21 Company's.**  
 13:07:21 **22 Q.** And would you turn to the last page of the  
 13:07:23 **23** exhibit, please.  
 13:07:29 **24 A.** **County-181?**  
 13:07:31 **25 Q.** Yes, sir.

13:08:36 **1 Q.** Are those documents accurate so far as you are  
 13:08:40 **2** concerned?  
 13:08:41 **3 A.** **Yes.**  
 13:08:42 **4 Q.** I am now showing you what's marked for  
 13:08:45 **5** identification as County-3.  
 13:08:47 **6** Do you recognize that?  
 13:08:52 **7 A.** **Without going through each page, this appears to**  
 13:08:55 **8 represent our complete audit of the financial statements**  
 13:08:59 **9 of Hunterdon County.**  
 13:09:03 **10 Q.** So County-3 is the complete audit?  
 13:09:05 **11 A.** **That's what it appears to be.**  
 13:09:07 **12** MR. FLORIO: Is there a date on that,  
 13:09:08 **13** Counsel?  
 13:09:09 **14** MR. GANTNER: It's dated December 31st,  
 13:09:12 **15** 2012.  
 13:09:12 **16** THE WITNESS: The audit financial statements  
 13:09:13 **17** as of December 31st, 2012. We rendered our opinion as  
 13:09:17 **18** of September 16, 2013.  
 13:09:19 **19 Q.** If you would take a look at County-39.  
 13:09:22 **20** Is that your signature?  
 13:09:24 **21 A.** **It is my signature as well as the signature of my**  
 13:09:33 **22 firm, Wiss & Company.**  
 13:09:33 **23 Q.** And the date by your signature is?  
 13:09:33 **24 A.** **September 16, 2013.**  
 13:09:33 **25 Q.** Was County-3 produced in your capacity as an

13:07:31 **1 A.** **Okay.**  
 13:07:32 **2 Q.** Is there a signature there?  
 13:07:33 **3 A.** **Yes.**  
 13:07:34 **4 Q.** Is that also your signature?  
 13:07:36 **5 A.** **It is my signature as well as the signature of my**  
 13:07:38 **6 firm.**  
 13:07:39 **7 Q.** Do the documents that are marked collectively as  
 13:07:45 **8** County-2, reflect the results of your work in the  
 13:07:51 **9** county?  
 13:07:53 **10 A.** **These pages represent pages that were included in**  
 13:08:00 **11 our final audit report. It's a portion of our report.**  
 13:08:02 **12 Q.** That's a report prepared by you and signed by  
 13:08:05 **13** you?  
 13:08:05 **14 A.** **Correct.**  
 13:08:06 **15 Q.** And its purpose was to convey information to  
 13:08:08 **16** whom?  
 13:08:11 **17 A.** **Auditing standards requires us to communicate to**  
 13:08:14 **18 those charged in government certain areas of -- whether**  
 13:08:21 **19 it be a material weakness, deficiency, other**  
 13:08:24 **20 deficiencies, we have a professional responsibility to**  
 13:08:28 **21 communicate that in writing to those charging**  
 13:08:33 **22 governments.**  
 13:08:33 **23 Q.** Was it your intention to provide accurate  
 13:08:35 **24** information?  
 13:08:35 **25 A.** **Yes.**

13:09:38 **1** auditor?  
 13:09:39 **2 A.** **Yes.**  
 13:09:39 **3 Q.** Was it intended to convey accurate information?  
 13:09:42 **4 A.** **Yes.**  
 13:09:42 **5 Q.** Is it accurate as far as you are concerned?  
 13:09:44 **6 A.** **Yes.**  
 13:09:47 **7** MR. GANTNER: Mr. Florio, at this time the  
 13:09:48 **8** county requests that County-2 and County-3 be moved into  
 13:09:52 **9** evidence.  
 13:09:52 **10** MR. FLORIO: Any objection?  
 13:09:53 **11** MR. DESAPIO: None.  
 13:09:59 **12** MR. FLORIO: County-2 and H-3 are in  
 13:10:05 **13** evidence.  
 13:10:05 **14** MR. GANTNER: Thank you.  
 13:10:08 **15 Q.** Mr. Gannon, before we get into the contents of  
 13:10:11 **16** your report, I would like to have you identify certain  
 13:10:15 **17** terms and phrases that you use.  
 13:10:20 **18** First, would you describe for Mr. Florio the  
 13:10:26 **19** concept of materiality within the context of auditing  
 13:10:34 **20** and finance, but before you answer that, I notice  
 13:10:37 **21** another individual has entered the room.  
 13:10:41 **22** MR. GANTNER: Can we find out from Mr.  
 13:10:43 **23** DeSapio whether that's a witness in this matter?  
 13:10:47 **24** MR. DESAPIO: I believe he is the same  
 13:10:49 **25** individual who was here earlier.

13:10:51 **1** You can ask him.

13:10:53 **2** You were here earlier. Correct.

13:10:56 **3** THE PUBLIC: Yes, sir.

13:10:56 **4** MR. FLORIO: You are not going to call him

13:10:58 **5** as a witness?

13:11:00 **6** MR. DESAPIO: No.

13:11:00 **7** MR. FLORIO: Neither is the county?

13:11:02 **8** MR. GIACOBBE: No, sir.

13:11:04 **9** MR. FLORIO: Any objection to him being in

13:11:07 **10** the room?

13:11:08 **11** MR. GIACOBBE: No.

13:11:08 **12** MR. DESAPIO: No.

13:11:09 **13** MR. FLORIO: Let's proceed.

13:11:10 **14** **Q.** I was asking you about the concept of the

13:11:11 **15** material and what does that mean when you were talking

13:11:15 **16** about "auditing and finance"?

13:11:17 **17** **A.** **Just in general speaking, "materiality," when we**

13:11:20 **18** **do our audits, it's not to certify to the exact dollar**

13:11:26 **19** **if something was correct. It is to audit and render an**

13:11:31 **20** **opinion that is materially correct, to render materially**

13:11:36 **21** **correct. So materiality is based on professional's**

13:11:40 **22** **judgment, the professional's outlines as to where**

13:11:45 **23** **materiality should be, and we are not auditing 100**

13:11:51 **24** **percent of the transactions of any entity. We are doing**

13:11:54 **25** **tests of amounts and doing other procedures so that we**

13:13:22 **1** subject of the audit. Is that true?

13:13:24 **2** **A. Correct.**

13:13:25 **3** **Q.** In terms of levels, what is the highest level of

13:13:33 **4** weakness that you can disclose as an auditor?

13:13:38 **5** By "highest level" I mean the worst one.

13:13:41 **6** **A. Material weakness.**

13:13:42 **7** **Q.** A material weakness.

13:13:44 **8** And what falls below "material weakness"?

13:13:47 **9** **A. A significant deficiency.**

13:13:49 **10** **Q.** What falls below "significant"?

13:13:51 **11** **A. Other deficiencies, other matters.**

13:13:55 **12** **Q.** Now, what is management's responsibility for

13:13:58 **13** financial statements?

13:14:02 **14** **A. Just so I am clear, I am going to read it from**

13:14:05 **15** **our report.**

13:14:07 **16** **Q.** Tell us what page you are reading from.

13:14:11 **17** **A. It's a few pages. Let me give you a -- let me**

13:14:17 **18** **read from your document since it's marked.**

13:14:22 **19** **Q.** This would be County-37.

13:14:24 **20** **A. County-37 sets forth "Management's responsibility**

13:14:28 **21** **for the financial statements." "Management is**

13:14:32 **22** **responsible for the preparation and fair presentation of**

13:14:36 **23** **these financial statements in accordance with accounting**

13:14:40 **24** **practices" -- I am sorry -- "with the accounting**

13:14:43 **25** **principles and practices prescribed by the county**

13:12:00 **1** **can enable ourselves to provide an opinion that the**

13:12:03 **2** **financial statements are materially stated.**

13:12:06 **3** **Q.** Does materiality indicate a level of importance?

13:12:11 **4** **A. Well, financially if we found the financial**

13:12:14 **5** **statements were materially inaccurate. We could not**

13:12:18 **6** **obtain enough audit evidence in order to ascertain --**

13:12:21 **7** **you know -- what would need to be done to have them**

13:12:24 **8** **accurate. We wouldn't be able to give an**

13:12:27 **9** **unmodified opinion on those financial statements.**

13:12:30 **10** **Q.** An "unmodified opinion" meaning what?

13:12:32 **11** **A. "Unmodified" meaning the financial statements as**

13:12:35 **12** **presented or in accordance with the accounting practices**

13:12:40 **13** **that are prescribed for that entity.**

13:12:42 **14** **Q.** So if the opinion had to be modified, then you

13:12:45 **15** would have to give some additional explanatory material

13:12:48 **16** because of a lack of materiality in certain of the

13:12:52 **17** records that you reviewed?

13:12:52 **18** **A. Correct. And if we couldn't gather enough**

13:12:55 **19** **evidence -- evidential matter to ascertain the correct**

13:12:58 **20** **balances, we would have to modify our opinion or in some**

13:13:02 **21** **cases give an adverse opinion or in other cases provide**

13:13:05 **22** **no opinion, which is called a "disclaimer."**

13:13:08 **23** **Q.** Now, one of the things that you do as an auditor

13:13:13 **24** is you identify something called "weaknesses" in the

13:13:19 **25** books and financial records of the entity that is the

13:14:48 **1** **services," -- quote/unquote -- "division, Department of**

13:14:51 **2** **Community Affairs, State of New Jersey. This includes**

13:14:54 **3** **the design, implementation and maintenance of internal**

13:14:57 **4** **control relevant to the preparation and fair**

13:15:00 **5** **presentation of financial statements that are free from**

13:15:03 **6** **material misstatements due to fraud or error."**

13:15:07 **7** **Q.** So you use the phrase "internal control"?

13:15:10 **8** **A. Correct.**

13:15:11 **9** **Q.** What does that mean?

13:15:13 **10** **A. Internal control is a system of controls that**

13:15:18 **11** **management is required to put in place in order to**

13:15:22 **12** **reduce the likelihood of errors.**

13:15:31 **13** **Q.** Which department within the County of Hunterdon

13:15:35 **14** based on your review, has managerial responsibility for

13:15:38 **15** preparing financial statements?

13:15:40 **16** **A. The finance department.**

13:15:43 **17** **Q.** Individuals in the finance department, as we have

13:15:46 **18** covered, are Kimberly Browne and Margaret Pasqua?

13:15:54 **19** **A. Correct.**

13:15:54 **20** **Q.** By number, by the numerical designation that you

13:15:58 **21** gave it, would you please identify for Mr. Florio the

13:16:03 **22** first material weakness that you identify?

13:16:14 **23** **A. Can I have County-2, please.**

13:16:23 **24** MR. FLORIO: I don't have a copy of these

13:16:25 **25** exhibits.

13:16:25 **1** THE WITNESS: On County-2, Page 169, the  
 13:17:32 **2** first material weakness identified is 2012-1.  
 13:17:39 **3** **Q.** If you can define or explain it in a sentence or  
 13:17:42 **4** two, would you please do that.  
 13:17:43 **5** What was the material weakness?  
 13:17:46 **6** **A.** **The material weakness relates to the restatement**  
 13:17:51 **7** **of prior year auditing balances from the audit of the**  
 13:17:54 **8** **December 31st, 2011 financial statements.**  
 13:17:58 **9** **Q.** And in the context that you used it, what does  
 13:18:04 **10** that word "restatement" mean?  
 13:18:05 **11** **A.** **"Restatement" means that the balances as**  
 13:18:10 **12** **reflected in my audit were, in our opinion, incorrect.**  
 13:18:13 **13** **Q.** And does it also mean that you are then required  
 13:18:17 **14** to restate the correct balance?  
 13:18:19 **15** **A.** **Yes.**  
 13:18:20 **16** **Q.** So taking a look at the current fund under  
 13:18:25 **17** "Revenue accounts receivable, Hunterdon," do you know  
 13:18:28 **18** whether the Consolidated Transportation System, the  
 13:18:31 **19** accounts receivable is reported as \$160,564" and change,  
 13:18:39 **20** was that figure accurately stated?  
 13:18:41 **21** **A.** **Based on our opinion, it was incorrect.**  
 13:18:43 **22** **Q.** What should it have been?  
 13:18:44 **23** **A.** **It should have been zero.**  
 13:18:48 **24** **Q.** The golf course was reported at 1.8 million and  
 13:18:55 **25** change.

13:18:55 **1** What should that have been reported on?  
 13:18:58 **2** **A.** **In our opinion it should have been zero.**  
 13:19:00 **3** **Q.** Engineering fees reported at 24,466 and change,  
 13:19:06 **4** should have been reported at what?  
 13:19:07 **5** **A.** **In our opinion it should have been zero.**  
 13:19:09 **6** **Q.** Golf course, 125,000 should have been reported  
 13:19:13 **7** at?  
 13:19:14 **8** **A.** **In our opinion it should have been zero.**  
 13:19:16 **9** **Q.** Reserve of receivables was reported at  
 13:19:25 **10** \$2,420,608.46.  
 13:19:25 **11** What should it have been?  
 13:19:26 **12** **A.** **In our opinion it should have been \$274,535.96.**  
 13:19:33 **13** **Q.** Turning to the trust fund, the cash reserves  
 13:19:37 **14** reported at zero, what should it have been?  
 13:19:41 **15** **A.** **In our opinion it should have been \$457,523.31.**  
 13:19:48 **16** **Q.** The escrow fund was reported at zero.  
 13:19:51 **17** What should that have been?  
 13:19:53 **18** **A.** **In our opinion it should have been reflected as**  
 13:19:55 **19** **\$5,147.38.**  
 13:19:59 **20** **Q.** Turning to the surrogate's office, the cash and  
 13:20:03 **21** reserve is reported at \$3,839,890.19.  
 13:20:12 **22** What should it have been?  
 13:20:12 **23** **A.** **Yes, in our opinion it should be \$4,480,481.12.**  
 13:20:18 **24** **Q.** Cash and reserves reported at 55,000 and change,  
 13:20:22 **25** what should that have been?

13:20:23 **1** **A.** **Regarding the engineer's office, our opinion**  
 13:20:25 **2** **should have been zero.**  
 13:20:26 **3** **Q.** Did you discuss these issues with Ms. Browne and  
 13:20:32 **4** Ms. Pasqua?  
 13:20:33 **5** **A.** **We discussed each one of the issues with them**  
 13:20:40 **6** **except for the trust fund. At that time they had been**  
 13:20:44 **7** **moved from the department when this issue was identified**  
 13:20:47 **8** **by us. That item was not discussed.**  
 13:20:50 **9** **Also just to be specific, it wasn't discussed in**  
 13:20:54 **10** **the context as it is being presented today. It was**  
 13:20:57 **11** **discussed during our audit to ascertain what the account**  
 13:21:02 **12** **balances were, so these items weren't described in this**  
 13:21:05 **13** **manner. However, each one of those items, except for**  
 13:21:08 **14** **the trust fund, we had discussed with them, that we**  
 13:21:12 **15** **thought they were issues with those balances.**  
 13:21:15 **16** **Q.** Were the responses that you received from Ms.  
 13:21:17 **17** Browne and Ms. Pasqua sufficient?  
 13:21:22 **18** MR. DESAPIO: I object to the form of the  
 13:21:23 **19** question; "sufficient" for what purpose?  
 13:21:28 **20** MR. FLORIO: Can you reframe the question?  
 13:21:31 **21** MR. GANTNER: I will.  
 13:21:32 **22** **Q.** Were you able to get to the answer that you  
 13:21:35 **23** needed to get to based on the responses you got from Ms.  
 13:21:41 **24** Pasqua and Ms. Browne?  
 13:21:42 **25** **A.** **No.**

13:21:43 **1** **Q.** What did you have to do to get to the bottom of  
 13:21:46 **2** it?  
 13:21:46 **3** **A.** **One of the steps that I took and I am required to**  
 13:21:51 **4** **take, if I intend to restate financial statements, is to**  
 13:21:54 **5** **contact the prior auditing firm that opined on those**  
 13:21:59 **6** **financial statements.**  
 13:22:00 **7** **Q.** When presented with incorrect information that  
 13:22:03 **8** you then have to define for your own efforts, what does  
 13:22:09 **9** that do to the cost of your work to the county?  
 13:22:14 **10** **A.** **If there are procedures that have to be done that**  
 13:22:18 **11** **are not anticipated at the time we are engaged,**  
 13:22:20 **12** **certainly the amount of time and effort and cost**  
 13:22:25 **13** **increases.**  
 13:22:26 **14** **Q.** All right.  
 13:22:27 **15** Who did you say you spoke to?  
 13:22:30 **16** **A.** **Regarding what aspect?**  
 13:22:31 **17** **Q.** After you didn't get sufficient responses from  
 13:22:34 **18** Ms. Browne and Ms. Pasqua, where did you go?  
 13:22:36 **19** **A.** **I spoke to Michael McGuire at Samuel Klein &**  
 13:22:43 **20** **Company.**  
 13:22:43 **21** **Q.** Samuel Klein & Company was a firm that had done  
 13:22:46 **22** prior audits?  
 13:22:47 **23** **A.** **They are the firm that audited the county as of**  
 13:22:50 **24** **December 31st, 2011, 2010 and 2009.**  
 13:22:55 **25** **Q.** What information did you get from Klein &

13:23:00 **1** Company?

13:23:00 **2** **A. They just -- the trust fund balances, we will**

13:23:07 **3 start with, he agreed that they were incorrect. The**

13:23:12 **4 surrogate's office, again he agreed when I provided him**

13:23:15 **5 documentation that I got from the county's department at**

13:23:19 **6 the December 2011, he agreed that was incorrect. When I**

13:23:29 **7 provided him information that I -- I obtained from the**

13:23:29 **8 engineer's office from December 31, 2011, he agreed it**

13:23:29 **9 was incorrect.**

13:23:30 **10 Regarding the current fund, again he agreed that**

13:23:34 **11 it was incorrect, and he expressed that he was not able**

13:23:39 **12 to necessarily get good information as well regarding**

13:23:44 **13 those receivings.**

13:23:48 **14 Q. How did you solve it?**

13:23:50 **15 A. Based on all the evidence that we examined, we**

13:23:54 **16 didn't believe they were accurate, and we restated the**

13:23:59 **17 financial statements. He agreed it would be appropriate**

13:24:01 **18 to restate the financial statements.**

13:24:03 **19 Q. And were they restated?**

13:24:05 **20 A. Yes.**

13:24:05 **21 Q. Why was it important -- now these are the 2011**

13:24:09 **22 figures -- why was it important in terms of your 2012**

13:24:13 **23 inquiry for the 2011 figures to be accurately stated?**

13:24:19 **24 A. Well, 2012 was our first audit, so we needed to**

13:24:23 **25 get overall comfort that the December 31, 2011 financial**

13:24:28 **1 statements are accurate so that -- you know -- the**

13:24:30 **2 beginning balance ultimately impacts our audit balance**

13:24:34 **3 that we are opining on, so without getting a good**

13:24:37 **4 understanding and comfort level of those balances, we**

13:24:41 **5 believe they are not correct, then we can't come to a**

13:24:43 **6 correct conclusion as of December 31, 2012 financial**

13:24:47 **7 statements.**

13:24:47 **8 Q. Did you finally achieve a comfort level that**

13:24:50 **9 satisfied you?**

13:24:51 **10 A. Yes.**

13:24:51 **11 Q. And when you were in that condition of**

13:24:58 **12 discomfort, did you form any conclusions about what the**

13:25:01 **13 cause of the problem was?**

13:25:06 **14 A. I apologize.**

13:25:07 **15 Q. Well, let me refer you to your report on Page 169**

13:25:11 **16 under the heading "Cause and Effect."**

13:25:17 **17 A. Okay. I have to read it since it's not**

13:25:21 **18 summarized.**

13:25:22 **19 MR. DESAPIO: What page is the witness**

13:25:25 **20 reading from?**

13:25:25 **21 THE WITNESS: County-169, "Cause and**

13:25:28 **22 Effect." "And an appropriately designed financial**

13:25:31 **23 statement close process reduces the risk of errors in**

13:25:35 **24 the financial statements. The errors above occurred**

13:25:37 **25 primarily as a result of a lack of understanding**

13:25:41 **1** regarding the golf course management agreement."

13:25:43 **2 Q. Let me just stop you right there.**

13:25:45 **3** Who had the responsibility -- when I say "who," I

13:25:47 **4** am talking about the individuals -- who had the

13:25:49 **5** responsibility to have an understanding of the golf

13:25:53 **6** course management?

13:25:58 **7 A. You know, for me to assign responsibility is**

13:26:01 **8 difficult in my position as an auditor. Management is**

13:26:08 **9 responsible, and really the county has to designate**

13:26:11 **10 whose responsibility that is.**

13:26:13 **11 Regarding financial transactions, certainly those**

13:26:17 **12 within the finance office are responsible for**

13:26:19 **13 understanding transactions that affect the county of a**

13:26:23 **14 financial nature.**

13:26:24 **15 Q. All we are talking about are financial**

13:26:26 **16 transactions today. Right?**

13:26:28 **17 MR. DESAPIO: Objection to the form of the**

13:26:29 **18 question.**

13:26:30 **19** The attorney is testifying.

13:26:33 **20** He asked who is responsible for lack of

13:26:35 **21** understanding, and the witness said he can't answer

13:26:38 **22** that, and now the attorney is saying, "Well, all we are

13:26:42 **23** talking about is." I think that's an inappropriate

13:26:45 **24** question.

13:26:45 **25** MR. GANTNER: I will rephrase the question.

13:26:47 **1** MR. FLORIO: All right.

13:26:49 **2 Q. With respect to financial transactions in the**

13:26:51 **3** county, which department holds the responsibility for

13:26:57 **4** producing and maintaining accurate records?

13:27:01 **5 A. The finance department.**

13:27:11 **6 Q. There was a second material weakness identified**

13:27:18 **7** in your financial report, financial audit.

13:27:23 **8** Would you please identify that by the numerical

13:27:26 **9** designation you gave it.

13:27:27 **10 A. On County-170, 2012-2.**

13:27:37 **11 Q. Just a summary, what was that particular weakness**

13:27:42 **12** that you identified?

13:27:44 **13 A. The county did not have sufficient controls in**

13:27:50 **14** order for it to ensure that those on the health benefits

13:27:56 **15** bills; unfortunately, the county was paying for health

13:27:58 **16** benefits so that it would be accurate.

13:28:03 **17 Q. That weakness was material, the highest level of**

13:28:06 **18** error, or you wouldn't have labeled it that way.

13:28:09 **19** Correct?

13:28:09 **20 A. Correct. We labeled it as a "material weakness."**

13:28:14 **21 Q. What did you do when that information came to**

13:28:16 **22** your attention?

13:28:18 **23 A. We informed -- well, as the problem developed we**

13:28:24 **24** informed the financial department we thought it was an

13:28:28 **25** issue that needed to be further reviewed and looked

13:28:31 **1** into.

13:28:34 **2** **Q.** Who did you speak to specifically?

13:28:37 **3** **A.** Ms. Browne and Ms. Pasqua.

13:28:39 **4** **Q.** What happened next?

13:28:42 **5** **A.** The item went on an unopen item list because we

13:28:48 **6** could not get sufficient answers as to the condition

13:28:50 **7** that existed.

13:28:51 **8** **Q.** Couldn't get sufficient answers from whom?

13:28:55 **9** **A.** Initially from Ms. Pasqua and Ms. Browne, but as

13:29:00 **10** well as the individual, the HR director, who we also

13:29:05 **11** dealt with on the matter.

13:29:06 **12** **Q.** Who is that?

13:29:06 **13** **A.** I apologize if I mess up her name.

13:29:09 **14** I believe it was Cheryl Wieder.

13:29:12 **15** **Q.** Okay. All right.

13:29:14 **16** So you couldn't get answers from Ms. Pasqua and

13:29:17 **17** Ms. Browne, and you also spoke with another individual

13:29:22 **18** who is no longer employed by the county. Is that right?

13:29:25 **19** **A.** Correct.

13:29:25 **20** **Q.** How did you get the information that you needed?

13:29:28 **21** Eventually you got to it. Right?

13:29:31 **22** **A.** Well, at a certain point I believe Ms. Wieder

13:29:35 **23** retired, and at that point, I believe, Ms. Taylor

13:29:49 **24** started looking into the matter, and one day in June I

13:29:49 **25** received a phone call indicating that the issue was

13:29:53 **1** extremely significant and worse than we initially had

13:29:59 **2** anticipated.

13:30:00 **3** **Q.** And you described the issue in your report, you

13:30:06 **4** summarize it?

13:30:09 **5** **A.** I apologize.

13:30:11 **6** **Q.** You said the issue was significant, extremely

13:30:14 **7** significant?

13:30:15 **8** **A.** Yes, it constituted a material weakness as

13:30:17 **9** described.

13:30:18 **10** **Q.** Did part of it have to do with individuals who

13:30:22 **11** were not removed properly from the insurance rolls?

13:30:25 **12** **A.** Correct.

13:30:26 **13** **Q.** All right.

13:30:27 **14** What was the other part?

13:30:29 **15** **A.** Well, as it was described to us, so, one, we

13:30:34 **16** couldn't obtain comfort that individuals that are on the

13:30:39 **17** health benefit bills were entitled to health benefits,

13:30:42 **18** so another matter that had been discussed with us during

13:30:46 **19** their internal review of the -- I am trying to -- matter

13:30:49 **20** was certain retirees that shouldn't have been on the

13:30:53 **21** health benefit bills as well as some retirees that

13:30:57 **22** probably were misclassified between being primary county

13:31:03 **23** benefits or primary Medicare benefits, of which the

13:31:07 **24** premium differential would be different.

13:31:09 **25** **Q.** What was the cause of these problems?

13:31:10 **1** And you can refer to County-171 if you wish.

13:31:20 **2** **A.** So on County-171, we write, "Cause and effect,

13:31:26 **3** initial effective internal controls over the addition to

13:31:30 **4** and termination from the county's health benefit plan

13:31:35 **5** were not effective and lacked additional supervisory

13:31:38 **6** review to ensure errors did not occur. Additionally, an

13:31:43 **7** adequate monitoring process was not in place to ensure

13:31:46 **8** errors that occurred during the addition and termination

13:31:51 **9** process were identified on a timely basis."

13:31:53 **10** **Q.** Which department within the County of Hunterdon

13:31:55 **11** was responsible for the implementation of effective

13:31:59 **12** internal controls and adequate monitoring processes?

13:32:03 **13** MR. DESAPIO: Excuse me.

13:32:04 **14** In regard to the health benefit issue?

13:32:08 **15** MR. GANTNER: That's the subject matter.

13:32:09 **16** MR. DESAPIO: Okay.

13:32:10 **17** **A.** You know, again it's difficult for me to assign

13:32:13 **18** responsibility to any one department. We identify

13:32:18 **19** errors. Responsibility falls within county management

13:32:24 **20** to identify responsible parties.

13:32:28 **21** **Q.** Did you make a determination whether or not the

13:32:33 **22** finance department was paying the invoices presented by

13:32:37 **23** the insurance companies?

13:32:40 **24** **A.** It is our understanding that all invoices for all

13:32:42 **25** bills are processed through the finance office.

13:32:46 **1** **Q.** Would a simple cross-check of the individuals

13:32:51 **2** named in the invoices with a list of employees be

13:32:58 **3** adequate to identify people who shouldn't have been on

13:33:02 **4** the insurance rolls?

13:33:05 **5** **A.** I didn't design my procedures in order to

13:33:07 **6** determine whether or not that would have prevented the

13:33:11 **7** error.

13:33:12 **8** **Q.** So you just don't know the answer to the

13:33:14 **9** question?

13:33:14 **10** **A.** I don't believe I can give you an answer to that

13:33:16 **11** question.

13:33:19 **12** **Q.** Now, you were in the process of completing a

13:33:24 **13** single audit?

13:33:25 **14** **A.** Yes. Correct.

13:33:26 **15** **Q.** Did you identify additional material weaknesses

13:33:29 **16** in your single audit?

13:33:34 **17** **A.** I did.

13:33:34 **18** MR. DESAPIO: I am going to object to

13:33:35 **19** testimony about anything that's not complete and that

13:33:42 **20** the employee/public officials who are the subject of

13:33:45 **21** this hearing haven't even seen that because it doesn't

13:33:48 **22** exist.

13:33:51 **23** MR. FLORIO: I am going to grant the

13:33:52 **24** objection.

13:33:52 **25** MR. GANTNER: May I be heard on it?

13:33:54 **1** MR. FLORIO: Yes.

13:33:54 **2** MR. GANTNER: It's not material whether or

13:33:56 **3** not they have seen it.

13:33:57 **4** The issue is whether or not the problems

13:34:00 **5** occurred.

13:34:00 **6** He has done the review. He is here now to

13:34:03 **7** testify, and he should be permitted to identify what he

13:34:08 **8** found pursuant to his review.

13:34:10 **9** MR. DESAPIO: If the charges were prepared

13:34:14 **10** before this single audit determination was made,

13:34:19 **11** whatever he has discovered after the charges were

13:34:22 **12** prepared are irrelevant to this proceeding because they

13:34:26 **13** can't be charged with something that nobody knew

13:34:27 **14** anything about at the time they filed the charges, and

13:34:32 **15** they need to have a -- if they were charged or if the

13:34:35 **16** charges were amended, they need to have the opportunity

13:34:38 **17** to see what it is so they can respond to it.

13:34:41 **18** MR. GANTNER: There is no need to amend the

13:34:43 **19** charges because they were broad enough to encompass all

13:34:45 **20** of the activity that was going on within the finance

13:34:47 **21** department.

13:34:49 **22** The charges are drafted at a certain point

13:34:51 **23** in time when deficiencies are noted, but there are other

13:34:54 **24** deficiencies that were lurking in the darkness that

13:34:56 **25** weren't disclosed until later.

13:34:57 **1** There is absolutely no reason they shouldn't

13:35:00 **2** be brought to light now when the very auditor who is

13:35:04 **3** brought in to disclose them is here to tell us about

13:35:07 **4** what they are.

13:35:08 **5** MR. FLORIO: I am going to allow the witness

13:35:10 **6** to testify.

13:35:12 **7** Answer the questions as best you can.

13:35:15 **8** Counsel will have an opportunity to

13:35:17 **9** cross-examine, so there will be no prejudice to the

13:35:24 **10** employees.

13:35:24 **11** **Q.** I am going to go back to one quick question on

13:35:28 **12** the other report before we get to the single item.

13:35:31 **13** How many other deficiencies did you note -- the

13:35:36 **14** ones we haven't talked about today -- just the number of

13:35:37 **15** them?

13:35:39 **16** **A.** On County-175 through County-179, we note other

13:35:55 **17** deficiencies as finding 2012-3 through finding 2012-14.

13:36:01 **18** **Q.** We can do the math. It's 12 other deficiencies.

13:36:06 **19** Correct?

13:36:06 **20** **A.** Correct.

13:36:06 **21** **Q.** Now let's get back to the single audit.

13:36:09 **22** How many material weaknesses will be disclosed

13:36:20 **23** when the audit is produced?

13:36:20 **24** **A.** When we complete the audit, true material

13:36:20 **25** weaknesses are reported.

13:36:21 **1** **Q.** Did you number those?

13:36:22 **2** **A.** Not yet.

13:36:23 **3** **Q.** Not yet.

13:36:24 **4** What's the first one?

13:36:25 **5** **A.** The first one relates to certain forms called the

13:36:30 **6** "data collection form," which is the communication from

13:36:40 **7** the auditee to the federal government regarding what was

13:36:43 **8** expended in federal awards in any given year, what type

13:36:46 **9** of audit -- audit report was done, if there is any

13:36:49 **10** findings in which programs were tested as part of that

13:36:52 **11** audit.

13:36:52 **12** **Q.** Why is that required?

13:36:54 **13** **A.** Well, the federal government wants to understand

13:36:58 **14** how much is expended in any given year, and they also

13:37:01 **15** want to know whether there are audit deficiencies that

13:37:05 **16** they may want to follow up on, and during our planning

13:37:10 **17** stages of our audit we realized that the 2009, the 2010

13:37:15 **18** and the 2011 data collection forms were not filed.

13:37:19 **19** **Q.** Which department within the County of Hunterdon

13:37:22 **20** was responsible getting those forms filed?

13:37:26 **21** **A.** Generally speaking, the finance department would

13:37:29 **22** have been the responsible party.

13:37:31 **23** **Q.** And is there an individual in the finance

13:37:33 **24** department who is responsible to sign off on them?

13:37:37 **25** **A.** There is no definition of who should, but I would

13:37:43 **1** imagine the finance director or the treasurer would sign

13:37:47 **2** off on them.

13:37:47 **3** **Q.** Were they filed late in March 2012?

13:37:51 **4** **A.** They were filed in March 2013.

13:37:54 **5** **Q.** I meant to say '13.

13:37:55 **6** **A.** After we brought it to their attention and the

13:37:58 **7** attention of the auditor that they had not been filed.

13:38:00 **8** **Q.** Who signed off on them?

13:38:18 **9** Just for the record, they have to be signed by

13:38:20 **10** the auditor as well. Correct?

13:38:21 **11** **A.** Correct. These are electronic signatures. They

13:38:30 **12** are not physical signatures.

13:38:32 **13** Kimberly Browne signed on behalf of the county

13:38:36 **14** for all three years.

13:38:40 **15** **Q.** Did anything in your review disclose that there

13:38:43 **16** was ever any other individual within the County of

13:38:47 **17** Hunterdon who signed off on the data collection forms

13:38:49 **18** when they were filed?

13:38:51 **19** **A.** The year before 2009, 2008, I don't have a copy

13:38:59 **20** of it, but, I believe, Ms. Pasqua signed off on them.

13:39:03 **21** **Q.** What is a "high-risk auditee"?

13:39:06 **22** **A.** A high-risk auditee -- the federal government

13:39:10 **23** designates low-risk and high-risk auditees.

13:39:12 **24** High risk, if you are a high-risk auditee the

13:39:18 **25** auditor is required to encompass their audit to cover



13:39:22 **1 more expenditures than a lower auditee. They have to**  
 13:39:28 **2 cover 50 percent of the awards.**  
 13:39:35 **3 If they are a lower auditee they will need audit**  
 13:39:39 **4 programs that encompass 25 percent of the expenditures.**  
 13:39:42 **5 Q.** When you say "cover," you mean there is a certain  
 13:39:46 **6 test that has to be performed. Correct?**  
 13:39:48 **7 A.** There are certain questions that the county has  
 13:39:51 **8 to pass to become a lower auditee. There cannot be any**  
 13:39:56 **9 material weaknesses disclosed in the prior years. There**  
 13:39:59 **10 can't be any known or likely question costs that exceed**  
 13:40:02 **11 \$10,000, and one of the items as well is that collection**  
 13:40:06 **12 forms need to be filed on a timely basis.**  
 13:40:09 **13 Q.** And you said that the testing requirement is 25  
 13:40:13 **14 percent for low risk, didn't you?**  
 13:40:15 **15 A. Yes. The expenditures in which you have to audit**  
 13:40:19 **16 are 25 percent for lower risk auditee.**  
 13:40:24 **17 Q.** For a high-risk auditee?  
 13:40:25 **18 A. Fifty percent.**  
 13:40:26 **19 Q.** What happened to the county's auditee status as a  
 13:40:34 **20 result of the data collection forms not being filed in**  
 13:40:37 **21 those years?**  
 13:40:37 **22 A. As a result of those data collection forms not**  
 13:40:39 **23 being filed, we were required to assess them as a**  
 13:40:45 **24 high-risk auditee in our single audit as of December 31,**  
 13:40:49 **25 2012.**

13:40:51 **1 Q.** Is that the condition today?  
 13:40:54 **2 A. Once you're classified as a high-risk auditee, it**  
 13:41:00 **3 takes two audits of no issues like that in order to**  
 13:41:02 **4 become a lower risk auditee. They will be a high-risk**  
 13:41:08 **5 auditee for the 2013 and 2014 audits as well.**  
 13:41:11 **6 Q.** And with respect to the -- well, why don't you  
 13:41:15 **7 identify for Mr. Florio what the second material**  
 13:41:19 **8 weakness is going to be when the report comes out?**  
 13:41:23 **9 MR. DESAPIO:** I just have the same objection  
 13:41:25 **10 for the record, report that doesn't exist yet.**  
 13:41:28 **11 We need to see it before it can be the**  
 13:41:33 **12 subject of this proceeding.**  
 13:41:34 **13 MR. FLORIO:** Your objection is noted.  
 13:41:35 **14 The witness can testify.**  
 13:41:37 **15 A. The second condition is actually also noted in**  
 13:41:43 **16 Donohue, Gironda & Doria's report, I don't remember the**  
 13:41:45 **17 date, but I think it was on or about September 17, 2013,**  
 13:41:51 **18 so that condition --**  
 13:41:53 **19 Q.** Mr. Tompkins you are talking about?  
 13:41:56 **20 A. Yes, Mr. Tompkins from Donohue, Gironda & Doria.**  
 13:41:59 **21 Q.** Let me just ask you so Mr. Florio understands.  
 13:42:02 **22 What is Mr. Tompkins engaged in right now?**  
 13:42:07 **23 A. It's my understanding Mr. Tompkins' firm is**  
 13:42:09 **24 engaged to provide accounting support to the county as**  
 13:42:15 **25 well as do a personal review of the internal controls of**

13:42:18 **1 the county.**  
 13:42:20 **2 Q.** Anyway, you were about to identify two  
 13:42:22 **3 departments.**  
 13:42:23 **4 A. So there are two other departments within the**  
 13:42:26 **5 county, Department of Housing Agency and the Department**  
 13:42:32 **6 of Social Services in which the county engages; the**  
 13:42:38 **7 county utilizes two different auditors to audit those**  
 13:42:46 **8 departments, so those departments and those financial**  
 13:42:46 **9 statements and federal and state grant awards are not**  
 13:42:49 **10 included in the main county audit, so the Department of**  
 13:42:53 **11 Housing Agencies is audited by Suplee & Clooney. The**  
 13:43:00 **12 Division of Social Services is audited by the State of**  
 13:43:06 **13 New Jersey.**  
 13:43:06 **14 Each of those auditors perform a financial audit**  
 13:43:10 **15 as well as a single audit.**  
 13:43:12 **16 What we found is -- let's take the Department of**  
 13:43:15 **17 Housing Agency first, it does not appear that the**  
 13:43:21 **18 Housing Agency's federal expenditures were included on**  
 13:43:25 **19 the county's data collection forms as far back as I**  
 13:43:30 **20 looked, 1997, about as far back as far as the federal**  
 13:43:36 **21 clearinghouse will go.**  
 13:43:37 **22 Additionally, the federal housing agency did a**  
 13:43:41 **23 separate data collection form reporting those**  
 13:43:43 **24 expenditures, regarding the division of social -- when**  
 13:43:47 **25 we talked, I spoke to that auditor specifically, and his**

13:43:51 **1 understanding was that it was going to be done as part**  
 13:43:54 **2 of the county audit and that he was going to provide his**  
 13:43:57 **3 report to the auditor, which was then encompassed in the**  
 13:44:00 **4 single audit in total.**  
 13:44:03 **5 The Division of Social Services department done**  
 13:44:07 **6 by the State of New Jersey, that did not appear to have**  
 13:44:10 **7 included in the county's data collection forms in any**  
 13:44:14 **8 year.**  
 13:44:15 **9 However, they did file a separate data collection**  
 13:44:18 **10 form, I think the last one was done in 2006, so the**  
 13:44:25 **11 filings of the county, even when they were made and even**  
 13:44:29 **12 the last three years, excluded a significant amount of**  
 13:44:33 **13 federal awards that the county is expending that's not**  
 13:44:37 **14 being reported to the federal government.**  
 13:44:41 **15 Q.** You mentioned earlier that there were certain  
 13:44:46 **16 problems, issues with respect to the insured's health**  
 13:44:53 **17 insurance that the employees of the county are either**  
 13:44:58 **18 receiving or shouldn't be receiving, and you mentioned**  
 13:45:02 **19 that Ms. Yard weighed in on that.**  
 13:45:04 **20 Did she respond to something that you identified?**  
 13:45:12 **21 A. I am sorry. Go back.**  
 13:45:14 **22 Q.** It was not a good question. Let me try again.  
 13:45:18 **23 The insurance issue that we already put on the**  
 13:45:21 **24 record was disclosed by you and brought to Ms. Yard's**  
 13:45:24 **25 attention. Correct?**

13:45:26 **1** **A. I spoke to Ms. Taylor about it, and then**  
 13:45:31 **2** **subsequently, I think, in late July of 2013, we**  
 13:45:37 **3** **discussed it with Ms. Yard.**  
 13:45:41 **4** MR. DESAPIO: When the witness said "Ms.  
 13:45:42 **5** Taylor," you are referring to Shana Taylor?  
 13:45:45 **6** THE WITNESS: Correct.  
 13:45:47 **7** **Q.** In your 16 years of accounting experience and  
 13:45:55 **8** experience as an auditor and your considerable  
 13:45:59 **9** experience with auditing public entities, have you ever  
 13:46:05 **10** before encountered errors and omissions of the magnitude  
 13:46:11 **11** that you saw in Hunterdon County?  
 13:46:14 **12** **A. Specifically it's been represented to me that the**  
 13:46:18 **13** **amount that's been spent on health benefits for just one**  
 13:46:24 **14** **year is almost a million dollars, and I have not**  
 13:46:28 **15** **experienced something of that magnitude, especially even**  
 13:46:32 **16** **in the context of a \$90 million budget. I have not**  
 13:46:36 **17** **experienced that.**  
 13:46:38 **18** MR. GANTNER: I will reserve the rest of my  
 13:46:40 **19** questions --  
 13:46:42 **20** MR. GIACOBBE: Wait.  
 13:47:04 **21** MR. GANTNER: I will reserve my questions  
 13:47:06 **22** for redirect.  
 13:47:07 **23** MR. FLORIO: Cross.  
 13:47:13 **24** CROSS-EXAMINATION BY MR. DESAPIO:  
 13:47:17 **25** **Q.** Good afternoon, Mr. Gannon.

13:47:18 **1** When you were testifying as to the single audit,  
 13:47:23 **2** did you have any documents in front of you when you were  
 13:47:26 **3** testifying -- were you testifying from your  
 13:47:30 **4** recollection?  
 13:47:30 **5** **A. Within the package I provided you, the very, very**  
 13:47:34 **6** **end of the document, there are three data collection**  
 13:47:40 **7** **forms, so if the data collection forms for 2009, 2010**  
 13:47:45 **8** **and 2011 that were filed, and March 2013, that is what I**  
 13:47:49 **9** **referred to earlier.**  
 13:47:50 **10** **Q.** Okay. We will come back to that in a second. I  
 13:47:54 **11** didn't have a chance to look at it.  
 13:47:55 **12** Now, in connection with your audit, did you find  
 13:48:05 **13** any theft of funds?  
 13:48:09 **14** **A. Any areas that were required to communicate to**  
 13:48:12 **15** **those charges in governance have been reported in our**  
 13:48:17 **16** **audit.**  
 13:48:18 **17** **Q.** Did you identify any theft of funds?  
 13:48:21 **18** **A. I guess -- I don't know what your definition of a**  
 13:48:25 **19** **"theft of funds" are.**  
 13:48:25 **20** **Q.** Did you identify whether either Ms. Browne or Ms.  
 13:48:32 **21** Pasqua participated in theft of funds?  
 13:48:38 **22** **A. We reported in our audit 14 findings, so we have**  
 13:48:43 **23** **identified areas in which there is need of improvement,**  
 13:48:50 **24** **some material weaknesses, some that are not.**  
 13:48:52 **25** **Q.** But you didn't discover any theft of funds by

13:48:55 **1** either of them. Correct?  
 13:48:57 **2** **A. Again, I don't know what your definition of**  
 13:49:00 **3** **"funds" are.**  
 13:49:00 **4** MR. GANTNER: Objection.  
 13:49:01 **5** Asked and answered.  
 13:49:02 **6** **Q.** By definition of "theft of funds" is Ms. Browne  
 13:49:05 **7** or Ms. Pasqua taking funds from the county for their  
 13:49:10 **8** personal aggrandisement?  
 13:49:15 **9** MR. FLORIO: Can we clarify that as  
 13:49:17 **10** "stealing money"?  
 13:49:18 **11** MR. DESAPIO: That's fine, too.  
 13:49:19 **12** **Q.** Find any evidence of stealing money on behalf of  
 13:49:21 **13** either of them?  
 13:49:22 **14** **A. I am not sure what "stealing money" means.**  
 13:49:24 **15** MR. GANTNER: I am going to object further  
 13:49:25 **16** because it's not relevant.  
 13:49:26 **17** There has never been any charge that anybody  
 13:49:28 **18** stole money. Why are we even asking?  
 13:49:31 **19** THE WITNESS: Anything we have identified is  
 13:49:34 **20** in County-3 and County-2. That sets forth our  
 13:49:46 **21** communication to the findings that we had.  
 13:49:46 **22** **Q.** All right.  
 13:49:46 **23** You are familiar with County-2 and County-3.  
 13:49:48 **24** Correct?  
 13:49:49 **25** **A. Correct.**

13:49:49 **1** **Q.** In fact, you prepared them?  
 13:49:51 **2** **A. Yes.**  
 13:49:51 **3** **Q.** Right.  
 13:49:52 **4** Can you point me to any indication in there that  
 13:49:56 **5** either Ms. Pasqua or Ms. Browne stole money, took money  
 13:50:00 **6** to their own personal aggrandisement? Can you point me  
 13:50:04 **7** to anything in there that says that?  
 13:50:08 **8** **A. The object of my audit wasn't to opine on whether**  
 13:50:12 **9** **Ms. Browne or Ms. Pasqua stole money, and our findings**  
 13:50:17 **10** **are set forth in writing in those two documents.**  
 13:50:21 **11** **Q.** So the answer is you can't point me to anything  
 13:50:23 **12** in either 2 or 3?  
 13:50:25 **13** **A. Our findings that we have communicated are in**  
 13:50:27 **14** **those two documents.**  
 13:50:28 **15** **Q.** All right.  
 13:50:29 **16** Did you find in there any evidence of a dishonest  
 13:50:35 **17** practice on behalf of the two of them?  
 13:50:40 **18** **A. Again, I am not really sure what your definition**  
 13:50:43 **19** **of "dishonest practice" is.**  
 13:50:44 **20** **Q.** You don't understand what "dishonesty" is?  
 13:50:47 **21** **A. I believe that's subjective as to what the**  
 13:50:49 **22** **definition is.**  
 13:50:50 **23** **We have identified all of our findings within the**  
 13:50:53 **24** **report.**  
 13:50:54 **25** **I could read each one-by-one if that would be**

13:50:59 **1 helpful.**  
 13:50:59 **2 Q.** We might get into that yet.  
 13:51:01 **3** I am asking you, what is your definition of  
 13:51:03 **4** "dishonesty"?  
 13:51:04 **5 A. I don't have a definition of "dishonesty."**  
 13:51:06 **6 Q.** You are an auditor, and you don't have a  
 13:51:08 **7** definition of "dishonesty"? No?  
 13:51:11 **8** MR. GANTNER: Objection; argumentative.  
 13:51:12 **9** MR. FLORIO: Sustained.  
 13:51:13 **10 Q.** You never formulated in your life a definition of  
 13:51:18 **11** "dishonesty." It's a question.  
 13:51:27 **12** Did you ever formulate in your life a definition  
 13:51:30 **13** of "dishonesty"?  
 13:51:30 **14** MR. GANTNER: Objection.  
 13:51:31 **15** He is testifying in his professional  
 13:51:34 **16** capacity.  
 13:51:35 **17** What he formulated at any other point in his  
 13:51:39 **18** life is not relevant.  
 13:51:41 **19** MR. DESAPIO: I think it's relevant, because  
 13:51:42 **20** our argument is that the standards which are to be  
 13:51:46 **21** applied by the hearing officer for the termination of  
 13:51:51 **22** Ms. Pasqua are as set forth in the statute that I  
 13:51:56 **23** referenced earlier, NJSA 40A:9-28.6, and one of those  
 13:52:14 **24** standards is "dishonesty." I am trying to see if we can  
 13:52:18 **25** eliminate that as grounds.

13:52:20 **1** MR. FLORIO: Counsel.  
 13:52:20 **2** MR. GANTNER: He has said that he didn't  
 13:52:23 **3** find anything with respect to dishonesty. He wasn't  
 13:52:27 **4** specifically looking at it.  
 13:52:28 **5** It is one element, but as my learned  
 13:52:32 **6** adversary well knows, the heart of this inquiry is good  
 13:52:41 **7** cause.  
 13:52:42 **8** In fact, in the Order to Show Cause that was  
 13:52:44 **9** filed in the Superior Court, he made a point of advising  
 13:52:49 **10** the court that the only real requirement is good cause  
 13:52:54 **11** for the termination of an employee who isn't performing  
 13:52:58 **12** adequately, so that's what the hearing is about, and  
 13:53:00 **13** it's not about Mr. Gannon's personal formulations of  
 13:53:06 **14** honesty or dishonesty at any time prior to his  
 13:53:09 **15** investigation of this matter.  
 13:53:11 **16** MR. DESAPIO: I don't believe he said he  
 13:53:14 **17** didn't find any evidence of dishonesty, but if the  
 13:53:16 **18** county wants to stipulate to that, that's fine.  
 13:53:18 **19** I think we are still stuck on he didn't have  
 13:53:21 **20** a definition on it and he couldn't answer my question.  
 13:53:23 **21** MR. FLORIO: I am going to sustain the  
 13:53:25 **22** objection on the basis that in looking at the notice,  
 13:53:29 **23** the notices of disciplinary action, there are no -- at  
 13:53:34 **24** least none that I see -- allegations concerning theft of  
 13:53:37 **25** funds or of dishonest practices.

13:53:40 **1** I do want to enable you, Mr. DeSapio, to  
 13:53:44 **2** make your record, but I must point out that questions  
 13:53:49 **3** like that might be sort of persuasive for juries, but  
 13:53:54 **4** there is no jury here, so if we can get to the heart of  
 13:54:00 **5** the issues as is referenced in the notice of  
 13:54:05 **6** disciplinary action, that might help us to move along.  
 13:54:08 **7** I understand the purpose of your questions,  
 13:54:11 **8** but I am not so sure that they are particularly relevant  
 13:54:15 **9** in this hearing.  
 13:54:16 **10** MR. DESAPIO: I appreciate that, but I think  
 13:54:20 **11** they are relevant, and I think that they want to  
 13:54:24 **12** eliminate them as possible grounds for removal.  
 13:54:28 **13 Q.** Did you in your findings find any willful or  
 13:54:31 **14** intentional failure, neglect or refusal to comply with  
 13:54:35 **15** the Constitution of the State of New Jersey or the laws  
 13:54:37 **16** regarding to county finance, did you find any  
 13:54:40 **17** intentional failure, neglect or refusal to comply?  
 13:54:45 **18 A. Could you just restate that question?**  
 13:54:46 **19 Q.** Sure.  
 13:54:47 **20** Did you find any willful or intentional failure,  
 13:54:52 **21** neglect or refusal to comply with the Constitution of  
 13:54:56 **22** the State of New Jersey or the laws relating to county  
 13:54:59 **23** finances?  
 13:55:03 **24 A. Regarding your question on the Constitution of**  
 13:55:07 **25 the State of New Jersey, our audit was not designed --**

13:55:12 **1 our objective was not to determine whether or not that**  
 13:55:17 **2 occurred.**  
 13:55:18 **3 Let's take that part out and just repeat the**  
 13:55:20 **4 second part.**  
 13:55:21 **5 Q.** Did you find any willful or intentional failure,  
 13:55:24 **6** neglect or refusal to comply with the laws relating to  
 13:55:29 **7** county finances, any willful or intentional --  
 13:55:35 **8 A. I think that's, again, hard for me to answer. I**  
 13:55:42 **9 mean we have 14 findings. Two of them are material**  
 13:55:46 **10 weaknesses. We didn't extend our audit procedures in**  
 13:55:55 **11 order to determine in which it was willful or**  
 13:55:55 **12 intentional.**  
 13:55:56 **13 Q.** All right.  
 13:55:57 **14** Are you preferring charges against each of these  
 13:56:03 **15** individuals?  
 13:56:04 **16 A. Am I what?**  
 13:56:04 **17 Q.** Are you preferring charges against each of these  
 13:56:08 **18** individuals?  
 13:56:08 **19 A. I apologize.**  
 13:56:09 **20 The use of the word "prefer," "preferring."**  
 13:56:13 **21 Q.** Have you filed or recommended charges be filed  
 13:56:17 **22** against these individuals?  
 13:56:18 **23 A. As the independent auditor, that would be**  
 13:56:21 **24 inappropriate.**  
 13:56:22 **25 Q.** Okay. Now, an "independent audit," is that an

13:56:33 **1** audit of just the finance department or is it an audit  
 13:56:37 **2** of the entire county?  
 13:56:39 **3** **A. It is an audit of the entire county.**  
 13:56:41 **4** **Q.** Okay. So it would include --  
 13:56:45 **5** **A. Let me just --**  
 13:56:46 **6** **Q.** Go ahead.  
 13:56:50 **7** **A. On County-32 through 36, the table of contents.**  
 13:57:03 **8** **Q.** Right.  
 13:57:04 **9** MR. FLORIO: What exhibit are you referring  
 13:57:05 **10** to?  
 13:57:07 **11** THE WITNESS: I am looking at Exhibit 3,  
 13:57:09 **12** Exhibit 3.  
 13:57:10 **13** County-32 through 36 states forth the  
 13:57:18 **14** different funds and the different departments in which  
 13:57:22 **15** we audit.  
 13:57:24 **16** **Q.** So, in fact, are you familiar with the statute  
 13:57:30 **17** that talks about what the scope of an audit is supposed  
 13:57:35 **18** to be?  
 13:57:35 **19** **A. Maybe, generally speaking, but if you could**  
 13:57:38 **20** **provide me a copy of it, I would appreciate it.**  
 13:57:46 **21** **Thank you.**  
 13:57:46 **22** MR. GANTNER: Can I look at it first,  
 13:57:49 **23** please?  
 13:57:49 **24** MR. DESAPIO: Sure.  
 13:58:19 **25** **A. Yes. Okay.**

13:58:20 **1** **Q.** So having refreshed your recollection about what  
 13:58:24 **2** an audit is to include, by the entire county, do you  
 13:58:31 **3** mean divisions or departments of the county which may  
 13:58:34 **4** not be under the control of the finance department?  
 13:58:40 **5** **A. My audit didn't determine -- the purpose of my**  
 13:58:43 **6** **audit wasn't necessarily to determine what departments**  
 13:58:46 **7** **were or were not under the control of the finance**  
 13:58:48 **8** **department.**  
 13:58:49 **9** **Q.** Okay.  
 13:58:50 **10** **A. I don't know the answer to that.**  
 13:58:52 **11** **Q.** You don't know the answer to that?  
 13:58:53 **12** **A. I don't know the reporting responsibilities.**  
 13:58:55 **13** **Q.** You don't know the reporting responsibilities.  
 13:59:15 **14** **A. Your page is back over there.**  
 13:59:16 **15** **Q.** Excuse me?  
 13:59:16 **16** **A. Your page is back over there.**  
 13:59:18 **17** MR. DESAPIO: I am going to ask that this be  
 13:59:20 **18** marked as Browne and Pasqua-5.  
 13:59:32 **19** (Independent auditor's report is marked as  
 13:59:38 **20** Exhibit PB-5 for identification.)  
 14:00:07 **21** **Q.** Mr. Gannon, would you take a look at PB-5 and  
 14:00:12 **22** see --  
 14:00:13 **23** MR. GANTNER: Page 2?  
 14:00:15 **24** MR. DESAPIO: Excuse me?  
 14:00:15 **25** MR. GANTNER: H-2?

14:00:17 **1** MR. DESAPIO: PB-5 I asked him to take a  
 14:00:19 **2** look at.  
 14:00:20 **3** MR. GANTNER: Wasn't your ruling you didn't  
 14:00:22 **4** need it?  
 14:00:22 **5** MR. FLORIO: I don't need it.  
 14:00:23 **6** If counsel wants to show it to the witness  
 14:00:25 **7** with a different designation, I have no problem with it,  
 14:00:29 **8** as long as the witness identifies it as being the same  
 14:00:32 **9** document as H-2.  
 14:00:34 **10** If it's different in any respect, let me  
 14:00:37 **11** know that.  
 14:00:37 **12** MR. GANTNER: So we don't have a confusing  
 14:00:39 **13** record.  
 14:01:17 **14** THE WITNESS: It appears to be the same.  
 14:01:21 **15** MR. GANTNER: So I can clarify the concerns  
 14:01:23 **16** that I have, I want to represent to the hearing officer,  
 14:01:27 **17** I am going to be asking Mr. Gannon to mark on PB-5 --  
 14:01:30 **18** mark certain things on PB-5, if he could -- I didn't  
 14:01:34 **19** want to spoil the county's original exhibit.  
 14:01:37 **20** MR. FLORIO: Counsel.  
 14:01:38 **21** MR. GANTNER: No objection.  
 14:01:39 **22** MR. DESAPIO: Okay.  
 14:01:41 **23** MR. FLORIO: Please continue.  
 14:01:47 **24** **Q.** Before we talk about PB-5, I would first like to  
 14:01:52 **25** go back to H-3, the previous line of questioning, about

14:01:58 **1** what your audit includes.  
 14:02:00 **2** Will you look at page -- County-66.  
 14:02:06 **3** **A. Uh-huh.**  
 14:02:08 **4** **Q.** Would you look at "A. Reporting Entity" and just  
 14:02:17 **5** read the first paragraph for the hearing officer.  
 14:02:19 **6** **A. "A. Reporting, the County of Hunterdon's**  
 14:02:25 **7** **financial statements include the operations of all**  
 14:02:28 **8** **organizations, for which the Board of Chosen Freeholders**  
 14:02:34 **9** **exercises oversight responsibility except for the**  
 14:02:36 **10** **organizations identified on the following pages.**  
 14:02:41 **11** **Oversight responsibility is demonstrated by financial**  
 14:02:47 **12** **independence, selection of governing body, designations**  
 14:02:50 **13** **of management, ability to significantly influence**  
 14:02:54 **14** **operations and accountability for fiscal matters."**  
 14:03:01 **15** **Q.** And you previously testified that some of those  
 14:03:03 **16** entities were agencies might not be within the control  
 14:03:08 **17** of the finance department. Correct?  
 14:03:09 **18** **A. I believe I said that.**  
 14:03:13 **19** **Q.** You did indicate that you examined the entire  
 14:03:17 **20** county operation. Correct?  
 14:03:20 **21** **A. My report -- my report encompasses all areas and**  
 14:03:29 **22** **departments as identified on County-32 through**  
 14:03:34 **23** **County-36. Those are all of the components of the**  
 14:03:39 **24** **county that we were engaged to audit.**  
 14:03:52 **25** **Q.** Okay. And you don't know or can you identify

14:03:57 **1** which one of those records are maintained by the finance  
 14:04:02 **2** department and which ones are not?  
 14:04:04 **3** **A. Yes.**  
 14:04:05 **4** **Q.** Okay. The records of the current fund, trust  
 14:04:09 **5** fund, general capital fund and the fixed assets are  
 14:04:19 **6** records in which we obtained from the finance  
 14:04:23 **7** department?  
 14:04:23 **8** **Q.** What page is that on? I didn't see it. I am  
 14:04:29 **9** sorry.  
 14:04:29 **10** MR. GANTNER: 33.  
 14:04:31 **11** **Q.** 33?  
 14:04:33 **12** **A. 33.**  
 14:04:35 **13** **Q.** Okay. So the records maintained by the finance  
 14:04:38 **14** department that you examined are the general fixed  
 14:04:42 **15** assets, the current fund, trust fund, general capital  
 14:04:46 **16** fund. Correct?  
 14:04:47 **17** **A. Those are records that we obtained from the**  
 14:04:49 **18** **finance department.**  
 14:04:51 **19** **Q.** The rest of the records that are identified on  
 14:04:53 **20** Page 34 and 35, that is, county clerk, parks and  
 14:05:05 **21** recreation, sheriff's office, warden, surrogate,  
 14:05:05 **22** engineer, consolidated transportation system, those  
 14:05:09 **23** records were primarily maintained by others. Correct?  
 14:05:11 **24** **A. Those records are maintained at the individual**  
 14:05:14 **25** **department locations.**

14:05:15 **1** **Q.** Individual department location. Okay.  
 14:05:17 **2** But you go out and audit them?  
 14:05:19 **3** **A. Correct.**  
 14:05:19 **4** **Q.** Okay. And you report the results of your  
 14:05:25 **5** findings in the county audit?  
 14:05:29 **6** **A. Correct.**  
 14:05:29 **7** **Q.** Okay. Now let's go back to PB-5, please.  
 14:05:35 **8** I want some help talking about your concerns in  
 14:05:43 **9** being able to question you about them, so I wonder if  
 14:05:47 **10** you could help me by numbering them sequentially.  
 14:05:51 **11** Is it my understanding on PB-5, County-169, that  
 14:05:58 **12** item 2012-1 is your first concern?  
 14:06:02 **13** **A. Correct.**  
 14:06:03 **14** **Q.** Can you just write the number 1 to the left of  
 14:06:07 **15** that in the margin so that when I ask you about Item No.  
 14:06:10 **16** One you will know what I am talking about.  
 14:06:15 **17** You stop me if I am wrong at any point.  
 14:06:20 **18** Look at Page 170, County-170 is your second  
 14:06:26 **19** concern. There is an indication 2012-2?  
 14:06:31 **20** **A. Correct.**  
 14:06:31 **21** **Q.** Would you number that number 2.  
 14:06:39 **22** What is your next concern? Is it, in fact, Page  
 14:06:48 **23** 175, finding 2012-3?  
 14:06:51 **24** **A. Correct.**  
 14:06:51 **25** **Q.** Number that number 3, please.

14:06:59 **1** 2012-4 on Page 176, would that be number 4? If  
 14:07:09 **2** so, would you mark that number 4.  
 14:07:12 **3** I am taking by your not answering that's okay to  
 14:07:17 **4** do, numbering that number 4.  
 14:07:18 **5** **A. I have identified it as finding number**  
 14:07:21 **6** **2012-4. If you are asking me to write number 4 next to**  
 14:07:25 **7** **it for your own numbering purposes, I will do that.**  
 14:07:27 **8** **Q.** All right.  
 14:07:28 **9** What you are saying as we look at these, your  
 14:07:31 **10** fifth concern is 2012-5?  
 14:07:36 **11** **A. I reported findings 2012-5. Correct.**  
 14:07:39 **12** **Q.** Can we then just number them for the ease of  
 14:07:42 **13** reference, number the rest of them throughout this  
 14:07:45 **14** document so I can refer to them by the number without  
 14:07:48 **15** the "2012" designation on it.  
 14:07:51 **16** Would that be okay?  
 14:07:54 **17** **A. If that's your preference, yes.**  
 14:08:07 **18** **Q.** Fourteen items. Correct?  
 14:08:09 **19** **A. We reported 14 items, yes.**  
 14:08:13 **20** **Q.** What's the responsibility of the finance  
 14:08:16 **21** department after an auditor completes the audit, for  
 14:08:22 **22** example, are the people in the finance department  
 14:08:27 **23** required to, if necessary, restate or adjust the books  
 14:08:34 **24** in connection with the results of your audit?  
 14:08:39 **25** **A. So are we talking about findings or are we**

14:08:45 **1** **talking about amounts that we are proposing journal**  
 14:08:50 **2** **entries on?**  
 14:08:50 **3** **Q.** I am talking journal entries.  
 14:08:53 **4** **A. Yes. When we perform the audit we are**  
 14:08:55 **5** **required -- the county is required to record the journal**  
 14:09:00 **6** **entries that are recorded during the course of the**  
 14:09:02 **7** **audit.**  
 14:09:02 **8** **Q.** They don't have any discretion, correct, the  
 14:09:06 **9** finance department has no discretion but to follow your  
 14:09:08 **10** direction, your determination?  
 14:09:11 **11** **A. Well, before we finalize the audit, we meet with**  
 14:09:15 **12** **management --**  
 14:09:16 **13** **Q.** Okay.  
 14:09:16 **14** **A. -- and we agree upon journal entries and the**  
 14:09:20 **15** **findings.**  
 14:09:20 **16** **Q.** Okay. But you didn't meet with Ms. Browne and  
 14:09:23 **17** Ms. Pasqua because they had been barred from their  
 14:09:26 **18** office at the time you finished your work. Correct?  
 14:09:28 **19** **A. We did not meet with them.**  
 14:09:30 **20** **Q.** Okay. So now in regard to number one, you say  
 14:09:38 **21** the following -- this is under "Context" -- well, let's  
 14:09:47 **22** look at "Condition, During our audit we noted several  
 14:09:50 **23** instances in which the December 31, 2011 audited account  
 14:09:55 **24** balances were required to be restated because they were  
 14:09:59 **25** not materially accurate."

14:10:00 **1** You didn't do the 2001 audit. Correct?

14:10:04 **2 A. We were not engaged to do the 2011 audit.**

14:10:07 **3 Q.** Samuel Klein did that?

14:10:08 **4 A. Samuel Klein & Company issued an opinion on the**

14:10:12 **5 financial statements for the 2011 audit.**

14:10:13 **6 Q.** Okay. And these account balances that you were

14:10:16 **7** adjusting, were they account balances that Samuel Klein

14:10:23 **8** determined and set up in the 2011 audit?

14:10:31 **9 A. The balances that I have listed here that I say**

14:10:35 **10 were reported in the 2011 financial were derived from**

14:10:40 **11 Samuel Klein's audit report, the December 31st, 2011**

14:10:45 **12 financial statements.**

14:10:46 **13 Q.** So the balances that you were adjusting were

14:10:51 **14** balances that Samuel Klein set up?

14:10:55 **15 A. I don't know that's accurate.**

14:10:56 **16 Q.** You don't know that's accurate.

14:10:57 **17** Did you look at Samuel Klein's 2011 audit --

14:11:02 **18 A. Yes.**

14:11:03 **19 Q.** -- before you made your determination?

14:11:04 **20 A. But I believe your question was inaccurate.**

14:11:07 **21 Q.** Okay. Well, let's see if I can clarify it.

14:11:12 **22** Were the beginning account balances with which

14:11:15 **23** you were concerned and which you restated, were they the

14:11:21 **24** account balances that were in Samuel Klein's 2011 audit?

14:11:30 **25 A. The account balances that were stated were within**

14:11:30 **1 the financial statements that were audited by Samuel**

14:11:32 **2 Klein & Company.**

14:11:32 **3 Q.** And were they set up in Samuel Klein's audit as

14:11:37 **4** those amounts?

14:11:39 **5 A. I guess where I am having difficulty, and I**

14:11:41 **6 apologize, when you say, "Samuel Klein set them up," I**

14:11:45 **7 guess I am not clear as to what you mean by that.**

14:11:48 **8 Q.** I will stop using the word "set up."

14:11:51 **9** Were they the figures, were they the audited

14:11:54 **10** figures that Samuel Klein indicated in the 2011 audit?

14:12:04 **11 A. We derived them from the financial statements of**

14:12:08 **12 December 31st, 2011 that were audited by Samuel Klein &**

14:12:12 **13 Company for which the opinion was in that report.**

14:12:14 **14 Q.** Was in their report, was in Samuel Klein's

14:12:17 **15** report?

14:12:20 **16 A. The financial statements, if we go back earlier,**

14:12:24 **17 the financial statements of responsibility of**

14:12:26 **18 management, an auditor issues an opinion on those**

14:12:29 **19 financial statements.**

14:12:30 **20 When you look at a very large document -- so if**

14:12:34 **21 you take my document, the financial statements are those**

14:12:37 **22 of the county. We have two letters within that**

14:12:41 **23 document. We have an independent auditor's report and**

14:12:44 **24 communication -- and in accordance with governing**

14:12:51 **25 auditing standards, so their opinion is attached to the**

14:12:55 **1 financial statements in which includes the balances that**

14:13:01 **2 I have represented at 12/31/11.**

14:13:04 **3 Q.** Which includes the starting balances -- which

14:13:06 **4** includes those figures as the starting balances that you

14:13:10 **5** were working off of?

14:13:12 **6 A. Correct.**

14:13:13 **7 Q.** Right. Because you testified that the reason you

14:13:16 **8** went back and looked at these things, this was your

14:13:19 **9** first year in, and you wanted to look at the previous

14:13:21 **10** year. Correct?

14:13:21 **11 A. We are required to look at the opening balances.**

14:13:24 **12 Q.** Opening balances.

14:13:28 **13** You at the time examined Samuel Klein's 2011

14:13:31 **14** audit?

14:13:33 **15 A. As part of our procedures when we go out to do**

14:13:35 **16 the audit we look at the prior audit.**

14:13:40 **17 Q.** If I gave you this audit, Samuel Klein's audit --

14:13:43 **18** MR. DESAPIO: We should mark this -- what

14:13:46 **19** are we up to -- PB-6 for identification.

14:14:08 **20** (Samuel Klein audit is marked as Exhibit

14:14:12 **21** PB-6 for identification.)

14:14:26 **22 Q.** If I gave you Samuel Klein's audit and ask you to

14:14:29 **23** spend the time to go through it, would you find that

14:14:34 **24** each of these figures that you readjusted or restated

14:14:39 **25** are included in that audit, and if you want to do it,

14:14:45 **1** that's fine.

14:14:46 **2 A. I don't know this is entirely the report. I**

14:14:51 **3 would feel more comfortable with a bound copy, provide**

14:14:55 **4 me various pages. I can't -- I don't know the**

14:15:01 **5 authenticity of it. If you would like me to take the**

14:15:03 **6 effort, those balances we have in our finding, I will,**

14:15:07 **7 but I think that was clear when I looked at the 2011**

14:15:11 **8 report.**

14:15:14 **9 Q.** I don't want to unduly consume time, but let's

14:15:19 **10** try it. We can always ask the county to produce the

14:15:22 **11** bound copy and so you are comfortable with it.

14:15:26 **12** MR. GANTNER: Let me see that for a minute.

14:15:28 **13 Q.** When you started this process you looked at

14:15:30 **14** Samuel Klein's audit, did you not?

14:15:32 **15 A. Correct.**

14:15:32 **16 Q.** And can you say definitively today without having

14:15:36 **17** to look at the actual bound copy and refresh your

14:15:39 **18** recollection that the figures that are in that audit

14:15:43 **19** were the initial balances that you restated?

14:15:49 **20 A. To the best of my knowledge they are.**

14:15:51 **21 Q.** Okay. Now, previously you testified that when an

14:15:55 **22** auditor completes their work, that the finance

14:15:59 **23** department people are required -- don't have any

14:16:02 **24** discretion -- are required to set up or adjust the

14:16:09 **25** county books if necessary, in compliance with the audit.

14:16:11 **1** Correct?

14:16:13 **2** **A. I don't believe I stated that.**

14:16:14 **3** **Q.** You didn't. Okay.

14:16:16 **4** **A. What happens is that before you finalize an**

14:16:21 **5** **audit, you have to have a management representation**

14:16:23 **6** **letter signed by someone in management, and within that**

14:16:27 **7** **management representation letter there are several**

14:16:30 **8** **representations, but part of that is that management**

14:16:33 **9** **agrees to, one, that they are responsible for the fair**

14:16:38 **10** **presentation of the financial statements.**

14:16:40 **11** **Another item would be if there are journal**

14:16:43 **12** **entries that are required to be made, they are in**

14:16:45 **13** **agreement with those journal entries, and that if there**

14:16:49 **14** **is material weaknesses, they are in agreement those are**

14:16:51 **15** **material weaknesses, so that's part of the process.**

14:16:55 **16** **The auditor can't have carte blanche, "This is**

14:17:00 **17** **the balance that we want it to be," so that's what you**

14:17:03 **18** **have to make it. It has to be agreed upon.**

14:17:06 **19** **Q.** Isn't an audit an outside review of an entity's

14:17:13 **20** books and records into an independent determination as

14:17:17 **21** to what the actual figures should be?

14:17:20 **22** **A. It is.**

14:17:20 **23** **Q.** It is?

14:17:21 **24** **A. But it's not done --**

14:17:22 **25** **Q.** Samuel Klein did the 2011 audit, and they, in

14:17:26 **1** their professional judgment, determined those were those

14:17:29 **2** account balances. Right? Are you saying that Ms.

14:17:34 **3** Pasqua and Ms. Browne could just change them to

14:17:37 **4** something else on their own?

14:17:41 **5** **A. I did not say that.**

14:17:49 **6** **Q.** Okay. And by the same token, you have now come

14:17:49 **7** in as a new auditor, and you have restated those

14:17:49 **8** balances.

14:17:50 **9** If Ms. Browne and Ms. Pasqua were reinstated to

14:17:55 **10** their office, which I think is going to happen, I hope

14:17:58 **11** it's going to happen, or if a new financial person comes

14:18:02 **12** in, do they have the ability to say, "We don't like the

14:18:07 **13** way Wiss & Company restated these figures, we are going

14:18:09 **14** to use different figures"?

14:18:11 **15** **A. At the conclusion of our 2012 audit we presented**

14:18:14 **16** **a draft financial statement --**

14:18:15 **17** **Q.** Right.

14:18:16 **18** **A. -- with all these issues identified.**

14:18:19 **19** **Q.** Right.

14:18:19 **20** **A. And management has agreed to accept our audit.**

14:18:22 **21** **Q.** Well, management, let's talk about that for a

14:18:25 **22** second.

14:18:25 **23** Management, these ladies are not there now.

14:18:30 **24** Whose management has agreed to accept your

14:18:32 **25** auditor?

14:18:32 **1** **A. Cindy Yard and the new interim CFO.**

14:18:37 **2** **Q.** And if they didn't agree with the figures, they

14:18:41 **3** would have discussed it with you. Correct?

14:18:43 **4** **A. Correct.**

14:18:44 **5** **Q.** But once you make a final determination and issue

14:18:47 **6** the audit document, aren't the county records, financial

14:18:51 **7** records, required to be restated in accordance with your

14:18:54 **8** final determination?

14:18:58 **9** **A. If management has agreed to the amounts that are**

14:19:01 **10** **included in the draft, and management has agreed with**

14:19:07 **11** **the findings that are presented that they are accurate,**

14:19:09 **12** **then when we issue an audited opinion on the financial**

14:19:12 **13** **statements, management is required to adjust the**

14:19:17 **14** **balances accordingly.**

14:19:18 **15** **Q.** Because if the audit gets filed with the director

14:19:20 **16** of Division of Local Government Services -- correct?

14:19:23 **17** **A. It does.**

14:19:24 **18** **Q.** -- and all the financial records have to be

14:19:26 **19** consistent with the audit?

14:19:27 **20** **A. It does.**

14:19:27 **21** **Q.** Right.

14:19:29 **22** So these balances in number one that you are

14:19:32 **23** adjusting, okay, were balances that Samuel Klein &

14:19:42 **24** Company either initially or subsequently concurred with.

14:19:45 **25** Correct?

14:19:45 **1** **A. Samuel Klein & Company issued an opinion --**

14:19:48 **2** **Q.** Right.

14:19:49 **3** **A. -- an unmodified opinion on the financial**

14:19:51 **4** **statements that those amounts were fairly stated.**

14:19:53 **5** **Q.** Okay. And, in fact, in the number one condition

14:19:58 **6** it says, "We noted several instances in which December

14:20:02 **7** 31st, 2011 audited account balances," not the financial

14:20:06 **8** statement balances prepared by these two ladies, but the

14:20:09 **9** audited account balances had to be restated. Correct?

14:20:13 **10** So you are referring to Samuel Klein's

14:20:16 **11** determination?

14:20:19 **12** **A. That sentence does say, "audited account**

14:20:24 **13** **balances."**

14:20:25 **14** **Q.** You are referring to Samuel Klein's

14:20:27 **15** determinations. Correct?

14:20:28 **16** **A. Correct.**

14:20:28 **17** **Q.** Okay. So now these work papers that were sent to

14:20:34 **18** me -- it looks like when you first started to have

14:20:38 **19** questions about these balances, you called Samuel Klein.

14:20:44 **20** Correct?

14:20:45 **21** **A. The first discussion regarding those items on**

14:20:53 **22** **"Current Fund" was first discussed with Ms. Pasqua and**

14:20:56 **23** **Ms. Browne.**

14:20:56 **24** **Q.** What did they tell you, "Those are the balances

14:20:59 **25** that Samuel Klein came up with"?

14:21:01 **1 A. I don't believe that was their response, but I**  
 14:21:04 **2 can't speak to what their response was.**  
 14:21:06 **3 Q.** You don't remember what the response was?  
 14:21:07 **4 A. No.**  
 14:21:08 **5 Q.** Okay. Now, when did you call Samuel Klein?  
 14:21:12 **6 A. I don't remember the date. I had several**  
 14:21:15 **7 conversations with them and several follow-ups, because**  
 14:21:19 **8 they didn't respond timely.**  
 14:21:21 **9 The final determination and the final answer that**  
 14:21:24 **10 they provided me that they agreed with these was late**  
 14:21:28 **11 July 2013.**  
 14:21:28 **12 Q.** When you say "agreed with these," agreed with  
 14:21:32 **13 your restatements?**  
 14:21:32 **14 A. Yes.**  
 14:21:33 **15 Q.** Correct?  
 14:21:34 **16 A. Yes.**  
 14:21:34 **17 Q.** Okay. Who did you speak to at Samuel Klein?  
 14:21:37 **18 A. Michael McGuire.**  
 14:21:38 **19 Q.** Okay. And was the purpose for your telephone  
 14:21:42 **20 call to say, in effect, "Look, you found these figures**  
 14:21:44 **21 to be one thing, and we are finding them to be another,"**  
 14:21:47 **22 and you wanted to try to understand to reconcile the**  
 14:21:51 **23 difference?**  
 14:21:51 **24 A. I wanted to understand how they came up with**  
 14:21:53 **25 their numbers.**

14:21:54 **1 Q.** Okay. Now, aren't each and every one of these  
 14:22:02 **2 just a way of doing the bookkeeping, each and every one**  
 14:22:09 **3 of these items, whether Samuel Klein -- let's take the**  
 14:22:12 **4 first one, revenue for the consolidated transportation,**  
 14:22:19 **5 accounts receivable was 160,564.77 as of December 31st,**  
 14:22:24 **6 but should have been zero.**  
 14:22:27 **7 Now, Samuel Klein found it should be \$160,564.77.**  
 14:22:32 **8 You found it should be zero.**  
 14:22:34 **9 Isn't it just a matter of different perspectives**  
 14:22:37 **10 as to how to state that in the audit?**  
 14:22:39 **11 A. I don't believe that is an accurate statement.**  
 14:22:42 **12 Q.** All right.  
 14:22:43 **13 MR. FLORIO:** I am sorry.  
 14:22:44 **14 I don't want to cut you off, but you "don't**  
 14:22:50 **15 believe"?**  
 14:22:50 **16 THE WITNESS:** His statement.  
 14:22:51 **17 MR. FLORIO:** Counsel's question.  
 14:22:52 **18 THE WITNESS:** I don't believe counsel's  
 14:22:53 **19 question was accurate.**  
 14:22:54 **20 MR. FLORIO:** I need a clarification.  
 14:22:57 **21 MR. DESAPIO:** All right.  
 14:23:00 **22 Q.** Was there any lost money or loss to the county  
 14:23:04 **23 because the way that was set up?**  
 14:23:06 **24 A. As to what was set up?**  
 14:23:07 **25 Q.** As to changing it from \$160,564.77 to zero, any

14:23:13 **1 loss of money to the county?**  
 14:23:21 **2 A. So meaning -- maybe just clarify "loss of money."**  
 14:23:21 **3 I am not positive what you mean.**  
 14:23:22 **4 Q.** Okay. Let's maybe go into a little bit more what  
 14:23:28 **5 this figure is all about.**  
 14:23:30 **6 First, the Hunterdon County Consolidated**  
 14:23:34 **7 Transportation System, isn't that one entity that you**  
 14:23:42 **8 indicated and testified to on C-35 where the books and**  
 14:23:47 **9 records are not maintained by the finance department?**  
 14:23:54 **10 I think you are looking at Mr. Klein's thing**  
 14:23:56 **11 there. I don't mean to distract you.**  
 14:24:04 **12 A. Transportation department's balance sheet and**  
 14:24:10 **13 schedules are separately maintained.**  
 14:24:12 **14 Q.** Are separately maintained?  
 14:24:13 **15 A. The amount that you are talking about, though,**  
 14:24:16 **16 the 160 is set up within or recorded within the current**  
 14:24:21 **17 fund. That's the number that I am referring to.**  
 14:24:24 **18 Q.** Okay. The consolidated transportation system has  
 14:24:29 **19 a set of books and records that are not maintained by**  
 14:24:31 **20 the finance department. Correct?**  
 14:24:33 **21 A. Yes.**  
 14:24:33 **22 Q.** Where are those records maintained?  
 14:24:38 **23 A. At the department's office.**  
 14:24:39 **24 Q.** Which is where?  
 14:24:42 **25 A. I don't know the address.**

14:24:43 **1 Q.** You don't know the address.  
 14:24:44 **2 You went to the department's office to look at**  
 14:24:47 **3 those books and records?**  
 14:24:48 **4 A. Staff from my office did.**  
 14:24:49 **5 Q.** Staff from your office did.  
 14:24:51 **6 They are not maintained by the finance**  
 14:24:53 **7 department, those records that you looked at?**  
 14:24:55 **8 A. Those records.**  
 14:25:02 **9 The records that I am referring to on financial**  
 14:25:07 **10 statement Schedules J-1, J-2, J-3 and J-4 are maintained**  
 14:25:15 **11 at that other department's offices.**  
 14:25:17 **12 Q.** That other department.  
 14:25:18 **13 It was after going out to that other department**  
 14:25:21 **14 and looking at those books and records that you began to**  
 14:25:28 **15 make the determination that that balance should be**  
 14:25:32 **16 restated. Correct?**  
 14:25:33 **17 A. That is the time when I determined or initially**  
 14:25:36 **18 thought that the balances should be restated.**  
 14:25:38 **19 Q.** Did the books and records out at that location  
 14:25:40 **20 reflect the \$160,564.77?**  
 14:25:43 **21 A. They did not.**  
 14:25:44 **22 Q.** They did not.  
 14:25:45 **23 So do you know how Mr. McGuire came up with that**  
 14:25:50 **24 figure the year before?**  
 14:25:51 **25 A. I don't believe he came up with the figure.**



14:25:53 **1 I believe that figure is within the current fund,**  
 14:25:57 **2 which is maintained by the finance office. Mr. McGuire,**  
 14:26:00 **3 though, then did his audit and opined that it was fairly**  
 14:26:04 **4 stated.**  
 14:26:04 **5 Q.** That it was fairly stated.  
 14:26:06 **6** So when I say "he came up with it," he determined  
 14:26:09 **7** that it was a fair figure. Yes?  
 14:26:11 **8 A. He did not take exception to it.**  
 14:26:14 **9 Q.** He did not take exception to it.  
 14:26:15 **10** The next year you came up with a different  
 14:26:18 **11** figure, "zero." Right?  
 14:26:21 **12 A. That number actually hadn't changed since**  
 14:26:23 **13 December -- at least December 31, 2009, so it remained**  
 14:26:27 **14 unchanged in '09, 2010 and 2011.**  
 14:26:30 **15 Q.** Okay. So this number, this 160,564.77, was on  
 14:26:37 **16** the county books since at least 2009?  
 14:26:40 **17 A. Correct.**  
 14:26:41 **18 Q.** Samuel Klein completed the 2009 audit, and he  
 14:26:46 **19** determined -- they determined it was fairly stated.  
 14:26:48 **20** Correct?  
 14:26:50 **21 A. I don't have the 2009 report in front of me, so I**  
 14:26:54 **22 can't answer that question.**  
 14:26:54 **23 Q.** So did you look at the 2010 statement?  
 14:27:00 **24 A. I did, but I didn't specifically look to see**  
 14:27:02 **25 whether it was a fair or modified opinion.**

14:27:04 **1 Q.** In 2011 you definitely looked at it, and they had  
 14:27:06 **2** determined that it was fairly stated?  
 14:27:08 **3 A. He didn't take exception to it, no.**  
 14:27:10 **4 Q.** He didn't take an exception to it, which means it  
 14:27:13 **5** was fairly stated. Correct?  
 14:27:14 **6 A. Yes.**  
 14:27:15 **7 Q.** Correct?  
 14:27:15 **8 A. Yes.**  
 14:27:16 **9 Q.** Okay. I am not trying to be difficult, but I  
 14:27:20 **10** don't want to mince words either.  
 14:27:20 **11** "Fairly stated" are the words you have been  
 14:27:23 **12** using. That's why I am asking it again.  
 14:27:26 **13 A. Sure.**  
 14:27:27 **14 Q.** So now there is a separate entity that "these  
 14:27:30 **15** ladies don't maintain the books and records for" -- what  
 14:27:33 **16** does this mean -- "accounts receivable," that meant --  
 14:27:36 **17** what does that mean, "receivable, revenue accounts  
 14:27:40 **18** receivable," what does that mean?  
 14:27:41 **19 A. It means that the county believes that the**  
 14:27:44 **20 transportation department owes the current fund**  
 14:27:47 **21 approximately \$160,000.**  
 14:27:49 **22 Q.** Okay. All right.  
 14:27:52 **23** Are you aware of the fact whether or not that  
 14:27:54 **24** transportation department or that transportation system  
 14:27:56 **25** is run by the county or is an independent operator?

14:28:03 **1 A. What part of the transportation system? The**  
 14:28:06 **2 actual busing part of it?**  
 14:28:07 **3 Q.** Yes.  
 14:28:07 **4 A. Who drives the buses?**  
 14:28:10 **5 Q.** Right.  
 14:28:10 **6 A. I believe there is an outside operator that**  
 14:28:12 **7 drives the buses.**  
 14:28:12 **8 Q.** Outside operator?  
 14:28:14 **9 A. But regards to who maintains the books and**  
 14:28:17 **10 records, I believe it's the county employee.**  
 14:28:20 **11 Q.** You believe it's the county employee.  
 14:28:25 **12** The county -- when you say "the county believes,"  
 14:28:28 **13** you are referring to the freeholders, the finance  
 14:28:31 **14** department?  
 14:28:31 **15 A. The finance department that maintains the current**  
 14:28:35 **16 fund had that in their general ledger that the amount**  
 14:28:38 **17 was due from the transportation department.**  
 14:28:40 **18 Q.** Okay. So in the general ledger the finance  
 14:28:44 **19** department had that figure for at least three years.  
 14:28:48 **20** Could it be that figure was going back longer  
 14:28:52 **21** than that?  
 14:28:52 **22 A. I don't know.**  
 14:28:53 **23 Q.** But it could be, correct, that it went back  
 14:29:03 **24** longer than that?  
 14:29:03 **25 A. I don't know the answer.**

14:29:03 **1 Q.** So the finance department downtown here says that  
 14:29:03 **2** this part of the county operations out on -- wherever it  
 14:29:06 **3** is -- you don't know where it is, but not in this  
 14:29:08 **4** building -- that they owe the current fund this  
 14:29:14 **5** 160,564.77. Right.  
 14:29:17 **6** Okay. "Yes," you are shaking your head "yes"?  
 14:29:20 **7 A. Yes.**  
 14:29:20 **8 Q.** Okay. All right.  
 14:29:22 **9** So now you determined that the money was not due  
 14:29:25 **10** from one arm of the county to the other. Correct?  
 14:29:28 **11 A. Yes.**  
 14:29:28 **12 Q.** How did you determine that?  
 14:29:30 **13 A. Well, through discussion with Ms. Browne and Ms.**  
 14:29:33 **14 Pasqua, they did not provide justification for having**  
 14:29:37 **15 the amount set up --**  
 14:29:38 **16 Q.** Okay. But I thought --  
 14:29:40 **17 A. -- and within the transportation department's**  
 14:29:42 **18 financial statements in which Samuel Klein opined on**  
 14:29:46 **19 there was no offsetting "due to," so when you have**  
 14:29:49 **20 different departments and different funds "due from,"**  
 14:29:53 **21 there must be a "due to."**  
 14:29:54 **22 Q.** So I thought I heard you say that after you made  
 14:29:58 **23** this determination, you never had a chance to discuss it  
 14:30:01 **24** with the two of them, since they were no longer in the  
 14:30:03 **25** office.

- 14:30:03 **1 A. That's not accurate. I didn't say that.**
- 14:30:05 **2 Q.** You didn't say that?
- 14:30:06 **3 A. No.**
- 14:30:06 **4 Q.** You discussed this after you made this
- 14:30:08 **5** determination with these two ladies?
- 14:30:17 **6 A. I stated that I did not discuss the items on**
- 14:30:21 **7 County-169 under the trust fund, the county clerk trust**
- 14:30:25 **8 fund cash and reserve and planning board developer's**
- 14:30:28 **9 cash fund and reserve. I did discuss all the items**
- 14:30:31 **10 under current fund, surrogate's office. Those are items**
- 14:30:35 **11 that I was concerned about, and I needed justification**
- 14:30:38 **12 as to why they were set up, and specifically the**
- 14:30:42 **13 165,564.77 as to why that number wouldn't have changed**
- 14:30:46 **14 over the course of three years.**
- 14:30:47 **15 Q.** Okay. And so let's get back to the missing
- 14:30:55 **16** money.
- 14:30:55 **17** There was no money missing when this adjustment
- 14:30:57 **18** was made from 165,564.77 down to zero, right, no lost
- 14:31:04 **19** money?
- 14:31:05 **20 A. Again, I don't know what you mean by "lost**
- 14:31:07 **21 money."**
- 14:31:08 **22 Q.** Did that 165,564.77 represent cash or liquid
- 14:31:16 **23** assets that somebody had someplace in the transportation
- 14:31:20 **24** department?
- 14:31:22 **25 A. It represented a receivable that had been**

- 14:31:24 **1 established in the records --**
- 14:31:27 **2 Q.** Right.
- 14:31:27 **3 A. -- that did not appear to exist.**
- 14:31:29 **4 Q.** Okay. Did you determine that there was that
- 14:31:35 **5** money someplace that existed, that sum of money existed
- 14:31:39 **6** someplace?
- 14:31:40 **7 A. I did not make that determination.**
- 14:31:41 **8 Q.** Okay. All right.
- 14:31:42 **9** So by you doing this accounting adjustment, if I
- 14:31:46 **10** am understanding correctly, you are saying downtown here
- 14:31:49 **11** in the finance department they said this transportation
- 14:31:52 **12** system owed \$160,000, but out there they didn't think it
- 14:31:57 **13** was owed in the transportation department records?
- 14:32:01 **14 A. That is what the financial statements reflect.**
- 14:32:03 **15 Q.** But for three years Wiss & Company said it was
- 14:32:05 **16** owed?
- 14:32:06 **17 A. I didn't say that.**
- 14:32:09 **18 I said it was owed?**
- 14:32:10 **19 Q.** No. I am sorry. Samuel Klein.
- 14:32:13 **20** I apologize.
- 14:32:14 **21** For three years that had been on the books and in
- 14:32:17 **22** 2011 at least Samuel Klein said that was materially
- 14:32:24 **23** correct, materially stated?
- 14:32:27 **24 A. Samuel Klein didn't modify their opinion.**
- 14:32:29 **25 Q.** Didn't modify their opinion.

- 14:32:31 **1** So you don't know how that originally even got
- 14:32:36 **2** set up?
- 14:32:37 **3 A. I do not.**
- 14:32:38 **4 Q.** Okay. All right.
- 14:32:41 **5** Let's go to the next one.
- 14:32:42 **6** The golf course was reported at 1,836,041.43, but
- 14:32:50 **7** should have been zero.
- 14:32:51 **8** Now, are the golf course books and records
- 14:32:59 **9** maintained downtown here in the finance department?
- 14:33:03 **10 A. The golf course activity is maintained within the**
- 14:33:06 **11 current fund, which is maintained by the finance**
- 14:33:09 **12 department.**
- 14:33:09 **13 Q.** Okay. A record of the balance, but are the books
- 14:33:13 **14** and records, financial books and records for the golf
- 14:33:16 **15** course maintained by the finance department here or are
- 14:33:20 **16** they maintained at another location?
- 14:33:22 **17 A. Which records are you referring to?**
- 14:33:25 **18 Q.** Let's do it this way:
- 14:33:27 **19** What books and records of the golf course are
- 14:33:31 **20** maintained in the finance department?
- 14:33:33 **21 A. Within the general ledger of the current fund**
- 14:33:36 **22 there are the activity of the golf course. The golf**
- 14:33:41 **23 course is a component of the current fund, so the golf**
- 14:33:44 **24 course is in a separate department. The golf course is**
- 14:33:47 **25 an operation that's within the current fund, which is**

- 14:33:50 **1 maintained by the finance department.**
- 14:33:51 **2 Q.** Okay. When you say "maintained by the finance
- 14:33:54 **3** department," you mean there is a ledger that reflects or
- 14:33:59 **4** a ledger entry -- it might be done by computer now --
- 14:34:01 **5** that reflects money that comes over from the golf course
- 14:34:04 **6** operation? Correct? That's what you are saying when
- 14:34:11 **7** you say "there is a journal entry that's maintained here
- 14:34:14 **8** by the finance department"?
- 14:34:15 **9 A. So they maintain the revenue, expense, cash.**
- 14:34:19 **10 Q.** Maintain a record of it. Correct?
- 14:34:21 **11 A. Yes.**
- 14:34:21 **12 Q.** Okay. But aren't the actual financial books and
- 14:34:25 **13** records for the golf course operation maintained
- 14:34:28 **14** elsewhere?
- 14:34:30 **15 A. The county employs a golf course management**
- 14:34:36 **16 company to run the golf course. It's part of that**
- 14:34:38 **17 responsibility. They report information back to the**
- 14:34:43 **18 finance office.**
- 14:34:44 **19 Q.** Okay. And did you, in fact, send personnel or
- 14:34:47 **20** did you go out to interview the golf course operator --
- 14:34:51 **21 A. Yes.**
- 14:34:51 **22 Q.** -- and look at their books and records?
- 14:34:59 **23 A. Yes.**
- 14:34:59 **24 Q.** And they maintain a complete set of books and
- 14:34:59 **25** records out there. Correct?

14:34:59 **1 A. Well, they maintain their operational statements.**  
 14:35:05 **2 Q.** They --  
 14:35:06 **3 A. They don't do an operating statement that's**  
 14:35:08 **4 internal.**  
 14:35:09 **5 Q.** They maintain a record of the income and revenues  
 14:35:14 **6** of the golf course. Correct?  
 14:35:16 **7 A. They do maintain that.**  
 14:35:18 **8 Q.** They take in the money. Correct?  
 14:35:21 **9 A. Correct.**  
 14:35:22 **10 Q.** They pay the expenses. Correct?  
 14:35:25 **11 A. Correct.**  
 14:35:26 **12 Q.** And they keep the books and records of that at  
 14:35:31 **13** their facility?  
 14:35:31 **14 A. They maintain an operating statement to account**  
 14:35:34 **15 for all those items so that they could be provided to**  
 14:35:37 **16 the county.**  
 14:35:37 **17 Q.** Right. But the bank statements and everything  
 14:35:40 **18** else, they maintain those. Correct?  
 14:35:46 **19 A. I apologize. I don't know if that's an accurate**  
 14:35:48 **20 statement.**  
 14:35:49 **21 They do have copies of them, but the official**  
 14:35:52 **22 records of the golf course are contained, I mean, within**  
 14:35:56 **23 the current fund.**  
 14:35:57 **24 Q.** So at some point -- and you tell me whether it's  
 14:36:02 **25** monthly or whatever -- the golf course contractor

14:36:05 **1** remits money to the county. Correct?  
 14:36:09 **2 A. I believe it's monthly.**  
 14:36:11 **3 Q.** What did you say?  
 14:36:12 **4 A. I believe it's monthly.**  
 14:36:13 **5 Q.** Monthly. Okay.  
 14:36:14 **6** What is recorded downtown and maintained downtown  
 14:36:18 **7** is a record of the monthly receipts from the golf course  
 14:36:21 **8** operator. Correct?  
 14:36:27 **9 A. Every month there is an operating statement that**  
 14:36:30 **10 the management company develops, and that monthly**  
 14:36:34 **11 package is provided to the finance department.**  
 14:36:37 **12 Q.** Together with revenue or not, together with a  
 14:36:42 **13** payment?  
 14:36:43 **14 A. Together it incorporates the revenue derived from**  
 14:36:47 **15 that month and the expenses derived from that month.**  
 14:36:49 **16 Q.** Right. Do they send them a net check or  
 14:36:54 **17** anything?  
 14:36:54 **18 A. All the money whether -- that's received is**  
 14:36:57 **19 deposited within this bank account within the county, I**  
 14:37:01 **20 believe. I can't specifically talk to it on a daily**  
 14:37:09 **21 basis. The county has a bank statement to account for**  
 14:37:12 **22 the golf course activity, and that bank account was**  
 14:37:17 **23** within the current fund.  
 14:37:20 **24 At this point in my recollection I can't tell you**  
 14:37:22 **25** one way or the other whether the receipts are done every

14:37:26 **1 day or monthly.**  
 14:37:27 **2 Q.** All right.  
 14:37:28 **3** Both for the Consolidated Transportation System  
 14:37:30 **4** and the golf course, who at management made a decision  
 14:37:37 **5** for them to be operated by outside operators?  
 14:37:43 **6 A. I am not aware.**  
 14:37:44 **7 Q.** You are not aware. Okay.  
 14:37:45 **8** In your experience as an auditor, would the  
 14:37:48 **9** finance department have the authority to make that  
 14:37:49 **10** decision?  
 14:37:51 **11 A. I don't know.**  
 14:37:52 **12 Q.** Okay. All right.  
 14:37:54 **13** So now when you first came in to do the audit,  
 14:37:58 **14** did you have a discussion with Margaret Pasqua about the  
 14:38:02 **15** golf course operation?  
 14:38:03 **16 A. I can't remember if it was Ms. Pasqua or Ms.**  
 14:38:06 **17 Browne.**  
 14:38:06 **18 Q.** In that discussion they said what, what did they  
 14:38:11 **19** say about the golf course? Did they ask you anything?  
 14:38:16 **20 A. I apologize. I don't know.**  
 14:38:18 **21 Q.** You don't remember?  
 14:38:18 **22 A. I don't know what you are referring to.**  
 14:38:20 **23 Q.** Did they state to you to the effect that the  
 14:38:29 **24** previous auditors did not adequately describe the way  
 14:38:34 **25** that things were maintained by the golf course company

14:38:36 **1** and they wanted you to come back and give them a better  
 14:38:39 **2** understanding of what was going on there?  
 14:38:47 **3 A. I don't recall one way or the other whether that**  
 14:38:49 **4 conversation was had.**  
 14:38:51 **5 Q.** You don't recall. Okay.  
 14:38:53 **6** Now, so that the records downtown here reflected  
 14:39:04 **7** that the golf course operation owed 1,836,041.43 to the  
 14:39:10 **8** county, and you determined it should be zero.  
 14:39:13 **9 A. Correct.**  
 14:39:14 **10 Q.** Okay. And the basis for that determination that  
 14:39:17 **11** it should be zero was what?  
 14:39:21 **12 A. All activity that gets generated from the golf**  
 14:39:26 **13 course gets deposited and disbursed. The net activity**  
 14:39:30 **14 goes through a bank account that's maintained within the**  
 14:39:33 **15 current fund, all activity.**  
 14:39:35 **16 Q.** Right.  
 14:39:36 **17 A. There is no provision within the golf course**  
 14:39:38 **18 management company outside of those revenues, expenses**  
 14:39:42 **19 that were being calculated that would -- you know --**  
 14:39:46 **20 determine an amount was owed.**  
 14:39:48 **21 If you look from year to year to year, it appears**  
 14:39:52 **22 that the net, let's say, the net income, the profit,**  
 14:39:56 **23 from the golf course was -- the entry was due from the**  
 14:40:00 **24 golf course, credit -- you know -- revenue received from**  
 14:40:05 **25** golf course, revenue credit receivable.

14:40:09 **1 I don't know what year it started, pre-2009, that**  
 14:40:12 **2 amount would grow and grow and grow, and by the time our**  
 14:40:16 **3 audit year, that amount of the receivable was actually**  
 14:40:21 **4 exceeding the amount of revenue in any given year, so**  
 14:40:26 **5 through conversation and discussion with Ms. Pasqua and**  
 14:40:30 **6 Ms. Browne the golf course operator, Mr. Davenport, was**  
 14:40:34 **7 actually part of the conversation at one point, that**  
 14:40:40 **8 there were no amounts owed.**  
 14:40:42 **9 Q.** Okay. So what you are saying, if I understand,  
 14:40:46 **10** for a number of years, as far back as you can determine,  
 14:40:57 **11** an entry due from the golf course was on the county  
 14:41:00 **12** books?  
 14:41:00 **13 A. For a number of years. Correct.**  
 14:41:02 **14 Q.** And that each year that amount would increase?  
 14:41:06 **15 A. Correct.**  
 14:41:07 **16 Q.** Okay. You did find that Samuel Klein & Company  
 14:41:18 **17** found in their audit that you have there marked PB-6  
 14:41:32 **18** that that figure was materially correct?  
 14:41:32 **19 A. They did not take an exception to it.**  
 14:41:32 **20 Q.** They did not take an exception. In fact, they  
 14:41:32 **21** didn't take an exception in 2010?  
 14:41:34 **22 A. Correct.**  
 14:41:35 **23 Q.** They didn't take an exception in 2009?  
 14:41:37 **24 A. To the best of my knowledge, yes.**  
 14:41:39 **25 Q.** Now, in your discussions with John Davenport and

14:42:51 **1** \$1,836,041.43 missing someplace, disappeared in the air?  
 14:42:55 **2 A. Again, I can't determine that.**  
 14:42:57 **3 Q.** You can't determine that.  
 14:42:59 **4** You don't find that a little curious that you  
 14:43:04 **5** would change an accounts receivable balance from  
 14:43:09 **6** \$1,836,041.43 to zero and not worry about whether there  
 14:43:11 **7** was missing money?  
 14:43:11 **8 A. Again, when you say "missing," I guess it's all**  
 14:43:14 **9 defined.**  
 14:43:14 **10 It appears that the agreement -- there was no one**  
 14:43:19 **11 at the county that understood the agreement, so a**  
 14:43:22 **12 receivable balance was set up when it shouldn't have**  
 14:43:26 **13 been, so all the money that I could ascertain from my**  
 14:43:29 **14 audit year, 2012, is that all the receipts and**  
 14:43:36 **15 disbursements were accounted for within a bank account**  
 14:43:39 **16 within the county.**  
 14:43:40 **17 Q.** So this is, basically, a bookkeeping entry.  
 14:43:44 **18** Correct?  
 14:43:45 **19 A. It's an entry that was recorded in the general**  
 14:43:47 **20 ledger.**  
 14:43:48 **21 Q.** Bookkeeping adjustment that you felt should be  
 14:43:50 **22** made in your professional judgment?  
 14:43:53 **23 A. In my professional judgment there did not appear**  
 14:43:57 **24 to be an accounts receivable from the golf course.**  
 14:43:58 **25 Q.** The same way for the transportation, in your

14:41:43 **1** the ladies from finance, you determined that this went  
 14:41:47 **2** back a number of years. Correct?  
 14:41:51 **3 A. I am sorry.**  
 14:41:52 **4 I believe I said "yes" before.**  
 14:41:53 **5 Q.** "Yes." Okay.  
 14:41:55 **6** I am going back to the same topic, I apologize,  
 14:41:58 **7** lawyers sometimes do that.  
 14:41:59 **8** Do you know how many previous accountants there  
 14:42:02 **9** were before Samuel Klein that blessed that figure?  
 14:42:06 **10 A. I think at least one.**  
 14:42:07 **11 Q.** At least one. Okay.  
 14:42:09 **12** Could there have been more maybe?  
 14:42:11 **13 A. I don't know.**  
 14:42:11 **14 Q.** And nobody took exception to it. Right?  
 14:42:16 **15** And based upon your discussions with John  
 14:42:20 **16** Davenport, Kim Browne and Margaret Pasqua, you decided  
 14:42:24 **17** it should be restated as zero?  
 14:42:26 **18 A. In discussions with the prior auditor.**  
 14:42:28 **19 Q.** Right. Okay. Even though he felt initially in  
 14:42:31 **20** 2011 it should be this one million dollar figure,  
 14:42:38 **21** \$1,836,041.43?  
 14:42:38 **22 A. Correct.**  
 14:42:39 **23 Q.** He changed his mind. Right?  
 14:42:43 **24** MR. GANTNER: Objection.  
 14:42:44 **25 Q.** Did the county lose any money? Is there

14:44:01 **1** professional opinion this was a bookkeeping entry?  
 14:44:04 **2 A. The county did not provide any evidence which**  
 14:44:09 **3 supported those amounts.**  
 14:44:10 **4 Q.** Very interesting, you said there was nobody in  
 14:44:15 **5** the county that knew how the golf course contract was  
 14:44:19 **6** supposed to work. Is that what you said?  
 14:44:21 **7 A. When we talked to Ms. Pasqua and Ms. Browne and**  
 14:44:24 **8 Mr. Davenport, they could not explain to me or justify**  
 14:44:29 **9 or provide me any evidence in which why that accounts**  
 14:44:34 **10 receivable would be recorded from year to year.**  
 14:44:36 **11 Q.** Okay. Is that what you meant by "they didn't  
 14:44:40 **12** understand how the contract worked"?  
 14:44:42 **13 A. Yes.**  
 14:44:43 **14 Q.** And did you talk to the freeholders about how  
 14:44:48 **15** that contract was supposed to work?  
 14:44:50 **16 A. I did not.**  
 14:44:51 **17 Q.** Did you talk to the county counsel about how that  
 14:44:53 **18** contract was supposed to work?  
 14:44:55 **19 A. I did not.**  
 14:44:56 **20 Q.** You just fixed the books the way you thought it  
 14:44:59 **21** should be?  
 14:45:00 **22** MR. GANTNER: Objection.  
 14:45:01 **23 Q.** You just adjusted the books the way you thought  
 14:45:04 **24** they should be adjusted?  
 14:45:05 **25 A. There was no evidence -- there is no audit**

14:45:08 **1** evidence that the finance department could provide me  
 14:45:10 **2** that would justify that receivable balance remaining.  
 14:45:14 **3** Q. Now, this was earlier this year, correct, you had  
 14:45:17 **4** this discussion?  
 14:45:18 **5** A. I think the initial discussion that we had was  
 14:45:20 **6** mid January 2013.  
 14:45:22 **7** Q. Okay.  
 14:45:22 **8** A. We had a supplemental discussion in February and  
 14:45:26 **9** March 2013.  
 14:45:26 **10** Q. So just describe for us the audit process, all  
 14:45:32 **11** right, at some point, I mean, I assume you have initial  
 14:45:36 **12** discussions with people. Right? "Yes"?  
 14:45:40 **13** You shook your head. I didn't hear it.  
 14:45:41 **14** A. I'm sorry. Initial discussions with who?  
 14:45:43 **15** Q. With people in the county who were involved in  
 14:45:45 **16** the audit process.  
 14:45:48 **17** A. We have many discussions.  
 14:45:50 **18** Q. Many discussions with different people. Okay.  
 14:45:52 **19** And then you go out and you continue your  
 14:45:55 **20** examination. Correct?  
 14:45:59 **21** Yes, the only reason -- I am not trying to be  
 14:46:03 **22** difficult -- but the court reporter has to take "yes" or  
 14:46:06 **23** "no," and I couldn't hear you.  
 14:46:07 **24** A. I guess I am not sure what your question is.  
 14:46:10 **25** Q. It's a generic general question about how the

14:46:13 **1** audit process works.  
 14:46:15 **2** A. Okay.  
 14:46:16 **3** Q. At some point you initially meet with people  
 14:46:19 **4** about different areas that you are going to review.  
 14:46:24 **5** Correct?  
 14:46:24 **6** A. Correct.  
 14:46:25 **7** Q. Okay. And maybe you developed concerns or have  
 14:46:31 **8** concerns or questions. Correct?  
 14:46:32 **9** A. Correct.  
 14:46:33 **10** Q. Then you actually go out and take a look at books  
 14:46:40 **11** and records. Correct?  
 14:46:42 **12** A. When you say "go out," I mean there is a number  
 14:46:45 **13** of records that are maintained within this building, so  
 14:46:48 **14** there are many records in which we don't go out and look  
 14:46:51 **15** at. We do a lot of our audit from the finance office.  
 14:46:57 **16** Q. I will take the word "out" out.  
 14:47:00 **17** You look at books and records wherever they are  
 14:47:03 **18** located?  
 14:47:03 **19** A. Yes.  
 14:47:03 **20** Q. You might go back and ask some more questions?  
 14:47:14 **21** A. Correct.  
 14:47:14 **22** Q. At some point when you begin to finalize in your  
 14:47:14 **23** own mind the conclusions, before you articulate them as  
 14:47:16 **24** either a material weakness or an audit comment, is it  
 14:47:23 **25** the process that you would talk to the people affected,

14:47:31 **1** the people in the finance department?  
 14:47:33 **2** A. Are you referring to globally or something  
 14:47:35 **3** specific?  
 14:47:36 **4** Q. Generically. I am looking for the process now.  
 14:47:38 **5** A. Generically all throughout the process if we find  
 14:47:41 **6** an issue, we try to talk about it during the time we are  
 14:47:45 **7** doing the work.  
 14:47:46 **8** Q. Right.  
 14:47:47 **9** A. And at the end when we finalize everything, we  
 14:47:50 **10** provide the client with a draft of the report and the  
 14:47:54 **11** finance, but throughout the process if we find a  
 14:47:57 **12** problem -- so specifically the golf course, that was  
 14:48:00 **13** discussed on numerous occasions, and I provided them  
 14:48:04 **14** with my final determination.  
 14:48:06 **15** I didn't believe there was audit evidence to  
 14:48:08 **16** support that receivable.  
 14:48:10 **17** Q. Okay. So now when you provide the client with a  
 14:48:15 **18** draft of your comments, is there then generally a  
 14:48:20 **19** meeting with somebody to discuss that draft?  
 14:48:23 **20** A. Yes.  
 14:48:24 **21** Q. Okay. And at that meeting would the client and,  
 14:48:31 **22** say, the finance department, would they have an  
 14:48:33 **23** opportunity to talk to you again about your comments and  
 14:48:38 **24** go back and forth with you and try to convince you of  
 14:48:44 **25** something one way or another or resolve the issues with

14:48:47 **1** you?  
 14:48:47 **2** A. We do have an exit conference with management.  
 14:48:51 **3** Q. And did you not before suggest before that some  
 14:48:56 **4** issues might be received at that exit conference and  
 14:49:00 **5** resolved in comments not being included from the audit  
 14:49:04 **6** because of explanations it would receive?  
 14:49:06 **7** A. Is your question did I say that?  
 14:49:09 **8** Q. Okay. My question is, does that happen after an  
 14:49:15 **9** exit interview?  
 14:49:16 **10** MR. GANTNER: Objection.  
 14:49:17 **11** I don't understand.  
 14:49:18 **12** Does what happen when?  
 14:49:20 **13** MR. FLORIO: Sustained.  
 14:49:20 **14** Q. I will ask it again.  
 14:49:23 **15** At or after the audit conference, does it happen  
 14:49:32 **16** that comments that you have drafted are changed as a  
 14:49:37 **17** result of the discussions with the people with whom you  
 14:49:39 **18** will meet?  
 14:49:40 **19** MR. GANTNER: I still don't quite understand  
 14:49:42 **20** it.  
 14:49:42 **21** Is the question generally or in this case?  
 14:49:45 **22** MR. DESAPIO: Generally.  
 14:49:46 **23** MR. GANTNER: Generally. Okay.  
 14:49:48 **24** MR. DESAPIO: Generally.  
 14:49:49 **25** MR. FLORIO: You can answer.

14:49:50 **1 A. So generally speaking, we provide a draft of the**  
 14:49:54 **2 report and the comments to management prior to meeting**  
 14:49:57 **3 them. Then we will schedule an exit conference to**  
 14:50:00 **4 discuss with management the financial statements and the**  
 14:50:04 **5 findings.**

14:50:05 **6 The exit conference is generally the time in**  
 14:50:08 **7 which, if there is additional information that can be**  
 14:50:10 **8 provided to us, to support why something shouldn't be a**  
 14:50:14 **9 comment or to support why something in the report is not**  
 14:50:18 **10 correct, that is generally the place for management to**  
 14:50:22 **11 discuss that.**

14:50:24 **12 If they need more time to look into matters more,**  
 14:50:29 **13 we don't finalize the report until they have had that**  
 14:50:32 **14 time so that they feel comfortable with the report.**

14:50:35 **15** MR. GANTNER: Excuse me.

14:50:36 **16** Mr. DeSapio.

14:50:37 **17** MR. DESAPIO: Yes.

14:50:37 **18** MR. GANTNER: May we take a two-minute  
 14:50:40 **19** break.

14:50:40 **20** MR. FLORIO: Sure.

14:50:40 **21** MR. DESAPIO: Sure.

14:50:41 **22** MR. FLORIO: Let's take five.

14:50:42 **23** (Whereupon, a short recess is taken.)

14:50:42 **24** MR. FLORIO: We are ready if you are ready,

14:50:42 **25** Mr. DeSapio.

15:01:03 **1 A. Those accounts receivable?**

15:01:04 **2 Q.** Yes.

15:01:05 **3 A. Talking about --**

15:01:08 **4 Q.** The ones that are mentioned in item number one  
 15:01:12 **5** that we are talking about now, did you get a sense --  
 15:01:15 **6** you have already testified that a couple of them went  
 15:01:18 **7** back at least to 2009, if not earlier.

15:01:22 **8 A. I had already discussed those items with Ms.**  
 15:01:25 **9 Pasqua and Ms. Browne.**

15:01:32 **10 Q.** Now, amounts due from engineering, can you  
 15:01:38 **11** describe for us -- it's the third thing in item number  
 15:01:44 **12** one -- under "Current Fund, Revenue Accounts Receivable"  
 15:01:47 **13** engineering fees were reported at 24,466.30 as of  
 15:01:52 **14** December 31, 2011, but should have been zero.

15:01:56 **15** Do you see where I am at?

15:01:57 **16 A. Yes.**

15:01:57 **17 Q.** Okay. Was that figure, the 23,000 -- excuse  
 15:02:05 **18** me -- 24,466.30, was that also a figure that's included  
 15:02:14 **19** in Samuel Klein's 2011 audit?

15:02:14 **20 A. Correct.**

15:02:16 **21 Q.** That's a figure that they found was materially  
 15:02:21 **22** correct?

15:02:21 **23 A. They didn't take exception to it.**

15:02:23 **24 Q.** They didn't take exception to it.

15:02:28 **25** Now, describe what that account is.

14:59:15 **1 Q.** I think we left off by asking about -- we were  
 14:59:18 **2** talking about the process, and we were talking about the  
 14:59:20 **3** exit interview where you circulated a draft of your  
 14:59:26 **4** proposed comments, and I think the question that was  
 14:59:31 **5** pending was to the effect of, do your comments ever get  
 14:59:37 **6** adjusted or changed as a result of your meeting to  
 14:59:42 **7** discuss the draft?

14:59:44 **8 A. If additional information is provided to us so**  
 14:59:48 **9 that the findings are inaccurate, then the findings**  
 14:59:53 **10 would be modified.**

14:59:53 **11 Q.** In this particular case -- now I am going to talk  
 14:59:56 **12** specifically about H-3, right -- did you have an exit  
 15:00:11 **13** interview with someone with whom you circulated a draft  
 15:00:13 **14** of your comments?

15:00:19 **15** H-3 is your --

15:00:21 **16 A. H-3 and H-2 were discussed with management.**

15:00:26 **17 Q.** Okay. Now, when you say "with management," that  
 15:00:31 **18** wasn't with Ms. Pasqua and Ms. Browne. Correct?

15:00:34 **19 A. Correct.**

15:00:34 **20 Q.** And that was with who?

15:00:37 **21 A. Cindy Yard, Shana Taylor, Lou Garbaccio and Fred**  
 15:00:46 **22 Tompkins.**

15:00:46 **23 Q.** Now, did you get a sense that any one of those  
 15:00:53 **24** four people were aware of the history of how these  
 15:00:59 **25** accounts receivable were set up?

15:02:32 **1 A. That one specifically is moneys that are retained**  
 15:02:35 **2 by the engineering department and then turned over on a**  
 15:02:37 **3 monthly basis, so this one specifically, they cut a**  
 15:02:41 **4 check at the end of the month, it was an outstanding**  
 15:02:43 **5 check on their records, and it was a deposit in transit**  
 15:02:47 **6 on the county's records, so the cash should have been**  
 15:02:50 **7 zero on the engineer's office because it was a deposit**  
 15:02:53 **8 in transit in the county's current fund, so it was**  
 15:02:56 **9 already being accounted for, so there was no receivable.**

15:02:59 **10 Q.** So to simplify it for me, in December of 2011,  
 15:03:06 **11** the engineering department drew a check to the county  
 15:03:10 **12** for twenty-four four sixty-six thirty, correct, December  
 15:03:15 **13** of 2011?

15:03:15 **14 A. They had a check, yes.**

15:03:18 **15 Q.** Okay. Now, because the check had not been cashed  
 15:03:22 **16** yet it still showed up on their books as them owing the  
 15:03:26 **17** county that amount of money?

15:03:27 **18 A. It showed up as being "paid," so on their bank**  
 15:03:31 **19 reconciliation there was an outstanding check, the**  
 15:03:32 **20 county on the other side accounted for as a deposit in**  
 15:03:37 **21 transit, so the deposit in transit is an increase to**  
 15:03:41 **22 cash on the county's side, so you can't have cash in**  
 15:03:44 **23 both places necessarily. The reconciling items have to**  
 15:03:47 **24 reconcile between each other.**

15:03:49 **25 Q.** So what you are saying is that over in the

15:03:53 **1** finance department they knew this check had come in and  
 15:03:58 **2** they noted it as a "deposit in transit" because it  
 15:04:03 **3** hadn't cleared yet?  
 15:04:04 **4** **A. Correct.**  
 15:04:04 **5** **Q. Correct?**  
 15:04:06 **6** So they and the auditors said, "Well, the  
 15:04:10 **7** engineer's department owes that amount of money," they  
 15:04:14 **8** and Samuel Klein said, "The engineering department owes  
 15:04:18 **9** that amount of money," and when you went back and looked  
 15:04:22 **10** at the paper trail, said it looked at zero.  
 15:04:26 **11** Is that all this one is, this number three?  
 15:04:28 **12** **A. I don't know what they said. I can't testify as**  
 15:04:30 **13** **to what they said, but what I can say is that the**  
 15:04:34 **14** **engineer's department, whether they cut the check on**  
 15:04:37 **15** **January 2nd or not, the date of the check, December 31st**  
 15:04:41 **16** **is the outstanding item.**  
 15:04:43 **17** **The finance department on their current bank**  
 15:04:46 **18** **statements had it as part of the deposit in transit, so**  
 15:04:49 **19** **it's part of cash at that point. At that point there is**  
 15:04:52 **20** **no amount due, because it's technical, whether you**  
 15:04:54 **21** **deposit it on January 3rd or 4th, you are recording it**  
 15:04:58 **22** **as an amount in transit.**  
 15:04:59 **23** **Q. Okay. So I mean, is it fair to say that one**  
 15:05:03 **24** **isn't a big issue?**  
 15:05:06 **25** **A. It's cumulatively part of the overall funding.**

15:05:10 **1** **It's not as significant as some of the other items.**  
 15:05:13 **2** **Q. Okay.**  
 15:05:17 **3** MR. FLORIO: Can I get a clarification,  
 15:05:19 **4** Counsel, based on that last statement?  
 15:05:23 **5** Mr. Gannon, when you said "it's not as big  
 15:05:26 **6** as some of the others," are you talking specifically in  
 15:05:30 **7** the 2012 one or throughout the entire report?  
 15:05:33 **8** **A. A part of 2012 one.**  
 15:05:41 **9** **Q. I am just curious, you said, "a number of these**  
 15:05:47 **10** **things," wouldn't this one for the engineering, a number**  
 15:05:48 **11** **of these things are going back a number of years.**  
 15:05:51 **12** **Correct?**  
 15:05:51 **13** **A. Specifically?**  
 15:05:52 **14** **Q. A number of these things, current fund**  
 15:05:54 **15** **adjustments, these issues that you are relating, you**  
 15:05:59 **16** **identified as going back a number of years as far as how**  
 15:06:02 **17** **they were handled?**  
 15:06:03 **18** MR. GANTNER: Objection.  
 15:06:03 **19** He asked for specification, and the question  
 15:06:05 **20** was just repeated.  
 15:06:07 **21** MR. FLORIO: Sustained.  
 15:06:09 **22** **Q. Okay. In regard to number one, Consolidated**  
 15:06:18 **23** **Transportation -- in regard to issue number one, 2012-1,**  
 15:06:24 **24** **all right, the accounts receivable for Hunterdon County**  
 15:06:28 **25** **Consolidated Transportation System, you said the way**

15:06:31 **1** that was reported went back a number of years. Correct?  
 15:06:37 **2** **A. Appear to remain unchanged from December 31,**  
 15:06:43 **3** **2009.**  
 15:06:44 **4** **Q. You testified that that was something that you**  
 15:06:49 **5** **tracked back, and it went back to '09, you said?**  
 15:06:52 **6** **A. 2009.**  
 15:06:53 **7** **Q. I am sorry. Okay.**  
 15:06:55 **8** Now, do you know when Margaret Pasqua became the  
 15:06:59 **9** county treasurer?  
 15:07:00 **10** **A. I am not aware of the date.**  
 15:07:01 **11** **Q. Not aware of the date.**  
 15:07:03 **12** You have no idea in context of all this  
 15:07:07 **13** presentation when she became the county treasurer?  
 15:07:13 **14** **A. I don't want to be guessing as to the date.**  
 15:07:14 **15** **Q. All right.**  
 15:07:15 **16** **A. Could you let me know?**  
 15:07:16 **17** **Q. Well, I am anticipating an objection, so I will**  
 15:07:21 **18** **leave it to abide the event later on for further**  
 15:07:26 **19** **testimony.**  
 15:07:27 **20** All right. Now let's go to the fourth one,  
 15:07:32 **21** Revenue Accounts Receivable, golf course was reported at  
 15:07:34 **22** 125,000 as of December 31st, 2011, but should have been  
 15:07:38 **23** zero."  
 15:07:40 **24** Do you want to explain that one?  
 15:07:47 **25** **A. That again is an amount that had been reported**

15:07:51 **1** **since 2009. Again, when I asked the question of Ms.**  
 15:07:54 **2** **Pasqua and Ms. Browne, they couldn't provide adequate**  
 15:07:57 **3** **information. That is one of the things they actually**  
 15:08:06 **4** **had John Davenport come down and talk to me about.**  
 15:08:06 **5** **The discussion, they thought it was when they**  
 15:08:07 **6** **first set up the county golf course, they bought**  
 15:08:10 **7** **equipment or other stuff for the golf pro shop that the**  
 15:08:16 **8** **\$125,000 might have related to that, but that there was**  
 15:08:20 **9** **no money going to be coming back to the county as a**  
 15:08:23 **10** **result.**  
 15:08:23 **11** **Q. So that went also back a number of years as**  
 15:08:27 **12** **reported to you?**  
 15:08:27 **13** **A. Correct.**  
 15:08:28 **14** **Q. Okay. It went back a number of years so far that**  
 15:08:32 **15** **nobody that was in that meeting could tell you when and**  
 15:08:39 **16** **how it even got set up. Right?**  
 15:08:41 **17** **A. That was discussed specifically with Ms. Pasqua**  
 15:08:43 **18** **and Ms. Browne and Mr. Davenport at the conclusion of**  
 15:08:46 **19** **that meeting.**  
 15:08:46 **20** **No, I thought there was an agreement that there**  
 15:08:51 **21** **is no evidence to have that amount set up as a**  
 15:08:54 **22** **receivable.**  
 15:08:54 **23** **Q. Okay. And in a note that's in the discovery**  
 15:09:03 **24** **package or the work papers that I was given today, it**  
 15:09:07 **25** **says, and I am looking at page -- these are not**

15:09:11 1 numbered, so I am looking at Page 2 right off the top of  
 15:09:16 2 the packet, it says, "County of Hunterdon, Restatement  
 15:09:19 3 Memorandum, December 31, 2012, Page 2, item number  
 15:09:23 4 four."  
 15:09:23 5 **A. Uh-huh.**  
 15:09:24 6 **Q.** "This receivable remains unchanged since December  
 15:09:28 7 31st, 2009."  
 15:09:30 8 You mean at least since that date. Correct?  
 15:09:32 9 **A. Correct.**  
 15:09:32 10 **Q.** You didn't look back further than that. Right?  
 15:09:35 11 **A. I don't recall if I looked back further than**  
 15:09:37 12 **that.**  
 15:09:38 13 **Q.** This related to equipment that was purchased by  
 15:09:41 14 the county when the golf course was established that the  
 15:09:44 15 county owns.  
 15:09:45 16 Do you know when the golf course was established?  
 15:09:48 17 **A. The specific date I do not.**  
 15:09:49 18 **Q.** Did they tell you it was a number of years ago?  
 15:09:51 19 **A. My recollection, it's a number of years ago.**  
 15:09:53 20 **Q.** A number of years ago.  
 15:09:54 21 That's been on the county books for a number of  
 15:09:57 22 years. Right?  
 15:09:58 23 **A. It's been reported incorrectly.**  
 15:09:59 24 **Q.** It's been reported incorrectly.  
 15:10:02 25 But had any other auditor ever identified it as

15:11:37 1 **A. Correct.**  
 15:11:38 2 **Q.** Okay. Now, with the "Trust Fund," which is the  
 15:11:42 3 next thing there, "County Clerk Trust Fund," who  
 15:11:49 4 maintains the county clerk trust fund?  
 15:11:53 5 **A. The County Clerk Trust Found is a component of**  
 15:11:55 6 **the trust fund maintained by the finance department.**  
 15:11:59 7 **The accounting records are maintained by the finance**  
 15:12:02 8 **department. It's within the general ledger.**  
 15:12:18 9 **Q.** Now, you're determining that in Samuel Klein's  
 15:12:39 10 audit, 2011 audit, they reported it as zero, but it  
 15:12:46 11 should have been at \$457,523.31?  
 15:12:52 12 **A. Correct.**  
 15:12:52 13 **Q.** Correct. Okay.  
 15:12:54 14 Now, did you ever look at the county financial  
 15:13:02 15 statement for that year prepared by Margaret Pasqua?  
 15:13:05 16 **A. You mean the unaudited financial statement?**  
 15:13:07 17 **Q.** Yes.  
 15:13:09 18 **A. Yes, I did.**  
 15:13:09 19 **Q.** Okay. And what did it show?  
 15:13:11 20 **A. It was included.**  
 15:13:12 21 **Q.** It was the correct amount?  
 15:13:14 22 **A. In the unaudited financial statement. Correct.**  
 15:13:17 23 **Q.** So what are you criticizing? Are you criticizing  
 15:13:22 24 Ms. Pasqua in this comment?  
 15:13:23 25 **A. I am not criticizing anybody. I am just stating**

15:10:05 1 something that ought to be restated to zero?  
 15:10:09 2 **A. I am not aware of that one way or the other.**  
 15:10:11 3 **Q.** Okay. Samuel Klein & Company didn't indicate  
 15:10:14 4 that. Correct?  
 15:10:15 5 **A. Didn't appear so.**  
 15:10:16 6 **Q.** Okay. So now the fifth little bullet there with  
 15:10:28 7 the circle, "Reserve for Receivables were reported at  
 15:10:34 8 \$2,420,608.46 as of December 31st, but should have been  
 15:10:39 9 \$274,535.96.  
 15:10:39 10 Now, that's not a new item, right, that's just a  
 15:10:42 11 summary of the previous four things that you reported?  
 15:10:45 12 **A. Correct. That's the offset of all the other**  
 15:10:48 13 **activity.**  
 15:10:49 14 **Q.** So when you add them all up, you add them all up,  
 15:10:53 15 that's the offset. Right?  
 15:10:56 16 **A. Correct.**  
 15:10:56 17 **Q.** Okay. So is it fair to describe the first four  
 15:11:06 18 bullet items as being your firm cleaning up some things  
 15:11:14 19 that were on the county's books and records for a number  
 15:11:17 20 of years and restating them to what they should be?  
 15:11:22 21 **A. That is -- those are items that we could not find**  
 15:11:25 22 **adequate audit evidence to suggest that they were**  
 15:11:29 23 **appropriate.**  
 15:11:30 24 **Q.** Okay. So you restated them to zero, each of  
 15:11:37 25 them?

15:13:26 1 **the external financial statements that were published**  
 15:13:28 2 **were incorrect.**  
 15:13:29 3 **Q.** Okay. But the external financial statements were  
 15:13:32 4 prepared by Klein. Correct?  
 15:13:35 5 **A. The external -- all financial statements are the**  
 15:13:38 6 **responsibility of management. Auditors -- the**  
 15:13:43 7 **presentation of financial statements are the**  
 15:13:44 8 **responsibility of management.**  
 15:13:46 9 **Q.** But I want to be very clear on this one.  
 15:13:48 10 You looked at the financial statement prepared by  
 15:13:53 11 Margaret Pasqua, and it showed that the County Clerk  
 15:13:58 12 Trust Fund Cash and Reserve balance was 457,523.31?  
 15:14:04 13 **A. The unaudited financial statement presented did**  
 15:14:07 14 **include that number.**  
 15:14:08 15 **Q.** So she had the correct figure?  
 15:14:10 16 **A. In the unaudited financial statement.**  
 15:14:12 17 **Q.** Then the auditor comes in, Samuel Klein, and he  
 15:14:17 18 says it should have been zero. Correct?  
 15:14:21 19 **A. He did not report a balance.**  
 15:14:31 20 **Q.** He did not report a balance.  
 15:14:31 21 I am sorry to laugh. I apologize. That was  
 15:14:31 22 rude.  
 15:14:31 23 **A. I don't know that it should have been zero; he**  
 15:14:33 24 **didn't report a balance.**  
 15:14:34 25 **Q.** In his audit he reported it as zero?



15:14:41 **1 A. Financial statements that were presented -- the**  
 15:14:47 **2 external financial statements that were presented and**  
 15:14:50 **3 prepared did not include that balance of which Samuel**  
 15:14:54 **4 Klein & Company opined upon.**  
 15:14:55 **5 Q.** Okay. And they opined that it should be zero.  
 15:14:59 **6** They opined that zero --  
 15:15:02 **7 A. They didn't modify their opinion.**  
 15:15:04 **8 Q.** And what you are saying now is Margaret Pasqua  
 15:15:09 **9** had it correct, Samuel Klein opined that it was zero,  
 15:15:12 **10** and you want to put back a figure that Margaret Pasqua  
 15:15:15 **11** had originally?  
 15:15:18 **12** MR. GANTNER: Objection.  
 15:15:19 **13** MR. DESAPIO: What's the objection?  
 15:15:21 **14** MR. FLORIO: Counsel.  
 15:15:22 **15** MR. GANTNER: She didn't have it originally.  
 15:15:24 **16** She had a separate financial statement which  
 15:15:27 **17** the figure was correct, and then signed off on the  
 15:15:29 **18** incorrect number, and that's what he is talking about  
 15:15:33 **19** here, the number was incorrect in the audit.  
 15:15:35 **20** MR. DESAPIO: I didn't hear any testimony  
 15:15:37 **21** about her signing off on anything.  
 15:15:38 **22** Where does the word "sign off" come in? I  
 15:15:42 **23** asked him a question.  
 15:15:43 **24 Q.** The question I asked him was, Margaret Pasqua had  
 15:15:46 **25** the correct figure in her unaudited financial statement.

15:16:53 **1 Q.** Which she prepared?  
 15:16:53 **2 A. She prepared the unaudited financial statement.**  
 15:16:59 **3 Q.** So isn't it the case if there is a concern about  
 15:17:03 **4** this item it's a concern with Samuel Klein?  
 15:17:07 **5** MR. GANTNER: Objection.  
 15:17:08 **6** MR. FLORIO: Overruled.  
 15:17:10 **7 A. It kind of gets back to one of the original**  
 15:17:13 **8 things we talked about, were the financial statements**  
 15:17:15 **9 the responsibility of management.**  
 15:17:18 **10 I will read it again, but the presentation of the**  
 15:17:20 **11 financial statements are the responsibility of**  
 15:17:22 **12 management, and the auditor must do an audit to provide**  
 15:17:26 **13 an opinion on those financial statements.**  
 15:17:28 **14 Q.** Uh-huh. Okay.  
 15:17:30 **15** So let's go back a little earlier.  
 15:17:33 **16** You want to restate that and make all these  
 15:17:35 **17** figures zero and whatever.  
 15:17:41 **18** If the current finance people or my clients, if  
 15:17:44 **19** they restate them to the way you want them, and another  
 15:17:48 **20** auditor comes in a year from now and says, "Wiss was  
 15:17:54 **21** wrong," who made the mistake, you or them, for adjusting  
 15:18:00 **22** the books?  
 15:18:02 **23 A. Well, I think -- if the numbers are inaccurate,**  
 15:18:06 **24 the financial statements are the responsibility of**  
 15:18:08 **25 management, so they are at fault.**

15:15:50 **1** Correct?  
 15:15:51 **2 A. It was in her unaudited financial statement,**  
 15:15:54 **3 correct.**  
 15:15:54 **4 Q.** So Samuel Klein comes in -- and I am not quite  
 15:15:57 **5** sure what you are saying -- but in his audit, in his  
 15:16:01 **6** audit they put the figure down as zero. Correct?  
 15:16:05 **7 A. In the financial statements in which they opined**  
 15:16:07 **8 upon that number is zero.**  
 15:16:09 **9 Q.** Okay. And now you are saying that Margaret  
 15:16:13 **10** Pasqua's original figure was correct?  
 15:16:15 **11 A. The number she reported on the unaudited**  
 15:16:20 **12 financial statement was correct.**  
 15:16:21 **13 Q.** You want to put -- you're saying -- strike it --  
 15:16:24 **14** should be put back at the figure she had originally?  
 15:16:26 **15** MR. GANTNER: Objection.  
 15:16:28 **16** There is no "putting back." I don't even  
 15:16:29 **17** understand.  
 15:16:30 **18 Q.** It should be restated at the figure she had  
 15:16:36 **19** originally?  
 15:16:36 **20 A. The balance as reported in the external financial**  
 15:16:40 **21 statement at 12/31/11 was incorrect.**  
 15:16:43 **22 Q.** Right. And it should be restated at the figure  
 15:16:47 **23** she had originally?  
 15:16:48 **24 A. It should be restated to the amount that was**  
 15:16:50 **25 included in the unaudited financial statements.**

15:18:09 **1 If the auditor opines on it and it's material,**  
 15:18:13 **2 then the auditor also has some fault because their**  
 15:18:18 **3 opinion may be not correct.**  
 15:18:20 **4 Q.** Okay. And is it not the case in regard to every  
 15:18:24 **5** one of these items here in number one, Samuel Klein  
 15:18:32 **6** opined on it?  
 15:18:33 **7 A. All these amounts were included in those**  
 15:18:36 **8 financial statements that will be Samuel Klein.**  
 15:18:38 **9 Q.** You are adjusting Samuel Klein's audited account  
 15:18:42 **10** balances?  
 15:18:43 **11 A. I am adjusting the county's financial statements.**  
 15:18:47 **12 Q.** Well, it says here under "Condition," in  
 15:18:50 **13** December -- on that Page 169, second paragraph --  
 15:18:54 **14** "During our audit we noted several instances in which  
 15:18:54 **15** December 31, 2011 audited account balances were required  
 15:18:58 **16** to be restated because they were not materially  
 15:19:02 **17** accurate."  
 15:19:02 **18** "Audited account balances," who did the audit was  
 15:19:06 **19** Samuel Klein?  
 15:19:07 **20 A. Samuel Klein did do the audit.**  
 15:19:09 **21 Q.** All right.  
 15:19:10 **22** Now let's take the next one, "Planning Board."  
 15:19:29 **23** "The 2011 audit reported that developer's escrow  
 15:19:39 **24** fund cash and reserve at zero." Right?  
 15:19:43 **25 A. Correct.**

15:19:43 **1** Q. Now, that cash and reserve account, who is that  
 15:19:48 **2** maintained by?  
 15:19:49 **3** **A. That's a trust fund within the overall trust fund**  
 15:19:52 **4 that's maintained by the finance department.**  
 15:19:53 **5** Q. All right.  
 15:19:55 **6** Now, did you look at the unaudited financial  
 15:20:00 **7** statement that Margaret Pasqua did for the year 2011 in  
 15:20:05 **8** which she had reflected as the balance?  
 15:20:06 **9** **A. Yes, I did.**  
 15:20:14 **10** Q. And was it the 5,147.38?  
 15:20:14 **11** **A. Yes, it was.**  
 15:20:14 **12** Q. Okay. Is this another instance where she had the  
 15:20:15 **13** correct figure, and at the end of the year Samuel Klein  
 15:20:18 **14** opined that it should be zero, and it was changed to  
 15:20:21 **15** zero, and now you are saying it should be the 5,147.38?  
 15:20:26 **16** **A. It was reported correctly in the unaudited**  
 15:20:30 **17 financial statement. It was reported incorrectly within**  
 15:20:33 **18 the external financial statements.**  
 15:20:35 **19** Q. And the audit in Samuel Klein's audit?  
 15:20:38 **20** **A. Well, Samuel Klein opined on the financial**  
 15:20:41 **21 statements, and those financial statements did not**  
 15:20:42 **22 include that amount.**  
 15:20:44 **23** Q. All right.  
 15:20:44 **24** But the financial statements that Samuel Klein  
 15:20:47 **25** reviewed, what is an unaudited financial statement, the

15:20:51 **1** thing that Samuel Klein is taking a look at or you are  
 15:20:54 **2** taking a look at. Correct?  
 15:20:55 **3** **A. An unaudited financial statement is a regulatory**  
 15:20:58 **4 filing that's required to be submitted to the division**  
 15:21:01 **5 of -- of local government services, so from that, that's**  
 15:21:09 **6 an accumulation of the general ledger maintained by the**  
 15:21:12 **7 finance department.**  
 15:21:13 **8** Q. Right. So the auditor comes in, he looks at the  
 15:21:16 **9** unaudited financial statements, and he says -- either he  
 15:21:20 **10** says, "This figure is correct" or he says, "This figure  
 15:21:23 **11** should be restated," correct, one or the other, it's  
 15:21:28 **12** okay, or it's got to be modified. It's got to be  
 15:21:31 **13** changed.  
 15:21:31 **14** **A. They provide an opinion on the financial**  
 15:21:33 **15 statements.**  
 15:21:33 **16** Q. And Samuel Klein opined that her determination  
 15:21:37 **17** that this figure should be 5,147.38 was wrong, and it  
 15:21:42 **18** should be zero?  
 15:21:45 **19** **A. I don't know if that's what they opined on.**  
 15:21:48 **20** Q. Did you look at their audit?  
 15:21:50 **21** **A. I think again where we are coming up with a**  
 15:21:54 **22 difference of discussion is that I think you are**  
 15:21:56 **23 assuming this document is not the responsibility of**  
 15:21:58 **24 management.**  
 15:22:01 **25** Q. The audit is not the responsibility of

15:22:03 **1** management?  
 15:22:04 **2** **A. These financial statements are the responsibility**  
 15:22:06 **3 of management. The auditor -- depending, this has a**  
 15:22:11 **4 single audit in it, but the auditor has two to three**  
 15:22:16 **5 documents within those financial statements.**  
 15:22:19 **6** **Again if you read the first -- one of the first**  
 15:22:21 **7 paragraphs of my report, it does state, It's**  
 15:22:26 **8 management's responsibility, this is within management's**  
 15:22:28 **9 responsibility, the fair presentation of these financial**  
 15:22:30 **10 statements."**  
 15:22:30 **11** **These financial statements are not done in a**  
 15:22:32 **12 vacuum, these are the auditor's, the auditor has two to**  
 15:22:37 **13 three opinions within the documents. The financial**  
 15:22:40 **14 statements are still the responsibility of management.**  
 15:22:42 **15** Q. What does it mean for you to audit somebody's  
 15:22:45 **16** books? What does that mean to "audit"?  
 15:22:50 **17** **A. To perform tests, confirmations of amounts; it's**  
 15:22:55 **18 an involved process.**  
 15:22:56 **19** Q. Okay. So when Margaret Pasqua had on her  
 15:23:03 **20** unaudited financial statement that the planning board  
 15:23:06 **21** escrow fund balance was 5,147.38, and the auditor came  
 15:23:13 **22** in and audited it and said, "It should be zero," that's  
 15:23:20 **23** not the auditor's responsibility?  
 15:23:22 **24** **A. Well, I mean, one, I don't know if the auditor**  
 15:23:26 **25** **said, "It should be zero."**

15:23:28 **1** **The records of the finance department still**  
 15:23:30 **2 maintain those amounts. The auditor didn't say, "Remove**  
 15:23:33 **3 this from the records" and they did it. At the end of**  
 15:23:36 **4 the day those records were still within their general**  
 15:23:38 **5 ledger.**  
 15:23:40 **6** Q. What you are saying is that the Margaret Pasqua  
 15:23:45 **7** records are correct?  
 15:23:46 **8** **A. The unaudited financial statements that were**  
 15:23:49 **9 prepared are correct.**  
 15:23:50 **10** Q. And so what are you saying has restated?  
 15:23:53 **11** Aren't you saying Sam Klein's work has to be  
 15:23:56 **12** restated?  
 15:23:56 **13** **A. I'm saying the external financial statements that**  
 15:24:00 **14 were prepared have to be restated.**  
 15:24:02 **15** Q. The "external financial statements," define that  
 15:24:05 **16** for us.  
 15:24:05 **17** **A. The external financial statements are these.**  
 15:24:07 **18 This is what's required by the Division of Governmental**  
 15:24:11 **19 Services are to be issued.**  
 15:24:12 **20** Q. "These" being you are picking up PB-6 --  
 15:24:15 **21** **A. PB-6.**  
 15:24:16 **22** Q. -- which is Samuel Klein's audit. Yes?  
 15:24:20 **23** What does it say on the top of it? Read what it  
 15:24:26 **24** says on the top of it.  
 15:24:28 **25** **A. "County of Hunterdon, New Jersey, report on**

15:24:31 **1 examination of accounts for year-end 2011, Samuel Klein**  
 15:24:35 **2 & Company accounts."**  
 15:24:38 **3** MR. GANTNER: Hold on one second.  
 15:24:57 **4 Q.** So what you are saying is, or are you saying  
 15:25:02 **5** this -- correct me if I am wrong -- if the County of  
 15:25:06 **6** Hunterdon changes its books in accordance with your  
 15:25:10 **7** audit comment, right, and that turns out to be wrong,  
 15:25:16 **8** that's the management of the County of Hunterdon's  
 15:25:19 **9** problem, not yours?  
 15:25:21 **10 A. I didn't say that.**  
 15:25:22 **11 Q.** What are you saying?  
 15:25:24 **12 A. What I am saying --**  
 15:25:26 **13** MR. GANTNER: I object to "what are you  
 15:25:27 **14** saying," because he has said what he said about it, I  
 15:25:31 **15** think, three times so far.  
 15:25:33 **16** He is saying that the financial statements  
 15:25:36 **17** are the responsibility of management at the end of the  
 15:25:39 **18** day regardless of what the auditors rule.  
 15:25:44 **19** MR. DESAPIO: Let's go over this one more  
 15:25:45 **20** time, and then I will rephrase the question.  
 15:25:47 **21** MR. GANTNER: I mean I am objecting to going  
 15:25:49 **22** over it one more time.  
 15:25:50 **23** MR. FLORIO: I am going to sustain the  
 15:25:52 **24** objection because we have heard this question several  
 15:26:00 **25** times already, and I understand what counsel's point is,

15:27:37 **1** MR. DESAPIO: I will talk about him first.  
 15:27:38 **2 Q.** Are the figures that are in your comment, you  
 15:27:43 **3** said it should have been \$4,480,481.72, were they  
 15:27:49 **4** derived solely from your firm's review and observations?  
 15:27:56 **5 A. Yes.**  
 15:27:57 **6 Q.** And can you --  
 15:28:00 **7 A. Not "observing."**  
 15:28:01 **8 We reviewed actual documents that supported those**  
 15:28:05 **9 amounts.**  
 15:28:05 **10 Q.** All right.  
 15:28:07 **11** And could you say, based upon your knowledge of  
 15:28:11 **12** that account, that that would be the same when Samuel  
 15:28:15 **13** Klein did the 2011 audit, that is, those figures were  
 15:28:18 **14** based on Samuel Klein's determination?  
 15:28:20 **15** MR. GANTNER: Objection; speculation.  
 15:28:22 **16 Q.** I am asking if he could say it.  
 15:28:24 **17** MR. FLORIO: You can answer if you remember.  
 15:28:25 **18 A. I don't know how they determined their amounts.**  
 15:28:27 **19 Q.** Okay. But it wouldn't have been from the finance  
 15:28:32 **20** department?  
 15:28:32 **21 A. I don't know.**  
 15:28:34 **22 Q.** Okay. Well, did you find any evidence that the  
 15:28:36 **23** finance department maintained any accounts for the  
 15:28:38 **24** surrogate's office?  
 15:28:40 **25 A. Not through my audit.**

15:26:01 **1** what you are trying to get at.  
 15:26:03 **2 Q.** Okay. Sir, the "Surrogate's Office, guardianship  
 15:26:06 **3** account," where is that account maintained?  
 15:26:13 **4 A. At the surrogate's office.**  
 15:26:14 **5 Q.** Okay. And is that also affiliated with the  
 15:26:24 **6** Superior Court of New Jersey, the county?  
 15:26:33 **7 A. I am not positive of that answer, so I'd rather**  
 15:26:36 **8 not respond to it.**  
 15:26:37 **9 Q.** All right.  
 15:26:38 **10** The finance department, they don't maintain any  
 15:26:42 **11** books and records in regard to the surrogate's  
 15:26:47 **12** office?  
 15:26:47 **13 A. They do not.**  
 15:26:48 **14 Q.** So any figure that's included in your comment or  
 15:26:52 **15** in the audit is something which you derive or you or  
 15:26:58 **16** Samuel Klein derived from going over and reviewing their  
 15:27:03 **17** books, surrogate's books?  
 15:27:12 **18** Yes?  
 15:27:12 **19 A. What's the question?**  
 15:27:13 **20 Q.** The question is, are the figures that are  
 15:27:19 **21** reflected in your comment derived solely from you or  
 15:27:25 **22** Samuel Klein going over and looking at the surrogate's  
 15:27:29 **23** books?  
 15:27:32 **24** MR. GANTNER: Objection.  
 15:27:33 **25** He didn't work in concert with Samuel Klein.

15:28:41 **1 Q.** Okay. All right.  
 15:28:44 **2** "Engineer's Office," explain what this accounts  
 15:29:15 **3** receivable is in regard to.  
 15:29:17 **4 A. It's not accounts receivable. It's cash.**  
 15:29:19 **5 Q.** Cash. Okay.  
 15:29:20 **6** Explain why there was a mistake made there.  
 15:29:24 **7 A. Again, the cash balance should have been zero.**  
 15:29:28 **8 They reported \$55,255.21.**  
 15:29:32 **9 This was a case -- this actually was \$24,466.30,**  
 15:29:40 **10 so what -- the 55,000 is a carryover from the 2010**  
 15:29:45 **11 balance, plus this amount that was due in 2011, the**  
 15:29:49 **12 money had already been paid to the county, so the cash**  
 15:29:52 **13 balance was not correct as reported.**  
 15:29:54 **14 Q.** So what you are saying, part of it was the 24,000  
 15:29:58 **15** check in transit and part of it was the carryover from  
 15:30:01 **16** something from 2010, right, and did you talk to Mark  
 15:30:06 **17** McGuire about that?  
 15:30:07 **18 A. I spoke to Mike McGuire about that.**  
 15:30:09 **19 Q.** Mike McGuire.  
 15:30:11 **20** And what did he tell you?  
 15:30:12 **21 A. He told me it was their error.**  
 15:30:14 **22 Q.** Their error. All right.  
 15:30:23 **23** Now, would these items that you have mentioned,  
 15:30:34 **24** account balance adjustments, in and of themselves, if  
 15:30:38 **25** there was nothing else, would they be sufficient to be a

15:30:42 **1** material weakness --

15:30:43 **2** **A. Yes.**

15:30:43 **3** **Q.** -- in and of themselves?

15:30:47 **4** **A. I am sorry.**

15:30:48 **5** **Q.** I am saying leave out your comment about internal

15:30:52 **6** control with the golf course.

15:30:57 **7** In and of themselves if you had made those

15:31:00 **8** adjustments to determine that these accounts receivable

15:31:04 **9** had to be restated, would they have been a material

15:31:08 **10** weakness in and of themselves?

15:31:12 **11** **A. Yes, because each one -- I am sorry -- let me go**

15:31:15 **12** **each one -- "Current Fund," only the million-eight would**

15:31:21 **13** **have made a material weakness.**

15:31:23 **14** **For the other, the "Trust Fund," they would have**

15:31:26 **15** **been a material weakness. Each fund has its own**

15:31:29 **16** **materiality. So you have to judge materiality in**

15:31:32 **17** **context of each fund.**

15:31:35 **18** **Typically, the definition of "material weakness"**

15:31:40 **19** **there is a presumption, if prior financial statements**

15:31:43 **20** **have to be restated, it's going to be a material**

15:31:46 **21** **weakness.**

15:31:50 **22** **Q.** Okay. So you are saying then this material

15:31:55 **23** weakness -- if these accounts, balances, were there for

15:31:58 **24** a number of years, this condition was a material

15:32:02 **25** weakness for a number of years?

15:32:06 **1** **A. Not all of these accounts were errors from a**

15:32:09 **2** **number of years.**

15:32:11 **3** **Q.** Okay. Weren't the current fund ones all errors

15:32:17 **4** for a number of years?

15:32:18 **5** **A. Each one of the current fund ones were errors of**

15:32:22 **6** **a number of years.**

15:32:23 **7** **Q.** Okay. And the surrogate's office does not

15:32:26 **8** involve the finance department. Correct?

15:32:30 **9** **A. The surrogate's office does not.**

15:32:33 **10** **Again, what I keep trying to explain is that the**

15:32:38 **11** **external finance statements contain all the records of**

15:32:42 **12** **the county. Overall management has to take**

15:32:44 **13** **responsibility of the financial statements in its**

15:32:46 **14** **entirety, so someone is responsible for the preparation**

15:32:49 **15** **of the financial statements and taking the**

15:32:52 **16** **responsibility for them.**

15:32:53 **17** **So whether -- that means putting them into a**

15:32:58 **18** **controlling place to determine amounts are accurate even**

15:33:08 **19** **if departments may or may not report to a given**

15:33:08 **20** **individual.**

15:33:08 **21** **Q.** Okay. Now you are saying what makes them a

15:33:09 **22** material weakness is the issue of internal control?

15:33:13 **23** **A. That's not what I am saying.**

15:33:14 **24** **Q.** You are not saying that. Okay.

15:33:16 **25** Let's go through it again.

15:33:20 **1** These old balances under current fund that have

15:33:24 **2** been there for a number of years, would that be the fact

15:33:29 **3** that they have been there for a number of years, reflect

15:33:31 **4** that the county had a material weakness for a number of

15:33:35 **5** years which was unidentified?

15:33:37 **6** **A. Again, I can't assess whether there was a**

15:33:40 **7** **material weakness in any given year because I haven't**

15:33:43 **8** **assessed materiality in any given year.**

15:33:46 **9** **Q.** Okay. All right.

15:33:47 **10** You're finding they are a material weakness this

15:33:50 **11** year?

15:33:51 **12** **A. Correct.**

15:33:51 **13** **Q.** What makes those four things, restating those

15:33:55 **14** accounts receivable balance that have been on the books

15:33:59 **15** for a number of years, what makes them a material

15:34:02 **16** weakness this year?

15:34:04 **17** **A. One, I can only speak to this year because I was**

15:34:07 **18** **the auditor for this year, so the amounts as stated are**

15:34:11 **19** **materially inaccurate, and that's why they need to be**

15:34:14 **20** **restated, and that's why I have determined it to be a**

15:34:18 **21** **material weakness.**

15:34:19 **22** **Q.** Because of the size of them?

15:34:21 **23** **A. The dollar threshold, yes.**

15:34:26 **24** **Q.** Okay. Now, I have been asking you about the

15:34:37 **25** subheading that's labeled "Context."

15:34:41 **1** In fact, let's go back for a second.

15:34:42 **2** You keep talking about "management."

15:34:45 **3** When you are talking about "management," who are

15:34:47 **4** you referring to?

15:34:51 **5** **A. In this specific case? Like, with the finance.**

15:34:54 **6** **Q.** Just generally, when you talk about the

15:34:55 **7** "management of the county," who are you referring to?

15:35:00 **8** **A. I wasn't defining who "management" was.**

15:35:02 **9** **Q.** Well, I want to try to define who they are.

15:35:05 **10** Who is this report addressed to as far as

15:35:08 **11** management, your audit report?

15:35:10 **12** **A. The Board of Chosen Freeholders.**

15:35:12 **13** **Q.** The Board of Chosen Freeholders, because they are

15:35:15 **14** the management of the county?

15:35:16 **15** **A. They are the individuals charged with governance.**

15:35:19 **16** **Our report has to go to the charge of governance.**

15:35:22 **17** **Q.** Also does the county principal report to the

15:35:28 **18** chief executive officer of the entity, in this case, the

15:35:32 **19** county administrator?

15:35:34 **20** **A. I don't believe that's a principle.**

15:35:36 **21** **Q.** You don't believe that's the case.

15:35:38 **22** **A. You are asking me if that's an accounting**

15:35:40 **23** **principle.**

15:35:40 **24** **Q.** I am asking you whether -- I will rephrase it.

15:35:44 **25** I am asking you whether this report that you

15:35:51 **1** issued, whether the management to whom it goes were the  
 15:35:59 **2** Board of Chosen Freeholders and the county  
 15:36:01 **3** administrator?  
 15:36:02 **4** **A. Our technical responsibilities are to the Board**  
 15:36:04 **5 of Chosen Freeholders, that's who engages us. So our**  
 15:36:08 **6 report is addressed to them.**  
 15:36:09 **7** **Q.** Okay. So you refer to the county administrator  
 15:36:16 **8** on Page 181.  
 15:36:19 **9** What's the purpose for including her there?  
 15:36:35 **10** **A. The end result of our findings were discussed**  
 15:36:39 **11 with the county administrator and the Board of Chosen**  
 15:36:43 **12 Freeholders. Other than that there is no reason behind**  
 15:36:48 **13 including her there.**  
 15:36:49 **14** **Q.** Let's take a look at County-180 and read the  
 15:36:54 **15** first sentence of the last paragraph. Read it for me  
 15:37:02 **16** out loud.  
 15:37:04 **17** **A. You want me to read it?**  
 15:37:06 **18** **Q.** Please.  
 15:37:06 **19** **A. "The comments, result and recommendations are**  
 15:37:10 **20 indicative of an ongoing improvement, from the areas**  
 15:37:13 **21 discussed herein and for an administrative action on**  
 15:37:17 **22 the -- by the county administrative Board of Chosen**  
 15:37:20 **23 Freeholders."**  
 15:37:21 **24** **Q.** Now, isn't the senior management to whom your  
 15:37:25 **25** audit is addressed that group of people, the Board of

15:38:52 **1** reviewed the audit?  
 15:38:53 **2** **A. Yes.**  
 15:38:53 **3** **Q.** Are any other members of management other than  
 15:38:58 **4** the Board of Chosen Freeholders required to file that  
 15:39:01 **5** affidavit?  
 15:39:01 **6** **A. The affidavit that they read the comments and**  
 15:39:03 **7 recommendations?**  
 15:39:04 **8** **Q.** Yes.  
 15:39:05 **9** **A. I don't believe so.**  
 15:39:06 **10** **Q.** Okay. So now let's go on to this issue of  
 15:39:19 **11** internal control.  
 15:39:19 **12** I think you defined "internal control."  
 15:39:19 **13** Why don't you tell us again how you define  
 15:39:22 **14** "internal control."  
 15:39:30 **15** **A. You want me to define what a "deficiency" is,**  
 15:39:33 **16 what a "weakness" is? Is that what the question is?**  
 15:39:36 **17** **Q.** However you can answer the question, how do you  
 15:39:39 **18** define an "internal control"?  
 15:39:40 **19** **A. An internal control is in place to hopefully**  
 15:39:44 **20 mitigate errors occurring as a general definition.**  
 15:39:48 **21** **Q.** Okay. And one of your criticisms in number one  
 15:39:54 **22** is that there is inadequate internal control?  
 15:39:58 **23** **A. Correct.**  
 15:39:59 **24** **Q.** Okay. Now, how many different types of internal  
 15:40:04 **25** control systems are there in an organization, in a

15:37:29 **1** Chosen Freeholders and the county administrator?  
 15:37:30 **2** **A. No, our audit is addressed to the Board of Chosen**  
 15:37:33 **3 Freeholders.**  
 15:37:35 **4** **Q.** All right.  
 15:37:40 **5** So are you familiar with auditing concepts for  
 15:37:43 **6** private industry?  
 15:37:45 **7** **A. Not really.**  
 15:37:48 **8** **Q.** You are not familiar with who senior management  
 15:37:51 **9** then would be for private industry?  
 15:37:53 **10** **A. I do not.**  
 15:37:54 **11** **Q.** Okay. So the primary responsibility to deal with  
 15:37:59 **12** any comments in this audit is the Board of Chosen  
 15:38:04 **13** Freeholders?  
 15:38:04 **14** **A. Or their designee.**  
 15:38:09 **15** **Q.** Is there any regulatory requirement issued by the  
 15:38:19 **16** Division of Local Government Services that codifies or  
 15:38:24 **17** confirms that fact?  
 15:38:28 **18** **A. Codifies what?**  
 15:38:29 **19** **Q.** That the Board of Chosen Freeholders are  
 15:38:31 **20** responsible for dealing with the results of the audit.  
 15:38:35 **21** **A. They are required to accept the auditor at the**  
 15:38:39 **22 public meeting, and they are also required to accept the**  
 15:38:43 **23 corrective action plan if there's any findings noted.**  
 15:38:45 **24** **Q.** Are they required to file an affidavit with the  
 15:38:49 **25** Division of Local Government Services that they have

15:40:08 **1** county organization?  
 15:40:09 **2** **A. There is internal controls over revenue process,**  
 15:40:13 **3 payroll process, purchasing, accounts payable,**  
 15:40:18 **4 disbursement process, financial statement and close**  
 15:40:31 **5 process, those are the high level types of processes.**  
 15:40:34 **6** **Q.** Now, are there actually generically two types of  
 15:40:39 **7** internal controls, one that deals with the organization  
 15:40:43 **8** horizontally, that is, the integration of different  
 15:40:49 **9** units or divisions in the organization, and one that  
 15:40:54 **10** deals with internal controls within a division?  
 15:40:59 **11** **A. There are entity-wide controls and process level**  
 15:41:05 **12 controls.**  
 15:41:06 **13** **Q.** All right.  
 15:41:07 **14** So now in regard to this number one, you're  
 15:41:16 **15** concerned about establishing -- why don't you say in  
 15:41:24 **16** your own words what the internal control is that you  
 15:41:29 **17** said the county is lacking.  
 15:41:41 **18** **A. "Properly functioning financial statement close**  
 15:41:44 **19 process provides an adequate internal control system to**  
 15:41:49 **20 ensure that appropriate month and year-end internal**  
 15:41:51 **21 controls are in place to ensure that financial**  
 15:41:54 **22 statements are produced on a timely basis and materially**  
 15:41:57 **23 accurate."**  
 15:41:57 **24** **So that would be the internal control that's**  
 15:41:59 **25** **lacking.**

15:42:02 **1** Q. Where were you reading from?

15:42:04 **2** A. **County Page 169 under "Criteria."**

15:42:15 **3** Q. Okay. So are you saying that the county didn't

15:42:21 **4** have an internal control system to ensure that

15:42:24 **5** appropriate month and year-end statements are

15:42:28 **6** financially accurate?

15:42:31 **7** A. **Correct.**

15:42:32 **8** Q. Okay. Well, describe an internal control system

15:42:40 **9** that would do that.

15:42:43 **10** A. **Specifically for this one?**

15:42:45 **11** Q. Specifically for this one, yes, because you said

15:42:48 **12** the county doesn't have one that deals with this.

15:42:50 **13** A. **The county doesn't have one; otherwise, it**

15:42:53 **14** **wouldn't have material misstatements.**

15:42:55 **15** Q. It was a failure of the internal control system

15:42:58 **16** that the accountant came up with those figures that were

15:43:00 **17** wrong?

15:43:02 **18** MR. GANTNER: Objection.

15:43:02 **19** It's not an internal control system. If you

15:43:06 **20** are going to ask him to define "internal controls" he is

15:43:09 **21** going to have to talk about each individual instance

15:43:12 **22** what internal control would address that particular

15:43:16 **23** problem. It's not a broad-based issue.

15:43:18 **24** MR. DESAPIO: He might have to do that.

15:43:20 **25** Q. I am asking -- in fact, are you saying that

15:43:23 **1** mistakes are never made in an organization that has

15:43:26 **2** internal controls?

15:43:27 **3** A. **I am not saying that.**

15:43:28 **4** Q. Okay.

15:43:29 **5** A. **No.**

15:43:29 **6** Q. I thought you said that if the county had an

15:43:32 **7** internal control system these mistakes would never have

15:43:35 **8** been made?

15:43:35 **9** A. **No, I said the internal control system wasn't**

15:43:38 **10** **adequate.**

15:43:38 **11** Q. Okay. If you say it "wasn't adequate," then the

15:43:41 **12** county must have some kind of internal control system

15:43:45 **13** for year-end.

15:43:46 **14** A. **There are some controls, sure.**

15:43:48 **15** Q. All right.

15:43:48 **16** So what is the present internal control system

15:43:51 **17** for year-end?

15:43:54 **18** A. **Without my work papers in front of me, I don't**

15:43:57 **19** **know if I could answer that.**

15:43:58 **20** Q. You have a stack of them right there.

15:44:01 **21** A. **Those deal with certain findings.**

15:44:03 **22** **There is bank reconciliations are done and**

15:44:07 **23** **reviewed, general ledgers maintained; however, there are**

15:44:13 **24** **certain areas in which the internal control system as**

15:44:18 **25** **designed didn't adequately stop the external financial**

15:44:24 **1** **statements from being reported with material**

15:44:28 **2** **misstatements.**

15:44:29 **3** Q. Now you are saying and put it in writing and you

15:44:33 **4** testified that these are material weaknesses for the

15:44:37 **5** county, and the county needs to establish an adequate

15:44:40 **6** internal control system, and you can't tell me what that

15:44:45 **7** system would look like, what you envisioned it to be,

15:44:50 **8** what this recommendation is?

15:44:51 **9** A. **The improvements to the system that I recommend**

15:44:55 **10** **are on County Page 170, and they deal -- they deal**

15:45:01 **11** **specifically with the deficiencies that we noted.**

15:45:07 **12** Q. Okay. All right.

15:45:08 **13** So now what you are saying is, if I understand

15:45:11 **14** correctly, you are saying that the internal control

15:45:14 **15** system is inadequate only in regard to these areas on

15:45:20 **16** the top of Page 170?

15:45:22 **17** A. **The internal -- the items that we identified,**

15:45:28 **18** **there could be material weaknesses that we don't**

15:45:31 **19** **identify which we disclosed in our financial report.**

15:45:35 **20** **These are where we found points in which there**

15:45:41 **21** **were opportunities where material errors could occur and**

15:45:44 **22** **not be corrected, so our recommendations specifically**

15:45:47 **23** **focused upon the areas in which we identified.**

15:45:50 **24** Q. Okay. So now let's take the first two -- there

15:45:56 **25** are three bullet points. Right?

15:45:58 **1** A. **Yes.**

15:45:58 **2** Q. Okay. "Obtain a better understanding of the

15:46:01 **3** financial transactions related to the golf course and

15:46:05 **4** ensure each out" -- number two -- "ensure each outside

15:46:14 **5** department reviews their respective financial statements

15:46:14 **6** in draft form and/or consider issuing separate

15:46:14 **7** departmental financial statements that are required to

15:46:16 **8** be audited."

15:46:18 **9** Now, do those things relate to the horizontal

15:46:25 **10** internal control system that you talked about?

15:46:27 **11** MR. FLORIO: What do you mean by

15:46:28 **12** "horizontal"?

15:46:30 **13** Q. Among various divisions or departments.

15:46:34 **14** A. **Not necessarily. I mean the golf course revenue**

15:46:40 **15** **expenses, the financial transactions related to the golf**

15:46:43 **16** **course are within the current fund.**

15:46:47 **17** **The outside department financial statements, if**

15:46:50 **18** **they are to be contained together in a financial report,**

15:46:54 **19** **there needs to be some coordination of effort to**

15:46:57 **20** **determine those amounts are correct.**

15:47:01 **21** Q. Okay.

15:47:02 **22** A. **So they need to institutionalize the review**

15:47:05 **23** **process for that.**

15:47:06 **24** Q. Okay. Let's do one at a time then, "Obtain a

15:47:10 **25** better understanding of the financial transactions

15:47:12 **1** related to the golf course."  
 15:47:14 **2** You said before that the freeholders contracted  
 15:47:19 **3** for the golf course operation to be run by somebody  
 15:47:22 **4** independent. Correct?  
 15:47:25 **5** **A. The golf course, the county has hired a**  
 15:47:29 **6 management company to operate the golf course.**  
 15:47:31 **7** **Q.** Okay. And that was pursuant to a public bid?  
 15:47:39 **8** **A. Yes.**  
 15:47:40 **9** **Q.** Okay. And you, in fact -- those documents that  
 15:47:44 **10** were handed to me this morning, you got copies of all  
 15:47:46 **11** those materials. Right?  
 15:47:48 **12** **A. I have a copy of the contract.**  
 15:47:50 **13** **Q.** Right. Okay.  
 15:47:51 **14** There is some other stuff in there.  
 15:47:53 **15** Now, who made the decision to go out for public  
 15:48:01 **16** bid for that operation?  
 15:48:02 **17** **A. I don't know.**  
 15:48:03 **18** **Q.** You don't know.  
 15:48:04 **19** Well, it wouldn't be the finance department,  
 15:48:06 **20** would it?  
 15:48:06 **21** **A. I don't know.**  
 15:48:07 **22** **Q.** Okay. Do you know, as an auditor of the county  
 15:48:12 **23** government, who has the authority to authorize going out  
 15:48:15 **24** to public bid?  
 15:48:18 **25** **A. I believe the freeholder board needs to have a**

15:49:46 **1** establish a better protocol for understanding the  
 15:49:48 **2** financial transaction of the golf course?  
 15:49:50 **3** **A. Correct. Right.**  
 15:49:52 **4** **Q.** Okay. And was there ever an audit comment  
 15:49:56 **5** previously that you are aware of?  
 15:49:58 **6** **A. I haven't reviewed all the audit reports. I**  
 15:50:01 **7** **don't know.**  
 15:50:01 **8** **Q.** Was there an audit report of Samuel Klein in  
 15:50:04 **9** 2011?  
 15:50:16 **10** **A. No.**  
 15:50:17 **11** **Q.** Let's take number two, "Ensure each outside  
 15:50:22 **12** department reviews their respective financial  
 15:50:25 **13** statements."  
 15:50:25 **14** When you say "outside department," you mean  
 15:50:28 **15** department outside of the control of the finance  
 15:50:31 **16** department. Correct?  
 15:50:32 **17** **A. I meant the departments in which we opined upon**  
 15:50:35 **18** **that were not the current fund, the trust fund, the**  
 15:50:38 **19** **general capital fund or fixed assets.**  
 15:50:40 **20** **Q.** So in this case it would be the Consolidated  
 15:50:44 **21** Transportation System. Correct? Would that be one of  
 15:50:49 **22** them?  
 15:50:50 **23** **A. That would be one of them.**  
 15:50:51 **24** **Q.** And the golf course, would that be another one?  
 15:50:53 **25** **A. No, that's not correct.**

15:48:20 **1** **resolution to authorize public bidding.**  
 15:48:22 **2** **Q.** So the freeholder board is the one who bid this  
 15:48:25 **3** project, correct, the golf course?  
 15:48:30 **4** **A. I didn't read the resolution authorizing it, so I**  
 15:48:34 **5** **can't tell you definitively "yes" or "no."**  
 15:48:37 **6** **Q.** Could it be in your experience anybody else that  
 15:48:43 **7** authorized that public bid?  
 15:48:44 **8** **A. I don't know. I would be guessing.**  
 15:48:45 **9** **Q.** Okay. Now, when the freeholders decided to go  
 15:48:49 **10** out for public bid to do the golf course management, on  
 15:48:57 **11** whom is it incumbent to set up the internal control  
 15:49:01 **12** system that would deal with the review of the activities  
 15:49:08 **13** of the golf course company?  
 15:49:13 **14** **A. Again, I didn't get into who sets forth**  
 15:49:17 **15** **responsibility of individual employees, so I don't know.**  
 15:49:20 **16** **Q.** Okay. When you recommend here that there be  
 15:49:25 **17** better understanding of the financial transactions  
 15:49:27 **18** related to the golf course, who were you saying has got  
 15:49:30 **19** to establish that protocol?  
 15:49:32 **20** **A. Well, since the financial transactions are**  
 15:49:35 **21** **recorded, reported within the current fund, and the**  
 15:49:38 **22** **current fund is the responsibility of the finance**  
 15:49:41 **23** **department, I was referring to the finance department**  
 15:49:43 **24** **form one.**  
 15:49:43 **25** **Q.** You are saying the finance department should

15:50:55 **1** **Q.** The golf course is not a separate --  
 15:50:57 **2** **A. It's not a separate department.**  
 15:50:59 **3** **Q.** So you are talking about -- when you say, "ensure  
 15:51:03 **4** each outside department reviews their respective  
 15:51:05 **5** financial statements," you are talking only about the  
 15:51:08 **6** Consolidated Transportation System?  
 15:51:09 **7** **A. I am not saying that.**  
 15:51:10 **8** **Q.** Which one of the other departments are you  
 15:51:12 **9** talking about?  
 15:51:20 **10** **A. The other departments identified are the county**  
 15:51:23 **11** **clerk, parks and recreation department, sheriff's**  
 15:51:26 **12** **office, warden, surrogate, engineering, Consolidated**  
 15:51:30 **13** **Transportation System.**  
 15:51:33 **14** **Q.** But you didn't make any finding that there was  
 15:51:35 **15** anything wrong with their year-end, any of those other  
 15:51:39 **16** than this Consolidated Transportation System, did you?  
 15:51:41 **17** **A. I didn't say that.**  
 15:51:48 **18** MR. DESAPIO: Can you read back the list of  
 15:51:50 **19** departments that he stated?  
 15:51:51 **20** (Whereupon, the court reporter reads as  
 15:52:34 **21** requested.)  
 15:52:34 **22** **Q.** Do you have a criticism for any of those other  
 15:52:38 **23** departments in this point one?  
 15:52:40 **24** **A. Yeah. Under bullets three and four we note there**  
 15:52:46 **25** **were errors in the engineer's office.**

15:52:58 **1 Q.** So these independent entities or departments,  
 15:53:04 **2** would it not be the freeholders' responsibility to  
 15:53:07 **3** coordinate an internal control system that wrapped these  
 15:53:12 **4** departments all together?  
 15:53:15 **5 A.** I don't know if that's correct.  
 15:53:17 **6 Q.** You don't know that's correct?  
 15:53:19 **7 A.** What I would say is the financial statements --  
 15:53:22 **8** whoever takes responsibility for the financial  
 15:53:30 **9** statements needs to have a system in place to ensure  
 15:53:30 **10** that information is adequately reported, whether it's  
 15:53:33 **11** within a certain department or across the board.  
 15:53:36 **12** Someone needs to take responsibility for that, so there  
 15:53:39 **13** needs to be a system.  
 15:53:40 **14** If it's outside departments they need to develop  
 15:53:42 **15** a system by which they engage the outside department  
 15:53:45 **16** individuals, ensuring the amounts that are reported in  
 15:53:49 **17** external financial statements are materially accurate.  
 15:53:52 **18 Q.** So in this recommendation or this material  
 15:53:56 **19** weakness criticism, who are you saying is supposed to  
 15:53:59 **20** develop this internal control system?  
 15:54:05 **21 A.** Whoever the county deems is responsible for the  
 15:54:09 **22** financial statements.  
 15:54:10 **23 Q.** So "whoever the county" meaning whoever the  
 15:54:12 **24** freeholders deem is responsible for it, is that what you  
 15:54:20 **25** are saying, the county?

15:55:52 **1** verifying anything. The financial statements are the  
 15:55:54 **2** responsibility of management, so the question that you  
 15:55:59 **3** are posing is indicative of the issue. The issue  
 15:56:03 **4** becomes when you rely on the auditor for too much, and  
 15:56:06 **5** management doesn't take responsibility, management must  
 15:56:09 **6** maintain responsibility over the financial statements,  
 15:56:12 **7** whether it's a centralized statement of financial  
 15:56:14 **8** statements or a decentralized system of financial  
 15:56:17 **9** statements.  
 15:56:18 **10** That's where it lies internal control system must  
 15:56:21 **11** be in place in order to ensure that the financial  
 15:56:23 **12** statements are accurate.  
 15:56:24 **13 Q.** Is the surrogate, to your knowledge, an  
 15:56:27 **14** independent constitutional officer?  
 15:56:29 **15 A.** I believe so.  
 15:56:30 **16 Q.** Exactly how would you design an internal control  
 15:56:33 **17** system that gives the finance department or anybody else  
 15:56:35 **18** the opportunity to go in and supervise her activities?  
 15:56:41 **19 A.** One, I am not saying that anyone should supervise  
 15:56:44 **20** the activities.  
 15:56:45 **21** What I am saying is, before external financial  
 15:56:48 **22** statements are prepared and finalized, a copy of those  
 15:56:52 **23** departmental financial statements should be sent to the  
 15:56:54 **24** department heads in order for them to review.  
 15:56:57 **25 Q.** Okay. So what you are saying, when the audit

15:54:22 **1 A.** I am not really specifying who within the county.  
 15:54:26 **2** I can't dictate who within the county is to  
 15:54:29 **3** assign responsibility. That's outside my scope as an  
 15:54:33 **4** independent auditor.  
 15:54:34 **5** MR. FLORIO: One second.  
 15:54:35 **6** But in this instance, in the context of  
 15:54:42 **7** 2012-1 when you say, "someone is responsible for the  
 15:54:46 **8** financial statements," who in this instance is that?  
 15:54:52 **9 A.** Generally speaking, the finance office would be  
 15:54:56 **10** responsible for the production and issuance of financial  
 15:55:02 **11** statements.  
 15:55:03 **12** MR. FLORIO: Is that a circumstance on which  
 15:55:06 **13** you opine in 2012-1, is it the finance department or is  
 15:55:11 **14** it somebody else?  
 15:55:11 **15** THE WITNESS: I believe the finance  
 15:55:14 **16** department should be responsible. However, I can't tell  
 15:55:16 **17** you who the county has designated that responsibility  
 15:55:20 **18** to.  
 15:55:20 **19** MR. FLORIO: Okay. Thank you.  
 15:55:21 **20 Q.** In the county, say, in regard to the surrogate,  
 15:55:26 **21** if the county is authorized and has the practice of  
 15:55:30 **22** sending the auditor out to check the balances in the  
 15:55:36 **23** surrogate's account, is that a responsibility of finance  
 15:55:43 **24** to somehow verify what the auditor comes back with?  
 15:55:48 **25 A.** It should never come back to the auditor

15:56:59 **1** comes back with the surrogate's figure, and the  
 15:57:02 **2** financial statement is going to be finalized based upon  
 15:57:04 **3** the auditor's figure, it should go to the surrogate and  
 15:57:07 **4** the surrogate should comment on it.  
 15:57:09 **5** Is that what you are saying?  
 15:57:09 **6 A.** Correct.  
 15:57:10 **7 Q.** Okay. And that's a change from the way the  
 15:57:14 **8** county has been doing it. Yes?  
 15:57:19 **9 A.** I can't tell you exactly how the county has done  
 15:57:21 **10** it.  
 15:57:22 **11** However, if the county supplied that information  
 15:57:27 **12** previously, I don't know that it would be incorrect at  
 15:57:30 **13** the 12/31/11 -- I can't speak as to how the county does  
 15:57:34 **14** it in prior years -- in 2012 each department looked at  
 15:57:39 **15** those financial statements and gave us and told us "yes"  
 15:57:43 **16** or "no" whether there is any problems with them.  
 15:57:45 **17 Q.** In 2012 they did, you said?  
 15:57:46 **18 A.** For the 2012 audit.  
 15:57:48 **19** Each department had a copy of their financial  
 15:57:50 **20** statements in order for them to come back to us and the  
 15:57:54 **21** county to say, "Yes, we agree with these amounts."  
 15:57:57 **22 Q.** So then your comment or criticism here is the  
 15:58:02 **23** procedure which you used, you want that to be  
 15:58:09 **24** formalized?  
 15:58:09 **25 A.** Well, the procedure that was utilized in 2012



15:58:12 **1 solely, yes, it's reformed.**  
 15:58:15 **2 Q.** So the previous order didn't recommend that, as  
 15:58:19 **3** far as you know?  
 15:58:19 **4 A. As far as I know.**  
 15:58:21 **5 Q.** And you used that system this year. Correct?  
 15:58:26 **6 A. For the departmental financial statements, yes.**  
 15:58:30 **7 Q.** Okay. So now do you know who were you saying  
 15:58:34 **8** should establish this system that you implemented on  
 15:58:38 **9** your own?  
 15:58:39 **10 A. I didn't implement it on my own.**  
 15:58:42 **11 Q.** Go ahead. Who implemented it?  
 15:58:44 **12 A. The current finance office. We discussed it with**  
 15:58:48 **13 the current finance office. Collectively we decided**  
 15:58:52 **14 that that was the best way to handle these individual**  
 15:58:55 **15 department financial statements. Each department would**  
 15:58:57 **16 review it and sign off on or agree these amounts are**  
 15:59:03 **17 correct.**  
 15:59:03 **18 Q.** And to implement that in the future, who could do  
 15:59:07 **19** that?  
 15:59:07 **20 A. The financial office.**  
 15:59:10 **21 Q.** Without the freeholders organization?  
 15:59:13 **22 A. That I am not aware of. I can't speak out to**  
 15:59:15 **23 that.**  
 15:59:20 **24** MR. FLORIO: It is now four o'clock.  
 15:59:22 **25** Did we agree we were going to four or 4:30

16:06:09 **1** department was asked to do that or directed to do that  
 16:06:11 **2** in previous years and refused to do it?  
 16:06:13 **3 A. I am not aware.**  
 16:06:14 **4 Q.** Okay. Now, the final bullet point says, "Ensure  
 16:06:20 **5** appropriate individuals from the finance department  
 16:06:22 **6** review and approve the county's financial statements."  
 16:06:26 **7** Do you have any evidence that they did not review  
 16:06:31 **8** and approve the county's financial statements?  
 16:06:33 **9 A. The only evidence that I have is that the**  
 16:06:35 **10 financial statements were incorrect.**  
 16:06:40 **11 Q.** The "financial statements" being?  
 16:06:42 **12 A. The 2011 audited financial statements were not**  
 16:06:45 **13 correct.**  
 16:06:46 **14 Q.** But the audited financial statements were  
 16:06:49 **15** consistent with the findings of Samuel Klein?  
 16:06:54 **16** MR. GANTNER: Objection.  
 16:06:55 **17 Q.** Right?  
 16:06:56 **18** MR. GANTNER: Asked and answered.  
 16:06:56 **19** MR. FLORIO: Sustained.  
 16:07:00 **20 Q.** And so even though you contend they were  
 16:07:07 **21** incorrect or state that they were incorrect, you don't  
 16:07:09 **22** have any evidence that they never reviewed them?  
 16:07:13 **23** MR. GANTNER: Objection; asked and answered.  
 16:07:14 **24** MR. FLORIO: Sustained.  
 16:07:18 **25 Q.** All right.

15:59:32 **1** today?  
 15:59:32 **2** MR. GIACOBBE: You said four. I don't know  
 15:59:32 **3** how much longer Mr. DeSapio has today.  
 15:59:33 **4** MR. DESAPIO: I have more than half an hour  
 15:59:36 **5** if that interests anybody.  
 15:59:37 **6** MR. FLORIO: It seems that Mr. Gannon is  
 15:59:39 **7** going to be coming back on the 28th then.  
 15:59:42 **8** MR. GIACOBBE: Are you free the morning of  
 15:59:44 **9** the 28th?  
 15:59:46 **10** MR. FLORIO: At nine o'clock.  
 15:59:57 **11** I will continue now if you want. I will  
 16:00:00 **12** wrap it up at four. I will proceed however you wish.  
 16:00:15 **13** Off the record.  
 16:02:00 **14** (Whereupon, a short recess is taken.)  
 16:05:22 **15** MR. FLORIO: Back on the record.  
 16:05:28 **16 Q.** Okay. Sharing outside departments' speculative  
 16:05:40 **17** financial statements and draft form at the end of the  
 16:05:44 **18** year, was that a very complicated process?  
 16:05:48 **19 A. No.**  
 16:05:49 **20 Q.** Was what a memo or letter or something?  
 16:05:52 **21 A. That was providing them with financial statements**  
 16:05:55 **22 that were going to be issued and asking them to provide**  
 16:06:01 **23 a "yes" or "no" as to whether they were stated**  
 16:06:03 **24 correctly.**  
 16:06:04 **25 Q.** Are you aware of any evidence that the finance

16:07:19 **1** Let's move on to point number two then.  
 16:07:22 **2** Would you describe the problem that you  
 16:07:33 **3** identified in number two.  
 16:07:35 **4 A. Individuals were -- the county was paying for**  
 16:07:41 **5 health benefits for individuals in which they should not**  
 16:07:44 **6 have been.**  
 16:07:45 **7 Q.** Now, have you conducted audits of other entities  
 16:07:55 **8** that have Human Resources Departments?  
 16:07:57 **9 A. Yes.**  
 16:07:57 **10 Q.** Okay. And what generically is the role of the  
 16:08:04 **11** Human Resources Department?  
 16:08:07 **12 A. To be honest with you, I don't have a general**  
 16:08:10 **13 rule as to what the responsibility of the Human Resource**  
 16:08:14 **14 Departments are.**  
 16:08:15 **15 Q.** Okay. In regard to the other entities that you  
 16:08:23 **16** have audited of the Human Resources Department, were the  
 16:08:29 **17** records of who was employed, were they maintained in the  
 16:08:32 **18** Human Resources Department?  
 16:08:40 **19 A. I think they were maintained in more than the**  
 16:08:44 **20 Human Resource Department.**  
 16:08:45 **21 Q.** Were records maintained in the Human Resources  
 16:08:48 **22** Department?  
 16:08:49 **23 A. Yes.**  
 16:08:49 **24 Q.** Okay. Were the salaries of individuals  
 16:08:52 **25** maintained in the Human Resources Department?

16:08:55 **1 A. The salaries are typically public knowledge, so**  
 16:08:57 **2 they would also be included within an ordinance or**  
 16:09:01 **3 resolution. They would have been included in the**  
 16:09:04 **4 payroll department. They would have been included in**  
 16:09:07 **5 the Human Resource Department. They would have been**  
 16:09:09 **6 included in a number of places.**  
 16:09:10 **7 Q. In your experience who prepares the resolution**  
 16:09:16 **8 for adoption?**  
 16:09:16 **9 A. I am not aware of --**  
 16:09:18 **10 Q. You have no experience with that. You have had**  
 16:09:21 **11 no experience with that?**  
 16:09:22 **12 A. I am not involved in the preparation of a**  
 16:09:23 **13 resolution determining salaries.**  
 16:09:26 **14 Q. Did you examine that issue in Hunterdon County?**  
 16:09:30 **15 A. I did not.**  
 16:09:31 **16 Q. Okay. Where in your experience is benefits**  
 16:09:38 **17 administration done when there is a Human Resources**  
 16:09:42 **18 Department? Is it done in the Human Resources**  
 16:09:43 **19 Department?**  
 16:09:44 **20 A. I couldn't even comment on that. I don't know.**  
 16:09:47 **21 I haven't asked that question to enough different**  
 16:09:50 **22 entities to get a general sense as to who does or does**  
 16:09:55 **23 not.**  
 16:09:55 **24 Q. You haven't asked it to enough entities. Is that**  
 16:09:59 **25 what you said?**

16:11:41 **1 A. That is where we received it from.**  
 16:11:43 **2 Q. And the health insurance information that you**  
 16:11:51 **3 obtained from the Human Resources Department, did that**  
 16:11:55 **4 include a list of employees?**  
 16:11:59 **5 A. Yes.**  
 16:12:00 **6 Q. Did that include what coverages they were set up**  
 16:12:08 **7 for?**  
 16:12:08 **8 A. Yes.**  
 16:12:08 **9 Q. Okay. And --**  
 16:12:11 **10 A. That was on the detailed health benefit backup.**  
 16:12:16 **11 Q. Okay. And was that maintained in the Human**  
 16:12:18 **12 Resources Department?**  
 16:12:19 **13 A. That was provided to us by the Human Resources**  
 16:12:21 **14 Department. Provided to us, yes.**  
 16:12:24 **15 Q. Okay. And in your auditing experience -- let me**  
 16:12:35 **16 rephrase the question.**  
 16:12:36 **17 Do you know whether some or all of the employees**  
 16:12:40 **18 in Hunterdon County are covered by collective bargaining**  
 16:12:43 **19 agreements?**  
 16:12:45 **20 A. I am not aware if all employees are covered by**  
 16:12:49 **21 collective bargaining agreements.**  
 16:12:50 **22 Q. Are you aware that some of them are?**  
 16:12:52 **23 A. I am aware some of them are covered by collective**  
 16:12:56 **24 bargaining agreements.**  
 16:12:58 **25 Q. In your experience, entitlement to health**

16:10:00 **1 A. Yes.**  
 16:10:00 **2 Q. Haven't.**  
 16:10:02 **3 Let's talk about Hunterdon in particular.**  
 16:10:05 **4 In that packet of material you provided today,**  
 16:10:08 **5 did you do a review or a test on this issue of payment**  
 16:10:18 **6 of health insurance benefits?**  
 16:10:21 **7 A. We did.**  
 16:10:22 **8 Q. Okay. Now let me ask, where did you find the**  
 16:10:30 **9 information? Let's back up. I am sorry. I will**  
 16:10:36 **10 withdraw that question.**  
 16:10:36 **11 How did you do that test?**  
 16:10:42 **12 A. We obtained the active payroll roster, the active**  
 16:10:47 **13 employee roster. We obtained a roster of retirees and**  
 16:10:53 **14 we obtained the health benefit detail data by employee**  
 16:11:01 **15 in -- all in electronic format, and we utilized audit**  
 16:11:06 **16 software called "ACL" to perform a match, and areas in**  
 16:11:11 **17 which we thought were anomalies we thought we needed**  
 16:11:16 **18 further clarification on, we identified those**  
 16:11:19 **19 individuals.**  
 16:11:22 **20 Q. And where did you obtain the health insurance**  
 16:11:30 **21 records from, what department?**  
 16:11:31 **22 A. The records that I just described were obtained**  
 16:11:34 **23 from the Human Resources Department.**  
 16:11:36 **24 Q. So all of those things that you worked with were**  
 16:11:40 **25 in the Human Resources Department?**

16:13:00 **1 insurance benefits, is that for employees that are**  
 16:13:02 **2 covered by collective bargaining -- is that included in**  
 16:13:06 **3 the collective bargaining agreement?**  
 16:13:07 **4 A. The collective bargaining agreements that I have**  
 16:13:09 **5 reviewed had some discussion regarding health benefit**  
 16:13:13 **6 provisions.**  
 16:13:13 **7 Q. And do you know in Hunterdon County who maintains**  
 16:13:20 **8 the records of the collective bargaining agreement and**  
 16:13:23 **9 who reviews them for the purpose of placement in**  
 16:13:29 **10 different categories for health insurance?**  
 16:13:30 **11 A. I am not aware.**  
 16:13:31 **12 Q. You are not aware.**  
 16:13:33 **13 Did you make any inquiry about that? Did you**  
 16:13:36 **14 make any inquiry about that?**  
 16:13:40 **15 A. Not that I remember.**  
 16:13:41 **16 Q. Okay. Did you make any inquiries as to why all**  
 16:13:46 **17 these records that you had to look at to review these**  
 16:13:49 **18 payments for health insurance were located in the Human**  
 16:13:54 **19 Resources Department?**  
 16:13:56 **20 A. I did not.**  
 16:13:56 **21 Q. Okay.**  
 16:13:59 **22 A. I did not.**  
 16:14:00 **23 Q. Now, describe for us the concept of "segregation**  
 16:14:06 **24 of duties."**  
 16:14:08 **25 A. Adequate internal controls, segregate appropriate**

16:14:12 **1** internal controls, you want to have segregation of  
 16:14:17 **2** controls that couldn't -- you know -- cause an issue.  
 16:14:23 **3** You don't want someone collecting cash and records on  
 16:14:27 **4** their bank account with someone cutting a check and  
 16:14:31 **5** reconciling a bank account. You want to have some  
 16:14:37 **6** differentiation between who is doing what.  
 16:14:42 **7** Q. And does part of the segregation of duties  
 16:14:47 **8** include review of bills and encumbrance system?  
 16:14:54 **9** A. Yes.  
 16:14:54 **10** Q. Okay. And describe how that concept applies in  
 16:14:59 **11** that context.  
 16:15:00 **12** A. In what context?  
 16:15:01 **13** Q. In the context of payment of bills and an  
 16:15:06 **14** encumbrance system, segregation of duties.  
 16:15:08 **15** A. You want to have -- the department that's  
 16:15:10 **16** initiating the purchase order, you would want to have  
 16:15:14 **17** someone else reviewing that to ensure that was  
 16:15:16 **18** appropriate, and then the person paying the bill really  
 16:15:20 **19** should be someone that's also requesting a purchase  
 16:15:23 **20** order.  
 16:15:24 **21** Q. Okay. And is it also the case that the person  
 16:15:27 **22** paying the bill should not be the one who reviews and  
 16:15:31 **23** approves it?  
 16:15:33 **24** A. Say that again.  
 16:15:35 **25** Q. Okay. Is it a part of the concept of segregation

16:15:40 **1** of duties that there should be somebody -- that there  
 16:15:45 **2** should be one person who pays the bills and another  
 16:15:49 **3** person who reviews it for adequacy?  
 16:15:51 **4** A. Correct.  
 16:15:52 **5** Q. Okay. So now you have reviewed the encumbrance  
 16:15:56 **6** system in Hunterdon County?  
 16:15:57 **7** A. Yes.  
 16:15:58 **8** Q. So you are aware of the fact that they have a  
 16:16:03 **9** purchasing policy?  
 16:16:05 **10** A. Yes.  
 16:16:05 **11** Q. Okay. And are you aware of the fact that that  
 16:16:09 **12** purchasing policy -- what does that purchasing policy  
 16:16:12 **13** reflect as to the process for the payment of a bill?  
 16:16:18 **14** A. I don't know without it being in front of me.  
 16:16:20 **15** Q. Okay. Let me ask generally and statutorily, do  
 16:16:41 **16** you know if there is a statute that talks about the  
 16:16:42 **17** payment of moneys of a local unit?  
 16:16:45 **18** A. Yes, I believe so.  
 16:16:46 **19** Q. Okay. And are you familiar with its  
 16:16:50 **20** requirements?  
 16:16:52 **21** A. Generally speaking, but I prefer to have a copy  
 16:16:57 **22** in front of me.  
 16:17:02 **23** MR. FLORIO: Are we going to mark that?  
 16:17:04 **24** MR. DESAPIO: I guess we can -- I shouldn't  
 16:17:07 **25** say "I guess."

16:17:08 **1** We will mark it.  
 16:17:27 **2** (Statute is marked as Exhibit PB-7 for  
 16:17:39 **3** identification.)  
 16:18:17 **4** Q. When you are ready, Mr. Gannon, you can let us  
 16:18:21 **5** know.  
 16:18:26 **6** A. Okay.  
 16:18:27 **7** Q. Okay. All right.  
 16:18:29 **8** So having refreshed your recollection and looked  
 16:18:35 **9** at that, are you familiar with that, the statutory  
 16:18:38 **10** requirements?  
 16:18:39 **11** A. Yes.  
 16:18:39 **12** Q. Okay. And is one of those statutory requirements  
 16:18:49 **13** that the department or individual receiving a good or  
 16:18:58 **14** service sign a certification that it's been received?  
 16:19:04 **15** A. Subsection B says, "Unless it carries a written  
 16:19:09 **16** or electronic certification of some officer or duly  
 16:19:12 **17** designated employee of the local unit having knowledge  
 16:19:14 **18** of the facts and the goods have been received by or  
 16:19:17 **19** services rendered to the local unit."  
 16:19:19 **20** Q. Are you aware as to whether Hunterdon County  
 16:19:24 **21** requests for payments are accompanied by a certification  
 16:19:29 **22** or a receiving department signing off on it?  
 16:19:32 **23** A. The ones that we examine, I believe, do.  
 16:19:35 **24** Q. You believe do. Okay.  
 16:20:05 **25** MR. DESAPIO: I am sorry to hold you up.

16:20:07 **1** We are up to 8.  
 16:20:30 **2** Mark this PB-8.  
 16:20:41 **3** (Document entitled "Department of  
 16:20:51 **4** Purchasing" is marked as Exhibit PB-8 for  
 16:21:25 **5** identification.)  
 16:21:29 **6** MR. DESAPIO: PB-8 for identification is  
 16:21:31 **7** "Department of Purchasing Policy and Procedure  
 16:21:34 **8** Purchasing Department, Purchasing Cycle Flow of the  
 16:21:44 **9** order Process." It's Page 103.4, 5 and 6 of the  
 16:21:49 **10** county's purchasing policy identified with the Bates  
 16:21:54 **11** stamp County-446, County-447, and County-448.  
 16:22:02 **12** Q. Mr. Gannon, I am going to show you PB-8 and ask  
 16:22:08 **13** you if you reviewed that as a part of your audit charge  
 16:22:09 **14** here in Hunterdon.  
 16:22:10 **15** A. I believe we did.  
 16:22:15 **16** Q. You believe you did. Okay.  
 16:22:21 **17** I apologize. I know. I have it here. 446.  
 16:22:27 **18** Right.  
 16:22:33 **19** Okay. Do you recognize that as the procedure for  
 16:22:37 **20** ordering and paying for bills here in Hunterdon County?  
 16:22:52 **21** A. It appears so, yes.  
 16:22:54 **22** Q. Okay. On Page 2, which is marked County-447,  
 16:22:55 **23** under the -- do you see responsibility for the  
 16:22:55 **24** requesting department?  
 16:22:55 **25** A. Yes.

16:22:56 **1** Q. And would you look under the section that says,  
 16:23:02 **2** "Green Receiving Report," and just read for us what it  
 16:23:06 **3** says in the block that the receiving department's  
 16:23:12 **4** responsibility is.  
 16:23:14 **5** **A. "Requesting department maintains on file**  
 16:23:17 **6 attaching delivery slips, bills of lading and any other**  
 16:23:22 **7 documentation presented at the time of delivery. This**  
 16:23:26 **8 document will subsequently be returned to the finance**  
 16:23:29 **9 department with the department heads certification of**  
 16:23:32 **10 complete delivery as authorization for vendor payment."**  
 16:23:36 **11** Q. Is that a typical procedure in regard to paying  
 16:23:43 **12** funds out by public entities?  
 16:23:47 **13** **A. Typically, you would receive a receiving report**  
 16:23:50 **14 where the person receiving the services will say, "Yes,**  
 16:23:54 **15 we received it."**  
 16:23:58 **16** MR. DESAPIO: I want to mark PB-9.  
 16:24:04 **17** (Document entitled "Department of  
 16:24:37 **18** Purchasing" is marked as Exhibit PB-9 for  
 16:24:40 **19** identification.)  
 16:24:54 **20** Q. I am sorry. Can I just borrow that back, Mr.  
 16:24:58 **21** Gannon. I apologize for being one short.  
 16:25:02 **22** MR. DESAPIO: PB-9, for the record, is part  
 16:25:09 **23** of the county purchasing manual pages number 303.01 and  
 16:25:24 **24** 304.01, Bates stamp by the county, County-459 and 460.  
 16:25:29 **25** Q. Mr. Gannon, can you look at that, and I ask you

16:26:44 **1** **A. "Using department receiving report, department**  
 16:26:50 **2 holds and submits with delivery slips, bills of lading,**  
 16:26:54 **3 invoices and any other documentation presented at the**  
 16:26:57 **4 time of delivery. Department head certifies delivery to**  
 16:27:01 **5 initiate vendor payment, refer to Page 304.01."**  
 16:27:07 **6** Q. And the 304.01, is that the second page that's  
 16:27:14 **7** been marked of that exhibit?  
 16:27:19 **8** **A. Yes.**  
 16:27:20 **9** Q. Okay. So tell me whether this is a fair  
 16:27:25 **10** statement about how things get paid for, a bill comes  
 16:27:33 **11** in, a purchase order is generated for something?  
 16:27:36 **12** **A. Purchase order will be generated first.**  
 16:27:38 **13** Q. Purchase order generated first.  
 16:27:40 **14** Then a bill comes in, and is it the case that the  
 16:27:45 **15** receiving department has to certify or indicate that the  
 16:27:51 **16** item has been received?  
 16:27:52 **17** **A. They should certify it.**  
 16:27:55 **18** Q. And that's of their personal knowledge. Correct?  
 16:27:58 **19** **A. I don't know.**  
 16:27:59 **20** Q. Well, what is the certification supposed to mean?  
 16:28:05 **21** By law, by auditing, you have no idea what it means?  
 16:28:08 **22** **A. Certifying that the goods have been received or**  
 16:28:10 **23 the services have been provided.**  
 16:28:12 **24** Q. Okay. And then according to the county policy,  
 16:28:15 **25** those documents are put together and sent to finance?

16:25:33 **1** if you are familiar with that as a result of your audit  
 16:25:35 **2** practice?  
 16:25:42 **3** **A. Again I don't know that I have read it in detail,**  
 16:25:44 **4 but it looks somewhat familiar.**  
 16:25:46 **5** Q. Okay. And at the top it says, "Purchase order  
 16:25:50 **6** distribution."  
 16:25:54 **7** Describe a purchase order, what it is and how it  
 16:25:57 **8** works.  
 16:25:57 **9** **A. It's a request to purchase a good or service, so**  
 16:26:01 **10 if the department wants to buy a supply, they should**  
 16:26:04 **11 execute a purchase order to make their request.**  
 16:26:07 **12** Q. And does that accompany each payment that the  
 16:26:10 **13** county makes?  
 16:26:13 **14** **A. It should.**  
 16:26:14 **15** Q. It should. Okay.  
 16:26:16 **16** Give us some idea, about how many purchase orders  
 16:26:20 **17** are processed each year in Hunterdon?  
 16:26:22 **18** **A. I do not know.**  
 16:26:22 **19** Q. Do you have any idea -- if I told you it was  
 16:26:25 **20** greater than 10,000, would that surprise you?  
 16:26:28 **21** **A. I don't know.**  
 16:26:29 **22** Q. Okay. Now, when it says -- look at this policy,  
 16:26:36 **23** and it says -- look at the first page where it says,  
 16:26:39 **24** "Green Receiving Report."  
 16:26:40 **25** Just read what's in the block there to the right.

16:28:21 **1** **A. Which documents are you referring to?**  
 16:28:22 **2** Q. Purchase order and the department's  
 16:28:27 **3** certification.  
 16:28:27 **4** **A. I believe the invoices go with it, too, but I am**  
 16:28:29 **5 not positive.**  
 16:28:30 **6** Q. Okay. The invoices are attached to the purchase  
 16:28:32 **7** order?  
 16:28:33 **8** **A. I believe so.**  
 16:28:33 **9** Q. And then they go to the finance department.  
 16:28:38 **10** Correct?  
 16:28:39 **11** **A. I believe so, yes.**  
 16:28:40 **12** Q. Okay. Now, prior to the finance department doing  
 16:28:43 **13** anything with that, is there an official process that  
 16:28:50 **14** the governing body has to go through before anything is  
 16:28:53 **15** done by the finance department as far as payment of the  
 16:28:56 **16** bill?  
 16:28:59 **17** **A. Typically, the bills are approved for payment by**  
 16:29:09 **18 the board, by resolution. There are some circumstances**  
 16:29:09 **19 in which -- and I am not clear or I can't remember if**  
 16:29:12 **20 this is the case here -- the Board of Chosen Freeholders**  
 16:29:16 **21 could give the designee the bill to pay for it prior to**  
 16:29:22 **22 approval.**  
 16:29:23 **23** Q. So the purchase order is generated, the item is  
 16:29:27 **24** ordered, a bill comes in, the department head certifies  
 16:29:32 **25** that it's been received, the package goes up to finance,

16:29:36 **1** somebody prepares a bills list, freeholders approve the  
 16:29:40 **2** bills list at their meeting for, by and large, for most  
 16:29:43 **3** of it, all right, and is that when the finance is  
 16:29:47 **4** authorized to cut a check?  
 16:29:50 **5** **A. Generally speaking, yes, but the specific process**  
 16:29:54 **6 I don't have in front of me.**  
 16:29:55 **7 Q. Okay.**  
 16:29:58 **8** MR. DESAPIO: This would be a good time to  
 16:30:00 **9** break if it's all right.  
 16:30:01 **10** MR. FLORIO: It's 4:30 on the county clock,  
 16:30:04 **11** so we will break now, and the witness will resume on  
 16:30:10 **12** October 28th at 9 AM, I am informed.  
 16:30:14 **13** MR. DESAPIO: Very good.  
 16:30:15 **14** MR. FLORIO: Off the record.  
 16:30:19 **15** MR. DESAPIO: And should the attorneys keep  
 16:30:21 **16** their respective -- original respective exhibits, are we  
 16:30:23 **17** going to leave them with the court reporter? Is this  
 16:30:26 **18** gentleman going to be back here for the whole thing?  
 16:30:30 **19** MR. GIACOBBE: He will be back for the whole  
 16:30:32 **20** thing.  
 16:30:32 **21** MR. DESAPIO: What would be the practice?  
 16:30:33 **22** MR. FLORIO: Let's leave the original marked  
 16:30:39 **23** exhibits with the court reporter, and then all counsel  
 16:30:43 **24** will maintain their own copies as have been distributed.  
 16:30:48 **25** MR. DESAPIO: Very good.

**1** C E R T I F I C A T E  
**2** I, PHILIP A. FISHMAN, a Certified Shorthand Reporter  
**3** and Notary Public of the State of New Jersey, do hereby  
**4** certify that prior to the commencement of the  
**5** examination, DAVID GANNON was sworn by me to testify the  
**6** truth, the whole truth and nothing but the truth.  
**7** I DO FURTHER CERTIFY that the foregoing is a true and  
**8** accurate transcript of the testimony as taken  
**9** stenographically by and before me at the time, place and  
**10** on the date hereinbefore set forth, to the best of my  
**11** ability.  
**12** I DO FURTHER CERTIFY that I am neither a relative nor  
**13** employee nor attorney nor counsel of any of the parties  
**14** to the action; and that I am neither a relative nor  
**15** employee of such attorney or counsel; and that I am not  
**16** financially interested in the action.  
**17**  
**18** \_\_\_\_\_  
**19** PHILIP A. FISHMAN, CSR  
**20**  
**21** Dated: \_\_\_\_\_  
**22**  
**23**  
**24**  
**25**

16:30:49 **1** MR. GIACOBBE: Thank you.  
**2** . . .  
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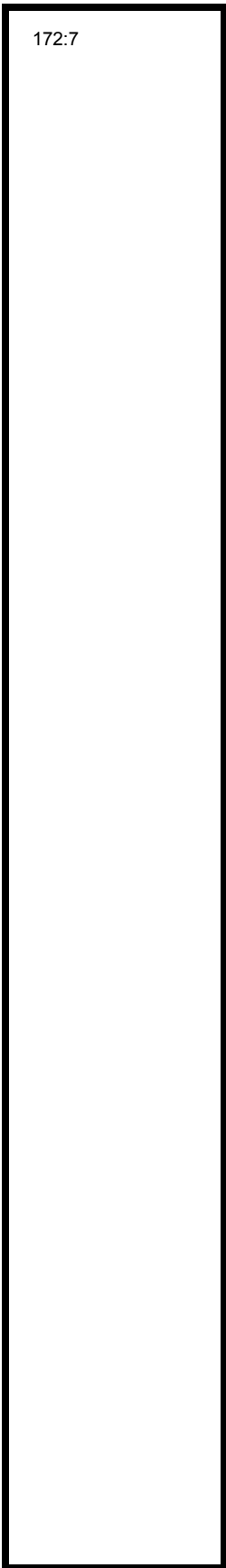
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