

COUNTY OF HUNTERDON
 NOTICE OF DISCIPLINARY ACTION
 Wednesday, October 30, 2013
 9:00 to 2:00

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
 5 Marine View Plaza
 Hoboken, New Jersey

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

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

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

09:28:10 1 MR. FLORIO: Is the witness ready?

09:28:11 2 MR. GANTNER: She is ready.

09:28:47 3 Cynthia Yard, previously having been duly sworn according
 4 to law, testifies under oath as follows:

09:30:54 5 CROSS-EXAMINATION CONTINUED BY MR. DESAPIO:

09:30:54 6 MR. FLORIO: The witness is still under
 7 oath.

09:30:56 8 THE WITNESS: Yes, sir.

09:30:58 9 MR. FLORIO: You are up, Mr. DeSapio.

09:31:01 10 Q. Good morning, Ms. Yard.

09:31:02 11 A. Good morning, Guy.
 12 How are you?

09:31:03 12 Q. Good.

09:31:04 13 Q. Good.

09:31:08 14 When we left off on Monday my recollection is we
 09:31:13 15 were talking about health insurance bills, and I would
 09:31:18 16 like to back up a step and get some information that
 09:31:24 17 places us in some time frame, places the discussion in
 09:31:28 18 some time frame.

09:31:29 19 Did you indicate that the auditors, Wiss &
 09:31:38 20 Company, informed you at some time that they wanted to
 09:31:42 21 do a check as to the health benefits payments?

09:31:52 22 A. My recollection is that the results of the audit
 09:32:00 23 revealed four people that began an investigation by the
 09:32:09 24 county to start to look at people who may be on benefits
 09:32:14 25 that weren't eligible.

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WITNESS: DIRECT CROSS REDIRECT RECROSS

CYNTHIA YARD

By Mr. DeSapio 3

EXHIBITS

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09:32:16 1 Q. Well, in this year, in 2013, when did it first
 09:32:23 2 come to your attention that there was a question about a
 09:32:29 3 need for an inquiry into payments on the health
 09:32:33 4 benefits?

09:32:36 5 A. That was as a result of Wiss identifying four
 09:32:41 6 people who they could not connect back to eligibility
 09:32:47 7 for benefits.

09:32:53 8 Q. And when did that information come to your
 09:33:08 9 attention?

09:33:08 10 A. Somewhere before April.

09:33:16 11 Q. So that would be in March sometime -- March or
 09:33:21 12 prior?

09:33:23 13 A. Somewhere -- yes, I would say January/February
 09:33:28 14 and March of 2013.

09:33:29 15 Q. Okay. And was Cheryl Wieder still employed here
 09:33:37 16 at that time?

09:33:41 17 A. She -- yes, until around the last week of March,
 09:33:47 18 I believe.

09:33:52 19 Q. And did you speak to her about what the auditors
 09:33:56 20 had reported to you?

09:34:02 21 A. My recollection is that she was not part of that
 09:34:09 22 conversation that happened -- that brought those four
 09:34:19 23 people to the County's attention who they could not
 09:34:25 24 track back to eligibility for benefits, for health
 09:34:30 25 benefits.

11:14:04

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09:34:31 **1** Q. Well, Cheryl was still the Director of Human
 09:34:34 **2** Resources at the time. Correct?
 09:34:38 **3** A. Yes.
 09:34:38 **4** Q. And you were her supervisor. Correct?
 09:34:41 **5** A. Yes.
 09:34:42 **6** Q. And so when Wiss informed you that there were
 09:34:45 **7** four people that they had questions about that were
 09:34:47 **8** receiving health benefits, are you saying you didn't
 09:34:52 **9** either convey that information to Cheryl Wieder or ask
 09:34:55 **10** her about it?
 09:34:57 **11** A. No, that's not what I am saying.
 09:34:59 **12** Q. Okay.
 09:35:00 **13** A. What I am saying is the time frame, if she were
 09:35:08 **14** here, had she been physically here, I would have
 09:35:11 **15** certainly made that inquiry.
 09:35:14 **16** Q. Okay. You indicated that this information came
 09:35:18 **17** to your attention sometime prior to April, that is,
 09:35:21 **18** January, February, March.
 09:35:23 **19** A. Right.
 09:35:23 **20** Q. She was still here then, was she not?
 09:35:26 **21** A. Right, but I believe it was at the end of March,
 09:35:32 **22** and if my memory serves me correctly, she was out the
 09:35:38 **23** end -- at the end of March before her unplanned
 09:35:43 **24** retirement.
 09:35:46 **25** Q. And since she left or after she left, did you

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09:35:50 **1** pick up the phone and call her and say, "Do you know
 09:35:53 **2** anything about this?"
 09:35:56 **3** A. No, I didn't.
 09:35:57 **4** Q. Okay. Did you ask her assistant, Adrian, about
 09:36:07 **5** this?
 09:36:07 **6** A. No, I didn't.
 09:36:08 **7** Q. And why didn't you call Ms. Wieder up and ask her
 09:36:18 **8** about this question raised by the auditors?
 09:36:24 **9** A. Cheryl Wieder retired, so I did what I needed to
 09:36:34 **10** do, and that was to refer the situation to the Board of
 09:36:43 **11** Chosen Freeholders, and we started to immediately look
 09:36:44 **12** into it.
 09:36:52 **13** Q. What were the circumstances under which Cheryl
 09:36:54 **14** Wieder retired?
 09:37:00 **15** A. That's not a requirement that PERS, which is the
 09:37:05 **16** Public Employee Retirement System, or the County
 09:37:10 **17** requires anybody to tell why they retire. They are
 09:37:14 **18** allowed to file for retirement and take retirement.
 09:37:18 **19** Q. Okay. And are you saying that you didn't have
 09:37:21 **20** any discussions with her about why she was retiring or
 09:37:26 **21** her need for retiring?
 09:37:29 **22** A. No, I am not saying that.
 09:37:31 **23** Q. All right.
 09:37:31 **24** So let me ask you if there were any discussions
 09:37:36 **25** concerning her retirement that were related to her

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09:37:51 **1** performance.
 09:37:51 **2** A. Could you ask me that again?
 09:37:52 **3** I am not quite sure.
 09:37:54 **4** Q. Were there any discussions between you and her
 09:37:56 **5** about retirement that were related to her performance?
 09:38:06 **6** A. Not regarding the health benefits.
 09:38:11 **7** Q. Regarding other aspects of her performance or
 09:38:14 **8** lack thereof?
 09:38:19 **9** A. There were discussions with her regarding
 09:38:25 **10** performance, but unrelated to the health benefits issue.
 09:38:32 **11** Q. Did you ask or encourage her to retire?
 09:38:39 **12** A. Again, people make a choice to retire.
 09:38:46 **13** The County is not required to ask people why they
 09:38:50 **14** retire. The Public Employee Retirement System does not
 09:38:55 **15** require people to tell why they retire. They are
 09:39:00 **16** allowed to retire.
 09:39:01 **17** Q. I understand that.
 09:39:02 **18** I am asking you whether you asked her or
 09:39:05 **19** encouraged her to retire.
 09:39:08 **20** MR. GANTNER: I am going to object at this
 09:39:09 **21** point.
 09:39:09 **22** I think counsel is aware that he is now
 09:39:13 **23** getting into an area of questioning in which Ms. Yard is
 09:39:20 **24** not permitted to respond because I don't believe that
 09:39:24 **25** she has the right to disclose anything that the employee

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09:39:28 **1** may have told her about specific reasons for retirement.
 09:39:33 **2** MR. FLORIO: I am going to overrule the
 09:39:36 **3** objection and allow this inquiry to proceed a little bit
 09:39:40 **4** further, but noting for the record that you have a
 09:39:43 **5** concern about a personnel issue that should not become
 09:39:50 **6** part of this record, and so when we get to that point
 09:39:53 **7** you immediately renew your objection, and I will grant
 09:39:56 **8** it at that time.
 09:39:57 **9** MR. GANTNER: Thank you.
 09:39:58 **10** MR. FLORIO: Please continue.
 09:40:00 **11** MR. DESAPIO: I just note for the record as
 09:40:03 **12** well that these two employees asked for an open session,
 09:40:07 **13** and if that interferes with a line of questioning that's
 09:40:12 **14** relevant to this proceeding, we certainly have no
 09:40:16 **15** objection for a limited period of time asking any
 09:40:19 **16** members of the public to leave the room while any
 09:40:27 **17** confidentiality issues involving a specific employee are
 09:40:30 **18** involved, so if that becomes a factor, I am just
 09:40:33 **19** indicating that for the record now.
 09:40:34 **20** MR. FLORIO: Mr. Gantner.
 09:40:36 **21** MR. GANTNER: I will stand by the ruling
 09:40:38 **22** that you already gave, and we will address any other
 09:40:40 **23** issues as they arise.
 09:40:42 **24** MR. FLORIO: Thank you.
 09:40:42 **25** Q. Ms. Yard, I wasn't asking you what Cheryl Wieder

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09:40:45 **1** told you.

09:40:46 **2** I am asking you whether you asked her or

09:40:51 **3** encouraged her to retire.

09:40:53 **4** MR. GANTNER: Well, for clarification, this

09:40:55 **5** is a "yes" or "no" answer.

09:41:00 **6** MR. FLORIO: You can answer.

09:41:03 **7** **A. Ask me the question again, please.**

09:41:07 **8** **Q.** I am asking you whether in your discussions with

09:41:09 **9** Cheryl Wieder you asked her or encouraged her to retire.

09:41:14 **10** MR. GANTNER: Well -- I am sorry -- I don't

09:41:16 **11** mean to keep interrupting, but I would appreciate it,

09:41:21 **12** because of my concern, if counsel would ask a single

09:41:25 **13** question at a time.

09:41:27 **14** He is asking whether Ms. Yard questioned

09:41:32 **15** another person, and then in the same question he is also

09:41:35 **16** asking whether there was encouragement to that person,

09:41:40 **17** so, just on a "yes" or "no" basis let's get the answers

09:41:45 **18** to those two separately, and then I can interpose

09:41:49 **19** appropriate objections if I feel it's necessary

09:41:52 **20** following those answers.

09:41:54 **21** MR. FLORIO: Can you break down the question

09:41:55 **22** to make it less compound?

09:41:57 **23** MR. DESAPIO: Sure.

09:41:58 **24** **Q.** Ms. Yard, in your discussions with Cheryl Wieder

09:42:01 **25** at the time, did you encourage her to retire?

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09:42:07 **1** **A. No.**

09:42:08 **2** **Q.** In your discussions with Cheryl Wieder at the

09:42:13 **3** time, did you ask her to retire?

09:42:14 **4** **A. No.**

09:42:14 **5** **Q.** Did you indicate to her that the performance

09:42:20 **6** concerns that you had could result in disciplinary

09:42:24 **7** action?

09:42:29 **8** **A. There was a situation brought to the forefront,**

09:42:33 **9** **and there were alternatives discussed with the employee.**

09:42:39 **10** **The choice that an employee makes is solely their**

09:42:44 **11** **own.**

09:42:44 **12** **Q.** Okay. So when you say there was a situation

09:42:46 **13** discussed, are you referring to a potential disciplinary

09:42:51 **14** action?

09:42:54 **15** MR. GANTNER: I am going to object at this

09:42:56 **16** point.

09:42:58 **17** MR. FLORIO: I will overrule the objection.

09:43:01 **18** I think this is a relevant line of inquiry,

09:43:04 **19** and I will allow the answer.

09:43:09 **20** **Q.** When you said there was a concern discussed, were

09:43:12 **21** you referring to a potential disciplinary action?

09:43:20 **22** **A. It was the violation of a standard, and certainly**

09:43:27 **23** **the consequence for standards being violated are all**

09:43:33 **24** **part of that when you discuss a situation with an**

09:43:36 **25** **employee.**

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09:43:36 **1** **Q.** So do I understand that answer to mean "yes"?

09:43:45 **2** **A. I guess I need you to ask the question again so**

09:43:48 **3** **that I can appropriately answer it.**

09:43:49 **4** **Q.** When you indicated you were discussing to her

09:43:53 **5** about -- discussing with her concerns, were those

09:44:00 **6** concerns related to a potential disciplinary action?

09:44:08 **7** **A. Yes.**

09:44:10 **8** **Q.** You said at any time there are discussions with

09:44:20 **9** an employee about alternatives, were one of the

09:44:24 **10** alternatives that you discussed with Cheryl Wieder her

09:44:29 **11** potential retirement?

09:44:39 **12** **A. Given the years of service and the eligibility**

09:44:46 **13** **for retirement, that certainly would have been one of**

09:44:51 **14** **the alternatives.**

09:44:53 **15** **Q.** That you discussed with her?

09:44:58 **16** "Yes"?

09:44:59 **17** **A. The alternatives were discussed, and I did tell**

09:45:02 **18** **you it could have been one of the alternatives.**

09:45:04 **19** **Q.** Okay. Well, I don't want to be difficult, Ms.

09:45:09 **20** Yard, but when you say "it could have been one of the

09:45:11 **21** alternatives," do you remember it being one of the

09:45:15 **22** alternatives discussed?

09:45:16 **23** **A. It's a viable alternative, yes, for someone who**

09:45:19 **24** **is eligible for retirement.**

09:45:20 **25** **Q.** I understand that answer when you say "it's a

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09:45:24 **1** viable alternative," and I hate to be persistent, but I

09:45:28 **2** will be.

09:45:28 **3** Is it one of the alternatives that you discussed

09:45:31 **4** with her?

09:45:32 **5** **A. Yes.**

09:45:33 **6** **Q.** Okay. Now, isn't the fact that her leaving was

09:45:44 **7** not as simple as an ordinary retirement but involved a

09:45:48 **8** settlement agreement between her and the County?

09:45:56 **9** **A. Yes.**

09:45:57 **10** **Q.** All right.

09:45:58 **11** Was that settlement agreement memorialized in

09:46:05 **12** writing?

09:46:05 **13** **A. Yes.**

09:46:05 **14** **Q.** So when you said before that when Wiss raised the

09:46:13 **15** issue of people being on the health insurance rolls that

09:46:20 **16** maybe shouldn't be, and you said you didn't call Cheryl

09:46:24 **17** to inquire about that, was that really due to the fact

09:46:30 **18** that you didn't think it was necessary or due to the

09:46:32 **19** fact that that would be an awkward conversation for you

09:46:36 **20** to have?

09:46:44 **21** **A. Give me the two choices again, Mr. DeSapio.**

09:46:47 **22** MR. DESAPIO: Can you read the question back

09:46:48 **23** to the witness?

09:46:49 **24** (Whereupon, the court reporter reads as

09:47:14 **25** requested.)

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09:47:14 1 MR. GANTNER: Or any other possibility.

09:47:22 2 **A. The two choices that I was given, neither one of**

09:47:28 3 **them apply, Guy, so you know.**

09:47:30 4 **I will tell you why.**

09:47:32 5 **Q. Go right ahead.**

09:47:34 6 **A. Maybe I should ask you -- let you ask the**

09:47:38 7 **question.**

09:47:38 8 **We were looking into it independently. We wanted**

09:47:42 9 **to see -- you know -- we needed to look at it**

09:47:45 10 **independently to find out what was going on.**

09:47:53 11 **Q. So who is "we needed to look into it**

09:47:53 12 **independently," who is the "we"?**

09:47:54 13 **A. The County.**

09:47:55 14 **Q. Well, who in the County?**

09:48:03 15 **A. When the issues -- two issues that we started to**

09:48:10 16 **look at came to light, I referred -- we discussed with**

09:48:18 17 **the governing body the situation, and I was told to**

09:48:30 18 **start to look into it and report back to the board.**

09:48:34 19 **Q. Now, when you say "two issues came to light,"**

09:48:38 20 **what are the two issues you are talking about?**

09:48:46 21 **A. The four people that were not or could not be**

09:48:50 22 **traced back for eligible health coverage benefits and**

09:48:59 23 **the inappropriate placement of people and the violation**

09:49:08 24 **of the 2011 health care benefits reform placing people**

09:49:16 25 **on the wrong tier.**

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09:49:17 1 **Q. Is that second item, "placing people on the wrong**

09:49:22 2 **tier," something Wiss told you about in March?**

09:49:24 3 **A. Yes. That became -- yes, it was as a result of**

09:49:29 4 **the audit, and I don't know exactly when, but those are**

09:49:32 5 **the two items that I went to the board with and was told**

09:49:40 6 **to "look into it and find out what happened."**

09:49:43 7 **Q. Okay. When is this conversation with the board**

09:49:45 8 **that you went to the board and was told to "look into**

09:49:49 9 **it"?**

09:49:53 10 **A. It was in March.**

09:49:55 11 **Q. And so when you said before, "we were going to**

09:50:01 12 **look into it," is the "we" actually you?**

09:50:13 13 **A. The "we" is the County.**

09:50:18 14 **Q. The "County" being the Board of Chosen**

09:50:22 15 **Freeholders or who?**

09:50:26 16 **A. We brought over an employee from Human Services**

09:50:32 17 **who was assisting us in HR. She was one of the "we."**

09:50:41 18 **County counsel, Shana Taylor, was also part of**

09:50:46 19 **that, because Wiss was referred to Shana Taylor or to me**

09:50:53 20 **when there were any discrepancies regarding the audit,**

09:50:59 21 **but for the fact that Wiss was referred to admin or**

09:51:07 22 **County counsel, we, the County, may never have found out**

09:51:14 23 **about the four dead people -- actually, three dead**

09:51:19 24 **people and one that had been laid off -- the ineligible**

09:51:24 25 **benefits for deceased people.**

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09:51:26 1 **Q. So now you are saying -- if I understand**

09:51:29 2 **correctly -- I am not trying to put words in your**

09:51:32 3 **mouth -- you correct me -- the "we" are you, Shana**

09:51:37 4 **Taylor and somebody who came over from Human Services.**

09:51:40 5 **Is that Lupe Fowler?**

09:51:43 6 **A. She would have been part of it, yes.**

09:51:48 7 **Q. Okay. So now you are saying this directive was**

09:51:52 8 **given to you -- did you just say this directive was**

09:51:55 9 **given to you in March by the Board of Chosen**

09:51:59 10 **Freeholders?**

09:51:59 11 **A. At some point my recollection is in March it**

09:52:03 12 **could have been -- you know -- March is when I am**

09:52:06 13 **thinking, the end of March.**

09:52:08 14 **Q. Going back to your previous testimony about H-12,**

09:52:12 15 **which we can pull for you to look at, but that was your**

09:52:15 16 **summary of who was on health benefits and who was not on**

09:52:19 17 **health benefits?**

09:52:20 18 **A. Right.**

09:52:20 19 **Q. You said you started that in June, didn't you?**

09:52:26 20 **A. The initial investigation for those three dead**

09:52:31 21 **people and the one person that was laid off in 2011**

09:52:36 22 **began immediately.**

09:52:38 23 **The full review, and I would like to see that, if**

09:52:41 24 **you can give me that so that I can look at it for my**

09:52:47 25 **knowledge, I believe I testified that I used the July**

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09:52:51 1 **1st to August 1st bill so that we could find out the**

09:52:55 2 **depth and breadth of that problem to the extent that we**

09:53:00 3 **had people on the wrong benefits.**

09:53:03 4 MR. DESAPIO: Mr. Gantner, I have H-12,

09:53:05 5 which appears to be in separate sheets.

09:53:07 6 Do I have your permission to staple that

09:53:09 7 together?

09:53:09 8 MR. GANTNER: Sure.

09:53:10 9 MR. DESAPIO: This way we don't lose a page.

09:53:20 10 Okay.

09:53:25 11 **Q. And your testimony is that in spite of the fact**

09:53:30 12 **that you had knowledge sometime between January and**

09:53:34 13 **March that there was a question about health benefits?**

09:53:37 14 **A. March. I mean it was prior to April, but, yes,**

09:53:43 15 **as you are talking me through it, yes, it's in March**

09:53:46 16 **sometime, yes.**

09:53:47 17 **Q. Just to make sure that my understanding is**

09:53:50 18 **correct, you had some information about this in March**

09:53:59 19 **sometime?**

09:54:01 20 **A. Of the three deceased people and the one laid off**

09:54:06 21 **person, which was brought to our attention by the**

09:54:10 22 **auditors because they were referred to admin or legal**

09:54:16 23 **counsel to discuss problems with the audit.**

09:54:20 24 **Q. So you are saying that in spite of the fact that**

09:54:24 25 **you had information about this issue in March, you never**

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09:54:31 **1** discussed this with Cheryl Wieder when you were

09:54:37 **2** discussing the concerns and proposed disciplinary action

09:54:41 **3** with her?

09:54:44 **4** **A. My recollection is, because I did testify, that**

09:54:52 **5 the situation that we discussed, that I discussed with**

09:54:57 **6 Cheryl Wieder had nothing to do with the health**

09:55:02 **7 benefits, and my recollection also is when this came to**

09:55:06 **8 the forefront -- because she was not physically here.**

09:55:17 **9 Q.** So at the time that Cheryl Wieder -- just before

09:55:22 **10** Cheryl Wieder left, how many people worked in Human

09:55:31 **11** Resources?

09:55:31 **12** **A. Two.**

09:55:32 **13** **Q.** And who was the other person?

09:55:36 **14** **A. Adrian, Adrian.**

09:55:39 **15** **Q.** Can you pronounce her last name?

09:55:41 **16** **A. I can't.**

09:55:42 **17** **Q.** I have a tough time pronouncing her last name.

09:55:44 **18** **A. You do it.**

09:55:45 **19** **Q.** You are the witness.

09:55:46 **20** **A. Prokofiew.**

09:55:48 **21** **Q.** Prokofiew?

09:55:50 **22** MR. FLORIO: Can someone spell that for me?

09:55:59 **23** MR. DESAPIO: I can get it. Give me a

09:56:08 **24** second. I can get it.

09:56:08 **25** MR. FLORIO: Her first name is --

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09:56:08 **1** THE WITNESS: Adrian, A-d-r-i-a-n.

09:56:36 **2** MS. TAYLOR: Prokofiew.

09:56:36 **3** MR. FLORIO: P-r-o-k-o-f-i-e-w. All right.

09:56:45 **4** Just like it sounds.

09:56:48 **5** THE WITNESS: Okay. I don't know.

09:56:52 **6** **Q.** Now, what was her position in Human Resources?

09:57:05 **7** **A. She was the only other person that worked in**

09:57:07 **8 Human Resources. I would say she was an administrative**

09:57:11 **9 assistant or confidential assistant to the HR director.**

09:57:17 **10** **Q.** Does she still work in Human Resources?

09:57:20 **11** **A. No, she does not.**

09:57:22 **12** **Q.** And is it the case that at the time that Cheryl

09:57:27 **13** Wieder went out on retirement, that you moved Adrian out

09:57:38 **14** of Human Resources?

09:57:39 **15** **A. She was reassigned.**

09:57:41 **16** **Q.** To where?

09:57:44 **17** **A. To buildings and maintenance.**

09:57:48 **18** **Q.** Now, is it also the case that the same weeks that

09:57:54 **19** Cheryl went out you had all the files in Adrian's office

09:57:58 **20** boxed up and removed from her office?

09:58:04 **21** **A. I don't believe so.**

09:58:06 **22** **Q.** Is it the case you had all the files in Cheryl

09:58:09 **23** Wieder's office boxed up and removed from the office?

09:58:16 **24** **A. I didn't initiate or authorize that -- you**

09:58:20 **25** **know.**

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09:58:20 **1** **Q.** You don't know whether that happened or not?

09:58:23 **2** **A. I believe that Cheryl came in to pack up her**

09:58:30 **3** **office, if that's what you are asking me.**

09:58:33 **4** **Q.** I am not asking you about Ms. Wieder's personal

09:58:36 **5** effects.

09:58:36 **6** **A. Okay.**

09:58:37 **7** **Q.** I am asking about the county's records in the

09:58:44 **8** Human Resources Department.

09:58:47 **9** **A. No. That's not true. Her office was not packed**

09:58:50 **10** **up. Her records were removed.**

09:58:54 **11** **Q.** Ms. Taylor and yourself did not box up those

09:58:59 **12** records?

09:58:59 **13** **A. Not that I recall.**

09:59:01 **14** **Q.** Okay. Now, so Cheryl Wieder retires after some

09:59:07 **15** discussion or discussions with you, Adrian is moved

09:59:11 **16** someplace else.

09:59:12 **17** It sounds like you had major concerns about the

09:59:14 **18** operation of the Human Resources Department at the time,

09:59:17 **19** did you not?

09:59:23 **20** **A. We were trying to get to the bottom of the three**

09:59:29 **21** **deceased people that we were unable to find out how they**

09:59:34 **22** **were eligible for benefits and the one person that was**

09:59:42 **23** **laid off in 2011, so we were looking to get to the**

09:59:52 **24** **bottom of it.**

09:59:54 **25** **Q.** And the place that you were looking initially was

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09:59:58 **1** in the Human Resources Department. Correct?

10:00:04 **2** **A. Because that was one of the two locations and one**

10:00:12 **3** **of the two designated people or areas that had**

10:00:20 **4** **responsibility for health benefits.**

10:00:25 **5** **Q.** Now, when you say "this is one of the two

10:00:27 **6** designated areas that had responsibility for health

10:00:30 **7** benefits," is that based upon some policy or procedure

10:00:35 **8** or memorandum or anything in writing?

10:00:45 **9** **A. The governing body by design had always had**

10:00:55 **10** **either the county treasurer, which predated either Mrs.**

10:01:01 **11** **Pasqua or Mrs. Browne, and the HR director, be part of**

10:01:12 **12** **the health benefits.**

10:01:15 **13** **Additionally, as far as a resolution, I don't**

10:01:19 **14** **believe there is a resolution, but there are**

10:01:24 **15** **representations in freeholder minutes that in '08,**

10:01:33 **16** **January of '08, the then director of the Board of Chosen**

10:01:42 **17** **Freeholders designated a health benefits committee, and**

10:01:46 **18** **at that time it was Cheryl Wieder, Mrs. Browne and John**

10:01:53 **19** **Davenport was on that committee, and that was at a**

10:01:58 **20** **freeholder meeting reflected in the minutes, so that's**

10:02:08 **21** **as official -- there is no resolution.**

10:02:11 **22** **Q.** Just to clarify, there is no resolution that

10:02:14 **23** assigns responsibilities in regard to health benefit

10:02:19 **24** issues. Correct?

10:02:20 **25** **A. No resolution.**

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10:02:21 **1** Q. There is no written policy or procedure that

10:02:23 **2** assigns responsibilities in regard to health benefits.

10:02:26 **3** Correct?

10:02:29 **4** A. No.

10:02:30 **5** Q. And there is no internal memorandum or otherwise,

10:02:34 **6** no internal memorandum that assigns responsibilities for

10:02:37 **7** health benefits. Correct?

10:02:39 **8** A. No memorandum, but certainly a decision of the

10:02:42 **9** board to designate either the director of finance or,

10:02:49 **10** prior to the director of finance, the county treasurer

10:02:51 **11** and the HR, those were the two positions, if you will,

10:02:58 **12** that solely negotiated and were the liaison facilitated

10:03:05 **13** anything to do with health benefits and attended every

10:03:09 **14** conference call, interacted with health benefits,

10:03:18 **15** certainly met with Willis -- you know -- health benefits

10:03:24 **16** conference calls with Ceridian.

10:03:27 **17** They were the two people -- they were the two

10:03:30 **18** positions that were assigned.

10:03:31 **19** Q. Okay. Who is Willis and who is Ceridian?

10:03:37 **20** Let's break it down.

10:03:38 **21** Who is Willis first?

10:03:40 **22** A. Willis is our broker.

10:03:43 **23** Q. Your health insurance broker?

10:03:45 **24** A. Yes.

10:03:47 **25** Q. And who is Ceridian?

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10:03:49 **1** A. Ceridian is also part of our health benefits

10:03:54 **2** service delivery system.

10:03:56 **3** I believe they are a third party. They are a

10:04:03 **4** company that also assists us with the delivery of health

10:04:07 **5** benefits to our employees.

10:04:09 **6** Q. I would like you to try to clarify the roles and

10:04:14 **7** relationships as you perceive them a little bit.

10:04:18 **8** On Monday you were shown P-24, which was from the

10:04:45 **9** county's website, and indicated that Human Resources was

10:04:51 **10** responsible for health benefit programs. Correct?

10:04:55 **11** A. No. That's not correct.

10:05:02 **12** Q. Okay.

10:05:02 **13** A. You had kept asking me if it was the

10:05:02 **14** responsibility. It says it was the responsibility, and

10:05:04 **15** that's not what this says, as I had testified on Monday.

10:05:07 **16** It says that the Department of Human Resources is

10:05:11 **17** the centralized office. It does not say it's solely

10:05:14 **18** responsible for the health benefits programs. It says

10:05:20 **19** the "centralized office."

10:05:22 **20** Q. And by "centralized office," what does that mean?

10:05:32 **21** A. Well, this to me is a resource for somebody

10:05:39 **22** that's reading this, that if they wanted to contact

10:05:45 **23** someone for health benefits programs or employee

10:05:51 **24** personnel files or job application files or employee

10:05:56 **25** attendance records or Workmen's Comp claims or salary

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10:06:01 **1** resolutions and schedules or state certification list

10:06:05 **2** and paperwork, clerical testing or county adherence to a

10:06:11 **3** collective bargaining agreement, they would contact this

10:06:15 **4** centralized office.

10:06:18 **5** Q. When you use the word "someone," you mean

10:06:22 **6** employees as well. Right?

10:06:26 **7** A. Oh, yes. Yes. Uh-huh.

10:06:29 **8** Q. Okay. Does that also mean that the records of

10:06:37 **9** employees and their health benefits, health benefit

10:06:40 **10** entitlement, were all lodged in some format

10:06:45 **11** electronically or otherwise in Human Resources?

10:06:53 **12** A. Did you say just the "health benefits"?

10:06:55 **13** Q. Yes, just health benefits.

10:06:57 **14** A. It's my understanding that access to Horizon and

10:07:07 **15** Ceridian and all of the other services that were under

10:07:11 **16** "health benefits," was not solely at one location.

10:07:18 **17** Q. Okay. Now, I will get back to that in a second.

10:07:24 **18** Were the records, employee records, including

10:07:28 **19** their entitlement to health benefits and what their

10:07:31 **20** entitlements are, were they lodged electronically or

10:07:34 **21** otherwise in Human Resources?

10:07:46 **22** A. I am confused.

10:07:47 **23** Ask me again, please.

10:07:50 **24** MR. DESAPIO: Would you read the question

10:07:50 **25** back to the witness.

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10:07:51 **1** (Whereupon, the court reporter reads as

10:08:11 **2** requested.)

10:08:11 **3** A. Yes.

10:08:12 **4** Q. Okay. Now, you said the other day, and you also

10:08:15 **5** just said now, that it's your understanding -- the other

10:08:20 **6** day I don't think you used the word "your

10:08:23 **7** understanding," today I think you just used the words

10:08:25 **8** "according to your understanding" access to Ceridian and

10:08:32 **9** Willis was available to HR and who else?

10:08:39 **10** A. Freeholders have designated two responsible

10:08:44 **11** parties for the health benefits program and access to

10:08:52 **12** computer programs or databases, and those two people,

10:08:59 **13** those two positions after 2008 was the HR director and

10:09:05 **14** the director of finance.

10:09:06 **15** Q. So when you say "they designated two responsible

10:09:10 **16** parties," that designation is not in writing anyplace.

10:09:15 **17** Correct?

10:09:18 **18** A. It was a freeholder decision to assign two

10:09:24 **19** positions to facilitate, to be the liaison, to

10:09:34 **20** negotiate, to do whatever it needed to do to offer

10:09:40 **21** health benefits to our employees.

10:09:43 **22** Those positions were after 2008 the director of

10:09:48 **23** finance and the HR director.

10:09:50 **24** Q. And that assignment that you described,

10:09:53 **25** Freeholders' assignment, was not in writing. Correct?

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10:10:01 **1 A. Not that one, yes. Correct.**

10:10:03 **2 Q.** And so there is no place in writing that you can

10:10:09 **3** find in connection with the issue of health benefits who

10:10:12 **4** they designated, who the freeholders designated verbally

10:10:17 **5** to do what? Correct?

10:10:21 **6 A. There are the minutes of the January 2008 meeting**

10:10:26 **7 that establishes a health benefits committee of three**

10:10:32 **8 people, but as far as the designation of the director of**

10:10:39 **9 finance and the HR director after 2008, is not written,**

10:10:45 **10 but clearly understood.**

10:10:50 **11 Q.** By whom?

10:10:51 **12 A. The two people, the two positions. The director**

10:10:55 **13 of finance and the HR director who negotiated, who met**

10:11:00 **14 with, who interacted with, conducted conference calls**

10:11:04 **15 with the people who delivered health benefits services**

10:11:11 **16 to the county.**

10:11:12 **17 Q.** Okay. Let me ask about this health benefits

10:11:15 **18** committee.

10:11:15 **19** What was going on in 2008 that the health

10:11:20 **20** benefits -- is that what it was called "health benefits

10:11:24 **21** committee"?

10:11:26 **22 A. I believe that's what's reflected in the minutes.**

10:11:28 **23 Q.** What was going on in 2008 that this committee was

10:11:32 **24** created?

10:11:37 **25 A. I believe -- again, I don't have the advent of**

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10:11:41 **1 the minutes before me, but they were looking into**

10:11:44 **2 different health benefit plans or programs, so it was**

10:11:51 **3 something -- again, the then director of the Board of**

10:11:57 **4 Chosen Freeholders established by way of the minutes.**

10:12:00 **5 Q.** Okay. So does it refresh your recollection that

10:12:06 **6** the existing health insurance contract was expiring

10:12:10 **7** within a reasonable period of time and the freeholders

10:12:12 **8** established a committee to look into placement of a

10:12:15 **9** subsequent contract?

10:12:26 **10 A. I don't recall if that's why it was established.**

10:12:29 **11 Again, I was never involved in the health**

10:12:36 **12 benefits. I was never on a committee. I was never part**

10:12:41 **13 of the two positions and, perhaps, by design. I don't**

10:12:45 **14 know why the freeholders -- I can't speak for the**

10:12:49 **15 freeholders why they made that decision, that**

10:12:51 **16 organizational decision to have two people, one from**

10:12:59 **17 finance and one from HR, to be the designated people**

10:13:06 **18 for -- you know -- interaction with the health benefits**

10:13:10 **19 program.**

10:13:10 **20 Q.** You keep saying "two people." Then you keep

10:13:14 **21** adding John Davenport.

10:13:15 **22** Was this committee two people or three people?

10:13:18 **23 A. I believe I was clear, but I can tell**

10:13:20 **24** certainly -- say it again, Guy.

10:13:22 **25 That the freeholders directed, it is not by**

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10:13:27 **1 resolution, two people, two positions -- I want to be**

10:13:31 **2 clear on that -- because it was positions, it was**

10:13:35 **3 someone from finance and prior to 2008 it was the county**

10:13:38 **4 treasurer. It was always HR, and even as former County**

10:13:46 **5 Counsel -- you know -- you weren't involved and neither**

10:13:48 **6 was I.**

10:13:50 **7 Then in January of 2008, as I have already**

10:13:54 **8 testified, the then director, Eric Peterson, had -- it's**

10:14:02 **9 in the minutes -- and certainly -- you know -- as I**

10:14:05 **10 reflect back on 15 years, that's 360 Freeholder**

10:14:13 **11 meetings, you were twice that amount of time, so it was**

10:14:15 **12 720 Freeholder meetings, so we have to rely on the**

10:14:18 **13 minutes often to refresh our memory, but there was an**

10:14:24 **14 open session.**

10:14:26 **15 It was a committee that was named, and that was**

10:14:31 **16 three people, but the two people recognized to negotiate**

10:14:40 **17 to make recommendations to the Board of Chosen**

10:14:43 **18 Freeholders we -- regarding health benefits since I have**

10:14:48 **19 been here for 15 years, since April 15, 1998, was a**

10:14:55 **20 person from finance and a person from HR.**

10:14:58 **21 Q.** Okay. Now I understand you to be talking about

10:15:03 **22** two separate things and two separate time frames.

10:15:08 **23** In 2008 this committee was created consisting of

10:15:12 **24** three people, John Davenport, Kim Browne and Cheryl

10:15:18 **25** Wieder. Correct?

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10:15:20 **1 A. That's what the minutes reflect, yes.**

10:15:22 **2 Q.** Okay. So I imagine you looked at those minutes

10:15:25 **3** recently that you remember that right off the top of

10:15:28 **4** your head?

10:15:33 **5 A. Yes, I did.**

10:15:35 **6 Q.** When you looked at the minutes recently you

10:15:38 **7** didn't discern from the minutes what the purpose of that

10:15:40 **8** committee was?

10:15:48 **9 A. That's not something that either I remembered**

10:15:53 **10 or -- you know -- retained.**

10:15:55 **11 Q.** Who was Freeholder director at the time?

10:15:58 **12 A. The minutes reflect Eric Peterson.**

10:16:01 **13 Q.** And do you remember Mr. Peterson's position as to

10:16:05 **14** why he wanted this committee created?

10:16:09 **15 A. I think -- and again I feel terrible to say --**

10:16:14 **16 but I think they were considering other insurance plans**

10:16:19 **17 or -- you know -- offerings to our employees.**

10:16:22 **18 Q.** Okay. So at the time this committee was

10:16:25 **19** exploring other insurance plans for your employees.

10:16:29 **20** Correct?

10:16:33 **21 A. Yes.**

10:16:33 **22 Q.** Okay. So now on this committee John Davenport --

10:16:37 **23** who is John Davenport, what position does he hold in the

10:16:41 **24** County?

10:16:41 **25 A. He is the purchasing agent.**

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10:16:44 **1** Q. Okay.

10:16:46 **2** And Kim Browne was put on from finance?

10:16:49 **3** In fact, for identification she had just been

10:16:51 **4** appointed to finance, hadn't she, in 2008?

10:16:54 **5** **A. I believe so.**

10:16:55 **6** Q. Okay. Cheryl Wieder, who was the Human Resources

10:17:00 **7** director, was put on this committee. Correct?

10:17:03 **8** **A. Yes.**

10:17:04 **9** Q. Okay. Now, did you, as County Administrator

10:17:11 **10** after this committee was created, did you ever check

10:17:15 **11** into what the committee was doing?

10:17:19 **12** **A. Actually, as I was reading the minutes, they made**

10:17:23 **13** **a report back to the Board in '09.**

10:17:26 **14** Q. All right.

10:17:27 **15** And that report had to do with what component of

10:17:33 **16** health benefits?

10:17:36 **17** **A. I believe plans -- you know -- plans, certain --**

10:17:41 **18** **you know -- certain benefits that we would offer to our**

10:17:44 **19** **employees.**

10:17:44 **20** **They were commissioned, if you would, or charged**

10:17:50 **21** **by the Board and they met, I guess, and independently**

10:17:58 **22** **developed a presentation to the Board.**

10:18:01 **23** Q. As to the selection of the vendor, as to a

10:18:05 **24** recommended selection of the vendor?

10:18:09 **25** **A. I don't know about the vendor as much as the**

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10:18:12 **1** **options for health benefits.**

10:18:14 **2** Q. Options for health benefits.

10:18:16 **3** In other words, "plans," is that what you mean by

10:18:19 **4** "options"?

10:18:19 **5** **A. Yes. I had very little to do with it at any**

10:18:27 **6** **time. The two positions that always had been designated**

10:18:30 **7** **to be our negotiators, which are the director of finance**

10:18:33 **8** **after 2008 and the HR director.**

10:18:37 **9** **The committee that was established, I was not**

10:18:42 **10** **asked to be part of, and I certainly, as, I believe,**

10:18:49 **11** **you, sat through the presentation that they made in**

10:18:52 **12** **2009.**

10:18:53 **13** Q. Uh-huh.

10:18:54 **14** As County Administrator, you didn't feel you

10:18:58 **15** needed to look into it more thoroughly other than to

10:19:03 **16** listen to the presentation at the meeting?

10:19:05 **17** MR. GANTNER: Can I have that question?

10:19:06 **18** (Whereupon, the court reporter reads as

10:19:25 **19** requested.)

10:19:25 **20** MR. GANTNER: Could you rephrase the

10:19:26 **21** question?

10:19:30 **22** Q. As County Administrator at the time you did not

10:19:34 **23** feel that you needed to look into the work or purpose

10:19:39 **24** for the committee other than to listen to the

10:19:41 **25** presentation at the Freeholders' meeting?

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10:19:54 **1** **A. It's a "yes" or "no" question?**

10:19:56 **2** Q. Yes.

10:19:56 **3** **A. "No."**

10:19:57 **4** Q. Okay. In your review of minutes and records

10:20:12 **5** about this committee, did you find any indication that

10:20:22 **6** this committee decided to allocate responsibilities for

10:20:29 **7** placing people on health benefits or monitoring health

10:20:38 **8** benefits or reviewing the bills or to change existing

10:20:38 **9** systems in regard to how that was done?

10:20:48 **10** **A. Could you ask me again or ask him?**

10:20:54 **11** Q. In your review of this committee, did you find

10:21:02 **12** anything to suggest that the purpose of this committee

10:21:06 **13** or that this committee did anything to change the

10:21:12 **14** existing system concerning the placement of employees on

10:21:16 **15** health benefits and the responsibility for monitoring

10:21:20 **16** the vendors' bills?

10:21:35 **17** **A. The charge of the committee was to look at health**

10:21:50 **18** **plans.**

10:21:50 **19** **Discharge of the two people, the two positions**

10:21:56 **20** **prior to 2008 or post 2008 -- excuse me -- was the**

10:22:02 **21** **Director of Finance and the HR director, so the two**

10:22:10 **22** **committees or the two entities had different charges --**

10:22:16 **23** Q. Okay.

10:22:16 **24** **A. -- I believe.**

10:22:17 **25** Q. Okay. So in regard to this 2008 committee, you

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10:22:26 **1** are saying they didn't have discharge to nor do they

10:22:29 **2** change or recommend a change in the way that health

10:22:31 **3** benefit bills were monitored or paid?

10:22:40 **4** **A. That wasn't their responsibility.**

10:22:41 **5** Q. Okay. Now, you are talking about this group

10:22:47 **6** before 2008.

10:22:55 **7** Is there anything in writing or any policy or

10:22:59 **8** procedure that designates what their responsibilities

10:23:04 **9** were?

10:23:07 **10** MR. GANTNER: We are talking about before

10:23:09 **11** 2008?

10:23:10 **12** MR. FLORIO: I think that was the question.

10:23:12 **13** MR. GANTNER: Can I have a proffer as to the

10:23:14 **14** relevance?

10:23:15 **15** MR. FLORIO: Counsel.

10:23:16 **16** MR. DESAPIO: The witness brought it up.

10:23:18 **17** She keeps going back to this group between the Finance

10:23:22 **18** Director and the Human Resources. I am just trying to

10:23:24 **19** figure out how it is relevant. She is the one that

10:23:27 **20** keeps saying it's relevant.

10:23:29 **21** MR. FLORIO: I am not so sure that the

10:23:32 **22** witness is emphasizing relevance pre- 2008.

10:23:41 **23** If I understand her testimony, and I think I

10:23:44 **24** do, she is emphasizing this committee that was formed in

10:23:47 **25** 2008 to take a look at health insurance benefits for

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10:23:53 **1** County employees at the point in time at which those
 10:24:00 **2** offices or the directors of those offices, Human
 10:24:04 **3** Services and the Finance Department, were designated to
 10:24:08 **4** be responsible for the search, negotiation and retention
 10:24:15 **5** of those benefit plans.
 10:24:17 **6** MR. DESAPIO: I am sorry to interrupt you.
 10:24:20 **7** MR. FLORIO: I am not disinclined to give
 10:24:22 **8** you some latitude to ask about a pre- 2008 circumstance,
 10:24:26 **9** but -- you know -- its relevance is a little, perhaps,
 10:24:32 **10** distant.
 10:24:33 **11** MR. DESAPIO: Since this witness raised it,
 10:24:35 **12** if the county is prepared to stipulate that testimony
 10:24:37 **13** regarding pre-2008 and this relationship or committee is
 10:24:42 **14** not relevant to the disciplinary charges, I won't need
 10:24:47 **15** to ask any questions. They need to indicate whether
 10:24:49 **16** it's relevant. She brought it to that.
 10:24:53 **17** MR. GANTNER: Wait a minute.
 10:24:53 **18** MR. FLORIO: Counsel.
 10:24:54 **19** MR. GANTNER: I am not stipulating anything.
 10:24:56 **20** I am objecting to questioning this witness
 10:25:00 **21** about matters. We have gone on and on at length on a
 10:25:04 **22** point that could have been dealt with in about three or
 10:25:07 **23** four questions.
 10:25:08 **24** A committee was formed to look to examine
 10:25:13 **25** the new insurance programs that were available.

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10:25:18 **1** That's all. That was it.
 10:25:20 **2** We spent about 45 minutes on it. Now we are
 10:25:23 **3** going to talk about before 2008.
 10:25:24 **4** I am objecting to that.
 10:25:26 **5** MR. DESAPIO: I just want to indicate that
 10:25:28 **6** it also could have been dealt with in three or four
 10:25:30 **7** direct answers, too.
 10:25:32 **8** MR. FLORIO: I am going to grant the
 10:25:33 **9** objection.
 10:25:38 **10** I am not so sure that anything pre-2008 is
 10:25:42 **11** relevant to the real purpose of this hearing, so I am
 10:25:49 **12** going to sustain the objection and ask counsel to move
 10:25:52 **13** on.
 10:25:54 **14** **Q.** Now, you indicated that finance had access to the
 10:26:02 **15** health benefits -- one or two people that had access to
 10:26:08 **16** the health benefits vendors, programs. I wasn't sure
 10:26:14 **17** what you meant when you said "one or two people had
 10:26:17 **18** access to."
 10:26:23 **19** MR. GANTNER: Asked and answered.
 10:26:27 **20** MR. FLORIO: Overruled.
 10:26:32 **21** **A. There were two positions in this County that were**
 10:26:40 **22 responsible for the inner action, negotiation and access**
 10:26:49 **23 to the databases or the programs, and that was the**
 10:26:56 **24 Director of Finance and the HR director.**
 10:27:00 **25** **Q.** All right.

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10:27:00 **1** Now my question is limited to your statement that
 10:27:05 **2** there are two people who had access to the databases and
 10:27:08 **3** programs.
 10:27:11 **4** What databases and programs?
 10:27:15 **5** **A. Horizon's, the bills -- you know -- putting, I**
 10:27:20 **6 guess, people on and off.**
 10:27:23 **7** **My limited knowledge of the two people, the two**
 10:27:29 **8 positions that were designated by the County to interact**
 10:27:38 **9 and negotiate and interface with Horizon and the other**
 10:27:45 **10 Ceridian, Express Scripts, were the Director of Finance**
 10:27:50 **11 and the HR director.**
 10:27:51 **12** **Q.** Okay. Now, when you say your "limited
 10:27:57 **13** knowledge," do you know where the databases are located
 10:28:04 **14** for access to Horizon and the billing?
 10:28:12 **15** **A. I don't know where the database is.**
 10:28:14 **16** **However, I didn't have a need to know, because**
 10:28:18 **17 there were two people, two positions assigned by the**
 10:28:23 **18 governing body to interact, interface, negotiate and do**
 10:28:32 **19 whatever it needed to be done with Horizon and all of**
 10:28:44 **20 the other companies that provided health benefits and**
 10:28:44 **21 services.**
 10:28:44 **22** **Q.** As supervisor of Human Resources and as being
 10:28:48 **23** involved in the "we" who was conducting an investigation
 10:28:51 **24** beginning in March of 2013 on health benefits, did you
 10:28:59 **25** ever check Cheryl Wieder's computer to see whether the

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10:29:01 **1** Horizon billing database was on her computer?
 10:29:06 **2** **A. I did not.**
 10:29:07 **3** **Q.** Did you ever ask anybody to do it, to check
 10:29:12 **4** whether it was on her computer?
 10:29:16 **5** **A. We -- the County reacted and did what we needed**
 10:29:25 **6 to do. I brought the vendors in here to assist us in**
 10:29:31 **7 trying to get to the bottom of the situation.**
 10:29:35 **8** **Q.** Okay. Did you ever ask anybody to check as to
 10:29:40 **9** whether the Horizon database for health benefits was on
 10:29:47 **10** Cheryl Wieder's computer?
 10:29:53 **11** **A. Did I?**
 10:29:55 **12** **Q.** Yes.
 10:29:55 **13** **A. No.**
 10:29:55 **14** **Q.** Okay. So did you ever check to see whether
 10:30:04 **15** access to the Horizon database was on any of the
 10:30:10 **16** computers in the finance department?
 10:30:16 **17** **A. There were two positions assigned to interface,**
 10:30:26 **18 interact, negotiate, communicate with Horizon, Ceridian,**
 10:30:36 **19 Express Scripts, any of our -- Willis, and that was the**
 10:30:41 **20 Director of Finance and the HR director.**
 10:30:47 **21** **Q.** So is the answer you never checked to see whether
 10:30:50 **22** it was on any of the finance computers?
 10:30:53 **23** "Yes" or "no."
 10:31:00 **24** **A. Me myself, no.**
 10:31:02 **25** **Q.** Did you ever ask anybody to check and report back

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10:31:06 **1** to you as to whether it was on any of the finance
10:31:09 **2** department computers?
10:31:15 **3** **A. We did ask our information services to help us --**
10:31:23 **4 you know -- gain access to what we needed to gain access**
10:31:26 **5 to to conduct our inquiry, so my answer is --**
10:31:33 **6** **Q.** Did you ask them to check whether it was on the
10:31:36 **7** finance department computers?
10:31:39 **8** **A. I did not.**
10:31:40 **9** **Q.** Okay. So your testimony, both on Monday and
10:31:47 **10** today, that Kim Browne had access to this database, is
10:31:54 **11** that pure speculation or assumption?
10:32:00 **12** **A. I know the Board of Chosen Freeholders assigned**
10:32:06 **13 two positions to interface, interact, negotiate and**
10:32:15 **14 administer -- you know -- the health benefits program.**
10:32:22 **15 I know those two people or those two positions were**
10:32:27 **16 Director of Finance and the HR director.**
10:32:33 **17** **Q.** So you don't know for a fact whether Kim Browne
10:32:36 **18** had access to that database on her computer or any
10:32:39 **19** computer in the finance department?
10:32:45 **20** **A. I do know, because -- I do know, because there**
10:32:50 **21 are times that they would refer to Ceridian and getting**
10:32:54 **22 on the computer and Express Scripts and conference**
10:33:00 **23 calls, so they did have -- they did have access. They**
10:33:09 **24 had to.**
10:33:09 **25** **Q.** When you say "they" when you refer to conference

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10:33:12 **1** calls and Ceridian, who is "they"?
10:33:15 **2** **A. The two people that the board -- the two**
10:33:18 **3 positions that the Board of Chosen Freeholders**
10:33:20 **4 designated as the responsible parties to interact,**
10:33:26 **5 interface, negotiate and they were the Director of**
10:33:32 **6 Finance and the HR director.**
10:33:39 **7** **Q.** So you're assuming from the reports that were
10:33:41 **8** made to you that she had access, but you don't know for
10:33:46 **9** a fact?
10:33:46 **10** MR. GANTNER: Objection.
10:33:47 **11** That's not what she said.
10:33:48 **12** It misstates the evidence.
10:33:49 **13** **Q.** Did Kim Browne tell you she had direct access to
10:33:54 **14** the database on the Horizon computer -- on her computer?
10:33:59 **15** **A. Could you restate that?**
10:34:00 **16** **Q.** Did Kim Browne ever tell you that she had direct
10:34:02 **17** access to the Horizon database on her computer?
10:34:11 **18** **A. I don't believe Mrs. Browne ever came to me and**
10:34:15 **19 said, "Hello. I have access to the health benefits."**
10:34:18 **20** **She was one of the responsible parties. Part of**
10:34:22 **21 her license was that she had developed internal controls**
10:34:28 **22 to protect the County's assets, to make recommendations**
10:34:31 **23 for better beneficiary management, fiscal and financial**
10:34:36 **24 management.**
10:34:37 **25** **She did not ever come to me and say, "I have**

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10:34:40 **1** **access to be able to conduct my responsibility as one of**
10:34:46 **2 the two positions that is responsible to negotiate,**
10:34:50 **3 interact, to interface with Horizon."**
10:34:59 **4** **Q.** The last answer brings up an interesting
10:35:02 **5** question.
10:35:04 **6** When Kim Browne was hired for the director of the
10:35:09 **7** Division of Finance in 2008, did she have a license of
10:35:13 **8** any sort?
10:35:19 **9** **A. I believe she got her license because it's a**
10:35:22 **10 DCA, it's a state requirement that within a year a**
10:35:28 **11 person has to become a CMFO, and you have to be a CMFO**
10:35:35 **12 to become a CCFO, so the County, as is their policy, I**
10:35:43 **13 believe, she went and got her license.**
10:35:47 **14** **Q.** The question was, at the time when she was
10:35:55 **15** appointed, did she have a license?
10:35:57 **16** "Yes" or "no"?
10:35:59 **17** MR. FLORIO: I think that question is a
10:36:01 **18** little vague.
10:36:03 **19** Can you specify "specific license"?
10:36:07 **20** **Q.** Did she have any license at the time she was
10:36:09 **21** appointed?
10:36:14 **22** **A. I don't know that.**
10:36:16 **23** **Q.** Okay. Do you know whether it was a condition of
10:36:22 **24** her appointment or part of the job description that she
10:36:27 **25** have or obtain any license?

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10:36:32 **1** **A. The State of New Jersey through the DCA requires**
10:36:43 **2 a CMFO within a year, and I know -- I do know that she**
10:36:49 **3 obtained that CMFO distinction, and the County -- and**
10:36:58 **4 this is in accordance with their policy. The County**
10:37:03 **5 paid for that, that CMFO license.**
10:37:07 **6** **I don't know if she had another license to do**
10:37:09 **7 something else.**
10:37:10 **8** **Q.** Let me ask you, Ms. Yard, who is the County's
10:37:13 **9** Chief Financial Officer, who is the County's CFO?
10:37:20 **10** **A. Margaret --**
10:37:22 **11** MR. FLORIO: In 2013 or in 2008? Your last
10:37:26 **12** questions were about the 2008.
10:37:28 **13** MR. DESAPIO: We can start with 2013.
10:37:32 **14** **Q.** Who is the County CFO -- who was the County CFO
10:37:36 **15** until you started these proceedings?
10:37:38 **16** **A. Margaret Pasqua.**
10:37:40 **17** **Q.** Okay. And in 2008 who was the County CFO?
10:37:45 **18** **A. Margaret was appointed -- Margaret Pasqua was**
10:37:48 **19 appointed County treasurer in 2008.**
10:37:51 **20** **Q.** Okay. And this is because there is a statute
10:37:54 **21** which requires every County to have a CFO?
10:37:59 **22** **A. There is a stat -- there is a requirement that a**
10:38:04 **23 CFO possesses the CMFO license, and then you have to be**
10:38:16 **24 a CMFO to be a CCFO, and evidently Mrs. Browne went and**
10:38:24 **25 got that license of CMFO and, I believe, eventually**

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10:38:28 **1** **CCFO, but to answer your question, the CFO at the time**
 10:38:34 **2** **or County treasurer, that's what the resolution reads,**
 10:38:37 **3** **was Margaret Pasqua.**
 10:38:39 **4** **Q.** So as far as you know, there is a requirement
 10:38:42 **5** that the County have one CFO. Correct?
 10:38:46 **6** **A. Yes.**
 10:38:47 **7** **Q.** Okay. And that was Margaret Pasqua. Correct?
 10:38:52 **8** **A. Yes.**
 10:38:52 **9** **Q.** And there was no requirement, either in job
 10:38:56 **10** description or otherwise, that Kim Browne have any kind
 10:39:00 **11** of license, including a CFO license or a CMFO license.
 10:39:05 **12** Is there any requirement of the County that she
 10:39:08 **13** possess that to become the director of the Division of
 10:39:11 **14** Finance?
 10:39:11 **15** **A. Not as a County department head, but evidently**
 10:39:15 **16** **the governing body made a decision to fund her license**
 10:39:21 **17** **and, therefore, if she got a license, then the**
 10:39:26 **18** **expectation is that they follow the responsibilities of**
 10:39:29 **19** **their license, so, yes, the County had one that required**
 10:39:34 **20** **a license of CMFO; we were lucky enough to have two.**
 10:39:38 **21** **Q.** So what you are saying is, because the
 10:39:41 **22** freeholders reimbursed her tuition to go to the course,
 10:39:46 **23** you feel that automatically resulted in her having all
 10:39:51 **24** the duties of a CFO, even though she wasn't one?
 10:39:55 **25** MR. GANTNER: Objection.

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10:39:56 **1** It misstates the testimony.
 10:39:57 **2** MR. FLORIO: You can answer.
 10:40:02 **3** **A. My testimony was that she was a licensed CMFO,**
 10:40:08 **4** **CCFO, and there are absolutely -- absolutely**
 10:40:13 **5** **responsibilities. There are 14 of them that are**
 10:40:17 **6** **prescribed to be licensed as a CMFO or CCFO.**
 10:40:24 **7** **Q.** And you are saying those responsibilities,
 10:40:26 **8** because she had the license even though she wasn't the
 10:40:29 **9** CFO, automatically were a part of her job description?
 10:40:34 **10** **A. Absolutely. They were the parameters and terms**
 10:40:37 **11** **and conditions of her license.**
 10:40:38 **12** **Q.** But that wasn't in writing anyplace. The
 10:40:44 **13** Freeholders didn't adopt a policy to that effect?
 10:40:45 **14** **A. The responsibilities are clearly defined as part**
 10:40:49 **15** **of the license.**
 10:40:51 **16** **The County, since 2008, for Ms. Pasqua and Ms.**
 10:41:01 **17** **Browne to be certified, to be licensed, and to maintain**
 10:41:08 **18** **their license, to maintain their continuing education**
 10:41:14 **19** **units, to continue to be members of their associations,**
 10:41:22 **20** **the County paid just south of \$10,000 for those licenses**
 10:41:31 **21** **and memberships to be maintained, and certainly had the**
 10:41:39 **22** **expectation and the return on the investment that they**
 10:41:44 **23** **would operate within the parameters of their license.**
 10:41:47 **24** **Q.** But that was never put in writing by the
 10:41:49 **25** Freeholders. Correct?

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10:41:56 **1** **A. The same -- let me use an example.**
 10:42:00 **2** **We have --**
 10:42:01 **3** **Q.** Ms. Yard, the question is simple.
 10:42:03 **4** **A. Yes. Okay.**
 10:42:04 **5** **Q.** Was it ever put in writing by the Freeholders?
 10:42:08 **6** **A. That someone should maintain the terms and**
 10:42:11 **7** **conditions of their license?**
 10:42:12 **8** **Q.** That the terms and conditions of the CFO license
 10:42:19 **9** became a part of Kim Browne's job description, was that
 10:42:26 **10** ever put in writing by the Freeholders?
 10:42:30 **11** "Yes" or "no."
 10:42:32 **12** **A. No. No.**
 10:42:33 **13** **Q.** Was that ever put in writing by you?
 10:42:36 **14** "Yes" or "no."
 10:42:38 **15** **A. No.**
 10:42:38 **16** **Q.** Okay. And, in fact, up to this recent
 10:42:42 **17** reorganization that you described on Monday, there
 10:42:46 **18** wasn't even a job description, a formalized adopted job
 10:42:51 **19** description either promulgated by the Freeholders or you
 10:42:55 **20** for Ms. Browne's position, was there?
 10:43:00 **21** "Yes" or "no."
 10:43:03 **22** **A. No.**
 10:43:06 **23** **Q.** Okay. As County Administrator, are you familiar
 10:43:14 **24** with the County purchasing procedure?
 10:43:23 **25** **A. I participated several years ago with you when**

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10:43:29 **1** **you were former County Counsel when we were attempting**
 10:43:38 **2** **to update that purchasing manual.**
 10:43:38 **3** **I certainly don't know all of the intricacies or**
 10:43:46 **4** **the details of it, but I am familiar with the manual**
 10:43:50 **5** **that's dated 1996 that we attempted to update for**
 10:43:54 **6** **several years ago.**
 10:43:56 **7** **Q.** Now, are you familiar with the procedure that
 10:44:01 **8** that manual sets forth for payment of a bill?
 10:44:11 **9** **A. No, not the intricacies of it.**
 10:44:14 **10** **Q.** You are not at all?
 10:44:19 **11** **A. Not the intricacies of it, no.**
 10:44:22 **12** **Q.** Leave aside the "intricacies," can you describe
 10:44:27 **13** for us your general understanding as to how a bill gets
 10:44:33 **14** paid in this County for a good or service delivered to
 10:44:40 **15** the County?
 10:44:52 **16** **A. We have licensed people who implement those, the**
 10:44:57 **17** **rules and regulations to pay bills in this County.**
 10:45:02 **18** **Q.** So you have no even general understanding of how
 10:45:05 **19** it works?
 10:45:10 **20** **A. Not that -- I don't want to misrepresent the**
 10:45:14 **21** **rules and regulations and the laws that people follow.**
 10:45:17 **22** **Q.** So it's going to come to you as County
 10:45:21 **23** Administrator as a total surprise if I ask you whether
 10:45:24 **24** or not a purchase order is prepared for payment of a
 10:45:27 **25** bill?

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10:45:30	1 A. No, it's not a surprise.	
10:45:32	2 Q. That part is not a surprise. Okay.	
10:45:34	3 What do you know about the preparation of a	
10:45:38	4 purchase order?	
10:45:41	5 A. That it's done in purchasing.	
10:45:43	6 Q. Okay. And what is the purpose of the purchase	
10:45:46	7 order?	
10:45:50	8 A. It's to identify what deliverables are being	
10:45:55	9 requested and to -- to facilitate the purchasing of	
10:46:03	10 those goods and services.	
10:46:04	11 Q. Do you know who signs it and for what purpose?	
10:46:11	12 A. Purchasing.	
10:46:16	13 Q. Do you know whether vendors who deliver services	
10:46:19	14 to the County or goods send a bill to the County?	
10:46:24	15 A. Certainly.	
10:46:26	16 Q. You know that they do send a bill?	
10:46:31	17 A. Yes.	
10:46:31	18 Q. Okay. Do you know, according to the purchasing	
10:46:33	19 policy, who has the responsibility for reviewing that	
10:46:37	20 bill?	
10:46:43	21 A. Purchasing.	
10:46:45	22 Q. Anybody else?	
10:46:52	23 A. Well, part of the license of the two CMFOs and	
10:47:00	24 CCFOs are that they certainly develop internal controls,	
10:47:09	25 also make recommendations for better management of	

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10:47:12	1 finances, so there are several people that could look at	
10:47:16	2 it.	
10:47:18	3 Q. Would you be surprised if I told you that the	
10:47:21	4 auditor testified that the County purchasing procedure	
10:47:24	5 was a form of internal control?	
10:47:30	6 A. Is the question am I surprised?	
10:47:32	7 Q. Would you be surprised if I told you that the	
10:47:34	8 County auditor testified that the County purchasing	
10:47:37	9 manual was a form of internal control?	
10:47:43	10 A. I am not surprised.	
10:47:44	11 Q. Okay. Now, to your understanding, does the	
10:47:50	12 receiving department have any responsibility to review a	
10:47:57	13 bill?	
10:48:03	14 A. Could you give me an example? A "receiving	
10:48:06	15 department," could you give me an example?	
10:48:08	16 Q. Okay. So the Engineering Department orders a	
10:48:14	17 bulldozer. After the bill comes in for the bulldozer,	
10:48:19	18 does the Engineering Department have any responsibility	
10:48:22	19 to review the bill?	
10:48:25	20 A. It should verify the goods or services were	
10:48:28	21 delivered.	
10:48:28	22 Q. Okay. Is that the same case with every	
10:48:32	23 department that receives something?	
10:48:37	24 A. I would imagine that's the desired objective.	
10:48:41	25 Q. You would imagine it's the desired objective or	

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10:48:44	1 you know that they are supposed to do that?	
10:48:48	2 A. They should do it.	
10:48:50	3 Q. Do you know that they should do it or is this	
10:48:53	4 coming as a surprise to you?	
10:48:56	5 A. No, it's not a surprise.	
10:48:57	6 Q. Okay. So you know they should do it.	
10:49:00	7 "Yes"?	
10:49:02	8 A. It's not a surprise.	
10:49:04	9 Q. Okay. But you don't know whether they should do	
10:49:09	10 it?	
10:49:10	11 A. Your question was is it a surprise. I said,	
10:49:14	12 "it's not a surprise."	
10:49:15	13 Q. And I ask you whether you knew for a fact that	
10:49:18	14 they should do it.	
10:49:21	15 Do you know for a fact that the receiving	
10:49:22	16 department is supposed to verify or certify that goods	
10:49:25	17 are received?	
10:49:27	18 A. Goods are received, yes. Uh-huh.	
10:49:30	19 Q. "Yes" you know that they should certify.	
10:49:34	20 Now, after that certification is received, do you	
10:49:38	21 know what happens to it, who it goes to?	
10:49:44	22 A. The goods?	
10:49:46	23 Q. The certification that the goods are received,	
10:49:50	24 who the bill and the certification go to.	
10:49:55	25 A. Probably for payment.	

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10:49:59	1 Q. "Probably," but you don't know?	
10:50:01	2 A. It would have to go for payment.	
10:50:03	3 Q. "It would have to go for payment," but it's your	
10:50:07	4 testimony you, as County Administrator, do not know the	
10:50:09	5 next step?	
10:50:11	6 A. That's not what -- not my testimony.	
10:50:14	7 Q. Okay. So instead of "probably," I want to know	
10:50:18	8 what you understand about where it goes.	
10:50:24	9 A. Where what goes?	
10:50:26	10 Q. The bill on which the department head certifies	
10:50:29	11 receipt of the item.	
10:50:34	12 A. Finance. The bill has to be paid.	
10:50:38	13 Q. It doesn't go to purchasing first?	
10:50:41	14 A. I am not sure. I am not sure.	
10:50:44	15 Q. Okay. So it would come as a surprise to you if	
10:50:47	16 the purchasing policy indicated that?	
10:50:49	17 MR. FLORIO: Indicated what?	
10:50:51	18 Q. That it goes to purchasing first. It would come	
10:51:00	19 as a surprise to you if the purchasing policy indicated	
10:51:03	20 it goes to purchasing first?	
10:51:06	21 A. I don't know all of the mechanics of the	
10:51:11	22 purchasing manual. I do know that it's from 1996.	
10:51:18	23 Q. Okay. So in connection with this investigation	
10:51:23	24 that you began in March or you participated in in March	
10:51:31	25 as to whether or not bills had been paid for health	

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10:51:35 **1** benefits for people for whom they shouldn't be paid, you

10:51:43 **2** did not review, prior to beginning that investigation or

10:51:43 **3** any time during the course of the investigation, the

10:51:47 **4** correct procedure for payment of those bills?

10:51:53 **5** **A. That was not the charge of the investigation, but**

10:51:58 **6 for the fact that Wiss brought to our attention, the**

10:52:04 **7 County's attention, that there were three people as well**

10:52:09 **8 as -- three people that had deceased and one that was**

10:52:16 **9 laid off in 2011, we began to look at how and to what**

10:52:25 **10 extent that happened.**

10:52:29 **11 Q.** And you didn't think it was important to

10:52:32 **12** determine initially or at someplace during the

10:52:35 **13** investigation what the procedure was that should have

10:52:39 **14** been followed for payment of those bills?

10:52:46 **15 A. That wasn't what we were looking for.**

10:52:48 **16 Q.** And you did think it was important?

10:52:50 **17** MR. GANTNER: Objection.

10:52:52 **18** MR. FLORIO: Sustained.

10:52:53 **19 Q.** So to this very date you don't know and you can't

10:52:55 **20** provide us with an indication as to what the procedure

10:52:59 **21** was or should have been for payment of those health

10:53:02 **22** insurance bills?

10:53:07 **23 A. There were two people, two positions that were**

10:53:10 **24 responsible for the health benefits program negotiating**

10:53:17 **25 with our broker, negotiating, interfacing, interacting**

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10:53:23 **1 with Horizon, and, as a matter of fact, part of the**

10:53:30 **2 license of Mrs. Browne was to develop internal controls**

10:53:37 **3 to protect the County's assets. There were two people.**

10:53:44 **4 Q.** And there was an internal control to protect the

10:53:50 **5** County's assets in connection with the payment of bills,

10:53:51 **6** wasn't there, and it was the purchasing policy.

10:53:57 **7** Correct?

10:54:00 **8 A. That's what you have indicated, yes, that it was**

10:54:03 **9 testified by Wiss that was an internal control.**

10:54:07 **10 Q.** Who are you attempting to hold accountable for

10:54:18 **11** verifying these bills, health insurance bills, Kim

10:54:22 **12** Browne or Margaret Pasqua?

10:54:32 **13 A. The Finance Department had the responsibility as**

10:54:39 **14 two licensed practitioners to be the custody of public**

10:54:47 **15 funds, to develop internal controls, to comply with the**

10:54:52 **16 single audit, to comply with all of the -- of DCA local**

10:54:58 **17 government services -- so what is the question again?**

10:55:08 **18 Q.** Who are you saying was responsible for verifying

10:55:14 **19** the accuracy of these health insurance bills, Kim Browne

10:55:18 **20** or Margaret Pasqua?

10:55:22 **21 A. The Finance Department.**

10:55:24 **22** MR. GANTNER: I object to the question in

10:55:26 **23** that it presents the witness with an "either or" choice,

10:55:30 **24** and the answer could be more nuance than that.

10:55:39 **25** MR. FLORIO: I am going to overrule the

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10:55:41 **1** objection and allow the witness to answer.

10:55:45 **2** I don't want to put testimony in your mouth.

10:55:49 **3** You can proceed.

10:55:52 **4** Is it one or the other or both? Or more

10:55:55 **5** than that?

10:55:57 **6** I think that's what the question is trying

10:56:00 **7** to get at, just trying to get at.

10:56:02 **8 A. There were two licensed people, only two, in**

10:56:06 **9 Hunterdon County who were licensed to administer and**

10:56:11 **10 deliver finance services to the County.**

10:56:18 **11 The answer to your question, as I understand it,**

10:56:26 **12 Mr. DeSapio, is the two licensed people who were**

10:56:32 **13 licensed to administer and deliver finance services in**

10:56:42 **14 Hunterdon County.**

10:56:44 **15 That's my answer.**

10:56:45 **16 Q.** So are you saying that they had the

10:56:51 **17** responsibility to review and determine whether or not

10:56:56 **18** every item that's indicated on any bill that's come to

10:56:59 **19** the County has actually been received?

10:57:04 **20** Is that what you are saying the responsibility of

10:57:07 **21** their license is?

10:57:12 **22 A. I think that's a different question than you**

10:57:14 **23 asked me the first time.**

10:57:15 **24 Ask me again.**

10:57:17 **25 What question do you want me to answer?**

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10:57:22 **1 Q.** Are you saying that Kim Browne and Margaret

10:57:25 **2** Pasqua, both of them, were responsible for reviewing and

10:57:30 **3** approving the billings for health benefits?

10:57:44 **4 A. The billing for health benefits, reviewing the**

10:57:50 **5 billing for health benefits, absolutely falls within the**

10:57:59 **6 parameters of the license for CMFO and CCFO, of which**

10:58:06 **7 the County has two.**

10:58:11 **8 Q.** So you are saying, "Yes, they were responsible."

10:58:15 **9** What was Cheryl Weider's responsibility in

10:58:19 **10** connection with reviewing the accuracy of the bill?

10:58:26 **11 A. She was one of two people, two positions assigned**

10:58:32 **12 by the Board of Chosen Freeholders, to interface,**

10:58:38 **13 interact, negotiate, health benefits.**

10:58:54 **14 Q.** Did she have a specific responsibility for

10:58:56 **15** reviewing the bill which came addressed to her?

10:59:06 **16 A. She was one of two people who was assigned by the**

10:59:10 **17 Board of Chosen Freeholders to interface, interact,**

10:59:16 **18 negotiate with our health benefits program.**

10:59:22 **19 Q.** So would the procedure for reviewing the health

10:59:28 **20** benefits bill be different than the procedure for

10:59:31 **21** reviewing any other bill that came in to the County?

10:59:44 **22 A. The procedure would also -- well, that would**

10:59:48 **23 certainly come under internal controls or making**

10:59:52 **24 recommendations for better finance management practices,**

11:00:01 **25 so I don't know the depth and breadth that is done to**

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11:00:10 **1 review the bills.**

11:00:11 **2 I imagine the review of a bulldozer being**

11:00:19 **3 delivered might be different than a review of health**

11:00:22 **4 benefit bills, but, I guess, that's specific to the**

11:00:27 **5 area.**

11:00:29 **6** MR. FLORIO: It's eleven o'clock.

11:00:30 **7** Let's take ten minutes.

11:00:38 **8** (Whereupon, a short recess is taken.)

11:18:07 **9** MR. FLORIO: Do you want to start up?

11:18:08 **10** MR. GANTNER: We can continue.

11:18:10 **11** MR. FLORIO: All right.

11:18:10 **12 Q.** Ms. Yard, just before the break, I believe you

11:18:14 **13** indicated that the procedure for approval of a health

11:18:19 **14** insurance bill might be different than the procedure for

11:18:21 **15** approval of other types of bills.

11:18:25 **16** Did I understand you correctly?

11:18:33 **17 A. What I was alluding to, attempting to**

11:18:40 **18 communicate, is, I would venture to say internal**

11:18:46 **19 controls may be different or the extent of a sample that**

11:18:52 **20 you look at or how you perform the checks and balances.**

11:19:01 **21 The health benefits program in Hunterdon County**

11:19:07 **22 and the bills total nine to \$11 million a year, so not**

11:19:17 **23 that I am insinuating that you wouldn't use internal**

11:19:20 **24 controls for a box of paper clips, but certainly an**

11:19:24 **25 expense that is that great I would venture to say that**

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11:19:35 **1 you would adjust your internal controls and maybe make**

11:19:39 **2 the sample or the internal controls, the check and**

11:19:42 **3 balances, different.**

11:19:45 **4 I believe that the fact that the board identified**

11:19:52 **5 people from two different areas, one from finance and**

11:19:58 **6 one from HR, was just that, to do a check and balance so**

11:20:06 **7 that it wasn't just one person doing -- you know -- that**

11:20:12 **8 review and authorizing the payment of those bills.**

11:20:19 **9 Those bills run about 750 or \$900 -- \$900,000 a**

11:20:27 **10 month. That's a lot of money, not that I am saying you**

11:20:31 **11 shouldn't do internal controls for a box of paper clips,**

11:20:35 **12 but certainly this was something that should have been**

11:20:39 **13 closely reviewed.**

11:20:42 **14 Q.** So is there any policy or procedure that

11:20:46 **15** indicates that the written policy or procedure that

11:20:49 **16** indicates that the internal control or review procedure

11:20:55 **17** for health insurance bills is different than the

11:20:57 **18** procedure for any other bill?

11:21:03 **19 A. I am not aware of any written procedure.**

11:21:06 **20 Q.** Okay.

11:21:07 **21 A. But --**

11:21:09 **22 Q.** Go ahead.

11:21:10 **23 A. You asked me the question, so I want to answer.**

11:21:13 **24 Q.** Sorry. I thought you had.

11:21:17 **25 A. But the fact that, again, as I stated, that two**

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11:21:23 **1 different areas for looking at it and the approval of**

11:21:29 **2 bills certainly does not negate the need for internal**

11:21:36 **3 controls to make sure that the County -- to protect the**

11:21:44 **4 County's interest and assets.**

11:21:47 **5 Q.** In your role as supervisor, supervisory role over

11:21:53 **6** HR, did you ever discuss with Cheryl Wieder establishing

11:22:01 **7** anything, some kind of different practice for review of

11:22:04 **8** health insurance bills than for review of other bills?

11:22:10 **9 A. No, I didn't.**

11:22:11 **10 Q.** Okay. Just to fill out the procedure process, do

11:22:24 **11** the Freeholders have any role in approval of bills?

11:22:29 **12 A. They approve a bill list at their meetings.**

11:22:33 **13 Q.** How does that bill list get to them or generated?

11:22:38 **14 A. It's generated from finance.**

11:22:39 **15 Q.** Do you know how that's generated, what that's

11:22:41 **16** generated from?

11:22:43 **17 A. No, I do not, not the specifics.**

11:22:54 **18 Q.** On direct testimony your attorney marked H-6,

11:23:08 **19** which I am going to show you in a second.

11:23:13 **20** Well, I will show it to you now.

11:23:17 **21** You identified that as an e-mail you received on

11:23:21 **22** March 27, 2013 from Kim Browne. Is that right?

11:23:24 **23 A. Yes. That's what it says.**

11:23:26 **24 Q.** Okay. And your testimony at the time was that

11:23:31 **25** you had asked whether there were any outstanding HR

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11:23:36 **1** issues that needed to be reviewed or addressed now that

11:23:41 **2** Cheryl Wieder had retired. Correct?

11:23:49 **3 A. It was at a February 27th kitchen cabinet meeting**

11:23:55 **4 a subsequent e-mail on March 12th or 14th that I sent**

11:23:58 **5 out to the kitchen cabinet members to say, "Yes, give**

11:24:02 **6 me -- as a result of our February 27th kitchen cabinet**

11:24:05 **7 meeting, would you please provide me with any of the**

11:24:08 **8 outstanding HR issues," yes.**

11:24:10 **9 Q.** Okay. And now you are talking about a February

11:24:15 **10** date.

11:24:16 **11** Just to be clear, when was Cheryl Wieder's last

11:24:26 **12** day physically on the premises?

11:24:32 **13 A. I am not exactly sure, but it was at the end, I**

11:24:35 **14 believe, at the end of March.**

11:24:36 **15 Q.** Okay. And for how long thereafter did she remain

11:24:41 **16** on the County payroll?

11:24:47 **17 A. I believe she utilized her sick time and was -- I**

11:24:55 **18 am not exactly sure -- but I believe it was around until**

11:24:58 **19 maybe July 1st or the end of June.**

11:25:01 **20 Q.** July 1st. Okay.

11:25:03 **21** Now, this e-mail, H-6, from Kim Browne is

11:25:10 **22** entitled, "Outstanding HR issues." Correct?

11:25:15 **23 A. Yes. This was the second e-mail that Mrs. Browne**

11:25:19 **24 sent me.**

11:25:20 **25 The first was March 14th. My initial e-mail to**

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11:25:26 **1 the kitchen cabinet said, "Give me any of your**
 11:25:29 **2 outstanding HR issues by March 15th."**
 11:25:33 **3 She did submit something, and then this was a**
 11:25:37 **4 postscript of it of more issues.**
 11:25:47 **5 Q.** Well, this other e-mail you are talking about
 11:25:47 **6** prior to March 27th is not in evidence.
 11:25:47 **7** You didn't present that on Monday, did you? Am I
 11:25:50 **8** missing something?
 11:25:53 **9** You didn't testify about the previous e-mail on
 11:25:56 **10** Monday, did you?
 11:25:58 **11 A.** I did testify to it, absolutely.
 11:26:00 **12 Q.** Was it marked in evidence?
 11:26:02 **13 A.** I don't know that.
 11:26:03 **14 Q.** Okay. H-6, read the second line.
 11:26:12 **15 A.** "Carol Lane still on Horizon Blue Cross Blue
 11:26:17 **16 Shield invoice, been trying to get her off for a long**
 11:26:20 **17 time now."**
 11:26:21 **18 Q.** And read beginning on the fourth line to the end
 11:26:28 **19** of that first paragraph.
 11:26:31 **20 A.** "Medicare part B"?
 11:26:33 **21 Q.** Yes.
 11:26:33 **22 A.** Starting there, "A little research may be in
 11:26:37 **23 order. Kathy had heard that if employees who are 65 do**
 11:26:42 **24 not sign up for this by April 1st, they would be**
 11:26:46 **25 penalized a certain percentage" -- maybe it's a smear on**

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11:26:51 **1 mine -- "for each year. A letter was supposed to go out**
 11:26:54 **2 addressing this last year, but that did not occur. The**
 11:26:58 **3 County is probably paying full freight for some retirees**
 11:27:02 **4 instead of Medicare rate."**
 11:27:05 **5 Q.** Now, would you read the last sentence, please.
 11:27:11 **6 A.** "HR approves Medco invoices and Horizon Blue
 11:27:16 **7 Cross Blue Shield and sends them to finance."**
 11:27:17 **8 Q.** Okay. So this e-mail was written on March 27th
 11:27:21 **9** after you already knew about the fact that the County,
 11:27:29 **10** with your involvement, was going to conduct a review of
 11:27:31 **11** the health insurance bills. Correct?
 11:27:35 **12 A.** Yes. Uh-huh.
 11:27:37 **13 Q.** Okay. And the statement, "HR approves Medco
 11:27:40 **14** invoices and Horizon BCBS and sends them to finance,"
 11:27:46 **15** when you read that, did you respond to Kim Browne and
 11:27:54 **16** say, "Oh, no, that's not the procedure. We thought you
 11:27:57 **17** were doing it"?
 11:28:01 **18 A.** If I indicated to you that I didn't believe or
 11:28:09 **19** know that Cheryl was approving, I mean certainly that
 11:28:14 **20** was part of -- and I don't disagree with that -- but the
 11:28:21 **21** second piece of that is the internal controls, so one
 11:28:27 **22** person was approving, "approving" is what the word says,
 11:28:34 **23** but there is responsibility to perform -- I mean we are
 11:28:41 **24** talking 750, \$900,000 a month. It's not paper clips,
 11:28:48 **25** so, yes, somebody did an initial review; so, no, I am

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11:28:56 **1 sorry, Guy, in answer to your question I didn't call Kim**
 11:28:59 **2 up and say, "Kim Browne, Mrs. Browne," and say, "Oh, no,**
 11:29:04 **3 Cheryl does not do that."**
 11:29:05 **4 Q.** Okay. Because you said you don't disagree with
 11:29:09 **5** that sentence. Right? You agree with the sentence.
 11:29:12 **6** Do you agree with the sentence, "HR approves
 11:29:15 **7** Medco invoices and Horizon BCBS and sends them to
 11:29:19 **8** finance"?
 11:29:20 **9** MR. GANTNER: Objection.
 11:29:20 **10** The question is vague. I don't know if she
 11:29:22 **11** agrees, that's what it says on the piece of paper, if
 11:29:25 **12** she agrees with that statement as a "process."
 11:29:31 **13** I don't know if the question is does she
 11:29:33 **14** agree that is the correct process or that it was a
 11:29:37 **15** process.
 11:29:37 **16** I object to the question as vague.
 11:29:39 **17** MR. FLORIO: Sustain the objection.
 11:29:40 **18** Can you be more clear, Mr. DeSapio?
 11:29:52 **19 Q.** Do you agree with the statement, "HR approves
 11:29:56 **20** Medco invoices and Horizon BCBS and sends them to
 11:30:00 **21** finance" as a matter of fact at the time in March of
 11:30:06 **22** 2013?
 11:30:22 **23 A.** The word "approval," I mean I am -- I am in
 11:30:29 **24** agreement that she did absolutely look at them and,
 11:30:34 **25** again, for that particular function, she probably did

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11:30:40 **1 that. I mean she did look at the bills, but that**
 11:30:45 **2 shouldn't have been the only screening or authorization**
 11:30:49 **3 or internal controls having one person look at and**
 11:30:53 **4 approve.**
 11:30:55 **5 Q.** That's your opinion that it shouldn't have been
 11:30:57 **6** the only thing. Right?
 11:31:02 **7 A.** The word of the Board of Chosen Freeholders,
 11:31:06 **8** although not in writing, this was a directive that two
 11:31:10 **9** positions negotiated, interacted, interfaced and
 11:31:21 **10** administered, if you will, the health benefits program,
 11:31:27 **11** so it's not an opinion. It's a decision of the Board
 11:31:34 **12** that two people be part of that process.
 11:31:36 **13 Q.** Okay. So this is --
 11:31:37 **14 A.** Two positions.
 11:31:38 **15 Q.** This is the infamous prior to 2008 testimony that
 11:31:43 **16** you gave earlier today. Correct?
 11:31:45 **17 A.** No, sir.
 11:31:46 **18** What I have been saying all along and I have been
 11:31:48 **19** consistent all along is that the Board of Chosen
 11:31:57 **20** Freeholders, both before 2008 and after 2008, ever since
 11:32:03 **21** I have been here, since April 15, 1998, had two
 11:32:08 **22** positions, two positions to administer, negotiate,
 11:32:14 **23** facilitate, interact, interface with the health benefits
 11:32:22 **24** program.
 11:32:23 **25** So since I have been here the Board of Chosen

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11:32:27 **1 Freeholders have had two people, had two positions, not**
 11:32:30 **2 one person, to deliver the health benefits program.**
 11:32:35 **3 Q.** And there is nothing in writing that indicated to
 11:32:39 **4** the Finance Department that they were to give health
 11:32:44 **5** benefits bills any more scrutiny than other purchase
 11:32:54 **6** orders that came from elsewhere, nothing in writing is
 11:32:54 **7** my question?
 11:32:57 **8 A. The responsibilities of their licenses in**
 11:33:00 **9 writing, it's very clear. They are to develop internal**
 11:33:04 **10 controls to protect the County assets, they are to make**
 11:33:07 **11 recommendations for good management practices of**
 11:33:09 **12 finances, that's number 14, so there certainly is**
 11:33:14 **13 something in writing "to fulfill your license as a CMFO**
 11:33:19 **14 and a CCFO," but in answer to your question with regard**
 11:33:26 **15 to a Freeholders' policy or resolution, no.**
 11:33:32 **16 Q.** Okay. So after this memo of March, you convened
 11:33:38 **17** a meeting, did you not, in April to discuss Human
 11:33:42 **18** Resources issues?
 11:33:46 **19 A. The meeting on April 19th --**
 11:33:49 **20** MR. FLORIO: Hold off on your response.
 11:33:50 **21** Does somebody have something electronic?
 11:33:53 **22** THE PUBLIC: Sorry, it's me.
 11:33:55 **23** MR. FLORIO: Will you silence that, please.
 11:33:57 **24** I am sorry.
 11:33:58 **25** Please continue.

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11:33:59 **1** THE WITNESS: Ask the question again,
 11:34:02 **2** please, Guy.
 11:34:03 **3 Q.** After the memo of March 27th, or e-mail of March
 11:34:07 **4** 27th, did you convene a meeting to discuss Human
 11:34:12 **5** Resources issues?
 11:34:21 **6 A. The subject of the meeting on April 19th --**
 11:34:26 **7 Q.** Can I clarify the question?
 11:34:28 **8** All I want to know, did you convene a meeting?
 11:34:31 **9** "Yes" or "no."
 11:34:35 **10 A. Yes, a meeting.**
 11:34:37 **11 Q.** And you mentioned the date, was that on April
 11:34:41 **12** 19th, 2013?
 11:34:44 **13 A. Are you asking me if the meeting that you just**
 11:34:46 **14 asked me --**
 11:34:47 **15 Q.** Was the meeting to which you convened on April
 11:34:51 **16** 19th, 2013?
 11:34:54 **17 A. Yes.**
 11:34:54 **18 Q.** Okay. And who was at that meeting?
 11:34:58 **19 A. There were seven people at the meeting.**
 11:35:01 **20 You want their names?**
 11:35:02 **21 Q.** Yes, please.
 11:35:05 **22 A. Cindy Yard, Shana Taylor, Lupe Fowler, Rhonda**
 11:35:14 **23 Kelly, Margaret Pasqua, Kim Browne and Megan Youells.**
 11:35:24 **24 Q.** Okay. And at that meeting did the subject of
 11:35:34 **25** health insurance bills come up?

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11:35:40 **1 A. Yes. People being on the wrong benefits came up,**
 11:35:46 **2 yes.**
 11:35:46 **3 Q.** In connection with the health insurance bill.
 11:35:49 **4** Correct?
 11:35:52 **5 A. In connection with the deficiency that was**
 11:35:55 **6 identified by Wiss.**
 11:35:57 **7 Q.** Okay. Well, Wiss' report wasn't available on
 11:36:01 **8** April 19th. Correct?
 11:36:03 **9 A. The deficiency that was communicated to the**
 11:36:08 **10 County about three people, four people, having**
 11:36:15 **11 difficulty finding how they were eligible for health**
 11:36:18 **12 benefits, and that's what came up.**
 11:36:21 **13 Q.** Did Kim Browne say or suggest to the group that
 11:36:29 **14** the new HR team should review the health insurance bill
 11:36:34 **15** thoroughly to determine that all the people who are on
 11:36:39 **16** it should be receiving benefits so they could start out
 11:36:43 **17** fresh in connection with reviewing of bills in the
 11:36:48 **18** future?
 11:36:55 **19 A. The objective of that meeting, and I made the**
 11:36:59 **20 opening remarks, the County Administrator, was to**
 11:37:02 **21 discuss what had been identified and how we were going,**
 11:37:09 **22 and this is a direct quote, "right the ship," how we**
 11:37:12 **23 were going to work together to right the ship, and we**
 11:37:16 **24 discussed -- in my opening remarks I also had indicated**
 11:37:22 **25 that the Board of Chosen Freeholders wanted me to**

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11:37:28 **1 identify and to discuss and find out who knew what was**
 11:37:32 **2 wrong and where we needed to go.**
 11:37:35 **3 I led the meeting as the County Administrator,**
 11:37:40 **4 and that's when we discussed what we needed to do, and**
 11:37:44 **5 it wasn't the HR, the new HR team. I asked us all to**
 11:37:52 **6 work together as a team to right the ship, because the**
 11:37:57 **7 areas were not just in HR. They were also areas that**
 11:38:04 **8 were deficient or needing to be corrected in finance.**
 11:38:09 **9 MR. DESAPIO: Can I ask the court reporter**
 11:38:11 **10** to read the question back to the witness, and, Ms. Yard,
 11:38:14 **11** I would ask you to listen as he reads it back.
 11:38:18 **12** THE WITNESS: Sure.
 11:38:19 **13** (Whereupon, the court reporter reads as
 11:38:42 **14** requested.)
 11:38:42 **15 Q.** That's my question for you, Ms. Yard.
 11:38:45 **16** Did Kim Browne make that suggestion at the
 11:38:50 **17** meeting?
 11:38:50 **18 A. I don't recall if she made the suggestion, but it**
 11:38:55 **19 was certainly part of the discussion how we could right**
 11:38:57 **20 the ship.**
 11:38:59 **21 Q.** So you don't recall whether it came from her, but
 11:39:01 **22** you do recall it being raised.
 11:39:06 **23** Is that what you are saying?
 11:39:07 **24** MR. GANTNER: You know, I object because --
 11:39:11 **25** so you are summarizing the answer that we just got, and

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11:39:17 **1** I object to having to hear every answer twice.

11:39:22 **2** MR. FLORIO: Sustained.

11:39:27 **3** **Q.** Did the new HR team review the health insurance

11:39:36 **4** bill at that time or subsequent to it?

11:39:49 **5** **A.** **The review of the health benefits bills, which**

11:39:58 **6** **was submitted and discussed at length, began immediately**

11:40:07 **7** **when three people, the three dead people and the one**

11:40:12 **8** **laid off employee, was identified by Wiss to Human**

11:40:21 **9** **Resources administration and County Counsel.**

11:40:27 **10** **The focus of that meeting was not about an HR**

11:40:33 **11** **team. It was about what the two areas could do together**

11:40:39 **12** **to right the ship.**

11:40:41 **13** MR. FLORIO: That's the April 19th meeting?

11:40:44 **14** THE WITNESS: Yes, sir, the April 19th

11:40:44 **15** meeting.

11:40:45 **16** **Q.** So if I understand it, whoever made that

11:40:48 **17** recommendation that the HR team look at the bill, it

11:40:52 **18** wasn't done by the HR team?

11:40:59 **19** **A.** **The subsequent thorough analysis of health**

11:41:04 **20** **services benefits bill was done by me at home on my own**

11:41:12 **21** **time at least 100 hours because it was absolutely**

11:41:18 **22** **critical to find out the depth and breadth of this**

11:41:22 **23** **problem.**

11:41:24 **24** **Q.** But that didn't begin until June?

11:41:29 **25** **A.** **The day that Wiss came downstairs in this**

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11:41:33 **1** **building to report the three dead people and the one**

11:41:39 **2** **laid off employee trying to track the benefits because**

11:41:44 **3** **there was no connection, we began immediately to review**

11:41:50 **4** **that, and as this systemic deeply ingrained many, many**

11:41:59 **5** **year problem occurred, it unfurled as we went into a**

11:42:06 **6** **more in-depth review of that July 1st to August 1st bill**

11:42:15 **7** **to identify just how many thousands and thousands of**

11:42:21 **8** **dollars were being paid to people who are not eligible**

11:42:28 **9** **for health benefits.**

11:42:29 **10** **Q.** When you say "many, many year problem," the

11:42:31 **11** problem began and, in fact, the majority of the

11:42:38 **12** "problem" as identified by you on H-12, occurred?

11:42:42 **13** **A.** **Which is H-12, please?**

11:42:43 **14** **Q.** H-12.

11:42:45 **15** **A.** **This one?**

11:42:48 **16** **Q.** Occurred or began prior to 2008 when Margaret

11:42:55 **17** Pasqua and Kim Browne took their position. Correct?

11:43:02 **18** **A.** **The first dead person that we found after**

11:43:08 **19** **reviewing the July 1st to August 1st, 2013 Horizon bill,**

11:43:17 **20** **was 1996 until it continued on through 2013, so it went**

11:43:28 **21** **from 1996 under different managers, continued on through**

11:43:37 **22** **'08, '09, '010, '011, '012 and '13.**

11:43:44 **23** **Q.** When you say "continued under different

11:43:48 **24** managers," Cheryl Wieder was in Human Resources in 1996.

11:43:52 **25** Correct?

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11:43:53 **1** **A.** **I wasn't here then. I am not quite sure.**

11:43:55 **2** **Q.** When did you come again?

11:43:57 **3** **A.** **April 15, 1998.**

11:44:01 **4** **Q.** 19 what?

11:44:03 **5** **A.** **April 15, 1998.**

11:44:05 **6** **Q.** Any of those entries on H-12 for the period 1998

11:44:10 **7** through 2008 were while Cheryl Wieder was in charge of

11:44:17 **8** HR?

11:44:18 **9** **A.** **One member of a two-person assignment to**

11:44:24 **10** **administer and facilitate and negotiate and interface**

11:44:28 **11** **and interact with our health benefits provider.**

11:44:32 **12** **Q.** So she was the Human Resources during that

11:44:34 **13** period.

11:44:35 **14** And you were the County Administrator during that

11:44:37 **15** period. Correct?

11:44:38 **16** **A.** **I absolutely was.**

11:44:39 **17** **Q.** And you were supervising her during that period.

11:44:43 **18** Correct.

11:44:44 **19** "Yes"?

11:44:44 **20** **A.** **Yes. Yes.**

11:44:45 **21** **Q.** All right.

11:44:48 **22** MR. DESAPIO: We are up to PB-25 or am I

11:44:51 **23** numbering wrong?

11:44:52 **24** MR. FLORIO: 25 is my next number.

11:45:03 **25** (Purchase order is marked as Exhibit PB-25

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11:45:12 **1** for identification.)

11:45:46 **2** **Q.** Okay. PB-25 for identification appears to be

11:45:54 **3** county purchase order 1107404 consisting of County Bates

11:46:03 **4** stamp 30088 through 30091.

11:46:10 **5** Ms. Yard, can you identify that as a county

11:46:15 **6** purchase order?

11:46:17 **7** **A.** **Yes.**

11:46:17 **8** **Q.** Okay. Now, let me ask you, other than PB-25,

11:46:34 **9** have you ever signed off on a bill acknowledging that

11:46:38 **10** the County received the services set forth in the bill?

11:46:46 **11** **A.** **Yes.**

11:46:46 **12** **Q.** Okay. Give us some examples of when you have

11:46:49 **13** done that other than PB-25.

11:46:54 **14** **A.** **I have signed off on some of your bills when you**

11:46:58 **15** **were former County Counsel.**

11:47:04 **16** **There are other times that I have been asked to**

11:47:08 **17** **sign off on bills, yes.**

11:47:13 **18** **Q.** And during the last year or so you have signed

11:47:17 **19** off on bills -- have you signed off on bills of the

11:47:22 **20** County labor counsel?

11:47:24 **21** **A.** **Yes.**

11:47:25 **22** **Q.** And prior to you signing off on account of the

11:47:29 **23** labor counsel, were you aware of the fact that Cheryl

11:47:32 **24** Wieder was signing off on bills of the County labor

11:47:37 **25** counsel?

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11:47:37 **1 A. A lot of it is under her budget. Under her**
 11:47:40 **2 budget, yes.**
 11:47:41 **3 Q.** Were you aware of the fact that she was signing
 11:47:44 **4** off?
 11:47:44 **5 A. Yes.**
 11:47:44 **6 Q.** And, in fact, it was you who decided to take that
 11:47:48 **7** responsibility away from her. Correct?
 11:47:56 **8 A. I started signing, yes.**
 11:47:57 **9 Q.** Okay. Well, was it you who decided that you
 11:48:02 **10** would sign on the labor attorney's bills rather than
 11:48:05 **11** Cheryl?
 11:48:07 **12** MR. FLORIO: Before you answer that
 11:48:09 **13** question, do we have a specific focus in time when this
 11:48:12 **14** was happening, because I am not sure about the period?
 11:48:17 **15** MR. DESAPIO: We will clarify that with the
 11:48:19 **16** witness.
 11:48:19 **17** MR. FLORIO: Thank you.
 11:48:20 **18 Q.** When did you begin to sign off on the County
 11:48:23 **19** labor attorney's bills?
 11:48:29 **20 A. I would need to see something. Show me a bill or**
 11:48:33 **21 something.**
 11:48:34 **22 Yes, I have signed off on bills, yes.**
 11:48:39 **23** MR. DESAPIO: I don't know if she doesn't
 11:48:41 **24** know circumstances, I can't make a proffer of when she
 11:48:43 **25** started.

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11:48:44 **1 Q.** So taking a look at PB-25, would you kindly look
 11:48:53 **2** at the second page, County-389.
 11:48:59 **3** Do you recognize that as a bill for health
 11:49:03 **4** benefits?
 11:49:03 **5 A. This is the second page --**
 11:49:04 **6 Q.** Yes.
 11:49:05 **7 A. -- identified as County-389. Right?**
 11:49:08 **8 Q.** Uh-huh.
 11:49:09 **9 A. Yes.**
 11:49:09 **10 Q.** And who is that bill addressed to?
 11:49:14 **11 A. It's already established that it was -- the bills**
 11:49:17 **12 came to Cheryl Wieder, personnel director.**
 11:49:20 **13 Q.** Okay. I wasn't talking about the previous bills.
 11:49:22 **14** I was just talking about specifically this one.
 11:49:24 **15 A. I am sorry.**
 11:49:25 **16 Q.** And that is indicated there on Page 2 in the
 11:49:31 **17** left-hand bottom corner?
 11:49:37 **18 A. Yes.**
 11:49:37 **19 Q.** Okay. And previously you were talking about the
 11:49:37 **20** amount of the monthly billing to the County for health
 11:49:41 **21** benefits. I think you mentioned a figure of 700,000
 11:49:44 **22** plus.
 11:49:45 **23 A. I said 750,000 to 900,000 a month, yes.**
 11:49:48 **24 Q.** Okay. And would you look at Page 1 of PB-25.
 11:49:52 **25** How much was this bill for, Page 1, Ms. Yard?

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11:50:04 **1** I am sorry.
 11:50:05 **2 A. Which one?**
 11:50:05 **3 Q.** If you look at PB-25.
 11:50:08 **4 A. Which has my initial \$786,580.30.**
 11:50:13 **5 Q.** Okay. Now, you mentioned it, we just need to
 11:50:19 **6** clarify it for the record.
 11:50:20 **7** There is a date there, "4/9/13," and it seems to
 11:50:26 **8** be somebody's initials. Right?
 11:50:29 **9 A. Yes, it does.**
 11:50:29 **10 Q.** Who wrote that on there and whose initials are
 11:50:33 **11** there?
 11:50:33 **12 A. That stands for Cynthia Yard.**
 11:50:38 **13 Q.** Okay. This bill was approved by you for payment
 11:50:45 **14** after you were aware of the fact that there was a need
 11:50:50 **15** to review the accuracy of the health insurance bills?
 11:50:55 **16 A. And it was done so with full knowledge that there**
 11:51:03 **17 were issues, and actually this was finance's check and**
 11:51:17 **18 balance or internal control when the HR director left,**
 11:51:24 **19 bills would just come downstairs to brand new people**
 11:51:28 **20 that didn't know anything about any service or health**
 11:51:31 **21 benefits, and they would get dropped on Rhonda Kelly's**
 11:51:36 **22 desk or dropped on Lupe Fowler's desk, and finance would**
 11:51:41 **23 say, "You need to sign off on these so that we can pay**
 11:51:43 **24 these bills."**
 11:51:45 **25 And so we had already begun to discuss with**

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11:51:51 **1 Horizon and the liaisons from Horizon about our concerns**
 11:51:59 **2 that there were some problems with the billing, and I**
 11:52:04 **3 signed off on this to pay the bill, and we had spoken to**
 11:52:08 **4 Horizon about anything that had to be corrected either**
 11:52:13 **5 we would get credits or -- you know -- whatever, but we**
 11:52:19 **6 knew it was finance's desire to have these bills signed**
 11:52:24 **7 off on because they said they couldn't pay the bill**
 11:52:28 **8 until somebody signed off on them, and so they brought**
 11:52:31 **9 these bills down to people who never really had anything**
 11:52:36 **10 to do with paying the bills or understanding the**
 11:52:39 **11 internal controls or knowing about benefits, who should**
 11:52:45 **12 be on, and so I absolutely did sign off on that.**
 11:52:49 **13 Absolutely.**
 11:52:50 **14 Q.** Okay. And when you say, "it was finance's
 11:52:55 **15** desire," it was more than finance's desire, wasn't it,
 11:52:58 **16** it was a part of the County purchasing process?
 11:53:03 **17 A. To have someone look at the bills, certainly, but**
 11:53:06 **18 there was also some sort of obligation to do some**
 11:53:09 **19 internal controls from their perspective because the**
 11:53:16 **20 bills -- finance department is the last stop before the**
 11:53:23 **21 money goes out of the County office, so, yes, someone**
 11:53:27 **22 had to look at the bills and somebody had -- yes, you're**
 11:53:31 **23 right, Mr. DeSapio, yes, it was part of the policy, but**
 11:53:34 **24 not the only policy that should have been performed when**
 11:53:40 **25 we are speaking of a seven to nine to \$11 million bill a**

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11:53:45 **1 year.**

11:53:45 **2 Q.** And are you aware of the fact that that policy,

11:53:51 **3 the purchasing policy, is pursuant to a state statute**

11:53:56 **4 that requires before a bill is paid somebody that's**

11:53:59 **5 received the item has to certify that it's been**

11:54:02 **6 received?**

11:54:04 **7 A. Is that NJSA 40A?**

11:54:09 **8 Q.** Yes.

11:54:09 **9 A. Yes.**

11:54:10 **10 Q.** Part of NJSA 40A.

11:54:13 **11 Are you aware of the fact that exists?**

11:54:15 **12 A. I am remembering that's part of the license for**

11:54:19 **13 the CMFO and the CCFO that they follow all the NJ 40A**

11:54:27 **14 directives, and that's why I was just curious it was**

11:54:32 **15 40A.**

11:54:35 **16 MR. DESAPIO:** Excuse me just a second.

11:54:36 **17 Can I have a brief minute?**

11:54:37 **18 MR. FLORIO:** Sure.

11:54:38 **19 MR. DESAPIO:** Thank you.

11:54:39 **20 THE WITNESS:** Can I also then?

11:54:40 **21 MR. FLORIO:** We are off the record.

11:56:25 **22 (Whereupon, a short recess is taken.)**

11:56:29 **23 MR. FLORIO:** We are back on the record.

11:56:30 **24 Q.** So before you signed off on PB-25, did you review

11:56:37 **25 any of the records, electronically or otherwise, of the**

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11:56:41 **1 Human Resources Department?**

11:56:46 **2 A. No, but we -- no.**

11:56:51 **3 Q.** Go ahead. "No"?

11:56:52 **4 A. No, but as I stated earlier, we were in contact**

11:57:00 **5 with Horizon. They knew that there were issues, and we**

11:57:05 **6 wanted to make sure, as you stated, Mr. DeSapio, that**

11:57:13 **7 this function could happen so that finance could pay the**

11:57:17 **8 bill.**

11:57:18 **9 Q.** And you had stated a few minutes ago you were

11:57:23 **10 contacted by Horizon about credits, the possibility of**

11:57:27 **11 credits, and did they, in fact, indicate to you if the**

11:57:30 **12 bill were in error there would be credits given?**

11:57:34 **13 A. They knew that we were doing this -- there were**

11:57:38 **14 things -- as a matter of fact, I am happy you asked that**

11:57:42 **15 question, because as it turned -- turns out the**

11:57:45 **16 situation with Carol -- I am sorry -- I shouldn't use**

11:57:48 **17 their name -- the employee that was laid off in 2011,**

11:57:52 **18 the County, in fact, had done their due diligence and**

11:57:56 **19 asked to have her taken off.**

11:57:58 **20 It was Horizon's error, so that was one that we**

11:58:04 **21 were happy that it was done -- you know -- it was the**

11:58:08 **22 County, we did what we were supposed to do, and they, in**

11:58:13 **23 fact, were -- you know -- going to give us credit.**

11:58:22 **24 They knew we had met with Horizon and discussed**

11:58:22 **25 that we were in the midst of trying to establish the**

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11:58:25 **1 depth and the breadth of the issue and what we needed to**

11:58:28 **2 do to correct it.**

11:58:29 **3 Q.** And did they indicate there was a possibility of

11:58:32 **4 further credits for errors in the billing?**

11:58:38 **5 A. I don't know if they committed to that, although**

11:58:41 **6 I know we discussed the situation, and immediately when**

11:58:47 **7 this issue in HR and finance became evident, I called a**

11:58:57 **8 meeting with all of the representatives of our health**

11:59:03 **9 benefits delivery system, because we wanted to alert**

11:59:08 **10 them that we were in certainly transition in trying to**

11:59:12 **11 correct an issue.**

11:59:14 **12 Q.** Uh-huh. So when you say "the problem in

11:59:17 **13 finance," the problem in finance is that you felt that**

11:59:21 **14 they should have done more than just accept Cheryl**

11:59:24 **15 Wieder's certification that the bill was correct, they**

11:59:29 **16 should have done more. Correct?**

11:59:31 **17 A. That was one of the issues -- no -- let me**

11:59:37 **18 correct myself -- there were two issues that became**

11:59:42 **19 evident, that we began to look at, the County began to**

11:59:47 **20 look at before the Board turned this over to the**

11:59:52 **21 Prosecutor's Office.**

11:59:54 **22 One was the people that were on benefits that**

11:59:58 **23 were not eligible to be on benefits, and the other one**

12:00:01 **24 was the misapplication of the Chapter 78 law and putting**

12:00:09 **25 people on the inappropriate tiers for healthcare, so**

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12:00:14 **1 those were the two issues.**

12:00:18 **2 Q.** Okay. I am going to show you -- I would like to

12:00:25 **3 mark this as PB-26.**

12:00:26 **4 (Purchase order is marked as Exhibit PB-26**

12:00:38 **5 for identification.)**

12:01:04 **6 THE WITNESS:** Are we done with PB-25?

12:01:06 **7 Q.** Let me ask you one other question about PB-25.

12:01:08 **8 PB-25 is four pages that the County produced.**

12:01:17 **9 At the time you signed off on that bill, were**

12:01:21 **10 there more pages to the bill than that?**

12:01:25 **11 A. I don't know that. I don't know that.**

12:01:28 **12 Q.** You don't remember the bill including a full

12:01:31 **13 listing of the people who were included in the bill and**

12:01:36 **14 the amount that was to be paid on their behalf and**

12:01:39 **15 totaling up to the seven hundred-some-thousand dollars?**

12:01:42 **16 A. No, I don't remember that.**

12:01:43 **17 Q.** You don't remember that.

12:01:44 **18 You had said that was brought down to the**

12:01:50 **19 administrative unit.**

12:01:51 **20 Isn't it the case at the time you signed that,**

12:01:57 **21 that was already in the HR Department, that bill?**

12:02:01 **22 A. I am not sure, Mr. DeSapio.**

12:02:04 **23 I do know that the four people that took over or**

12:02:12 **24 were part of trying to correct the situation in HR,**

12:02:22 **25 there were -- maybe the bills were already there, but**

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12:02:24 **1** somehow finance either brought them or called and said,

12:02:30 **2** "Have you signed the bills, have you looked at the

12:02:32 **3** bills, have you done this," so that they could pay it,

12:02:34 **4** so I am not sure.

12:02:39 **5** I do know that in talking with the folks that

12:02:45 **6** were trying to right the ship, because they had asked,

12:02:50 **7** what are we looking for, the Ceridian, the Express

12:02:55 **8** Script, these were four of us who really never had the

12:03:02 **9** direct application of delivering those health benefits

12:03:08 **10** services, so it was all very new to us, and it certainly

12:03:13 **11** would have been productive if we could have, as in the

12:03:19 **12** April 19th meeting, right the ship, work together and

12:03:24 **13** right the ship.

12:03:24 **14** Q. So when you are talking about the four people

12:03:27 **15** trying to "right the ship," is that you, Lupe Fowler,

12:03:30 **16** Shana Taylor and Rhonda Kelly?

12:03:33 **17** A. From HR, yes.

12:03:35 **18** Q. When you brought Lupe Fowler over, didn't she

12:03:42 **19** already have Human Resources experience?

12:03:46 **20** A. She had some. She worked for 25 years for, I

12:03:53 **21** believe, AT&T as a manager and had experience, yes, but

12:03:58 **22** her responsibility in the County, she was our

12:04:00 **23** transportation coordinator out at Human Services.

12:04:07 **24** Q. So although you were the supervisor of Human

12:04:14 **25** Resources for all the years that you were County

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12:04:19 **1** Administrator, when you had this discussion which

12:04:23 **2** resulted in Cheryl Wieder retiring and when you

12:04:28 **3** reassigned her only other employee assistant, you had no

12:04:38 **4** idea how to check these health benefit bills out or what

12:04:41 **5** to do in connection with the Human Resources, none

12:04:44 **6** whatsoever?

12:04:44 **7** A. The sole responsibility for HR, for benefits for

12:04:50 **8** the health benefits program, as directed by the Board of

12:04:56 **9** Chosen Freeholders, was the Director of Finance and the

12:05:00 **10** HR director and I had -- if -- this is a reality -- if I

12:05:10 **11** had spoken more than 1,000 words over 15 years to

12:05:17 **12** Willis, our broker, that was a lot.

12:05:20 **13** The Freeholders had assigned and had given that

12:05:29 **14** check and balance, given that two-person, two position

12:05:35 **15** responsibility to the Director of Finance and the HR

12:05:38 **16** director.

12:05:40 **17** Q. And that's in this verbal assumption when they

12:05:50 **18** gave some responsibility, which is not in writing to the

12:05:52 **19** director of Human Resources and finance, that it

12:05:55 **20** included finance checking these bills out which Human

12:06:00 **21** Resources was signing off on?

12:06:01 **22** MR. GANTNER: Objection; vague, misstates

12:06:03 **23** the prior testimony.

12:06:06 **24** MR. FLORIO: I will sustain it but allow

12:06:08 **25** counsel to clarify the question if he can.

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12:06:15 **1** MR. DESAPIO: I will go on.

12:06:23 **2** MR. FLORIO: Thank you.

12:06:23 **3** Q. PB-26, has that been handed to you?

12:06:23 **4** A. Yes.

12:06:23 **5** Q. Can you identify that as County purchase order

12:06:27 **6** 110771?

12:06:30 **7** A. 110771, yes.

12:06:34 **8** Q. In the right-hand corner.

12:06:35 **9** Do you recognize that as a purchase order for

12:06:41 **10** health benefits payment?

12:06:44 **11** A. Uh-huh.

12:06:45 **12** Q. Okay.

12:06:45 **13** MR. FLORIO: "Yes"?

12:06:46 **14** THE WITNESS: "Yes." Sorry. Yes.

12:06:48 **15** Q. Okay. And does this cover the period coverage

12:06:52 **16** from May of 2013?

12:06:57 **17** A. Uh-huh. Yes. Sorry. Excuse me. Yes.

12:07:00 **18** Q. This is for the month after, the full month after

12:07:04 **19** Cheryl Wieder -- full two months, actually, after Cheryl

12:07:07 **20** Wieder left?

12:07:12 **21** A. Yes.

12:07:12 **22** Q. Okay. And looking at Page 2, did somebody sign

12:07:17 **23** off on this bill?

12:07:19 **24** A. Yes, Lupe Fowler.

12:07:21 **25** Q. Lupe Fowler?

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12:07:22 **1** A. Uh-huh.

12:07:23 **2** Q. She signed off on April 22, 2013?

12:07:25 **3** A. Yes.

12:07:25 **4** Q. "Yes"?

12:07:26 **5** A. That's what this reflects.

12:07:27 **6** Q. And her signature on that bill was for the same

12:07:32 **7** purpose that your signature was on the previous bill and

12:07:35 **8** Cheryl Wieder's was on bills before that?

12:07:38 **9** A. Yes.

12:07:38 **10** Q. Okay. Now, why did Lupe Fowler sign this instead

12:07:45 **11** of you?

12:07:52 **12** A. It could have been -- well, it could have been

12:07:58 **13** that I was in Aruba or it could have been that she was

12:08:03 **14** designated -- when we met with Horizon she was the

12:08:09 **15** person from HR that we identified -- she had the ability

12:08:15 **16** to sign and acknowledge --

12:08:17 **17** Q. Okay.

12:08:18 **18** A. -- the bill.

12:08:18 **19** Q. When you say, "we had designated," who had

12:08:21 **20** designated that person, the Freeholders, did you?

12:08:25 **21** A. She was brought over from Human Services to work

12:08:31 **22** in the HR Department.

12:08:33 **23** Q. Okay. Now your testimony is that as of April it

12:08:40 **24** was your understanding that the finance department

12:08:43 **25** should have been looking at these health benefit bills

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12:08:47 **1** even though they were signed off by Cheryl Wieder in the

12:08:52 **2** two cases of PB-25 and PB-26 by you and Lupe Fowler.

12:08:55 **3** Correct?

12:09:00 **4** **A. Would you ask me that again?**

12:09:03 **5** **Q.** Okay.

12:09:04 **6** MR. DESAPIO: Can you read back the

12:09:05 **7** question, please?

12:09:05 **8** (Whereupon, the court reporter reads as

12:09:31 **9** requested.)

12:09:31 **10** **A. Incorrect.**

12:09:33 **11** **Q.** Okay. How is that incorrect?

12:09:40 **12** **A. As the problem was brought to us by Wiss on those**

12:09:46 **13** **three dead people and the person that was laid off that**

12:09:52 **14** **was not eligible for benefits, and as we began to**

12:10:00 **15** **research the depth and breadth of the problem, the**

12:10:08 **16** **appropriate internal controls were not being**

12:10:14 **17** **implemented.**

12:10:15 **18** **Q.** What internal control are you saying was not

12:10:18 **19** being implemented?

12:10:22 **20** **A. Two people were designated by the Board of Chosen**

12:10:29 **21** **Freeholders to interface, interact, negotiate,**

12:10:32 **22** **administer the health benefits program.**

12:10:37 **23** **Those people, positions, were the Director of**

12:10:41 **24** **Finance and the HR director.**

12:10:43 **25** **Q.** Was it not the case that between the meeting on

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12:10:47 **1** April 19th and May 15, 2013, you understood clearly,

12:10:54 **2** understood, that it was Human Resources' sole

12:10:58 **3** responsibility to review these bills?

12:11:07 **4** **A. I am going to have to hear that again.**

12:11:09 **5** **Q.** Okay. Between the meeting on April 19th and May

12:11:12 **6** 15, 2013, you did not come to the conclusion that it was

12:11:17 **7** Human Resources' sole responsibility to review these

12:11:21 **8** health insurance bills before they were paid?

12:11:26 **9** **A. No, I did not come to the conclusion that it was**

12:11:29 **10** **the sole responsibility of the HR director to approve**

12:11:34 **11** **and authorize the bills.**

12:11:36 **12** **Q.** Okay. And between April 19th and May 15, 2013,

12:11:43 **13** did you further come to the conclusion that you did not

12:11:47 **14** have adequate personnel or adequately trained personnel

12:11:50 **15** in the Human Resources department to review those bills?

12:11:59 **16** **A. Would you ask me that again or have him read it**

12:12:02 **17** **back?**

12:12:02 **18** **Q.** Between April 19th and May 15, 2013, did you come

12:12:06 **19** to the conclusion that you did not have adequate

12:12:09 **20** personnel or adequately trained personnel in the Human

12:12:14 **21** Resources Department to review those bills?

12:12:20 **22** **A. No, I didn't come to the conclusion that I had**

12:12:24 **23** **inadequate or inappropriate.**

12:12:26 **24** **We did what we needed to do. We performed the**

12:12:30 **25** **internal controls that we needed to do. We analyzed**

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12:12:34 **1** **those bills. We informed Horizon that we were in the**

12:12:38 **2** **process of understanding and learning and conducting the**

12:12:43 **3** **depth and breadth of the issues so that we could right**

12:12:46 **4** **the ship.**

12:12:48 **5** **It wasn't a matter of inadequate or incompetent**

12:12:55 **6** **or not understanding. We did what we needed to do to**

12:13:00 **7** **right the ship and find out exactly how deep this**

12:13:05 **8** **problem was.**

12:13:07 **9** **Q.** Okay. I am going to show you what you testified

12:13:13 **10** to, which is marked as HC-7, at the Monday hearing.

12:13:33 **11** Do you have that in front of you, Ms. Yard?

12:13:35 **12** **A. Yes, H-7.**

12:13:38 **13** **Q.** Is that an e-mail you authored to Kim Browne and

12:13:41 **14** Margaret Pasqua?

12:13:42 **15** **A. Yes.**

12:13:43 **16** **Q.** Okay. We talked before about whether or not they

12:13:48 **17** made a recommendation on April 19th that the Human

12:13:53 **18** Resources Department audit the Horizon bills or review

12:14:01 **19** the Horizon bills to determine whether or not people who

12:14:04 **20** were on it were entitled to be placed on it or

12:14:13 **21** appropriately placed on it.

12:14:13 **22** Do you remember those series of questions?

12:14:13 **23** **A. When was that from?**

12:14:14 **24** **I am sorry, Guy.**

12:14:15 **25** **Q.** The meeting of April 19th.

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12:14:16 **1** **A. Yes.**

12:14:17 **2** **Q.** Okay. Now, in this e-mail of May 15th, did you,

12:14:25 **3** in fact, acknowledge that they had made such a request

12:14:31 **4** to you to the new HR team?

12:14:34 **5** **A. Can you direct me to where you are referring to?**

12:14:37 **6** **Q.** Okay.

12:14:38 **7** **A. It's a long e-mail. I can read the whole thing**

12:14:41 **8** **if you would like.**

12:14:42 **9** **Q.** Would you read the first two lines of the e-mail,

12:14:45 **10** please.

12:14:47 **11** **A. It says, "Since the HR director's sudden**

12:14:50 **12** **retirement, my office has observed that your department**

12:14:53 **13** **has been handing over numerous packets of billing**

12:14:55 **14** **information. (This has included but is certainly not**

12:15:00 **15** **limited to your office's request of an audit of the**

12:15:03 **16** **Horizon bills and in particular a careful audit of**

12:15:06 **17** **social service billings), as well as" -- you want me to**

12:15:12 **18** **keep going?**

12:15:12 **19** **Q.** I want to know if that refreshes your

12:15:16 **20** recollection that the Finance Department suggested that

12:15:17 **21** the HR Department and your HR team, which included you

12:15:20 **22** and Shana Taylor, review the Horizon bills.

12:15:25 **23** **A. Well, it says, "Not limited to your office's**

12:15:28 **24** **request of an audit of the Horizon bills."**

12:15:32 **25** **It doesn't necessarily say that it should be done**

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12:15:34 **1 in HR. It says it's an audit of the bills.**

12:15:38 **2 Q.** And you understood that to be by somebody else

12:15:40 **3 other than HR?**

12:15:48 **4 A. My realization as we got into the depth and**

12:15:54 **5 breadth of this problem was that sufficient internal**

12:16:00 **6 controls were not being conducted by the Finance**

12:16:04 **7 Department, so this says, "a request of the audit," and**

12:16:13 **8 you are correct, I mean it says "a request of an audit,"**

12:16:17 **9 it doesn't say "HR."**

12:16:18 **10 It was a two-prong responsibility, the Director**

12:16:23 **11 of Finance and Finance Department and HR, so, yes.**

12:16:32 **12 Q.** Would you read the next sentence. That's the

12:16:34 **13 sentence in the third line after the period, after**

12:16:38 **14 "suite." Begins, "I believe."**

12:16:41 **15 A. "I believe that your vast knowledge and**

12:16:42 **16 experience as the fiscal chief in the consolidated human**

12:16:47 **17 services model will --" I guess it should be "allow you**

12:16:52 **18 to easily train and transition this role back up to your**

12:16:56 **19 fiscal professionals."**

12:16:57 **20 Q.** When you use the word "transition," this "role

12:17:02 **21 back," you were referring, weren't you, to a review of**

12:17:05 **22 the health insurance bills as they came in?**

12:17:07 **23 A. Well, it says in Line 2, "in particular a careful**

12:17:12 **24 audit of the social services billings," because that is,**

12:17:16 **25 and maybe you remember this as former County Counsel,**

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12:17:19 **1 social services is a kind of hybrid of county services.**

12:17:27 **2 75 percent, approximately 75 percent of our funding**

12:17:30 **3 comes from the state, so there are all kinds of separate**

12:17:35 **4 reports that we have to give to the state, and this**

12:17:39 **5 social service piece is -- which is -- again -- you**

12:17:46 **6 know -- Guy, maybe you will remember this being County**

12:17:48 **7 Counsel, the Finance Department had all of the records**

12:17:55 **8 for social services and, in fact, as I referenced here,**

12:18:03 **9 Mrs. Browne, being the fiscal chief, because there was**

12:18:07 **10 an absolute understanding of the social services and the**

12:18:10 **11 reports that were needed because that was where she came**

12:18:15 **12 from.**

12:18:16 **13 The social services piece, and you're absolutely**

12:18:19 **14 correct, Guy, they used to bring down the social**

12:18:22 **15 services piece to HR, and as we learned as this evolved,**

12:18:31 **16 we were kind of confused because they had all the**

12:18:34 **17 information up in finance and the knowledge about the**

12:18:37 **18 social service piece, but -- so -- I am sorry -- oh,**

12:18:43 **19 transition, you asked me about the transition, yes,**

12:18:47 **20 because as we read on or as you have me testify on**

12:18:52 **21 further in this, it was clearly a finance**

12:18:55 **22 responsibility, and I spoke about internal controls and**

12:19:00 **23 quality control, and I directed, as the chief executive**

12:19:06 **24 officer of this organization, as the County**

12:19:09 **25 Administrator, I had requested that the Finance**

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12:19:14 **1 Department, the licensed practitioners, develop a**

12:19:19 **2 quality assurance program of internal controls so that**

12:19:23 **3 we could again right this ship.**

12:19:29 **4 Q.** As a part of the phrase "transition this role,"

12:19:33 **5 you were, in fact, referring to health benefits coverage**

12:19:41 **6 and review of the bills. Correct?**

12:19:45 **7 A. Yes. In particular I guess a careful audit of**

12:19:47 **8 social services, but, yes, it was all part of it.**

12:19:51 **9 Q.** The next sentence says, "While I understand there

12:19:54 **10 were many adjacencies between the HR director and your**

12:19:56 **11 Finance Department wherein essentially, as you indicated**

12:19:59 **12 to me you utilized the HR Department as one of Finance's**

12:20:04 **13 quality control mechanisms, as we reorganize, I have**

12:20:09 **14 determined that this is not operationally possible or**

12:20:12 **15 appropriate."**

12:20:14 **16 Were you, in fact, describing the development of**

12:20:19 **17 a new system?**

12:20:23 **18 A. Well, actually, when I said, "as one of Finance's**

12:20:28 **19 quality control mechanisms," and I wrote it, that would**

12:20:34 **20 mean to me that it might have been one type of internal**

12:20:37 **21 controls, but the ultimate internal controls of paying**

12:20:44 **22 bills, especially that was shared with HR and finance,**

12:20:53 **23 lie within -- lie within the Finance Department and**

12:21:00 **24 certainly -- you know -- as we reorganize --**

12:21:05 **25 "reorganize" means we were building a -- what I refer to**

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12:21:10 **1 as a "better mouse trap" -- we were rebuilding a**

12:21:16 **2 department, and we were trying to work out how we could**

12:21:21 **3 best interact with the adjacencies so we could do our**

12:21:27 **4 due diligence, especially in this particular -- you know**

12:21:32 **5 -- these bills and these services that we delivered to**

12:21:35 **6 our employees.**

12:21:38 **7 Q.** Is it the case nowhere in any pile of exhibits

12:21:45 **8 that have been submitted here or any e-mail that you**

12:21:49 **9 wrote or any memo that you wrote that you never said to**

12:21:53 **10 Kim Browne and Margaret Pasqua, "I am surprised."**

12:21:58 **11 You say in H-6, "HR approved Medco invoices and**

12:22:02 **12 Horizon Blue Cross Blue Shield and sends them to**

12:22:04 **13 finance. I always thought you were looking them over."**

12:22:07 **14 Did you ever say that in writing anywhere?**

12:22:22 **15 A. No.**

12:22:22 **16 Q.** Okay. Isn't the case that as this situation

12:22:28 **17 developed, it became a continual embarrassment for you**

12:22:33 **18 as County Administrator and that you had already gotten**

12:22:37 **19 rid of the Human Resources director and her assistant**

12:22:40 **20 and because of the size of the problem you needed**

12:22:44 **21 somebody else to blame for these overpayments on health**

12:22:48 **22 insurance bills, and you selected these two employees?**

12:22:52 **23 A. Absolutely not.**

12:22:54 **24 Q.** Let's go on to the next paragraph.

12:22:56 **25 Read the next paragraph.**

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12:23:00 **1 A. Where it says --**

12:23:01 **2 Q. "We have discussed."**

12:23:02 **3 A. "We have discussed how HR can provide a monthly**

12:23:05 **4 update to Finance with regard to changes in employee**

12:23:08 **5 health benefits coverage. Newly assigned employees and**

12:23:12 **6 termination of benefits to all for the payroll**

12:23:16 **7 administrator to determine the appropriate deductions**

12:23:19 **8 from employees' compensation.**

12:23:21 **9 "With regards to bills from the doctors or any**

12:23:25 **10 contracted services which require a knowledge of the**

12:23:27 **11 employee's participation, we will also provide your**

12:23:30 **12 department with a monthly report of services initiated**

12:23:34 **13 by HR which may require reconciliation by your**

12:23:37 **14 department when your department remits payment to these**

12:23:41 **15 vendors."**

12:23:41 **16 Q. Okay. And now read the next two sentences or the**

12:23:46 **17 next three sentences, the next paragraph.**

12:23:47 **18 A. "Please develop a quality assurance program,**

12:23:51 **19 internal controls process to address these**

12:23:53 **20 responsibilities which are held by your department.**

12:23:57 **21 Please share that new written protocol with me no later**

12:24:00 **22 than June 1st. My office will be delivering these bills**

12:24:03 **23 back up to your department today for reconciliation so**

12:24:07 **24 that you are able to timely remit payment.**

12:24:10 **25 "As always, thank you for your anticipated**

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12:24:12 **1 cooperation."**

12:24:14 **2 Q. And in the next-to-the-last paragraph in the**

12:24:19 **3 second line, you describe this thing that you want them**

12:24:24 **4 to put together as a "new written protocol." Correct?**

12:24:31 **5 Isn't that what it says, "new written protocol"?**

12:24:33 **6 A. That's what it says, yes.**

12:24:35 **7 Q. You didn't say to them, "Please memorialize the**

12:24:38 **8 existing protocol, which is not in writing," did you?**

12:24:44 **9 A. I believe that doesn't say that.**

12:25:08 **10 MR. DESAPIO: HC-8.**

12:25:18 **11 Q. I am going to show you HC-8, which was marked at**

12:25:21 **12 the previous hearing.**

12:25:35 **13 Do you recognize that as an e-mail that Kim**

12:25:38 **14 Browne sent to you on Friday, May 24th?**

12:25:47 **15 A. Yes.**

12:25:47 **16 Q. Okay. Could you read Ms. Browne's response, the**

12:25:56 **17 first paragraph, please.**

12:25:59 **18 A. "I respectfully disagree with this shift of**

12:26:02 **19 responsibility of reconciliation of health benefits**

12:26:04 **20 billing to Finance. I have consulted our county auditor**

12:26:08 **21 on this, and he told me that this responsibility with**

12:26:12 **22 all of his clients resides in HR. Checking the monthly**

12:26:17 **23 billings for accuracy is an internal control for HR not**

12:26:22 **24 Finance. Finance has in the past spot-checked some**

12:26:25 **25 employees when reviewing the invoices to verify that the**

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12:26:28 **1 social services amounts that we are given from HR to**

12:26:31 **2 charge back are correct."**

12:26:34 **3 Q. Okay.**

12:26:35 **4 A. Do you want me to keep reading?**

12:26:37 **5 Q. No. You can read the third paragraph, please.**

12:26:42 **6 A. Starting with "I have"?**

12:26:43 **7 Q. Uh-huh.**

12:26:44 **8 A. "I have told you previously that Cheryl said she**

12:26:46 **9 reviewed the invoices, but I was not aware of what**

12:26:49 **10 system she has or had in place. Cheryl would review**

12:26:54 **11 them, initial them and forward them to Finance for**

12:26:56 **12 payment. My suggestion to the "team" was to thoroughly**

12:27:02 **13 audit and review the April invoice to make sure all the**

12:27:06 **14 basic info was correct. Then monthly make sure that the**

12:27:10 **15 changes that HR made during the month are reflected in**

12:27:13 **16 the current invoice. I did not request an audit. It**

12:27:21 **17 was a suggestion on my part since the auditors are**

12:27:23 **18 questioning the timeliness of removing employees from**

12:27:26 **19 coverage, and we had been cited in the past for this."**

12:27:29 **20 Q. Now, in regard to that third paragraph --**

12:27:32 **21 A. Uh-huh.**

12:27:32 **22 Q. -- are there any factual inaccuracies in that**

12:27:37 **23 third paragraph?**

12:27:48 **24 A. It's true. It's true that Cheryl and Mrs. Browne**

12:27:53 **25 is telling me she reviewed the invoices. She wasn't**

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12:28:01 **1 sure how she did it. She would review them to send to**

12:28:02 **2 Finance for payment. Okay.**

12:28:04 **3 You are asking me -- yes.**

12:28:06 **4 Q. So the facts recited in the third paragraph you**

12:28:11 **5 agree are true.**

12:28:14 **6 You are asking me a question.**

12:28:15 **7 I am asking you one back. I was agreeing -- did**

12:28:18 **8 she agree?**

12:28:18 **9 A. Yes.**

12:28:19 **10 MR. GANTNER: I object.**

12:28:20 **11 She said it was true that she reviewed them**

12:28:23 **12 and that she wasn't aware of what system she had in**

12:28:26 **13 place.**

12:28:26 **14 MR. FLORIO: Sustained.**

12:28:29 **15 Q. All right.**

12:28:30 **16 Look at the next-to-the-last full paragraph, the**

12:28:35 **17 one that says, "Finance is not responsible."**

12:28:40 **18 A. "Finance is not responsible for any facet of**

12:28:45 **19 employee coverage adds, deletes, changes in coverage**

12:28:49 **20 with the exception for paying for the invoices and the**

12:28:53 **21 employee contribution info that is given for PR for**

12:28:59 **22 deductions."**

12:29:01 **23 I don't know what "PR" is.**

12:29:04 **24 THE PUBLIC: Payroll.**

12:29:06 **25 MR. DESAPIO: That's okay.**

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12:29:06	1 Q. Read the next sentence, please.	
12:29:08	2 A. "We do not have access to the health database."	
12:29:12	3 Q. When you read that, did you, in fact, confirm	
12:29:15	4 those two statements were true?	
12:29:18	5 A. The first two?	
12:29:20	6 Q. The two sentences you just read.	
12:29:27	7 A. Well, it's not true if you are asking me if it's	
12:29:32	8 true, because any change in health coverage adds,	
12:29:37	9 deletes or changes absolutely is part of finance's	
12:29:42	10 responsibility because it has to change the payroll	
12:29:45	11 contributions that the employee makes.	
12:29:48	12 So Finance absolutely has some responsibility,	
12:29:54	13 because the changes in any health care coverage would	
12:30:02	14 have to also have a change in the payroll because we	
12:30:07	15 have an exception payroll, which means we have to submit	
12:30:14	16 exceptions so that the payrolls can be generated every	
12:30:17	17 two weeks, so that certainly if somebody -- if somebody	
12:30:25	18 had a change in benefits it would absolutely show up in	
12:30:31	19 their finances.	
12:30:31	20 Q. Who has the initial responsibility for making a	
12:30:38	21 determination as to whether an employee's coverage will	
12:30:42	22 change, that is, add, delete or changes, the Human	
12:30:47	23 Resources director, does the -- I will rephrase it.	
12:30:52	24 Ignore that previous question.	
12:30:54	25 Does the Human Resources director have the	

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12:30:58	1 initial responsibility for determining employee	
12:31:00	2 coverage, add, deletes or changes in coverage?	
12:31:04	3 A. Yes, it would come through HR.	
12:31:08	4 Q. Okay.	
12:31:09	5 A. But there was some change of information because	
12:31:12	6 how would the payroll administrator know?	
12:31:15	7 Q. Right.	
12:31:15	8 A. But the initial determination as to whether	
12:31:20	9 somebody would be added, whether somebody would be	
12:31:22	10 deleted, or whether their coverage would be changed,	
12:31:25	11 initial determination would be made by Human Resources.	
12:31:29	12 Correct.	
12:31:31	13 MR. GANTNER: She already answered "yes" to	
12:31:32	14 that, and it's 12:30.	
12:31:34	15 MR. FLORIO: I concur with both	
12:31:36	16 observations.	
12:31:37	17 It's 12:30. We will break for lunch.	
12:31:41	18 1:15, 1:30?	
12:31:42	19 What's your pleasure?	
12:31:44	20 MR. GANTNER: It's up to you.	
12:31:46	21 MR. FLORIO: Okay. 1:30.	
12:31:47	22 MR. DESAPIO: 1:30?	
12:31:49	23 MR. FLORIO: Yes.	
12:31:50	24 MR. DESAPIO: Thank you.	
13:33:47	25 (Whereupon, a luncheon recess is taken.)	

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13:37:07	1 MR. FLORIO: Are you ready?	
13:37:09	2 MR. DESAPIO: Yes, just 30 seconds, please.	
13:37:12	3 MR. FLORIO: When you are ready.	
13:37:13	4 MR. DESAPIO: Okay.	
13:37:26	5 Q. Okay. Good afternoon, Ms. Yard.	
13:37:31	6 A. Hi, Guy. How are you?	
13:37:34	7 Q. Okay. The information that you obtained from	
13:37:51	8 Wiss & Company or the communication you obtained from	
13:37:53	9 Wiss & Company in 2013 about people being on health	
13:37:59	10 benefits that should not have been on there, was that	
13:38:05	11 the first time that you had heard about a problem in	
13:38:08	12 this area?	
13:38:19	13 A. I believe so, yes.	
13:38:20	14 Q. Okay. On Monday you testified to HR-16 --	
13:38:38	15 A. Yes.	
13:38:38	16 Q. At the conclusion of every County audit if there	
13:38:45	17 are comments, recommendations, is there a responsibility	
13:38:52	18 to prepare a corrective action plan?	
13:38:54	19 A. Yes.	
13:38:55	20 Q. And is that corrective action plan approved by	
13:39:01	21 the Board of Chosen Freeholders?	
13:39:01	22 A. Yes.	
13:39:01	23 Q. And is that corrective action plan then	
13:39:06	24 advertised in a newspaper?	
13:39:11	25 A. I don't know that for sure, but I know it's by	

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13:39:16	1 the Freeholders.	
13:39:16	2 Q. Then is it filed with the Division of Local	
13:39:19	3 Government Services?	
13:39:20	4 A. Yes.	
13:39:20	5 Q. Okay. So HC-16, is that the County's corrective	
13:39:30	6 action plan in connection with the 2008 audit report?	
13:39:33	7 A. Yes.	
13:39:33	8 Q. Now, I believe you testified as to item number	
13:39:41	9 three under the "Recommendations" as being that	
13:39:46	10 "Management remove, terminate employees from medical	
13:39:49	11 benefits in a timely manner." Correct?	
13:39:52	12 A. Well, that's what the corrective action plan	
13:39:55	13 says, yes, uh-huh, the "Recommendations," yes.	
13:40:00	14 Q. So does that refresh your recollection as to	
13:40:03	15 whether --	
13:40:03	16 A. Yes -- I am sorry -- you're absolutely correct.	
13:40:06	17 I did testify to this, yes.	
13:40:08	18 Q. So you knew that there was a problem identified	
13:40:14	19 in the 2010 audit regarding this?	
13:40:16	20 A. Yes. I am sorry. Uh-huh.	
13:40:18	21 Q. What I didn't hear you testify to is what the	
13:40:28	22 corrective action was as identified on HC-16.	
13:40:35	23 Would you read the corrective action as	
13:40:40	24 determined and approved by the Freeholders, item number	
13:40:48	25 three.	

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13:40:48 **1 A. The one that says "Human Resources"?**

13:40:56 **2 Q. Right.**

13:40:56 **3 A. "Human Resources has been alerted to this error**

13:40:56 **4 and taken steps to correct."**

13:40:56 **5 Q. Okay. Now, when that corrected action plan was**

13:41:06 **6 adopted, did you object to that language, number three,**

13:41:11 **7 that you just read?**

13:41:19 **8 A. This corrective action plan was not written to**

13:41:21 **9 me. It was written to the New Jersey Department of**

13:41:28 **10 Community Affairs, so I am not copied on it or anything,**

13:41:31 **11 so I am not quite sure why I would object or even be**

13:41:36 **12 given an opportunity to say whether I agreed or didn't**

13:41:38 **13 agree. It's not part of that corrective action plan**

13:41:44 **14 2010 audit report.**

13:41:45 **15 Q. Are you generally in attendance at all**

13:41:48 **16 Freeholders' meetings?**

13:41:49 **17 A. Yes. Yes.**

13:41:50 **18 Q. Do you remember being in attendance in 2010 when**

13:41:54 **19 this corrective action plan was discussed at a**

13:41:56 **20 Freeholder meeting?**

13:41:57 **21 A. It would not have been in 2010.**

13:42:00 **22 The 2010 audit report would have been in October**

13:42:04 **23 of 2011.**

13:42:05 **24 Q. I apologize. You're absolutely right.**

13:42:09 **25 Do you remember being at the Freeholders' meeting**

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13:42:11 **1 in 2011 when this corrective action plan was discussed?**

13:42:17 **2 A. Yes. As a matter of fact, I testified that there**

13:42:22 **3 was a statement made by me, it appeared in minutes, as I**

13:42:27 **4 said, I have been here for 360 Freeholders' meetings,**

13:42:34 **5 you have been here for 720, and we have to rely on the**

13:42:37 **6 minutes, and I did see in the minutes that I made a**

13:42:42 **7 statement at an October 2011 Freeholder meeting in the**

13:42:47 **8 open session that said the Director of Finance, the**

13:42:53 **9 County Treasurer and the HR director would be**

13:42:58 **10 participating in quarterly meetings because there was**

13:43:01 **11 also an issue about unemployment, but the entry in the**

13:43:07 **12 open session minutes said in addition, not only the**

13:43:13 **13 unemployment, we would also be addressing -- that this**

13:43:19 **14 group would also be addressing the health benefits.**

13:43:22 **15 Q. And did the minutes further reflect that you**

13:43:26 **16 would be participating in those quarterly meetings?**

13:43:29 **17 A. Not the minutes that I referred to, no.**

13:43:31 **18 Q. You testified the other day you would be**

13:43:33 **19 participating in the quarterly meetings.**

13:43:35 **20 A. No, I didn't.**

13:43:37 **21 Q. All right. Okay.**

13:43:38 **22 A. No.**

13:43:39 **23 Q. Do you know whether those quarterly meetings took**

13:43:44 **24 place?**

13:43:44 **25 A. Evidently not, or if they did, they didn't**

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13:43:47 **1 achieve the objective, which was to make sure that the**

13:43:51 **2 health benefits program and unemployment -- on**

13:43:54 **3 unemployment were corrected, the unemployment issues.**

13:44:01 **4 Q. Who was supposed to convene these meetings, if**

13:44:06 **5 you weren't going to be there?**

13:44:06 **6 A. The entry that was in the October 2011 minutes is**

13:44:12 **7 me talking, stating that the County Treasurer, the HR**

13:44:17 **8 director, and the Director of Finance would be meeting**

13:44:21 **9 on a quarterly basis. All of those employees are senior**

13:44:28 **10 or high level managers, so they don't need me, and I**

13:44:34 **11 wasn't part of those quarterly meetings. I may have**

13:44:38 **12 gone to maybe a kickoff meeting, although I don't even**

13:44:41 **13 remember that, but that was a responsibility that was**

13:44:44 **14 given to those senior managers.**

13:44:48 **15 MR. DESAPIO: Mr. Gantner. Can I ask for**

13:44:50 **16 the next session, those October 2011 minutes to which**

13:44:55 **17 the witness is referring, be produced for me at or**

13:44:58 **18 before the next session?**

13:45:02 **19 I was referring to Mr. Gantner, I can refer**

13:45:04 **20 to Mr. Giacobbe.**

13:45:06 **21 MR. GANTNER: Let me respond.**

13:45:08 **22 I am still a little disturbed about the way**

13:45:12 **23 the discovery issue came up Monday afternoon.**

13:45:16 **24 I don't know, maybe I just don't have the**

13:45:18 **25 vast experience of others in the room, but my**

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13:45:20 **1 understanding is that discovery issues should be ironed**

13:45:24 **2 out before the hearing dates -- you know -- I take note**

13:45:30 **3 that the respondents opened up this hearing by bringing**

13:45:35 **4 to the hearing officer's attention their dissatisfaction**

13:45:39 **5 with certain aspects of discovery, which shouldn't have**

13:45:44 **6 been brought to the hearing officer's attention before**

13:45:46 **7 we started the hearing.**

13:45:47 **8 There should have been a letter, a phone**

13:45:48 **9 call, something to get it resolved before we all show up**

13:45:51 **10 here and we start talking about what needs to be**

13:45:53 **11 exchanged.**

13:45:53 **12 We got into a situation here Monday**

13:45:56 **13 afternoon where we are suddenly being requested again to**

13:46:00 **14 address an issue that Mr. Giacobbe already dealt with on**

13:46:03 **15 Monday and had taken a clear position on, and then I**

13:46:07 **16 suddenly found myself in the unenviable position of**

13:46:12 **17 trying to remember what Mr. Giacobbe's position on it**

13:46:14 **18 was when I didn't have anything to do with discovery,**

13:46:17 **19 and Mr. DeSapio well understood that, but yet he waited**

13:46:20 **20 until Mr. Giacobbe left, then raised the issue, and then**

13:46:25 **21 I was left to deal with it.**

13:46:27 **22 Now, here we are again at this late hour**

13:46:31 **23 meeting discovery demands.**

13:46:33 **24 I just think it's completely inappropriate.**

13:46:36 **25 I think we asked for discovery before we started. He**

Yard - cross - DeSapio 101

13:46:39 **1** asked for discovery. We had our exchanges. If there

13:46:42 **2** were issues, they should have been dealt with in a

13:46:45 **3** timely manner, and we shouldn't be conducting discovery

13:46:47 **4** on an ongoing basis as the hearing progresses.

13:46:50 **5** MR. FLORIO: Counsel.

13:46:51 **6** MR. DESAPIO: Yes. It's not a matter of

13:46:52 **7** discovery. It's a matter of asking the witness to

13:46:54 **8** produce, so I was addressing the question to her

13:47:04 **9** attorney, the witness to produce an item that she

13:47:04 **10** testified to. I have no idea that that would be

13:47:06 **11** relevant or she would testify to it in

13:47:11 **12** cross-examination, and the same way with this 14 points

13:47:16 **13** of light, whatever it is, that are in this thing from

13:47:22 **14** the Division of Local Government Services.

13:47:25 **15** I asked for that. It's easier to obtain.

13:47:27 **16** They produced it this morning, and by the way, they

13:47:31 **17** produced additional items without my request at the

13:47:35 **18** beginning of the last hearing, and they produced

13:47:38 **19** additional items this morning, which I am assuming they

13:47:42 **20** are going to rely on at some point, and I am not trying

13:47:46 **21** to be technical, I am trying to simplify the process,

13:47:50 **22** the set of minutes and why it's a big issue when the

13:47:53 **23** witness testified she relied on it to get me a copy

13:47:55 **24** before the next hearing.

13:47:56 **25** I am not holding up the cross-examination of

Yard - cross - DeSapio 102

13:47:58 **1** this witness. I am just asking for that.

13:48:01 **2** MR. FLORIO: Counsel for the County.

13:48:03 **3** MR. GANTNER: Yes. I am an easygoing guy.

13:48:06 **4** I like to get along, give everybody what they need.

13:48:09 **5** Okay?

13:48:10 **6** The problem is that really he is asking the

13:48:14 **7** witness what exists, which puts me in that exact same

13:48:18 **8** position that I had the other day, you will recall,

13:48:21 **9** where we really can't go further until we have

13:48:23 **10** conversations with her.

13:48:24 **11** I am not going to make any representations

13:48:26 **12** for the record whether she has it, what it is, where it

13:48:30 **13** is.

13:48:30 **14** Typically, you get a request for discovery,

13:48:32 **15** you got some time to determine whether or not and how

13:48:37 **16** you are going to respond to it, whether it exists, and

13:48:40 **17** this is all being done on the fly, and I just think it's

13:48:45 **18** a completely inappropriate way to proceed.

13:48:48 **19** We have got to deal with locating documents

13:48:51 **20** in the middle of the hearing, so I mean he is asking for

13:48:54 **21** something right now. I don't really know what it is. I

13:48:58 **22** would have to have a conversation with Ms. Yard in order

13:49:00 **23** to determine what it is, and so I am not in a position

13:49:04 **24** to say, since he raised it right now, whether or not I

13:49:07 **25** will be able to produce it.

Yard - cross - DeSapio 103

13:49:08 **1** I don't know.

13:49:11 **2** MR. FLORIO: Document production has been an

13:49:13 **3** issue since before the inception of this proceeding.

13:49:19 **4** I note the representations of both parties,

13:49:21 **5** and I will take them at face value.

13:49:23 **6** I appreciate your concerns, Mr. Gantner,

13:49:27 **7** about ongoing documentary requests, but I must also note

13:49:32 **8** for the record that in this particular circumstance it's

13:49:36 **9** based on testimony from the witness of which no one may

13:49:44 **10** have had private notice. Subject to your conversation

13:49:48 **11** with your witness following this proceeding today, if

13:49:52 **12** the documents do exist, you will produce them, and if

13:49:58 **13** they do not exist, you make such a representation prior

13:50:01 **14** to the time of our next proceeding, which presently is

13:50:04 **15** scheduled for Monday, November 4th at nine AM.

13:50:11 **16** MR. GANTNER: I appreciate that ruling, and

13:50:12 **17** we will abide by that.

13:50:14 **18** MR. FLORIO: And I make this ruling on the

13:50:18 **19** basis that these employees are facing severe discipline,

13:50:23 **20** and I think it is incumbent upon me as the hearing

13:50:27 **21** officer to ensure that they receive a fair hearing and

13:50:33 **22** that their counsel is entitled to cross-examine any

13:50:38 **23** witnesses to the satisfaction of his ethical

13:50:43 **24** responsibility.

13:50:57 **25** Please continue, Mr. DeSapio.

Yard - cross - DeSapio 104

13:50:59 **1** MR. DESAPIO: Yes. Thank you.

13:51:01 **2** Just one second, please.

13:51:02 **3** I apologize.

13:51:14 **4** **Q.** Okay. When a comment is made in an audit and

13:51:22 **5** there is a corrective action plan developed in the

13:51:26 **6** subsequent years of the audit, does the auditor look to

13:51:31 **7** determine whether or not that comment has been

13:51:34 **8** addressed?

13:51:37 **9** **A. Yes.**

13:51:39 **10** **Q.** So in the 2011 audit, did Samuel Klein opine as

13:51:47 **11** to whether or not the item mentioned in the corrective

13:51:50 **12** action plan had been addressed?

13:51:55 **13** **A. It's representative by an asterisk in the report,**

13:52:00 **14** **and the 2011 report did not show that it was a repeat or**

13:52:08 **15** **that it was still an infraction or citation or citing or**

13:52:13 **16** **whatever.**

13:52:15 **17** **Q.** It's an asterisk?

13:52:17 **18** **A. I believe it's an asterisk. There is an asterisk**

13:52:20 **19** **in the report, I believe, which demonstrates whether**

13:52:23 **20** **it's a repeat, and it was not -- it was not repeated.**

13:52:28 **21** **It was not noted as a repeat citation or deficiency**

13:52:33 **22** **finding.**

13:52:34 **23** **Q.** The asterisk would reflect whether a comment was

13:52:36 **24** repeated.

13:52:38 **25** Is that what you are saying?

Yard - cross - DeSapio 105

13:52:38 **1 A. I believe it's represented by an asterisk.**

13:52:41 **2 Q.** And you didn't find that comment repeated in the

13:52:46 **3** 2011 Samuel Klein audit when you took a look at it.

13:52:52 **4** Correct?

13:52:53 **5 A. It was not noted as a repeat.**

13:52:56 **6 Q.** Well, it was, in fact, not noted at all, was it?

13:53:02 **7 A. I am not quite sure what each audit is, how they**

13:53:08 **8 read.**

13:53:12 **9 If you could show me, I can certainly look at it.**

13:53:17 **10** MR. GIACOBBE: Sir, may I just interrupt you

13:53:19 **11** for a second.

13:53:20 **12** I just want to go through the discovery that

13:53:21 **13** we did provide two weeks ago, the very minutes that Mr.

13:53:25 **14** DeSapio is requesting, are found on Pages 504, 505.

13:53:29 **15** They were produced two weeks ago.

13:53:39 **16** So again there is nothing for us to produce

13:53:39 **17** because they were timely produced two weeks ago.

13:53:39 **18** MR. FLORIO: The representation is noted for

13:53:41 **19** the record, Counsel.

13:53:42 **20** MR. GIACOBBE: Thank you.

13:53:43 **21** MR. DESAPIO: Thank you for indicating that.

13:53:45 **22** Just to note, I didn't indicate I was

13:53:47 **23** holding up anything.

13:53:50 **24** But give me a moment to look at those.

13:54:29 **25 Q.** In regard to the present line of questioning, I

Yard - cross - DeSapio 106

13:54:33 **1** am going to show you what's been marked as PB-6.

13:54:44 **2** Do you recognize that as Samuel Klein's audit

13:54:47 **3** report for the year 2011?

13:54:49 **4 A. Uh-huh.**

13:54:51 **5** MR. FLORIO: "Yes"?

13:54:54 **6 Q.** And can you flip to Page 148, please.

13:55:07 **7 A. Right.**

13:55:08 **8 Q.** And in the second paragraph where the heading of

13:55:14 **9** "Status of prior year's audit recommendations" --

13:55:16 **10 A. Yes.**

13:55:16 **11 Q.** Would you read what that says.

13:55:19 **12 A. "A review was performed on all prior year**

13:55:21 **13 recommendations and corrective action was taken on all**

13:55:24 **14 with the exception of those indicated with an asterisk."**

13:55:28 **15 Q.** And can you find anywhere -- you previously

13:55:34 **16** testified that there is not a reference to that.

13:55:47 **17 A. Did you want this back?**

13:55:48 **18 Q.** You can leave that on the pile there.

13:55:51 **19** Even though there is no report to you as to any

13:56:05 **20** quarterly meetings between the employees identified,

13:56:09 **21** were you then satisfied that this issue had been

13:56:14 **22** addressed based upon the auditor's comment?

13:56:23 **23 A. The audit represented that there was not a repeat**

13:56:30 **24 citation or deficiency or finding or whatever, so the**

13:56:39 **25 audit -- that's what the audit stated.**

Yard - cross - DeSapio 107

13:56:41 **1 It wasn't me being satisfied or not satisfied.**

13:56:45 **2 It's the reality of the audit.**

13:56:47 **3 Q.** And you didn't issue any memo or ask for anything

13:56:54 **4** from the Finance Department in connection with that

13:56:56 **5** audit comment, the one we are talking about in 2010

13:57:02 **6** identified in HC-16?

13:57:04 **7 A. Not that I recollect.**

13:57:05 **8 Q.** Okay. All right.

13:57:09 **9** I am going to move to HC-12.

13:57:12 **10** Do you have that in front of you, Ms. Yard, or

13:57:15 **11** shall I pull it out again, HC-12?

13:57:18 **12 A. This one?**

13:57:20 **13 Q.** Yes.

13:57:21 **14 A. Okay.**

13:57:34 **15 Q.** Let's look at the column that says, "Retiree

13:57:47 **16** deceased and/or survivor continued on benefits in

13:57:49 **17** violation from N.S.J.A.:40A:10-23, and policy because it

13:57:55 **18** is not prescribed by resolution and uniformly applied."

13:57:58 **19 A. Uh-huh.**

13:57:59 **20 Q.** Now, is it the case that there are only three

13:58:08 **21** people identified on that list, employee 14, employee 26

13:58:13 **22** and employee 75, who were deceased, and payments were

13:58:22 **23** being made for health coverage for them?

13:58:28 **24 A. Everyone on that list was deceased and, in fact,**

13:58:37 **25 it tells you whether -- it explains, Guy, whether we are**

Yard - cross - DeSapio 108

13:58:42 **1 still paying -- let's look at the one from 2011, number**

13:58:46 **2 26, that says the employee died in 2011, and the County**

13:58:51 **3 was still paying, so it tries to explain the situation,**

13:58:56 **4 in other words, like, 29 says, "Employee died in '08,**

13:59:00 **5 the spouse is receiving benefits."**

13:59:02 **6 Q.** So what I want to focus in on, is it the case

13:59:06 **7** that there are only -- it looks like now, four

13:59:10 **8** employees, number 4, number 26, actually, it's three --

13:59:24 **9** I am sorry -- four, I just misidentified them before,

13:59:29 **10** four, 26 and 16I were deceased, and the County was

13:59:40 **11** paying for benefits for them?

13:59:49 **12 A. So four -- I am sorry --**

13:59:52 **13 Q.** Number four.

13:59:53 **14 A. The employee died, single benefits were**

13:59:57 **15 continued, so that means that the employee died, and we**

14:00:00 **16 were paying for a dead person.**

14:00:02 **17 Q.** Okay. Benefits for the deceased employee?

14:00:06 **18 A. Right.**

14:00:06 **19 Q.** And that employee died in 2002?

14:00:09 **20 A. Yes, sir.**

14:00:09 **21 Q.** That was prior to either Margaret Pasqua or Kim

14:00:13 **22** Browne having their position in Finance. Correct?

14:00:17 **23 A. It started in '08, yes.**

14:00:19 **24 Q.** '08.

14:00:20 **25** So 26 employee died in 2011, still paying, that's

Yard - cross - DeSapio 109

14:00:26 **1** a second one, where the County was paying for benefits
 14:00:32 **2** for the deceased employee himself?
 14:00:35 **3** **A. Yes, but, and maybe I am not understanding, but**
 14:00:41 **4 even number 14, the employee died, but the County**
 14:00:45 **5 continued to pay coverage, in the case of 14, a family**
 14:00:51 **6 of three -- am I not understanding what you are asking**
 14:00:56 **7 me?**
 14:00:56 **8 Q.** Was one of those three people an employee?
 14:01:03 **9** Is that what you are saying?
 14:01:04 **10 A. No.**
 14:01:04 **11 Q.** I am asking which one of these -- I am asking you
 14:01:07 **12** to confirm --
 14:01:09 **13 A. I am sorry, because every number the employee is**
 14:01:14 **14 dead.**
 14:01:15 **15 Q.** Right.
 14:01:16 **16 A. But it depends on whether we still paid for just**
 14:01:19 **17 that employee or we paid for their family.**
 14:01:22 **18 Q.** I understand.
 14:01:23 **19 A. Okay.**
 14:01:23 **20 Q.** I am just asking you to confirm the identity of
 14:01:28 **21** the deceased employees who you paid for them.
 14:01:30 **22 A. Okay.**
 14:01:31 **23 Q.** I look at it as four, 26 and 161. Correct?
 14:01:36 **24 A. Four -- say it again -- four, 26.**
 14:01:40 **25 Q.** Four, 26 and 161.

Yard - cross - DeSapio 110

14:01:47 **1 A. The only way you could verify that is to see that**
 14:01:53 **2 the employee wasn't on family coverage or employee and**
 14:01:57 **3 spouse.**
 14:01:58 **4 Do you see what I mean?**
 14:02:02 **5 Q.** Well, you prepared this list.
 14:02:11 **6** Do you know?
 14:02:11 **7 A. Yes, I did.**
 14:02:11 **8 Well, I made notes so that you can see that an**
 14:02:15 **9 employee died, somebody who was entitled to benefits,**
 14:02:20 **10 survivors were never entitled to benefits, so it shows**
 14:02:27 **11 that we were continuing to pay for benefits either for a**
 14:02:32 **12 dead person or for survivors, and neither one was**
 14:02:39 **13 allowed.**
 14:02:39 **14 It's kind of confusing.**
 14:02:43 **15 Q.** Well, I am asking you to help clarify it.
 14:02:45 **16 A. Yes, that's why we are talking it through.**
 14:02:47 **17 Q.** I am asking whether the only three for whom you
 14:02:52 **18** continued to pay for the benefits for deceased person
 14:02:58 **19** themselves, are four, 26, and 161.
 14:03:04 **20** MR. GANTNER: Objection.
 14:03:06 **21** Asked and answered.
 14:03:08 **22** MR. FLORIO: Sustained.
 14:03:09 **23 Q.** Okay. All right.
 14:03:10 **24** What process did you go through to determine that
 14:03:16 **25** people were deceased?

Yard - cross - DeSapio 111

14:03:22 **1 A. Either we -- like, the three that were originally**
 14:03:28 **2 brought to us by Wiss, we were able to verify that we**
 14:03:35 **3 knew they were dead, and then the other ones, the**
 14:03:39 **4 retiree survey that we sent out, we asked if the**
 14:03:44 **5 person -- we ask if the retiree was deceased.**
 14:03:54 **6 Q.** When you say "the three that Wiss identified we
 14:03:58 **7** were able to identify that they were deceased," how were
 14:04:02 **8** you able to identify they were deceased?
 14:04:05 **9 A. Well, through either -- well, some of them when**
 14:04:13 **10 you were here, Guy, as County Counsel -- actually, those**
 14:04:17 **11 two, five, and seven, that was all when you were County**
 14:04:21 **12 Counsel.**
 14:04:22 **13 One was a gentleman that worked at the jail, and**
 14:04:29 **14 we verified -- first of all, the County didn't know that**
 14:04:34 **15 his survivor was killed -- was receiving benefits.**
 14:04:39 **16 When we found that out and traced it back we**
 14:04:43 **17 said, "Oh, no, that was such and such wife, and such and**
 14:04:46 **18 such died."**
 14:04:48 **19 So we did, through knowledge of -- you know --**
 14:04:53 **20 County employees and then, as I said, the rest were the**
 14:04:57 **21 retirees' surveys came back, people alerted us that**
 14:05:03 **22 folks had died.**
 14:05:05 **23 Q.** So you identified the people that were deceased
 14:05:09 **24** based upon talking to other County employees?
 14:05:13 **25 A. Yes, where we knew -- yes.**

Yard - cross - DeSapio 112

14:05:15 **1 Q.** Where somebody had identified the person as being
 14:05:20 **2** questionable?
 14:05:22 **3 A. No.**
 14:05:23 **4 Q.** Nobody identified them as being questionable?
 14:05:26 **5 A. Yes, Wiss.**
 14:05:27 **6 Q.** Wiss identified them as being questionable.
 14:05:29 **7** Did Margaret Pasqua also identify them as being
 14:05:34 **8** questionable in her memo of June to you?
 14:05:36 **9 A. After I had requested Finance to begin to do**
 14:05:41 **10 internal controls -- and I did testify to this the other**
 14:05:44 **11 day -- then there was a survey or an analysis done by**
 14:05:50 **12 Margaret. She did an excellent job, which identified**
 14:05:56 **13 certain people that were dead, certain people that were**
 14:05:58 **14 still on benefit; it was a very thorough job.**
 14:06:01 **15 Q.** Okay. And that was prior to you preparing this
 14:06:05 **16** HC-12. Correct?
 14:06:07 **17 A. Yes.**
 14:06:08 **18 Q.** Okay. So now --
 14:06:10 **19 A. I am sorry.**
 14:06:11 **20** MR. GANTNER: She wasn't finished with her
 14:06:12 **21** answer.
 14:06:12 **22 Q.** Okay. That's fine. She can answer.
 14:06:14 **23** I apologize.
 14:06:16 **24 A. I just wanted to say, as I testified several**
 14:06:18 **25 times, as soon as Wiss alerted us to those three people,**

Yard - cross - DeSapio 113

14:06:25 **1** four, really, one had been laid off in 2011, the other

14:06:28 **2** three were dead, we began our analysis in trying to --

14:06:34 **3** no, to find out, so when this June 18th report came from

14:06:41 **4** Mrs. Pasqua, which, again, she did an excellent job, we

14:06:46 **5** had already figured out that the three people were dead.

14:06:49 **6** Q. So now after identifying these people based upon

14:06:53 **7** discussions with County employees as being "deceased,"

14:07:00 **8** what protocol did you put in place for the future to

14:07:03 **9** identify people when they had died?

14:07:07 **10** A. Working with our then present broker and our

14:07:15 **11** movement to state health benefits, because we asked our

14:07:18 **12** broker -- you know -- what is the way -- you know -- is

14:07:22 **13** it the surrogate, can you get up on a Social Security

14:07:27 **14** website, and we found out that there is no way to

14:07:38 **15** guarantee with not being in state benefits, health

14:07:42 **16** benefits, because that's connected to many, many

14:07:44 **17** different databases, but we also learned that you also

14:07:49 **18** need to verify every few years the eligibility of

14:07:56 **19** dependents and people who are on the health benefits.

14:08:01 **20** That's something evidently we never did.

14:08:05 **21** Q. So you determined that there is no way to

14:08:13 **22** guarantee that your health benefit list doesn't include

14:08:16 **23** dead people?

14:08:17 **24** A. Actually, Margaret found -- go ahead.

14:08:20 **25** Q. What protocol have you since established to

Yard - cross - DeSapio 114

14:08:25 **1** identify people who might be deceased?

14:08:27 **2** A. We did the survey to all the retirees that went

14:08:31 **3** out in August due back on September 10th, which was one

14:08:37 **4** mechanism, and then the Freeholders' decision to go into

14:08:41 **5** state health benefits, because they do an automatic

14:08:46 **6** verification every couple of years so that they can find

14:08:50 **7** out if people are on the right plans, and they are also

14:08:54 **8** connected to pension, Social Security, so that was the

14:08:58 **9** check and balance, if you would, to identify deceased

14:09:08 **10** people.

14:09:08 **11** MR. FLORIO: The protocol is actually

14:09:08 **12** established by the state health plan?

14:09:09 **13** THE WITNESS: Yes.

14:09:09 **14** MR. FLORIO: They do the check or balance?

14:09:13 **15** THE WITNESS: Yes, which is what we did not

14:09:15 **16** have.

14:09:16 **17** MR. FLORIO: The nature of this kind of

14:09:17 **18** problem.

14:09:18 **19** THE WITNESS: And state health benefits plan

14:09:21 **20** automatically does every couple of years a

14:09:24 **21** recertification, if you will, of benefits, so that -- I

14:09:29 **22** have four children and -- you know -- they all age out,

14:09:33 **23** then they pick that up every -- you know -- a couple of

14:09:35 **24** years, three years when they do the recertification so

14:09:38 **25** that this kind of thing doesn't happen.

Yard - cross - DeSapio 115

14:09:40 **1** MR. FLORIO: I have a question for the

14:09:41 **2** witness.

14:09:42 **3** With respect to retiring employees, do they

14:09:48 **4** migrate into the state plan as well once the coverage

14:09:52 **5** changes?

14:09:53 **6** THE WITNESS: Yes.

14:09:53 **7** MR. FLORIO: So you have that protection for

14:09:56 **8** retirees as well?

14:09:58 **9** THE WITNESS: Yes. And -- you know -- one

14:10:01 **10** of the good things, all the efforts that we have gone

14:10:04 **11** through since this has taken place, the table is set for

14:10:09 **12** us for both retirees and our current employees because

14:10:13 **13** we have asked for all that verification, so -- you

14:10:16 **14** know -- so that when it comes time as we transition into

14:10:19 **15** the state health benefits plans, all of the things that

14:10:22 **16** they would normally have to do to enroll -- you know --

14:10:26 **17** a public entity, we have done that.

14:10:30 **18** We have set the table for that.

14:10:33 **19** It was surprising to us when we met with our

14:10:37 **20** broker that there was no -- that they didn't have

14:10:42 **21** access, at least that's the way they communicated to us

14:10:45 **22** and -- you know -- we had even asked about what about

14:10:49 **23** obituaries.

14:10:50 **24** "Well, obituaries cost money, and a lot of

14:10:53 **25** people don't put their obituaries or family's obituaries

Yard - cross - DeSapio 116

14:10:58 **1** anymore in the newspaper. That's not a failsafe."

14:11:00 **2** "What about the surrogate?"

14:11:01 **3** "That's only when they probate a will."

14:11:04 **4** There are ways that people fall between the

14:11:06 **5** cracks.

14:11:06 **6** I did see on the report that Mrs. Pasqua, I

14:11:10 **7** guess, their websites or whatever you can go on to find

14:11:13 **8** out if people are dead or alive, but what we did

14:11:18 **9** immediately with those three people is that we were able

14:11:20 **10** to verify that they were dead, and then we began our

14:11:24 **11** analysis, and that the end result was this.

14:11:28 **12** MR. FLORIO: Thank you.

14:11:33 **13** Q. You indicated you sent out a survey.

14:11:35 **14** Who sent out the survey?

14:11:38 **15** A. I had testified to that on Monday.

14:11:41 **16** The County sent the survey out, and it was -- the

14:11:49 **17** survey tool was approved by our labor counsel, our

14:11:52 **18** County Counsel and by Donohue, Gironde & Doria, and I am

14:12:00 **19** sure I am not pronouncing that middle one right -- and

14:12:06 **20** -- you know -- to make sure we were asking the right

14:12:07 **21** questions and we weren't violating anybody's privacy or

14:12:10 **22** whatever, and we sent out, I believe, it was sent out on

14:12:14 **23** August 18th, and we requested for those responses to

14:12:18 **24** come back on September 10th, and I wrote a cover letter,

14:12:23 **25** which I had testified to on Monday, to go along with

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14:12:26 **1 that.**

14:12:27 **2 Q.** And the County is still not in the state health

14:12:33 **3 benefits plan?**

14:12:34 **4 A. It requires, I believe, a 90-day -- you know --**

14:12:39 **5 transition period, and the resolution was passed by the**

14:12:42 **6 governing body on October 2nd, so we are technically**

14:12:46 **7 still with our other broker, yes.**

14:12:49 **8 Q.** So your testimony is that -- excuse me -- you

14:12:57 **9 were with Horizon Blue Cross Blue Shield for the years**

14:13:03 **10 2008 when Margaret Pasqua and Kim Browne were in the**

14:13:07 **11 Finance department?**

14:13:08 **12 A. Willis, yes, Willis was our broker, and, yes,**

14:13:11 **13 Horizon, yes.**

14:13:16 **14 Q.** And are you saying that they had a responsibility

14:13:21 **15 to try to identify who was dead when it was difficult,**

14:13:26 **16 if not impossible, to do?**

14:13:35 **17 A. I believe that there was a responsibility to do**

14:13:42 **18 appropriate internal controls to make sure that we were**

14:13:48 **19 paying for health benefits that were either prescribed**

14:13:52 **20 by resolution or -- and uniformly applied and that a**

14:13:59 **21 program as huge as that, as nine or ten, \$11 million, we**

14:14:08 **22 should have done our duty or due diligence to try to**

14:14:14 **23 make sure that eligible people were not -- were**

14:14:19 **24 receiving benefits and not ineligible people.**

14:14:22 **25 Q.** So you are saying your expectation was they

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14:14:25 **1 should be able to do what you were not able to do when**

14:14:30 **2 you started your investigation?**

14:14:31 **3 MR. GANTNER: Objection; argumentative.**

14:14:32 **4 MR. FLORIO: Sustained.**

14:14:34 **5 MR. DESAPIO: Okay.**

14:14:38 **6 Q.** Was there any policy or procedure or directive to

14:14:40 **7 them in writing that they had the responsibility to**

14:14:44 **8 check the health benefits bill to determine whether or**

14:14:48 **9 not anyone on there was deceased?**

14:14:51 **10 MR. GANTNER: Objection.**

14:14:52 **11 Asked and answered.**

14:14:53 **12 MR. FLORIO: Sustained.**

14:15:04 **13 Q.** Do you concur in the third column on HC-12, which

14:15:11 **14 is entitled, "Retiree deceased and/or survivor continued**

14:15:16 **15 on benefits," that these two employees have no**

14:15:21 **16 responsibility in connection with employees who died**

14:15:26 **17 prior to 2008?**

14:15:40 **18 A. Can you word that again or have him read it back?**

14:15:45 **19 (Whereupon, the court reporter reads as**

14:16:05 **20 requested.)**

14:16:05 **21 A. Prior to 2008 it was neither one of those -- of**

14:16:16 **22 those employee's responsibility.**

14:16:16 **23 Q.** Okay. Let me ask a few questions about the

14:16:21 **24 survivors of a decedent receiving continued health**

14:16:26 **25 benefits after the County employee died.**

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14:16:35 **1 Does that suggest that the County knew that the**

14:16:43 **2 person was deceased and took them off the roll when they**

14:16:47 **3 were identified as "deceased"?**

14:16:52 **4 A. Does what suggest?**

14:16:54 **5 I am sorry.**

14:16:55 **6 Q.** That's okay. Let me just pick one.

14:17:03 **7 Let me pick -- let me pick 75.**

14:17:12 **8 Employee died in 2005, spouse is receiving**

14:17:15 **9 benefits?**

14:17:16 **10 A. Okay.**

14:17:16 **11 Q.** Does that mean that when the employee died in

14:17:21 **12 2005 the County had notice that they died?**

14:17:28 **13 A. No.**

14:17:29 **14 What that means -- these are my notes, so that I**

14:17:34 **15 wanted to represent -- and as a matter of fact, I don't**

14:17:37 **16 know if that's the one -- we had gotten a letter from**

14:17:41 **17 you, I think, representing one of these employee's**

14:17:44 **18 spouses in this column, so it doesn't mean that the**

14:17:51 **19 County knew the employee died and we didn't do anything**

14:17:56 **20 about it.**

14:17:57 **21 These are my notes so the Freeholders could, or**

14:18:03 **22 my chair -- so that the Freeholders could see the depth**

14:18:06 **23 and breadth of the problem.**

14:18:10 **24 As I say, I am positive we got a letter from you**

14:18:14 **25 representing one of these people that were receiving**

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14:18:17 **1 spousal benefits that never should have gotten it.**

14:18:21 **2 Our policies starting in 1981 -- I mean there is**

14:18:26 **3 only a few things that these policies were clear on --**

14:18:29 **4 one was no survivor benefits. It was part of the '81**

14:18:34 **5 policy. It was part of the -- there were several**

14:18:36 **6 policies. It was again in the 2011, but that doesn't**

14:18:41 **7 mean I am saying, "Yeah, we knew that. We just didn't**

14:18:45 **8 do anything about it."**

14:18:47 **9 It means as I was going through and using the**

14:18:49 **10 information available to me, that's just to say, "Okay,**

14:18:56 **11 that employee died in" -- as I said, I don't know if**

14:18:59 **12 number 75 was the one you had written us a letter about**

14:19:03 **13 or if it was 104, but one of them you had written a**

14:19:07 **14 letter to us saying -- you know -- concerned about us**

14:19:11 **15 taking the survivor off the benefits, and it doesn't --**

14:19:19 **16 I mean, that would be foolish if I said, "Yeah, we knew**

14:19:23 **17 about it in '05, and we didn't do anything about it."**

14:19:26 **18 That doesn't make any sense.**

14:19:27 **19 What I did was, I went through all of those**

14:19:30 **20 surveys, and actually the original first three people**

14:19:35 **21 brought to us by Wiss, one of which I am positive, Guy,**

14:19:39 **22 we had heard from you as her attorney, I believe it was**

14:19:42 **23 her husband was our retiree, that -- you know --**

14:19:46 **24 absolutely.**

14:19:49 **25 I mean if we knew about it, that would have been**

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14:19:51 **1** criminal to know about it and know that somebody died in

14:19:55 **2** '05 and didn't do anything about it.

14:19:57 **3** **Every one of our policies starting in 1981**

14:20:01 **4** clearly stated "No survivor benefits." It was some of

14:20:05 **5** these other columns that were not, as I said, uniformly

14:20:08 **6** applied and by way of resolution.

14:20:10 **7** **But the survivor benefits to the credit of the**

14:20:13 **8** **County were clearly stated starting in 1981 when the**

14:20:18 **9** **first policy that I have on the record, at least when I**

14:20:23 **10** **look back on, it's stated, "No survivor benefits."**

14:20:26 **11** **Q.** Ms. Yard, apparently I was inarticulate with

14:20:30 **12** regard to my question.

14:20:30 **13** Let's stick with number 75.

14:20:34 **14** When the employee died in 2005, was that employee

14:20:40 **15** taken off of health benefits?

14:20:47 **16** **A.** They couldn't have been, I don't believe.

14:20:51 **17** **If we knew the employee died --**

14:20:54 **18** **Q.** Right.

14:20:56 **19** **A.** -- and then didn't -- I mean there is no spousal

14:20:58 **20** benefits.

14:20:59 **21** **Q.** I understand that.

14:21:00 **22** I am talking about benefits for the employee.

14:21:03 **23** In your review when the employee died in 2005 --

14:21:07 **24** **A.** My review wouldn't reveal that. My review was to

14:21:12 **25** find out who died and if somebody was still receiving

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14:21:16 **1** benefits.

14:21:17 **2** **Q.** All right.

14:21:18 **3** In 2013, when you did this review, the County

14:21:22 **4** wasn't paying for benefits for employee 75. It was

14:21:25 **5** paying for benefits solely for their spouse?

14:21:27 **6** MR. GANTNER: Objection.

14:21:29 **7** I don't know how many times she has to say

14:21:34 **8** that she is not in a position to answer that question.

14:21:38 **9** I think it is pretty clear that her

14:21:42 **10** testimony is that it's almost impossible for her to

14:21:44 **11** conceive of the family members continuing to receive

14:21:49 **12** benefits if they knew the employee had died, so by

14:21:52 **13** virtue of that it probably does mean that the person was

14:21:56 **14** receiving benefits, but I don't know why that's so

14:21:58 **15** unclear that the question has to be repeated over and

14:22:01 **16** over again.

14:22:02 **17** MR. DESAPIO: It's unclear because it only

14:22:06 **18** says, "Spouse is receiving benefits," it doesn't say,

14:22:09 **19** "Employee and spouse are receiving benefits," and I was

14:22:12 **20** trying to inquire as to when the employee's benefits

14:22:16 **21** ended.

14:22:18 **22** THE WITNESS: But the employee is dead.

14:22:21 **23** MR. DESAPIO: Absolutely, but my problem

14:22:24 **24** with it is not that the inquiry shouldn't be made. It

14:22:27 **25** should be made. But once the inquiry is made and

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14:22:31 **1** counsel gets the answer, to keep circling back and

14:22:34 **2** trying to get a different answer, it's really -- it is

14:22:46 **3** just consuming time inordinately.

14:22:46 **4** MR. FLORIO: If I may rephrase.

14:22:46 **5** Your objection is in the nature of asked and

14:22:46 **6** answered. We can ask it again, get an answer again, and

14:22:49 **7** then move on to something else.

14:22:50 **8** Perhaps that might be a good approach, Mr.

14:22:54 **9** DeSapio, to try and streamline this.

14:22:57 **10** I am not going to inhibit your right to

14:23:01 **11** represent your clients and make a record, but to the

14:23:04 **12** extent that you can ask a question once, and this

14:23:08 **13** witness is answering fairly clearly, I think, and

14:23:11 **14** succinctly, let's move on to the next question.

14:23:15 **15** **Q.** All right. When a retired employee died or dies,

14:23:23 **16** who would determine whether or not the County's policy

14:23:27 **17** permitted there to be benefits paid for the survivors?

14:23:35 **18** **A.** There are no survivor benefits. It's in every

14:23:39 **19** policy from 1981 on. It's one of the few things that

14:23:45 **20** was very clear in the resolution, there are no survivor

14:23:48 **21** benefits -- there are not to be any survivor benefits.

14:23:56 **22** Obviously we see that there were, but the policy is very

14:23:59 **23** clear, there are no survivor benefits.

14:24:02 **24** So if you are asking me who gets survivor

14:24:05 **25** benefits, nobody. Nobody is supposed to.

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14:24:08 **1** **Q.** Well, who would have placed these spouse and

14:24:16 **2** family members on health coverage, who in the County

14:24:20 **3** organization?

14:24:22 **4** **A.** Initially you mean when they started working or

14:24:25 **5** whenever they were eligible?

14:24:28 **6** **Q.** Yes.

14:24:28 **7** **A.** That would have been HR.

14:24:29 **8** **Q.** Human Resources.

14:24:32 **9** All right.

14:24:33 **10** Column number two says, "Eligible, but county is

14:24:46 **11** billed full cost of benefit due to no carve-out or no

14:24:49 **12** change when coverage changed."

14:24:55 **13** Does that relate to the issue of people moving to

14:25:01 **14** Medicare as the primary provider of benefits?

14:25:11 **15** **A.** Yes. Uh-huh. Yes.

14:25:13 **16** **Moving from primary -- the County being primary**

14:25:16 **17** **to secondary, and as it states, they are eligible, but**

14:25:24 **18** **we were paying full freight for something that we should**

14:25:27 **19** **have been paying a carve-out amount, which we learned in**

14:25:35 **20** **the process of this effort is something that you have to**

14:25:40 **21** **negotiate into the contract with Horizon, and we had**

14:25:49 **22** **people assigned to negotiate those contracts, and so**

14:25:53 **23** **these carve-outs, when we started to talk over and call**

14:25:59 **24** **and say, "No, this person is number of years old, why**

14:26:03 **25** **aren't we paying a carve-out," Horizon said, "It has to**

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14:26:08 **1** be negotiated. You have to ask for it."

14:26:11 **2** So evidently that wasn't negotiated, or if it was

14:26:15 **3** negotiated it didn't end up in the final contract, so

14:26:19 **4** that's why we didn't have a carve-out.

14:26:21 **5** Q. You have to ask for Horizon to be the secondary

14:26:26 **6** coverage when they turn 65?

14:26:27 **7** A. We have to negotiate, it has to be part of the

14:26:33 **8** contract, and the contract is like a lot of the

14:26:36 **9** contracts when you were County Counsel, they are this

14:26:40 **10** thick, but it's not something -- it has to appear as

14:26:46 **11** part of the agreement, a part of the contract, and so

14:26:52 **12** for whatever reason I was -- it was never negotiated.

14:26:57 **13** Q. Never negotiated?

14:26:58 **14** A. If it was it didn't end up in the contract or

14:27:00 **15** whatever.

14:27:00 **16** Q. So you don't have a list of which one of these

14:27:04 **17** events, that is, people turning 65 occurred prior to

14:27:07 **18** 2008 and which ones occurred after 2008?

14:27:14 **19** A. You mean when they turned 65 after 2008? Is that

14:27:18 **20** what you mean?

14:27:18 **21** Q. Do you have a list, out of these numbers, which I

14:27:21 **22** understand to be employees in the second column?

14:27:24 **23** A. They are all employees, the numbers, yes.

14:27:27 **24** Q. Do you have a list as to which ones of them

14:27:31 **25** turned 65 prior to 2008 and which ones --

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14:27:33 **1** A. It will show on the chart how old they were in

14:27:40 **2** 2013, so, yes, if somebody -- you could certainly back

14:27:44 **3** it out and see who was 65 after -- you know -- starting

14:27:48 **4** in 2008.

14:27:49 **5** Q. That chart, what you testified to on Monday, was

14:27:57 **6** no longer available.

14:28:00 **7** What chart are you testifying about?

14:28:03 **8** MR. GANTNER: Objection.

14:28:03 **9** That was not her testimony.

14:28:04 **10** MR. FLORIO: Sustained.

14:28:08 **11** Q. What chart are you referring to?

14:28:10 **12** A. My worksheets.

14:28:13 **13** Q. And you have worksheets that serve as the

14:28:20 **14** foundation of this?

14:28:24 **15** MR. FLORIO: "This" being HC-12.

14:28:27 **16** MR. DESAPIO: HC-12.

14:28:30 **17** MR. FLORIO: That's the document you have

14:28:31 **18** been testifying off.

14:28:34 **19** MR. GANTNER: I gave them to you this

14:28:36 **20** morning.

14:28:37 **21** MR. DESAPIO: Are you going to testify or

14:28:39 **22** the witness is going to testify?

14:28:41 **23** MR. GANTNER: No. But you are asking a

14:28:45 **24** disingenuous question.

14:28:46 **25** MR. FLORIO: Actually, I will rule that

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14:28:49 **1** question is unanswerable by the witness since the

14:28:53 **2** documents were presented by counsel to counsel, so let's

14:28:56 **3** move on from this issue.

14:28:57 **4** MR. DESAPIO: Can I say for the record, I

14:29:00 **5** have been given a stack of papers with no indication

14:29:02 **6** what they are.

14:29:02 **7** If they are going to represent -- you

14:29:05 **8** know -- Mr. Gantner did not say to me these are the

14:29:07 **9** worksheets that serve for the basis for HC-12.

14:29:11 **10** He said, "Here is some more information."

14:29:12 **11** That's okay. I won't belabor it.

14:29:15 **12** MR. GANTNER: Actually, that is not what I

14:29:18 **13** said. I don't want to really get into that. I know

14:29:21 **14** what I said.

14:29:27 **15** The thing is, this is the problem with

14:29:27 **16** trying to continue this request for documents while the

14:29:29 **17** hearing -- you know -- is in progress.

14:29:32 **18** After that colloquy that we had on Monday, I

14:29:36 **19** had a concern, because I didn't want to be having gone

14:29:39 **20** on the record saying something didn't exist, maybe it

14:29:44 **21** was somewhere, I mean I did -- well, I don't want to get

14:29:47 **22** into everything, but I made sure that a diligent search

14:29:52 **23** and inquiry was made just in case there was something

14:29:54 **24** out there.

14:29:55 **25** When a few things turned up in an effort to

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14:30:00 **1** exhibit the utmost of candor, I came in and I said, "Mr.

14:30:05 **2** DeSapio, I think this is the stuff that you were asking

14:30:09 **3** about," and I gave it to him.

14:30:11 **4** It wouldn't have happened that way had all

14:30:14 **5** of these issues about discovery been raised and

14:30:19 **6** disclosed and discussed among counsel and resolved with

14:30:23 **7** the help of the hearing officer if that was going to be

14:30:27 **8** necessary, but it's just -- it is not -- let me just

14:30:34 **9** say, it's not the recommended procedure to be continuing

14:30:37 **10** these requests during the course of the hearing, and

14:30:40 **11** that's why we have to continue to argue about it.

14:30:42 **12** Otherwise we wouldn't be arguing about it.

14:30:45 **13** MR. DESAPIO: With all due respect to Mr.

14:30:47 **14** Gantner, who I know was not involved in the discovery

14:30:49 **15** phase.

14:30:49 **16** I can pull an e-mail out if we want to go

14:30:52 **17** into this. When I was first given HC-12 as a part of

14:30:56 **18** Mr. Donohue's report I asked for the backup material and

14:30:59 **19** never got it.

14:30:59 **20** That's irrespective.

14:31:01 **21** All I was doing was asking the witness a

14:31:03 **22** question about whether there was something that had

14:31:05 **23** dates on it.

14:31:07 **24** Now, that you think it has become tedious,

14:31:12 **25** which I appreciate, and I am sensitive to, but as you

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14:31:16 **1** are aware, these two people are being threatened with
 14:31:21 **2** the loss of their job, and all of this material that we
 14:31:26 **3** are pulling teeth to get is public information and a
 14:31:29 **4** public record.
 14:31:31 **5** In regard to the third column, the witness
 14:31:34 **6** testified that she doesn't hold these two people
 14:31:37 **7** accountable for anything that occurred prior to 2008, so
 14:31:41 **8** I think it's a perfectly legitimate question to ask in
 14:31:44 **9** regard to the second column how many of those incidents
 14:31:47 **10** occurred prior to 2008.
 14:31:49 **11** I am not going to belabor it today. We will
 14:31:52 **12** handle it on our direct case, but I have a few more
 14:31:57 **13** questions to ask this witness in regard to HC-12.
 14:32:00 **14** MR. FLORIO: Before you ask any more
 14:32:02 **15** questions I want to address both of your concerns.
 14:32:04 **16** I think I said earlier, and I don't ascribe
 14:32:08 **17** to a belief that there has been any pulling of teeth for
 14:32:12 **18** the production of records, I read all the e-mails and I
 14:32:15 **19** saw what was going back and forth between counsel, so my
 14:32:17 **20** view is there has been a good faith effort as far as I
 14:32:21 **21** am concerned by both parties to provide documents.
 14:32:24 **22** This is a short turnaround on a hearing
 14:32:27 **23** based upon notification of discipline.
 14:32:30 **24** It's an imperfect system. It's incumbent
 14:32:35 **25** upon everybody to do their best to exchange documents

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14:32:38 **1** beforehand.
 14:32:38 **2** Mr. Gantner, I am not going to disallow the
 14:32:41 **3** production of any documents that were unrequested or
 14:32:45 **4** unknown prior to the time that a witness testifies
 14:32:49 **5** thereto, and if the witness brings it up, I think
 14:32:52 **6** counsel from either side is rightful in a request for
 14:32:58 **7** production of documents for appropriate
 14:33:02 **8** cross-examination.
 14:33:04 **9** That's the ruling.
 14:33:06 **10** One or two more questions, and then let's
 14:33:09 **11** move on.
 14:33:09 **12** MR. DESAPIO: Can I ask for a five-minute
 14:33:10 **13** recess, please?
 14:33:12 **14** MR. FLORIO: Granted.
 14:33:14 **15** Five minutes.
 14:33:18 **16** We are off the record.
 14:33:19 **17** (Whereupon, a short recess is taken.)
 14:41:19 **18** MR. DESAPIO: I know we said we are going to
 14:41:21 **19** move along, and I fully intend to do so.
 14:41:23 **20** I just want to read this colloquy from
 14:41:25 **21** Monday into the record at this point in regard to this
 14:41:30 **22** issue about the backup.
 14:41:33 **23** MR. FLORIO: Is it testimony from the record
 14:41:39 **24** that was produced at your request by the court reporter?
 14:41:42 **25** MR. DESAPIO: It is testimony from the

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14:41:44 **1** record, but consists mostly of exchanges between
 14:41:49 **2** yourself, Mr. Gantner, and myself on this very issue.
 14:41:55 **3** I just want to put it in the record. I am
 14:41:58 **4** not going to belabor the production of documents.
 14:42:00 **5** MR. FLORIO: Isn't it in the record already?
 14:42:01 **6** MR. DESAPIO: I want to make this point at
 14:42:05 **7** this time, because there is a suggestion that there was
 14:42:10 **8** not an indication at the last hearing that nothing
 14:42:13 **9** existed, and now I take umbrage to that because the
 14:42:19 **10** representation made by counsel was that nothing existed,
 14:42:22 **11** and I just want to indicate that firmly in the record by
 14:42:26 **12** reading without comment what was said about this issue
 14:42:29 **13** on Monday.
 14:42:30 **14** MR. FLORIO: I think that is duplicative,
 14:42:33 **15** Mr. DeSapio. If it was said on the record it's already
 14:42:37 **16** in the record, and both parties will have the
 14:42:41 **17** opportunity to sum up and submit briefs on behalf of
 14:42:44 **18** their respective positions, so I don't think it's
 14:42:49 **19** necessary to read it into the record now. It's
 14:42:51 **20** already part of the record, so if you have additional
 14:42:54 **21** questions for this witness, please proceed.
 14:42:58 **22** MR. DESAPIO: Including the comment that the
 14:43:06 **23** hearing officer made based upon the fact that there was
 14:43:06 **24** a representation that there was no backup, that I would
 14:43:06 **25** have wide latitude on cross-examination, but, as I said

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14:43:09 **1** before, I understand that this proceeding is tedious at
 14:43:13 **2** times, but it's important that we address all the
 14:43:16 **3** issues.
 14:43:17 **4** I am not going to go further into this
 14:43:19 **5** backup sheet right now.
 14:43:21 **6** MR. FLORIO: Thank you.
 14:43:21 **7** Please proceed.
 14:43:23 **8** **Q.** Okay. Who would have been responsible within the
 14:43:27 **9** County to determine whether or not, when an employee
 14:43:31 **10** reached 65 and to "carve them out," as you call it, of
 14:43:35 **11** the health benefits?
 14:43:49 **12** **A.** First of all, the provision for a carve-out and,
 14:43:57 **13** I believe, the mechanism on how we would achieve that,
 14:44:01 **14** should have come through the people that we had
 14:44:07 **15** responsible to work with, negotiate with Willis and
 14:44:15 **16** Horizon, so the application of the health benefits plans
 14:44:26 **17** and program, again, I would say would be the
 14:44:32 **18** responsibility of the people who were designated by the
 14:44:37 **19** Board to represent the County's best interest in the
 14:44:41 **20** health benefits plan.
 14:44:43 **21** **Q.** That wasn't the question I asked you, but we will
 14:44:46 **22** stick on that.
 14:44:46 **23** **A.** Okay.
 14:44:47 **24** **Q.** When was the contract with Willis and Horizon
 14:44:50 **25** entered into?

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14:44:55 **1 A. I am not sure, because we don't seem to have any**
 14:44:59 **2 paperwork responsive, so the folks -- we don't have the**
 14:45:04 **3 engagement letter, we don't have a broker of record, so**
 14:45:13 **4 the two positions that were responsible to negotiate and**
 14:45:19 **5 administer this and protect the County's interest for**
 14:45:23 **6 it, the health benefits, there doesn't appear to be any**
 14:45:26 **7 record.**
 14:45:27 **8 I am not quite sure.**
 14:45:29 **9 Q. So you can't say whether if it was prior to 2008**
 14:45:34 **10 or after 2008?**
 14:45:35 **11 A. When I first came on April 15, 1998, there was**
 14:45:42 **12 somebody named, and you were here also, Mr. DeSapio, so**
 14:45:46 **13 maybe you can help me, because from Meeker Sharkey, I**
 14:45:52 **14 believe, we went to Willis and -- so I don't know when**
 14:45:59 **15 we stopped going with Meeker Sharkey.**
 14:46:03 **16 Again, I had absolutely nothing to do with the**
 14:46:07 **17 health insurance and insurances, so, I think, after**
 14:46:14 **18 Meeker Sharkey, then we went to Willis.**
 14:46:17 **19 So I don't know how long we had a contract with**
 14:46:19 **20 them, but they were here when you were here.**
 14:46:22 **21 Q. Okay.**
 14:46:22 **22 A. And we still have them today until we go into**
 14:46:26 **23 state health benefits plan.**
 14:46:27 **24 Q. You can't say that Kim Browne was responsible for**
 14:46:31 **25 what you are talking about concerning negotiations with**

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14:46:34 **1 them over this carve-out issue?**
 14:46:37 **2 A. I would say that every time that either we**
 14:46:41 **3 renewed with them -- and again I don't have the dates in**
 14:46:43 **4 front of me -- but just very much like you had asked me,**
 14:46:49 **5 and I want to just clarify that to you, you asked me**
 14:46:52 **6 about the dead people and if somebody was dead before**
 14:46:56 **7 2008, it's not so much what happened prior to 2008 as**
 14:47:04 **8 much as it was we were still paying for benefits after**
 14:47:07 **9 2008. We paid for benefits in '8, '9, '10, '11, '12,**
 14:47:13 **10 and it finally came to the forefront in the 2012 audit.**
 14:47:22 **11 Maybe the original negotiations that took place**
 14:47:27 **12 after we had Meeker Sharkey and then we had Willis,**
 14:47:32 **13 there might have been somebody in the middle, but**
 14:47:35 **14 anything that happened after 2008 where we had**
 14:47:40 **15 designated a negotiating team, a team of people, which**
 14:47:44 **16 was HR and the Director of Finance, to protect the**
 14:47:51 **17 County's interest with regard to the health benefits**
 14:47:56 **18 program.**
 14:47:58 **19 Q. Can I go back to the original question before we**
 14:48:01 **20 got off on that?**
 14:48:02 **21 Who in the County organization, whose**
 14:48:05 **22 responsibility was it to determine when a retiree**
 14:48:09 **23 reached age 65?**
 14:48:18 **24 A. It should have been part of the internal**
 14:48:20 **25 controls.**

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14:48:22 **1 Q. And who within the internal control -- strike**
 14:48:27 **2 that.**
 14:48:27 **3 Is there a written policy or internal control**
 14:48:34 **4 indicating who would indicate when somebody turned age**
 14:48:38 **5 65?**
 14:48:43 **6 A. You have identified that -- and I agree -- that**
 14:48:47 **7 HR did the initial review or approving of the bills, but**
 14:48:56 **8 evidently, our internal controls were not accurate and**
 14:48:59 **9 not sufficient.**
 14:49:00 **10 Q. Would HR be the only place in Hunterdon County**
 14:49:08 **11 that would have a record of an employee's date of birth?**
 14:49:13 **12 A. Absolutely not, because the information that I**
 14:49:16 **13 got for this worksheet about Medicare B came from**
 14:49:19 **14 Finance, and it is from a lady by the name of Kathy or**
 14:49:24 **15 Kathleen in Finance, so, no, it's not the only place**
 14:49:29 **16 that HR would know that, because Kathy or Kathleen is**
 14:49:34 **17 where I got this information who was on Medicare B, that**
 14:49:39 **18 the County paid their Medicare B, so, no, absolutely**
 14:49:45 **19 not. It was not just HR. It was Finance, because there**
 14:49:49 **20 was a problem with the Medicare B.**
 14:49:51 **21 As a matter of fact, that came up in one of the**
 14:49:54 **22 e-mails that there was a problem with the Medicare B,**
 14:50:00 **23 and actually I am looking at it right now, it says,**
 14:50:03 **24 "Hunterdon County six," and it says, "From Kim Browne,**
 14:50:08 **25 the County is probably paying full freight for some**

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14:50:12 **1 retirees instead of the Medicare rate."**
 14:50:20 **2 So, no, sir, it would not have been just HR.**
 14:50:20 **3 As I said, when I filled out this worksheet I got**
 14:50:24 **4 my information for column -- the third column, which**
 14:50:30 **5 says, "County paid Medicare." I got that from Finance.**
 14:50:34 **6 MR. DESAPIO: Okay. Since the witness is**
 14:50:37 **7 referring now to a spreadsheet, I think we should mark**
 14:50:41 **8 it --**
 14:50:43 **9 THE WITNESS: I am sorry. It was sitting**
 14:50:46 **10 here.**
 14:50:46 **11 MR. DESAPIO: -- PB-27.**
 14:50:49 **12 MR. FLORIO: PB-27.**
 14:50:50 **13 MR. DESAPIO: I was just given one copy of**
 14:50:52 **14 it this morning, so I can't provide a copy to the**
 14:50:54 **15 hearing officer.**
 14:51:50 **16 PB-27 for identification, the witness**
 14:51:52 **17 referred to it and picked it up on the table. I asked**
 14:51:55 **18 the witness to indicate for the record what it is. It**
 14:52:03 **19 looks to me to be a spreadsheet that has a number of**
 14:52:06 **20 columns on it.**
 14:52:07 **21 (Spreadsheet is marked as Exhibit PB-27 for**
 14:52:11 **22 identification.)**
 14:52:11 **23 Q. Ms. Yard, I wonder if you could identify what**
 14:52:14 **24 PB-27 is.**
 14:52:39 **25 A. This is a worksheet, a chart, of all of the**

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14:52:49 **1** information that we had gathered so that we could

14:52:58 **2** identify the depth and the breadth of the problem of

14:53:06 **3** ineligible people being on health benefits.

14:53:11 **4** Q. So your testimony is that column number three,

14:53:15 **5** the County plan cost, County paid Medicare, that

14:53:18 **6** information came from Finance?

14:53:21 **7** A. Yes, and as a matter of fact, thank you, Guy, for

14:53:24 **8** mentioning that again, because there was quite a bit of

14:53:29 **9** frustration because that County Medicare B, people have

14:53:35 **10** to find out, it has to do with pension and eligibility,

14:53:40 **11** and that information came from the certifying officer

14:53:47 **12** with pensions, which was the payroll administrator in

14:53:53 **13** Finance. And the supervising certifying officer, I

14:53:58 **14** believe, was Margaret Pasqua or Kim Browne, but that

14:54:03 **15** Medicare B, there is quite a connection to pensions and,

14:54:09 **16** in fact, Kathleen or Kathy had quite a bit of difficulty

14:54:15 **17** that we could get that information, but it all came from

14:54:20 **18** the certifying officer for pensions, and the supervising

14:54:28 **19** certifying officer was Margaret Pasqua or Kim, one of

14:54:33 **20** them, so that came from Finance, and I got that directly

14:54:37 **21** from Finance.

14:54:39 **22** Q. Is that the same Kathy that is referred to in the

14:54:46 **23** e-mail that's marked H-6?

14:54:53 **24** A. Yes. I believe so. There is only one Kathy or

14:54:56 **25** Kathleen up there, yes.

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14:54:59 **1** Q. And Ms. Browne was asking in that e-mail that the

14:55:02 **2** County should send out a letter to these employees to

14:55:11 **3** determine whether or not they signed up or telling them,

14:55:15 **4** asking them whether they signed up?

14:55:18 **5** A. Yes. She is doing that, but, again, it shows the

14:55:25 **6** adjacencies and the interdependency of Finance and HR

14:55:28 **7** because that Medicare B program is administered through

14:55:33 **8** Finance on people getting reimbursement are not quite

14:55:37 **9** there yet for Medicare B, but it's something that the

14:55:41 **10** County does, and it is prescribed in the policies when

14:55:44 **11** we talk about being applied and prescribed by

14:55:49 **12** resolution, but that program is administered through

14:55:52 **13** Finance.

14:55:56 **14** Q. When Ms. Browne wrote you on May 27, 2013,

14:56:00 **15** suggesting that HR write --

14:56:02 **16** A. You mean March.

14:56:03 **17** Q. -- March 27th -- HR write to all of these people,

14:56:08 **18** did you respond, "No, HR is not going to do it. That

14:56:13 **19** should be your responsibility"?

14:56:14 **20** A. No. Can I go back? Is it HC-16 or 6?

14:56:18 **21** Q. Not in -- 6. Did I say "16"?

14:56:21 **22** A. I want to make sure I am on the right page with

14:56:24 **23** you, Guy.

14:56:26 **24** No, but certainly that we covered and talked

14:56:31 **25** about the internal controls and one of these other -- if

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14:56:37 **1** you want me to refer to some of these other things,

14:56:42 **2** certainly you can see that we needed to perfect our

14:56:47 **3** internal controls and our quality assurance on how we

14:56:51 **4** delivered all of these services, these health benefit

14:56:55 **5** services to our employees.

14:57:03 **6** Q. Fourth column. "Retirement and use of service,"

14:57:09 **7** when somebody applies for disability retirement, who is

14:57:15 **8** contacted by the Division of Pensions to verify their

14:57:20 **9** employment and the circumstances concerning their

14:57:25 **10** injury"?

14:57:25 **11** A. I don't know that for sure.

14:57:28 **12** I know that -- I thought that payroll was also

14:57:34 **13** part of it. If not -- you know -- maybe not the sole

14:57:37 **14** person.

14:57:38 **15** Again, a lot of adjacencies between HR and

14:57:42 **16** Finance. The disability retirement is one of those

14:57:49 **17** other ones that was not prescribed in a resolution, but

14:57:54 **18** I am not positive, Guy, to be very honest with you whose

14:57:57 **19** responsibility it was, but there are so many adjacencies

14:58:01 **20** with Finance and HR -- you know -- regarding this

14:58:03 **21** delivery of -- you know -- health benefits.

14:58:07 **22** Q. And in regard to the numbers you have listed in

14:58:10 **23** that column of employees identifying employees, is your

14:58:17 **24** testimony the same, you don't know whose disability

14:58:19 **25** retirement began prior to 2008 and whose disability

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14:58:22 **1** retirement started after 2008?

14:58:28 **2** A. You couldn't tell it from here, Guy, but you

14:58:31 **3** could probably tell it from there -- you know -- this

14:58:34 **4** worksheet is quite complicated, but, in other words, so

14:58:43 **5** that if you took one of the numbers and -- if you took

14:58:46 **6** the first one, 124, it shows you that the person -- if

14:58:51 **7** you go all the way across, it shows that we were being

14:58:57 **8** billed for PPO family, it shows what the plan cost us,

14:59:04 **9** because a no carve-out negotiated -- actually, that

14:59:10 **10** person is 46, you wouldn't get a carve-out, and then you

14:59:15 **11** can see that they were -- they had 266 months into the

14:59:20 **12** pension and that they retired in 2010, and then if you

14:59:24 **13** go all the way over on the right it tells you -- you

14:59:28 **14** know -- whether that plan was confirmed, and just so you

14:59:33 **15** have -- because it takes a while to get the hang of

14:59:37 **16** this, this column doesn't necessarily mean that they are

14:59:41 **17** not eligible for disability retirement.

14:59:44 **18** It means, as the column heading says, that it was

14:59:49 **19** never prescribed by resolution, and it was not uniformly

14:59:54 **20** applied, so there are -- and you will see verified

14:59:58 **21** disability retirement, we have contacted pensions to

15:00:06 **22** verify whether these people are truly disability

15:00:11 **23** retirement, or if somehow they fell through the cracks

15:00:16 **24** and they weren't disability retirement, it was a service

15:00:19 **25** retirement, but they were not eligible because of years

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15:00:24 **1 of service and the -- and their pension.**

15:00:30 **2 Q.** So who was responsible in the County then for

15:00:34 **3** determining that there was no resolution entitling these

15:00:39 **4** people in column number four to health benefits and

15:00:45 **5** taking them off of health benefits?

15:00:49 **6** Was that HR?

15:00:57 **7 A.** HR, as you have guided me and questioned me,

15:01:02 **8 certainly did the preliminary review of the bill, but**

15:01:08 **9 there obviously we didn't have enough internal controls**

15:01:14 **10 to address and, as a matter of fact, I mean again we**

15:01:17 **11 talk about minutes and relying on minutes and me being**

15:01:22 **12 here for 360 meetings, you being here for 720 meetings**

15:01:26 **13 as County Counsel, I mean there are things in the**

15:01:30 **14 minutes that talk about -- you know -- that the law --**

15:01:35 **15 2011 and the Chapter 78, and there is references, again,**

15:01:40 **16 only relying on what's written in the minutes that**

15:01:42 **17 say -- you know -- I don't know if this really happened**

15:01:44 **18 or not, but the HR director was going to discuss with**

15:01:50 **19 County counsel the changes in the law, because it was**

15:01:54 **20 going to impact on the policy and our negotiating, our**

15:02:00 **21 bargaining units.**

15:02:03 **22 Q.** Changes in the law, Chapter 78?

15:02:06 **23 A.** Chapter 78, 2011.

15:02:08 **24 Q.** Did you discuss that with county counsel?

15:02:10 **25 A.** No, it was in 2010, that's when it appeared in

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15:02:13 **1 the minutes -- you know -- changes to policies and to**

15:02:18 **2 the laws. It was in 2010, I believe, April of 2010,**

15:02:26 **3 that said -- you know -- we were going to -- you know --**

15:02:29 **4 I can only say in my experience the Freeholders put a**

15:02:37 **5 great deal of reliance on County counsel as they do with**

15:02:40 **6 me as their administrator, so -- you know -- almost**

15:02:48 **7 every policy that was ever written we would make sure --**

15:02:51 **8 you know -- in other words, I used to tease the County**

15:02:55 **9 counsel and say, "In Guy we trust," because the**

15:02:58 **10 Freeholders would say, "If it passed the muster of the**

15:03:02 **11 County Counsel, have you read this, or whatever," so for**

15:03:06 **12 whatever reason policies did not read the way the law**

15:03:09 **13 tells you that they should read.**

15:03:13 **14 Q.** In regard to Count Four, you are saying there are

15:03:17 **15** no policies in regard to Count Four?

15:03:18 **16 A.** As far as -- well, no, no, what I am saying --

15:03:22 **17 and I tried to be clear, because it gets very**

15:03:29 **18 confusing -- it's not that an instate health benefits**

15:03:33 **19 entity can offer benefits to their people, but it must**

15:03:39 **20 be clearly -- you know -- prescribed in a resolution and**

15:03:43 **21 uniformly applied and that's where -- so even when we**

15:03:48 **22 look -- when you look at this column, Guy, and you talk**

15:03:51 **23 about -- you**

15:03:52 **24 know -- how many people, are they really on disability**

15:03:55 **25 or are they on disability, are they on disability just**

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15:03:59 **1 by themselves or whatever, it's not so much that we are**

15:04:02 **2 saying they have to be on disability as much as we are**

15:04:04 **3 saying it wasn't prescribed, it wasn't prescribed in a**

15:04:07 **4 resolution, and it wasn't uniformly applied, so as we**

15:04:10 **5 just picked out 124, clearly -- you know -- we confirm**

15:04:16 **6 that this person was on disability retirement and -- you**

15:04:19 **7 know -- but, again, it wasn't uniformly prescribed.**

15:04:22 **8 Q.** My question is --

15:04:23 **9 A.** Sorry.

15:04:24 **10 Q.** I am not criticizing you.

15:04:26 **11 A.** No, I know.

15:04:27 **12 Q.** My question is not about whether they were

15:04:29 **13** entitled to disability retirement --

15:04:31 **14 A.** Right.

15:04:31 **15 Q.** -- but does the County -- is there a policy that

15:04:37 **16** indicates when, under what circumstances, if you are on

15:04:39 **17** disability retirement, you will continue to receive

15:04:42 **18** health benefits?

15:04:45 **19 A.** No. That's the title of the column.

15:04:47 **20 Q.** Okay. So it doesn't.

15:04:48 **21** So then who is responsible within the County

15:04:57 **22** organization once a person went out on disability

15:05:03 **23** retirement for taking them off of health benefits?

15:05:09 **24 A.** Well, they were --

15:05:17 **25** MR. GANTNER: Objection; asked and answered.

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15:05:17 **1** THE WITNESS: This is the problem: They

15:05:17 **2** were on health benefits, Mr. Hearing Officer, this just

15:05:21 **3** shows --

15:05:22 **4** MR. FLORIO: I am overruling the objection.

15:05:24 **5** Please continue.

15:05:26 **6** MR. GANTNER: All right.

15:05:26 **7** THE WITNESS: This column has nothing to do

15:05:29 **8** with taking people off disability retirement.

15:05:33 **9** This column shows that there are people that

15:05:36 **10** are receiving disability benefits, health benefits, and

15:05:46 **11** the title of the column means that they are on

15:05:50 **12** disability health benefits, but there was never a policy

15:05:55 **13** that prescribed the benefits that they should get or

15:06:00 **14** uniformly applied, is what I am trying -- I am sorry

15:06:04 **15** that this is so confusing.

15:06:05 **16 Q.** My question, Ms. Yard, is not the determination

15:06:08 **17** of whether they are on disability or should have been on

15:06:10 **18** disability.

15:06:12 **19** My question is when they go out on disability

15:06:14 **20** retirement, who in the County organization is

15:06:18 **21** responsible for terminating them from health benefits

15:06:23 **22** since there is no policy that says they will receive

15:06:25 **23** them?

15:06:31 **24 A.** I will try this again.

15:06:33 **25** If I am working here and I go out on disability

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15:06:37 **1 retirement, let's do it in 2012, okay, certainly the**

15:06:46 **2 subject of this hearing, in 2012 I go out on disability**

15:06:51 **3 retirement, I worked here all my life and I am going out**

15:06:55 **4 on disability retirement, nobody took me off benefits.**

15:06:58 **5 Q. Okay.**

15:06:58 **6 A. Do you see what I mean?**

15:07:00 **7 You are asking me who would stop their benefits.**

15:07:02 **8 Q. Who would be responsible for taking them off?**

15:07:07 **9 A. Taking anybody off or them off?**

15:07:10 **10 Q. Yes, anybody who went out on disability**

15:07:13 **11 retirement if they weren't entitled to health benefits,**

15:07:15 **12 who would be responsible for taking them off?**

15:07:19 **13 A. We didn't take anybody off.**

15:07:21 **14 Q. I understand that.**

15:07:22 **15 Did no one have the responsibility for taking**

15:07:25 **16 them off?**

15:07:25 **17 That's not possible, is it?**

15:07:27 **18 A. Oh, no.**

15:07:28 **19 I think you are asking who would be responsible**

15:07:36 **20 for making sure that the bill was accurate, that we were**

15:07:40 **21 being accurately billed for health benefits whether**

15:07:44 **22 people were eligible or not eligible.**

15:07:46 **23 So if you are asking me who would be responsible,**

15:07:51 **24 and we have already established that Cheryl Wieder had**

15:07:54 **25 or the HR director had the first look, if you will, at**

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15:08:00 **1 the bills, and then they went up to Finance who had**

15:08:09 **2 certainly an obligation of internal controls, and so if**

15:08:15 **3 you are asking me who would be responsible, well, in my**

15:08:18 **4 mind there were two people, there are two positions, two**

15:08:21 **5 areas that were responsible, they would be adjacencies**

15:08:27 **6 and the interdependency, and we talk about it in several**

15:08:30 **7 different cases, that it was HR and Finance.**

15:08:34 **8 Q. Okay. I am not asking you about the bill.**

15:08:36 **9 I was asking you who was responsible for deleting**

15:08:40 **10 them from the health insurance coverage.**

15:08:42 **11 Was it HR?**

15:08:47 **12 A. To physically take them out of the system? Is**

15:08:51 **13 that what you mean or something like that?**

15:08:52 **14 Q. Yes.**

15:08:55 **15 A. Yes. They would have physically -- they should**

15:08:58 **16 have physically taken them out of the system.**

15:09:01 **17 Q. Now let's look at column five, "Self-pay COBRA**

15:09:04 **18 for life."**

15:09:05 **19 Why is that in parentheses -- not parentheses.**

15:09:11 **20 A. In quotation.**

15:09:12 **21 Q. In quotation.**

15:09:14 **22 A. Because it's called "Self-pay," but I named it**

15:09:18 **23 "COBRA for life," so I don't know if that's official.**

15:09:23 **24 I believe I testified to that on Monday.**

15:09:26 **25 This is a benefit, if you will, that is allowed**

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15:09:33 **1 in state health benefits plan.**

15:09:35 **2 Again, I tried to explain this, because it says**

15:09:38 **3 "for retired members' dependents." It's in violation of**

15:09:43 **4 40A:10-23, because it was not prescribed by resolution**

15:09:47 **5 or uniformly applied, so it's not to say that this is**

15:09:51 **6 not the County didn't have the right to have a**

15:09:55 **7 "self-pay --" my words "-- COBRA for life," but we did**

15:10:00 **8 not follow the law to offer the benefits to our**

15:10:05 **9 employees and retirees, active and inactive.**

15:10:08 **10 Q. In other words, there is no policy that says --**

15:10:12 **11 this "COBRA for life," does that mean that people were**

15:10:16 **12 reimbursing the County for their health insurance**

15:10:19 **13 premiums for long periods after they were retired?**

15:10:25 **14 A. Right. Just like any other COBRA.**

15:10:27 **15 Again, Guy, you remember this from when you were**

15:10:30 **16 County Counsel, and I am just learning about it, COBRA,**

15:10:34 **17 it's my understanding that when somebody leaves the**

15:10:38 **18 County's employ, that they are offered COBRA. The**

15:10:44 **19 actual person, the actual employee is 18 months, I**

15:10:48 **20 believe, their dependents are 36 months.**

15:10:53 **21 COBRA is paying the County rate, okay, so if the**

15:10:58 **22 County pays \$10, then that's what the employee gets to**

15:11:04 **23 pay, so it's, like, a transitional plan to get you until**

15:11:10 **24 you are going to get new insurance or -- you know --**

15:11:13 **25 whatever.**

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15:11:15 **1 So what happened, and you're absolutely correct,**

15:11:20 **2 Guy, I mean we had people retiring in 1987 and didn't**

15:11:30 **3 have -- you know -- might have had it, we could probably**

15:11:37 **4 find it in here, paid into the pension system for 67**

15:11:38 **5 months -- well, that's certainly a far cry from the 300**

15:11:43 **6 months or 180 months for the 1962 provision, and they**

15:11:47 **7 have been paying the County rate since 1987, what I call**

15:11:54 **8 "COBRA for life," again, that's not against the law, but**

15:12:01 **9 what has to happen is it has to be prescribed in a**

15:12:06 **10 resolution and uniformly applied.**

15:12:09 **11 So what happens is -- and I am sorry, Guy, if I**

15:12:12 **12 am getting off the beaten track, but I am trying to**

15:12:15 **13 explain it, because it's difficult -- what I learned,**

15:12:24 **14 since this all took place, is that then Ceridian -- we**

15:12:29 **15 talked about what was Ceridian. Ceridian is our third**

15:12:33 **16 party biller.**

15:12:36 **17 The County -- first of all, the County would go**

15:12:39 **18 ahead and pay that Horizon bill, so if you were on this**

15:12:44 **19 "COBRA for life," and this gentleman was on "COBRA for**

15:12:48 **20 life," the County would be paying for you two, and then**

15:12:55 **21 Ceridian would bill you. I mean this is kind of crazy,**

15:12:58 **22 and this is what we found out. Then Ceridian would give**

15:13:01 **23 credits back to Horizon, so the County is paying for**

15:13:07 **24 these -- even though you two are paying the County rate,**

15:13:13 **25 but Ceridian gives the benefits back to Horizon, so**

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15:13:17 **1** somehow we got this middleman -- you know -- and it's

15:13:21 **2** all part of our \$750,000 monthly payment that we have,

15:13:26 **3** and anything -- again, it's not that it's not allowed,

15:13:30 **4** but it must be prescribed by resolution and uniformly

15:13:34 **5** applied and -- you know --

15:13:37 **6** Q. I want to clarify one thing.

15:13:38 **7** You are saying at the bottom of that column that

15:13:42 **8** the 2013 cost was \$137,735.24, but actually, there was

15:13:50 **9** no net cost to the County, correct, because the employee

15:13:54 **10** paid Ceridian, and Ceridian provided a credit on the

15:14:00 **11** County bill? Correct?

15:14:02 **12** A. Well, you're half right.

15:14:05 **13** Because the reason why this column says that

15:14:07 **14** total is because I am not saying that it can't happen.

15:14:12 **15** I am saying that it was not by virtue of a resolution

15:14:16 **16** and uniformity applied.

15:14:19 **17** So, in other words, if the County had a

15:14:21 **18** resolution that said, "You can't have self-pay," or the

15:14:23 **19** County had a resolution that said, "You could have

15:14:26 **20** self-pay," then this number would be very different.

15:14:30 **21** That total as the disability total is because

15:14:36 **22** it's not saying that it's not allowed. It's saying that

15:14:40 **23** the County did not follow the law that says you must

15:14:46 **24** have a resolution and it must be uniformly applied, so,

15:14:50 **25** you're right, though, Guy, and that's something else

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15:14:52 **1** that we learned that it may be 442, I happen to know

15:14:58 **2** that. That 442 is the monthly benefit cost for

15:15:01 **3** traditional, the carve-out, but when Ceridian gives

15:15:06 **4** Horizon the credit, it's like \$417.

15:15:13 **5** You're incorrect in thinking that it's really --

15:15:17 **6** it's cost-neutral, because it's not, because this column

15:15:22 **7** represents the County did not prescribe it in a

15:15:26 **8** resolution and it was not uniformly applied.

15:15:30 **9** Q. Does that represent that the county didn't

15:15:32 **10** recover that money or a portion of it?

15:15:37 **11** A. No. A portion of that money was recovered, but,

15:15:40 **12** see, that's not the purpose of the column, Guy.

15:15:43 **13** The purpose of the column is to say we didn't --

15:15:48 **14** the County was not doing what the law prescribed.

15:15:52 **15** Q. But the County didn't sustain a loss of

15:15:58 **16** \$137,735.24 in regard to column five because it got at

15:16:01 **17** least the substantial majority of that money back.

15:16:05 **18** Correct?

15:16:08 **19** A. It got some of the money back. I mean that's all

15:16:11 **20** part -- yes.

15:16:12 **21** Q. Got a substantial part of it back. Correct?

15:16:18 **22** A. Probably, yes.

15:16:19 **23** I think there are 12 or 13 or 14 people -- well,

15:16:24 **24** actually, we can count them here, and most of them we

15:16:28 **25** were getting -- well -- and we called Horizon, and they

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15:16:34 **1** say, "Somewhere you will see it on the credits. It's

15:16:37 **2** very difficult to track all this stuff, but it's not

15:16:41 **3** impossible, no."

15:16:41 **4** Q. It's very difficult to track it, but you were

15:16:44 **5** able to come to the conclusion and come up with that

15:16:46 **6** figure?

15:16:48 **7** A. Because -- yes, absolutely. Even me, Guy, I am

15:16:55 **8** not -- you're absolutely right, I am not licensed. I am

15:16:57 **9** not a licensed Finance person.

15:16:59 **10** Q. There is no spreadsheet that shows how that

15:17:01 **11** figure is derived. Correct?

15:17:05 **12** A. Right.

15:17:07 **13** I explained to you, right, how we did it. Right?

15:17:13 **14** Q. I am not going to answer your questions.

15:17:15 **15** A. Oh, I am sorry, Guy. I am sorry I didn't mean to

15:17:19 **16** ask you a question.

15:17:19 **17** MR. FLORIO: He asks the questions. You

15:17:21 **18** answer the questions.

15:17:22 **19** THE WITNESS: Because we worked together for

15:17:24 **20** so long, I am sorry.

15:17:33 **21** Q. Okay. Who is responsible within the County

15:17:34 **22** organization for determining that there was no

15:17:39 **23** resolution that authorized "COBRA for life" for these

15:17:43 **24** people and stopping their health benefits taking them

15:17:47 **25** off the rolls? Wasn't it HR?

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15:17:57 **1** A. The policy for health benefits certainly the

15:18:12 **2** Freeholders would rely on HR would rely on people that

15:18:18 **3** they have assigned to be the -- you know -- negotiator

15:18:24 **4** and -- you know -- facilitator and interactor and

15:18:30 **5** interface. They would rely on oftentimes you to make

15:18:34 **6** sure that our legal interests were -- you know -- taken

15:18:43 **7** into consideration.

15:18:43 **8** Q. You are saying it's the County's attorney's

15:18:46 **9** responsibility to make sure that people are taken off of

15:18:49 **10** health benefits?

15:18:49 **11** A. No. No. I am saying in my experience, in my 360

15:18:55 **12** Freeholder meetings and the 720 that certainly that you

15:19:00 **13** were part of, it was my experience that very often the

15:19:04 **14** Board, rightfully so, would look to our counsel and

15:19:09 **15** say -- you know -- "Does this pass the muster" -- you

15:19:14 **16** know -- I know since Ms. Taylor has become County

15:19:19 **17** counsel also following in your footsteps, there is never

15:19:23 **18** a policy that involves a law that our county counsel

15:19:29 **19** does not get involved with, because that's why we have

15:19:32 **20** county counsels, I think, to protect our legal interest,

15:19:39 **21** but it's just my experience.

15:19:45 **22** MR. FLORIO: Anything else, Mr. DeSapio?

15:19:47 **23** MR. DESAPIO: Yes.

15:19:51 **24** If I can -- well, yes. Yes, definitely.

15:20:02 **25** Q. Is there an open enrollment period for

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15:20:06 **1** participation in health benefits?

15:20:08 **2** **A. Yes, we do.**

15:20:10 **3** **Q.** And who would administer that open enrollment?

15:20:17 **4** **A. That would be under HR.**

15:20:23 **5** MR. DESAPIO: We are up to 27?

15:20:24 **6** MR. FLORIO: 28.

15:20:26 **7** MR. GANTNER: 28.

15:20:27 **8** THE WITNESS: I am sorry.

15:20:28 **9** I am looking at something else.

15:21:08 **10** (E-mail from Carrie Moore to Bob Thurgarland

15:21:26 **11** dated November 27, 2012, is marked as Exhibit PB-28.)

15:22:01 **12** **Q.** I am going to show you what has been marked for

15:22:04 **13** identification as PB-28.

15:22:05 **14** It's a memo entitled, "2013, Health Benefits Open

15:22:13 **15** Enrollment and Health Screenings."

15:22:16 **16** **A. Yes.**

15:22:16 **17** **Q.** Is this an announcement that the county issued

15:22:21 **18** concerning the open enrollment period for health

15:22:25 **19** benefits?

15:22:28 **20** **A. It appears so, yes.**

15:22:29 **21** **Q.** Would you read the last sentence on the bottom of

15:22:34 **22** Page 1.

15:22:36 **23** **A. "Staff from the County Department of Human**

15:22:39 **24** **Resources will be available throughout the day to assist**

15:22:41 **25** **with questions and other benefit information."**

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15:22:44 **1** **Q.** Now, the purpose of the open enrollment period is

15:22:50 **2** for employees to do what?

15:22:54 **3** **A. Change their coverage or learn more about their**

15:22:59 **4** **coverage, change -- yeah, change their plans.**

15:23:02 **5** **Q.** Uh-huh. Are you familiar with the process as far

15:23:09 **6** as what occurs on that open enrollment, for that open

15:23:14 **7** enrollment?

15:23:15 **8** **A. Yes, I worked in one or two of them.**

15:23:18 **9** **Q.** Is it fair to say the employee makes the decision

15:23:23 **10** as to what type of health insurance plan they would like

15:23:30 **11** to participate in, and that information is conveyed to

15:23:34 **12** Human Resources?

15:23:36 **13** **A. Yes.**

15:23:36 **14** **Q.** Okay. And does Human Resources then verify

15:23:40 **15** whether the person is eligible for that plan?

15:23:46 **16** **A. Yes.**

15:23:48 **17** **Q.** And does Human Resources take that information

15:23:50 **18** back and do something with it?

15:23:56 **19** **A. Certainly.**

15:23:57 **20** **They would -- you know -- in keeping with the**

15:24:01 **21** **centralized office for the health benefit programs, they**

15:24:07 **22** **would go ahead and arrange or make sure that that person**

15:24:11 **23** **is put on that plan, but they would also, I would**

15:24:14 **24** **imagine, again, talking about the adjacencies and the**

15:24:20 **25** **interdependency, they would have to also inform the**

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15:24:22 **1** **payroll administrator so that the appropriate deductions**

15:24:26 **2** **could be made from the person's paycheck.**

15:24:28 **3** **Q.** They would inform the payroll administrator as to

15:24:30 **4** how much to take out of their pay. Right?

15:24:36 **5** **A. If that's the mechanism that they had, yes. I**

15:24:40 **6** **don't know whether they said, "This is the plan," and**

15:24:41 **7** **the person knew this is what the deduction would be,**

15:24:44 **8** **although much of that has changed since Chapter 78.**

15:24:47 **9** **Q.** Okay. So actually adding or deleting or changing

15:24:52 **10** their coverage was done by Human Resources after open

15:24:57 **11** enrollment?

15:25:02 **12** **A. Yes, with the second piece to correctly have the**

15:25:06 **13** **right deduction from their paychecks.**

15:25:22 **14** **Q.** I would like to move on to the Chapter 78

15:25:25 **15** discussion that you referred to.

15:25:33 **16** When Chapter 78 was adopted, were you aware of

15:25:37 **17** the fact that Human Resources was involved in the

15:25:46 **18** implementation of that in Hunterdon County?

15:25:50 **19** **A. Absolutely. I was part of it, too.**

15:25:52 **20** **I went out with HR, and we met with everybody to**

15:25:55 **21** **explain the impact of Chapter 78, what it would impact**

15:26:02 **22** **on their pension and also how they were going to start**

15:26:08 **23** **to pay for more in addition for their tiered -- their**

15:26:15 **24** **tiered health benefits, the tiered program as a result**

15:26:19 **25** **of the law.**

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15:26:21 **1** **I am absolutely aware that HR was a big part of**

15:26:26 **2** **that, and as was HR giving the first preliminary where**

15:26:37 **3** **everybody belonged for tier one to Finance to the**

15:26:39 **4** **payroll administrator, so that they could start to put**

15:26:45 **5** **the people on the right tiers.**

15:26:47 **6** **Q.** So you were aware in what format HR provided that

15:27:00 **7** to payroll?

15:27:06 **8** **A. I would imagine it was some sort of**

15:27:08 **9** **computer-generated thing.**

15:27:11 **10** **Q.** So now --

15:27:12 **11** **A. I am one of the few people that use No. 2 pencils**

15:27:15 **12** **and Yellow pads still.**

15:27:18 **13** **Q.** So you were aware of the fact that Cheryl Wieder

15:27:23 **14** did the initial placements?

15:27:27 **15** **A. Yes.**

15:27:28 **16** **Q.** Was there any policy in writing that required

15:27:37 **17** anybody in Finance to check Cheryl Wieder's work?

15:27:42 **18** **A. I don't know what internal controls they had**

15:27:44 **19** **established in the Finance department to fulfill that**

15:27:49 **20** **responsibility with the exception of payroll and getting**

15:27:54 **21** **the people on the right tier.**

15:27:55 **22** **Q.** Are you saying that people in Finance have an

15:27:57 **23** obligation to check the Human Resources director's

15:28:01 **24** determination as to where employees would be placed

15:28:05 **25** under Chapter 78 as to what tier they were in?

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15:28:09 **1 A. I am saying as part of the 14 responsibilities of**
 15:28:16 **2 the license, it refers to compliance with all local**
 15:28:21 **3 government Finance services and directives, and there**
 15:28:26 **4 was a great deal of focus and emphasis on Chapter 78 and**
 15:28:32 **5 the impact to Finance departments and Finance officers,**
 15:28:40 **6 so there may not have been a policy, but certainly a**
 15:28:45 **7 responsibility as prescribed in the licenses of Mrs.**
 15:28:51 **8 Pasqua and Mrs. Browne.**
 15:28:52 **9 Q. When you say there "may not have been a policy,"**
 15:28:57 **10 there was no written policy. Correct?**
 15:28:59 **11 A. If you are asking me if there is a County policy,**
 15:29:01 **12 there is absolutely no County policy.**
 15:29:04 **13 I do not know if there was an SOP or a standard**
 15:29:06 **14 operating procedure in Finance, although I do know now**
 15:29:10 **15 that there does not appear to be standard operating**
 15:29:15 **16 procedures, and we already talked about on Monday that**
 15:29:19 **17 there were not -- there was no internal policy, I think,**
 15:29:22 **18 in HR, to talk about how to administer and apply Chapter**
 15:29:32 **19 78.**
 15:29:32 **20 Q. And you didn't say to the Finance Department at**
 15:29:36 **21 any point, "I am going out with Cheryl and telling**
 15:29:40 **22 people how -- telling employees how this impacts them,**
 15:29:45 **23 but I want you to check Cheryl's work," did you tell**
 15:29:49 **24 Finance that, did you, or to that effect?**
 15:29:55 **25 A. I don't believe I did.**

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15:29:57 **1 I went with the HR director as the County**
 15:30:01 **2 Administrator to explain and to show support and to**
 15:30:05 **3 answer any questions our employees may have. This was a**
 15:30:09 **4 huge change for our organization, because it was not**
 15:30:13 **5 only the Chapter 78 health benefits and the tiered**
 15:30:19 **6 approach, but it also impacted on their pension, and so**
 15:30:24 **7 we had to talk to them about the pension. It was going**
 15:30:27 **8 to be raised by one percent and then one-seventh and one**
 15:30:31 **9 percent for the next seven years, and it was very, very**
 15:30:35 **10 complicated.**
 15:30:36 **11 I don't believe I have any memory of saying, "You**
 15:30:39 **12 figure out, Finance, how to administer this program."**
 15:30:45 **13 MR. DESAPIO: PB-29.**
 15:31:04 **14 (Memorandum from Cheryl Wieder to Margaret**
 15:31:12 **15 Pasqua dated May 29, 2012, is marked as Exhibit PB-29.)**
 15:31:54 **16 Q. PB-29 for identification is a memo from Cheryl**
 15:31:58 **17 Wieder, dated May 29, 2012, to Margaret Pasqua, "Re:**
 15:32:02 **18 Subject: Health insurance reform year 2012,**
 15:32:09 **19 contribution."**
 15:32:10 **20 Were you aware that Cheryl Wieder sent out to**
 15:32:13 **21 each County employee after Chapter 78 went into effect a**
 15:32:17 **22 memo indicating what amount would be deducted from their**
 15:32:26 **23 salary for their portion of the health insurance**
 15:32:29 **24 contribution?**
 15:32:34 **25 A. I am sure I got one, too.**

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15:32:35 **1 I believe she did it the first year, maybe the**
 15:32:39 **2 second year, whatever. It says here year two, so, yes,**
 15:32:44 **3 okay.**
 15:32:46 **4 I don't dispute that.**
 15:32:47 **5 Q. Okay. And prior to that going out, did you talk**
 15:32:56 **6 to Cheryl about how she came up, Cheryl Wieder, how she**
 15:32:59 **7 came up with those numbers?**
 15:33:05 **8 A. When we went out to communicate to the staff of**
 15:33:12 **9 Hunterdon County, we did not go out with hard numbers**
 15:33:15 **10 and said, "Mr. John Smith, this is what you are going to**
 15:33:19 **11 be doing."**
 15:33:19 **12 We were explaining the overall program, if you**
 15:33:26 **13 will, so we didn't go out and say, "Mr. Smith, you are**
 15:33:34 **14 going to be paying 627.82."**
 15:33:38 **15 We went out and explained to the departments that**
 15:33:41 **16 it was going to be tiered -- you know -- the impact on**
 15:33:49 **17 the pension.**
 15:33:49 **18 Did I answer the question?**
 15:33:50 **19 Q. No -- I am sorry -- not in my estimation. That's**
 15:33:53 **20 all right. We will keep going.**
 15:33:55 **21 When Ms. Wieder sent out PB-29, and you received**
 15:34:03 **22 your copy, did you go to her and, say, "How did you come**
 15:34:10 **23 up with these calculations?"**
 15:34:16 **24 A. No.**
 15:34:16 **25 Q. Okay. Did you say to her, "You should have come**

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15:34:22 **1 and spoken to me about this first before you sent them**
 15:34:24 **2 out"?**
 15:34:29 **3 A. No.**
 15:34:30 **4 Q. Okay. Did you say to her, "You should have gone**
 15:34:35 **5 up to the Finance Department and ask them to check your**
 15:34:37 **6 calculations before you sent them out"?**
 15:34:41 **7 A. No, but I would like to say one other thing.**
 15:34:47 **8 I know that they were working very closely --**
 15:34:53 **9 what she did, again -- the adjacencies with Finance with**
 15:35:05 **10 the payroll administrator, so I don't know what took**
 15:35:05 **11 place, nor did I ask her.**
 15:35:05 **12 Q. Nor did you ask her?**
 15:35:06 **13 A. Right.**
 15:35:06 **14 Q. Did you at that time in Ms. Wieder's career**
 15:35:13 **15 believe that she could be relied on to perform those**
 15:35:22 **16 calculations, make those determinations and have**
 15:35:27 **17 authorization to inform employees of those**
 15:35:33 **18 determinations?**
 15:35:36 **19 A. I relied on her, yes. Yes.**
 15:36:24 **20 Q. After Cheryl Wieder left, did you have internal**
 15:36:38 **21 discussions with anybody about the administration of**
 15:36:41 **22 Chapter 78?**
 15:36:49 **23 A. After April or March?**
 15:36:53 **24 Q. Yes.**
 15:36:54 **25 A. Well, of course, yes.**

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15:36:55 **1 Q.** Okay. And who did you have those discussions
 15:36:59 **2** with?
 15:37:04 **3 A.** **There was a discussion -- I am not exactly**
 15:37:09 **4** **sure -- there was a discussion with several people about**
 15:37:15 **5** **Chapter 78.**
 15:37:19 **6** **This application of putting people on the tiers,**
 15:37:22 **7** **I mean that was with the governing body.**
 15:37:25 **8** **There was Chapter 78 discussions with the seven**
 15:37:29 **9** **people that were at the April 19th meeting.**
 15:37:37 **10** **I am vague on what your objective is, what your**
 15:37:42 **11** **question is.**
 15:37:43 **12 Q.** Now, at the time that Cheryl Wieder left, you
 15:37:46 **13** were aware, were you not, that she had done the initial
 15:37:50 **14** calculations for placement of people in Chapter 78.
 15:37:55 **15** Correct?
 15:37:56 **16 A.** Uh-huh.
 15:37:57 **17 Q.** And that's "yes." Right?
 15:37:59 **18 A.** I am sorry. Yes. I am sorry, Guy.
 15:38:03 **19 Q.** Then in the year 2012 you were aware that she did
 15:38:10 **20** adjustment calculations. Correct?
 15:38:14 **21 A.** Yes. This demonstrates, "Effective July 1, 2012,
 15:38:19 **22** **your health insurance contribution was 'X,' yes.**
 15:38:23 **23 Q.** When you say "this demonstrates," you are talking
 15:38:24 **24** about PB-29?
 15:38:27 **25 A.** PB-29, yes.

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15:38:29 **1 Q.** I probably should have had you look at the second
 15:38:32 **2** page of PB-29, but do you recognize that as a letter
 15:38:36 **3** that went out to all County employees the previous year?
 15:38:47 **4 A.** It looks like it's copied to Finance and
 15:38:50 **5** **personnel file, yes.**
 15:38:52 **6 Q.** You recognize it as one that went out the
 15:38:55 **7** previous year, when Chapter 78 first went into effect?
 15:39:00 **8 A.** Yes. It's sad that it's not dated, but it says,
 15:39:10 **9** **"The recent pension and healthcare reform will impact**
 15:39:13 **10** **each employee individually."**
 15:39:16 **11** **I am just trying to see -- so it does at some**
 15:39:20 **12** **point say, "which is set at \$13,141.92" -- this is the**
 15:39:25 **13** **third paragraph -- "from September 1st, 2011, through**
 15:39:31 **14** **August 31, 2012," so this correspondence looks like it**
 15:39:37 **15** **must have happened somewhere before September 1st.**
 15:39:42 **16** **Right?**
 15:39:43 **17 Q.** Okay. The next paragraph says, "Effective
 15:39:46 **18** January 1st your healthcare contribution will be
 15:39:51 **19** \$1,018.58 annually or 42.44 biweekly."
 15:39:56 **20** Although the letter is not dated.
 15:39:57 **21** Does that suggest to you that it was sent out
 15:40:00 **22** prior to January 1st, 2012?
 15:40:03 **23 A.** It appears.
 15:40:05 **24 Q.** Yes, it appears?
 15:40:06 **25 A.** Yes -- I am sorry -- Guy. I am very sorry, Guy.

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15:40:08 **1 Q.** You don't have to be sorry. If I didn't hear you
 15:40:10 **2** I am asking you to repeat it more loudly.
 15:40:13 **3 A.** **No, I shouldn't say "yeah."**
 15:40:14 **4** **I should say "yes." I am sorry.**
 15:40:16 **5 Q.** Okay. So now when Cheryl Wieder left -- or let
 15:40:26 **6** me -- strike that.
 15:40:27 **7** Let me ask it another way.
 15:40:29 **8** What are you complaining about in connection with
 15:40:35 **9** Margaret Pasqua and Kim Browne in regard to Chapter 78
 15:40:43 **10** that should result in their discipline?
 15:40:46 **11** Are you saying they failed to follow the
 15:40:48 **12** instructions they received from Cheryl Wieder and to
 15:40:53 **13** take the right amount out of people's payroll?
 15:40:59 **14 A.** No.
 15:41:00 **15 Q.** Okay. What are you saying they did wrong?
 15:41:05 **16 A.** **The terms and conditions and rules of the Chapter**
 15:41:11 **17** **78 law prescribed how payroll deductions should have**
 15:41:18 **18** **been taken from each County employee's paycheck,**
 15:41:25 **19** **compensation package, and it was confirmed by Mrs.**
 15:41:36 **20** **Browne at the April 19th meeting, and, in fact,**
 15:41:45 **21** **confirmed by the payroll administrator also at that**
 15:41:52 **22** **meeting, that people were put on tiers inappropriately,**
 15:42:01 **23** **so that the unclassified employees that started after**
 15:42:08 **24** **July 1st of 2011, new employees automatically went to**
 15:42:16 **25** **tier four, and those unclassified employees**

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15:42:22 **1** **automatically went to tier four.**
 15:42:26 **2** **Any of the CWA unit, Communication Workers of**
 15:42:32 **3** **America, bargaining unit as well as other bargaining**
 15:42:37 **4** **units, were not put on the correct tier. They were put**
 15:42:41 **5** **on the tier that everybody else in that bargaining unit**
 15:42:46 **6** **was on, so, therefore, the Chapter 78 law was**
 15:42:53 **7** **misapplied, and at that April 19th meeting after the**
 15:42:58 **8** **payroll administrator for several minutes talked about**
 15:43:03 **9** **it was easier, it was easier to track, we decided to do**
 15:43:06 **10** **it, and I asked at the direction of the Board of Chosen**
 15:43:11 **11** **Freeholders to find out what went wrong, what was going**
 15:43:13 **12** **on, who knew about what, and then Mrs. Browne said, "I**
 15:43:20 **13** **knew about it," and she said -- this isn't a direct**
 15:43:24 **14** **quote, but it's pretty close -- "I heard it in passing,"**
 15:43:31 **15** **or similar to that.**
 15:43:33 **16** **So Mrs. Browne, and I don't know which one of**
 15:43:42 **17** **them supervised the payroll administrator, although I do**
 15:43:48 **18** **know that, I believe, Mrs. Pasqua was the certifying**
 15:43:52 **19** **supervising -- certifying officer with regard to**
 15:44:00 **20** **pension, and the payroll administrator was the**
 15:44:00 **21** **certifying officer with pension, because the Chapter 78**
 15:44:01 **22** **had a pension reform as well as health benefits, and so**
 15:44:08 **23** **they were aware that this program was not being applied**
 15:44:14 **24** **in accordance with the law.**
 15:44:16 **25** **As far as the numbers, I don't know if that**

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15:44:19 **1 answered the question, but that's my explanation.**

15:44:25 **2 Q.** Just to see if I understand, Chapter 78 comes

15:44:30 **3** into effect, and Cheryl Wieder does the initial tier

15:44:34 **4** placement and calculations. Correct?

15:44:37 **5 A. Yes, she did that.**

15:44:38 **6 Q.** She sends that information to the payroll

15:44:41 **7** administrator, and those deductions are taken out of

15:44:44 **8** people's pay. Correct?

15:44:45 **9 A. I don't know how the payroll administrator -- the**

15:44:49 **10 payroll administrator had to make those deductions.**

15:44:51 **11 Somehow she got the information.**

15:44:53 **12 Q.** Cheryl Wieder does the calculations and makes a

15:44:57 **13** determination as to what tier people should be on and

15:45:00 **14** how much should be deducted from their pay. Correct?

15:45:05 **15 A. I mean that looks like it in the letter, but I**

15:45:09 **16 don't know that I know that for a fact.**

15:45:11 **17 I know that Cheryl Wieder did the initial one,**

15:45:17 **18 but then -- you know -- again agencies working**

15:45:22 **19 together as far as what the payroll deductions would be.**

15:45:25 **20 Q.** And that got sent to payroll, and as far as you

15:45:29 **21** know, those are the deductions that were taken out of

15:45:31 **22** people's pay. Correct?

15:45:38 **23 A. I have no way --**

15:45:40 **24 Q.** If you know.

15:45:40 **25 A. I have no way of knowing the 535 employees.**

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15:45:43 **1 I do know that there were several issues, people**

15:45:46 **2 had a lot of questions about it, and there were people**

15:45:50 **3 that were put on the wrong tier.**

15:45:52 **4 Q.** Okay. But on the wrong tier in what year?

15:46:01 **5 A. This is for new employees, because new**

15:46:07 **6 employees -- the tiered program was only for people that**

15:46:11 **7 were already in the system.**

15:46:13 **8 The Governor -- I can't speak for the Governor --**

15:46:16 **9 but the intent, I believe, of the law was that people**

15:46:21 **10 who were going to have a drastic change in their health**

15:46:23 **11 benefits and the amount of money that they had to pay,**

15:46:27 **12 they tried to tier it up so that the people didn't have**

15:46:33 **13 going from one percent or one-and-a-half percent all the**

15:46:36 **14 way up to whatever the 25 percent of the new tiers were**

15:46:42 **15 in 25 percent increments.**

15:46:44 **16 Q.** Okay. Are you saying that the problem you're

15:46:47 **17** identifying only had to do with placement of new

15:46:54 **18** employees?

15:46:54 **19 A. I believe that's correct, yes.**

15:46:56 **20 Q.** All right.

15:46:57 **21** And the existing employees had been placed

15:47:00 **22** properly, as far as you know?

15:47:07 **23 A. After -- since April. I don't know that for a**

15:47:09 **24 fact, Guy, absolutely not.**

15:47:11 **25 Q.** Since April of 2013 you don't know whether the

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15:47:15 **1** people -- do you have any information that they were

15:47:17 **2** placed erroneously?

15:47:25 **3 A. We have had -- we entertained several questions**

15:47:28 **4 about health benefits and contributions.**

15:47:34 **5 Q.** I will repeat the question.

15:47:35 **6** Do you have any information that existing

15:47:38 **7** employees were placed erroneously in the wrong tiers in

15:47:45 **8** connection with Chapter 78?

15:47:49 **9 A. No.**

15:47:50 **10 Q.** Okay. So then when the new HR team comes in in

15:48:01 **11** April, there is a discussion with the Finance Department

15:48:11 **12** about placement of new employees. Correct?

15:48:17 **13 A. Yes. Yes. Uh-huh.**

15:48:20 **14 Q.** Now, did you become personally involved in making

15:48:25 **15** a determination as to where new employees should be

15:48:28 **16** placed?

15:48:32 **17 A. Yes. Yes, we absolutely -- again, to right the**

15:48:37 **18 ship.**

15:48:37 **19 At that April 19th meeting I requested the**

15:48:44 **20 Finance Department to give us a list of all new**

15:48:50 **21 employees that came to Hunterdon County after July 1st**

15:48:54 **22 of 2011.**

15:48:56 **23 Q.** And did you then take that list and make

15:49:06 **24** calculations yourself as to where they should be placed?

15:49:13 **25 A. May I see it? Yes, it's a worksheet. Yes.**

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15:49:18 **1** MR. DESAPIO: Mark this -- what are we up

15:49:22 **2** to? PB-30?

15:49:23 **3** MR. FLORIO: 30.

15:49:25 **4** (Worksheet is marked as Exhibit PB-30 for

15:49:28 **5** identification.)

15:51:00 **6 Q.** I am going to show you what's been marked as

15:51:02 **7** PB-30 for identification.

15:51:06 **8** What is that?

15:51:10 **9 A. It's a worksheet. It says on "5/28, To Megan:**

15:51:16 **10 Here is the worksheet I discussed with you at one PM**

15:51:20 **11 today." So that was the worksheet.**

15:51:24 **12 Q.** Okay. So this worksheet consisted of a list of

15:51:32 **13** new employees for which there needed to be a

15:51:33 **14** determination of their tier placements. Correct?

15:51:37 **15 A. Yes.**

15:51:37 **16 Q.** And you did some calculations and you determined

15:51:40 **17** where they should be placed?

15:51:42 **18 A. Yes.**

15:51:42 **19 Q.** Correct?

15:51:42 **20 A. And then I asked her to look at it.**

15:51:45 **21 Evidently, we wanted to get out to the employees**

15:51:51 **22 the correct amount so that they -- you know -- we gave**

15:51:55 **23 them enough notice that we were going to be -- that**

15:51:59 **24 there was an error in their placement and we wanted to**

15:52:03 **25 let them know what the new deductions would be.**

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15:52:06 **1** Q. So the employees that are on that list were all
 15:52:11 **2** hired prior to Cheryl Wieder leaving. Correct?
 15:52:17 **3** A. Yes. They were hired after July of 2011 when the
 15:52:21 **4** law went into effect.
 15:52:22 **5** Q. And they were initially placed in tiers by her.
 15:52:32 **6** Correct?
 15:52:35 **7** A. New employees?
 15:52:37 **8** Q. Yes.
 15:52:43 **9** A. I don't know that.
 15:52:44 **10** No, I do know that.
 15:52:46 **11** The payroll administrator was the one that placed
 15:52:53 **12** people on the tiers.
 15:52:56 **13** Q. So you are saying that Cheryl placed existing
 15:53:05 **14** employees on tiers, but you feel that it was the payroll
 15:53:05 **15** administrator who put the new employees on tiers?
 15:53:11 **16** A. The payroll administrator is the one who said
 15:53:15 **17** when asked about putting people on the wrong tiers.
 15:53:21 **18** "We" -- this is what she said -- "We decided that
 15:53:27 **19** it was easier to track and place them on wherever they
 15:53:33 **20** got placed," so that was the basis of my information.
 15:53:40 **21** Q. What does that mean, "we decided that it was
 15:53:42 **22** easier"? Who is "we"?
 15:53:44 **23** A. You know what, I asked the same question, Guy,
 15:53:48 **24** when the payroll administrator said "we," I said, "Who
 15:53:53 **25** is 'we'?"

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15:53:54 **1** And then when we had our April 19th meeting, as I
 15:53:59 **2** said, the payroll administrator spent two or three
 15:54:04 **3** minutes, almost taking full responsibility for this, or
 15:54:13 **4** the HR director was not there, we talked about "we,"
 15:54:16 **5** again, and then Mrs. Browne confirmed that she knew that
 15:54:22 **6** people were being placed on the wrong tiers, and she
 15:54:28 **7** said, again, almost as a quote, "I heard it in passing."
 15:54:33 **8** So I agree, Guy, it's really confusing who is
 15:54:37 **9** "we," and who did it, but it was the payroll
 15:54:39 **10** administrator's responsibility to put people on the
 15:54:45 **11** tiers.
 15:54:45 **12** After that I thought it was the -- we were under
 15:54:50 **13** the impression that Cheryl did the initial and, I
 15:54:52 **14** believe, that's what the payroll administrator said,
 15:54:56 **15** that the initial one was done and that then people, and
 15:55:03 **16** as explained to the hearing officer on Monday, those
 15:55:07 **17** tiers change all the time when somebody gets an increase
 15:55:10 **18** and if it's -- it gets them to another level of the
 15:55:14 **19** money. If they pick a different health plan, that's a
 15:55:21 **20** moving target, their contribution, it changes, so I
 15:55:26 **21** agree with you, Guy, I was confused, too, when he said
 15:55:30 **22** "we."
 15:55:31 **23** I said, "Who is 'we'?"
 15:55:32 **24** Q. What is the answer you got when you asked, "Who
 15:55:34 **25** is 'we'?"

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15:55:35 **1** A. I didn't get it the first time I heard it, but in
 15:55:39 **2** the meeting on April 19th, the payroll administrator
 15:55:43 **3** seemed to want to take -- I guess also the HR director
 15:55:49 **4** who was not there obviously, until we had Mrs. Browne
 15:55:56 **5** confirm that she absolutely was aware and that -- you
 15:56:01 **6** know -- she heard it in passing.
 15:56:04 **7** Q. Okay. The payroll administrator, is that Megan
 15:56:10 **8** Youells?
 15:56:10 **9** A. That was the payroll administrator at the time,
 15:56:12 **10** yes.
 15:56:12 **11** Q. Okay. And she said to you on April 19th, "I
 15:56:16 **12** think these are wrong. I heard it in passing"?
 15:56:19 **13** A. No. No. I am sorry if I wasn't clear.
 15:56:22 **14** Q. Yes.
 15:56:23 **15** A. The first time we heard about the tiers it was
 15:56:28 **16** down in the HR office, and that's when the payroll
 15:56:35 **17** administrator said, "We did it. We decided to put them
 15:56:41 **18** on the tiers with their union affiliation, because it
 15:56:47 **19** was easier to track," and then, I don't know exactly
 15:56:50 **20** when that was, obviously it was before April 19th, then
 15:56:54 **21** on April 19th we sat around the room. I can remember we
 15:57:00 **22** were in that room right there where Mrs. Pasqua was
 15:57:05 **23** sitting, and then it was Mrs. Youells, Mrs. Youells,
 15:57:10 **24** Mrs. Browne and the payroll administrator was explaining
 15:57:16 **25** or discussing this tier, and it was Mrs. Browne -- I am

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15:57:22 **1** sorry if I wasn't clear on that, Guy, because that's
 15:57:25 **2** pretty important -- that when I asked Mrs. Browne did
 15:57:30 **3** she know about it, she paused and said, "I knew about
 15:57:35 **4** it. I heard it in passing."
 15:57:39 **5** MR. DESAPIO: I see Mr. Gantner packing up.
 15:57:42 **6** Maybe we should take a break, and then I
 15:57:44 **7** will coalesce my thoughts and hope to be more efficient
 15:57:48 **8** on Monday.
 15:57:49 **9** MR. FLORIO: From your lips, Mr. DeSapio.
 15:57:51 **10** We finished before the bell toll.
 15:57:55 **11** MR. DESAPIO: Thank you. And Monday, right
 15:57:56 **12** now, we are prepared to go to 2:15.
 15:58:00 **13** MR. FLORIO: Correct.
 15:58:00 **14** MR. DESAPIO: I think I was the one who
 15:58:02 **15** indicated that would be a necessity.
 15:58:06 **16** The attorney on the other side of this
 15:58:08 **17** settlement conference is asking for an adjournment. I
 15:58:13 **18** don't know whether the judge is going to grant it. If
 15:58:15 **19** the judge grants it, I can come in and report and maybe
 15:58:17 **20** we can continue, but it would be up to your pleasure and
 15:58:21 **21** the court reporter's and Mr. Gantner's.
 15:58:23 **22** MR. GANTNER: Because I have to go, can I
 15:58:26 **23** ask Mr. Giacobbe to come in to discuss the scheduling?
 15:58:30 **24** MR. FLORIO: Sure.
 15:58:31 **25** While we are waiting for Mr. Giacobbe to

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15:58:34 **1** return to the room, I will let you know that on Monday
 15:58:43 **2** if your schedule opens up and Mr. Giacobbe/Mr. Gantner,
 15:58:50 **3** can continue, I am good until you want to stop beyond
 15:58:54 **4** 2:30, beyond four or five.
 15:58:58 **5** MR. DESAPIO: I don't want to go beyond
 15:58:59 **6** five. Four or 4:30 is fine.
 15:59:04 **7** MR. GIACOBBE: Tonight?
 15:59:05 **8** MR. FLORIO: No.
 15:59:06 **9** MR. DESAPIO: The reason, Matt, I don't know
 15:59:08 **10** if you were here or not, the reason we scheduled to 2:15
 15:59:11 **11** on Monday, I have to be in Somerville at three o'clock
 15:59:15 **12** for a settlement conference.
 15:59:16 **13** The other attorney had written the judge a
 15:59:18 **14** couple of times begging his indulgence and putting the
 15:59:21 **15** thing off. I am not sure he is going to do it because
 15:59:24 **16** it's been hanging around for a long time.
 15:59:31 **17** If the judge decides to put it off, I can
 15:59:31 **18** report in on that fact, and we can continue on Monday
 15:59:33 **19** beyond 2:15. Mr. Gantner and yourself and the court
 15:59:36 **20** reporter are available.
 15:59:39 **21** MR. GIACOBBE: We will be available.
 15:59:40 **22** MR. FLORIO: As I am, too.
 15:59:41 **23** MR. DESAPIO: I will let everybody know.
 15:59:43 **24** MR. FLORIO: The witness is excused.
 15:59:44 **25** MR. GIACOBBE: I have to be in court at 4:30

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15:59:49 **1** in Union County on Monday. Mr. Gantner will be here.
 15:59:53 **2** That's not a problem. As long as I am out of here by
 15:59:58 **3** 3:30. We will push this out as far as we can on Monday.
 16:00:01 **4** MR. FLORIO: Subject to the decision of the
 16:00:02 **5** judge in Mr. DeSapio's other case.
 16:00:06 **6** MR. GIACOBBE: I stepped out to confirm Mr.
 16:00:09 **7** Tomkins is available. If he is available Friday -- he
 16:00:12 **8** is not. He is available Monday.
 16:00:15 **9** MR. FLORIO: Friday of this week?
 16:00:16 **10** MR. DESAPIO: He is not available.
 16:00:18 **11** I wasn't available Friday of this week.
 16:00:20 **12** MR. FLORIO: We are not scheduled for
 16:00:22 **13** Friday.
 16:00:22 **14** MR. GIACOBBE: He is available Monday. You
 16:00:25 **15** think you have about --
 16:00:26 **16** MR. DESAPIO: I think we will get done in
 16:00:28 **17** the morning definitely with Ms. Yard. We can do him.
 16:00:32 **18** MR. FLORIO: Good.
 16:00:33 **19** MR. GIACOBBE: How many witnesses do you
 16:00:34 **20** anticipate putting on total?
 16:00:36 **21** MR. DESAPIO: One, two, three, four, and I
 16:00:38 **22** am still thinking about a couple, my two clients, two
 16:00:43 **23** other people, and depending on what comes out in Mr.
 16:00:48 **24** Tomkins' and Mrs. Yard's testimony, maybe one or two
 16:00:50 **25** others.

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16:00:51 **1** MR. FLORIO: All right.
 16:00:52 **2** MR. GIACOBBE: We have to get dates. I am
 16:00:53 **3** actually speaking at the State Bar Convention, not next
 16:00:57 **4** week, the week after, in Italy. That week I am not
 16:01:01 **5** going to be available.
 16:01:01 **6** MR. FLORIO: What state is that, Mr.
 16:01:03 **7** Giacobbe?
 16:01:04 **8** MR. DESAPIO: I will tell my nephew to look
 16:01:06 **9** you up. He is going.
 16:01:09 **10** MR. GIACOBBE: Rome, Italy.
 16:01:10 **11** I have the ability right after I get back
 16:01:15 **12** and next week for a couple of dates.
 16:01:18 **13** (Whereupon, a discussion takes place off the
14 record.)
15 . . .
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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 examination,
5 CYNTHIA YARD was sworn by me to testify the truth, the
6 whole truth and nothing but the truth.
7 I DO FURTHER CERTIFY that the foregoing is a true and
8 accurate transcript of the testimony as taken
9 stenographically by and before me at the time, place and
10 on the date hereinbefore set forth, to the best of my
11 ability.
12 I DO FURTHER CERTIFY that I am neither a relative nor
13 employee nor attorney nor counsel of any of the parties to
14 the action; and that I am neither a relative nor employee
15 of such attorney or counsel; and that I am not financially
16 interested in the action.
17
18 _____
19 PHILIP A. FISHMAN, CSR
20
21 Dated: _____
22
23
24
25

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