

STATE OF INDIANA

LAKE SUPERIOR COURT

COUNTY OF LAKE

SS:

CAUSE NO. 45D10-1103-CC-00045

STATE OF INDIANA *ex rel.*
GREGORY F. ZOELLER,
ATTORNEY GENERAL OF INDIANA,

Plaintiff,

v.

MANUEL MONTALVO, DIANA GARCIA-
BURNS, HECTOR CAVAZOS, CHASIDY
GOMEZ, CLIFTON JOHNSON, GARY
McCRACKEN, ERNEST JONES, MARCOS
POPOVICH, RICARDO GARCIA, and
ALDOLFO VELEZ,

Defendants.

FILED IN
CLERK'S OFFICE
2011 APR 18 AM 9 34
CLERK LAKE SUPERIOR COURT

COMPLAINT TO RECOVER PUBLIC FUNDS

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana (the "State"), by Luke P. Hodgin, Deputy Attorney General, for its Complaint to Recover Public Funds due and owing, states as follows:

FACTS

1. The State Board of Accounts ("SBOA"), pursuant to Ind. Code § 5-11-1-9, performed an examination of the books, accounts, and records of the East Chicago Public Library (the "Library"). The results of the examination are set forth in SBOA Audit Reports B38429 and B38644, dated February 23, 2011 and April 13, 2011, respectively. Said Audit Reports are attached hereto and incorporated herein as Exhibits A and B respectively.

2. The Defendant, Manuel Montalvo ("Montalvo"), was at all times relevant to the Audit Report the Director of the East Chicago Public Library.

3. The Defendants, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos, are or were members of the East Chicago Public Library Board (the "Board") during the times relevant to the Audit Report. The Board is the fiscal and administrative body of the Library pursuant to Ind. Code § 36-12-1-3.

4. The Audit Reports disclosed malfeasance, misfeasance, or nonfeasance on the part of the Defendants and was placed by the State Examiner with Attorney General Gregory F. Zoeller pursuant to Ind. Code § 5-11-5-1(a).

5. The Audit Reports also disclosed public money that had been unlawfully expended, obtained by fraud or any unlawful manner, or wrongfully withheld from the public treasury pursuant to Ind. Code § 5-11-6-3.

6. The public funds that the State seeks to recover upon this Complaint were found by the SBOA to be either:

- a. misappropriated, diverted, or unaccounted;
- b. illegally received;
- c. illegally retained;
- d. unaccountable for or not paid over any money so received;
- e. obtained by fraud or in any unlawful manner; and/or
- f. wrongfully withheld from the public treasury.

7. The Defendants are either delinquent officers, sureties of the officers, or any other proper persons against whom recovery of such misappropriated, diverted, or unaccounted for funds may be had.

8. This Complaint is brought for the benefit of the East Chicago Public Library.

9. This Complaint is brought by Attorney General Gregory F. Zoeller in the name of the State of Indiana pursuant to Ind. Code § 5-11-7-1.

COUNT I

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Manuel Montalvo, and says:

10. During the audit period, Montalvo had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

11. During the audit period, Montalvo improperly received funds of the Library or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

12. The nature of the breach by Montalvo was so egregious as to constitute gross negligence or an intentional disregard of his duties.

13. The total amount of loss to the East Chicago Public Library is as follows:

a.	Personal, political, or non-Library business travel	\$7,902.38
b.	Unvalidated per diem advancements	\$300.00
c.	Payment for two hotels on the same dates	\$492.06
d.	Cancelled travel	\$563.71
e.	Unsubstantiated changes to travel dates	\$421.00
f.	Repairs and maintenance of personal vehicle	\$1,677.07
g.	Fuel for personal vehicle	\$1,022.65

14. As a direct and proximate result the breach of Montalvo's duty to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Twelve Thousand Three Hundred Seventy Eight and 87/100 Dollars (\$12,378.87).

15. Manuel Montalvo is liable to the State of Indiana and to the East Chicago Public Library in the amount of \$12,378.87.

16. Demand has been made upon the Defendant, Manuel Montalvo, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Manuel Montalvo, in the amount of \$12,378.87, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT II

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Manuel Montalvo, and says:

17. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count I, and those paragraphs are incorporated in Count II as if wholly set forth herein.

18. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;

- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

19. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Montalvo of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38429.

20. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Montalvo, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the East Chicago Public Library.

21. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Thirty Seven Thousand One Hundred Thirty Six and 61/100 Dollars (\$37,136.61), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Manuel Montalvo, (2) grant the State the relief described in Ind. Code §

34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT III

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendants, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos, and says:

22. During the audit period, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

23. The respective tenures of the members of the Board are listed below:

<u>Name</u>	<u>Tenure</u>
Chasidy Gomez	March 19, 2007 – February 26, 2011
Gary McCracken	February 29, 2008 – February 28, 2011
Al Velez	November 10, 2008 – November 14, 2012
Clifton Johnson	September 21, 2009 – September 24, 2013
Diana Garcia-Burns	October 10, 2007 – October 21, 2011
Ernest Jones	March 6, 2007 – November 18, 2008
Marcos Popovich	December 15, 2008 – March 6, 2011
Ricardo Garcia	March 18, 2009 – March 6, 2011
Hector Cavazos	July 13, 2009 – July 13, 2013

24. During the audit period, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos improperly approved the payment of funds of the Library to Manuel Montalvo or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

25. The nature of the breach by Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos was so egregious as to constitute gross negligence or an intentional disregard of duties.

26. The total amount of loss to the East Chicago Public Library is as follows:

a. Personal, political, or non-Library business travel	\$7,902.38
b. Unvalidated per diem advancements	\$300.00
c. Payment of two hotels for the same dates	\$492.06
d. Cancelled travel	\$563.71
e. Unsubstantiated changes to travel dates	\$421.00
f. Repairs and maintenance of personal vehicle	\$1,677.07
g. Fuel for personal vehicle	\$1,022.65

27. As a direct and proximate result of the breach of duties by Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Twelve Thousand Three Hundred Seventy Eight and 87/100 Dollars (\$12,378.87).

28. Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos are jointly and

severally liable with Manuel Montalvo to the State of Indiana and to the East Chicago Public Library in the amount of \$12,378.87.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendants, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos, jointly and severally with Manuel Montalvo, in the amount of \$12,378.87, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT IV

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendants, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos, and says:

29. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Counts I, II, and II, and those paragraphs are incorporated in Count IV as if wholly set forth herein.

30. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:

- (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
- (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

31. The State is a party suffering a pecuniary loss as a result of a violation by the Board of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38429.

32. The State is a party suffering a pecuniary loss as a result of a breach by the Defendants, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendants by law to properly account for public funds for the East Chicago Public Library.

33. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Thirty Seven Thousand One Hundred Thirty Six and 61/100 Dollars (\$37,136.61), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendants, Chasidy Gomez, Gary McCracken, Al Velez, Clifton Johnson, Diana Garcia-Burns, Ernest Jones, Marcos Popovich, Ricardo Garcia, and Hector Cavazos, (2) grant

the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT V

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Diana Garcia-Burns (“Burns”), and says:

34. During the audit period, Burns had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

35. During the audit period, Burns improperly received funds of the Library in violation of Ind. Code § 36-12-2-21 or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

36. The nature of the breach by Burns was so egregious as to constitute gross negligence or an intentional disregard of her duties.

37. The total amount of loss to the East Chicago Public Library is as follows:

a. Life insurance benefits improperly received	\$642.60
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39. As a direct and proximate result the breach of Burns’s duty to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Six Hundred Forty Two and 60/100 Dollars (\$642.60).

40. Diana Garcia-Burns is liable to the State of Indiana and to the East Chicago Public Library in the amount of \$642.60.

41. Demand has been made upon the Defendant, Diana Garcia-Burns, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Diana Garcia-Burns, in the amount of \$642.60, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT VI

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Diana Garcia-Burns, and says:

42. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count V and those paragraphs are incorporated in Count VI as if wholly set forth herein.

43. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or

- (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

44. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Burns of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38644.

45. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Burns, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the East Chicago Public Library.

46. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is One Thousand Nine Hundred Twenty Seven and 80/100 Dollars (\$1,927.80), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Diana Garcia-Burns, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT VII

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Hector Cavazos (“Cavazos”), and says:

47. During the audit period, Cavazos had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

48. During the audit period, Cavazos improperly received funds of the Library in violation of Ind. Code § 36-12-2-21 or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

49. The nature of the breach by Cavazos was so egregious as to constitute gross negligence or an intentional disregard of his duties.

50. The total amount of loss to the East Chicago Public Library is as follows:

- | | | |
|----|---|-------------|
| a. | Life insurance premiums improperly paid | \$291.00 |
| b. | Health, dental, and/or vision insurance premiums paid | \$27,674.53 |

51. As a direct and proximate result the breach of Cavazos’s duty to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Twenty Seven Thousand Nine Hundred Sixty Five and 53/100 Dollars (\$27,965.53).

52. Hector Cavazos is liable to the State of Indiana and to the East Chicago Public Library in the amount of \$27,965.53.

53. Demand has been made upon the Defendant, Hector Cavazos, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Hector Cavazos, in the amount of \$27,965.53, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT VIII

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Hector Cavazos, and says:

54. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count VII and those paragraphs are incorporated in Count VIII as if wholly set forth herein.

55. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:

- (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
- (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

56. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Cavazos of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38644.

57. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Cavazos, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the East Chicago Public Library.

58. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Eighty Three Thousand Eight Hundred Ninety Six and 59/100 Dollars (\$83,896.59), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Hector Cavazos, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT IX

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Chasidy Gomez ("Gomez"), and says:

59. During the audit period, Gomez had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the

Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

60. During the audit period, Gomez improperly received funds of the Library in violation of Ind. Code § 36-12-2-22 or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

61. The nature of the breach by Gomez was so egregious as to constitute gross negligence or an intentional disregard of her duties.

62. The total amount of loss to the East Chicago Public Library is as follows:

- | | | |
|----|---|-------------|
| a. | Life insurance premiums improperly paid | \$822.60 |
| b. | Health, dental, and/or vision insurance premiums paid | \$43,864.30 |

63. As a direct and proximate result the breach of Gomez's duty to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Forty Four Thousand Six Hundred Eighty Six and 90/100 Dollars (\$44,686.90).

64. Chasidy Gomez is liable to the State of Indiana and to the East Chicago Public Library in the amount of \$44,686.90.

65. Demand has been made upon the Defendant, Chasidy Gómez, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Chasidy Gomez, in the amount of \$44,686.90, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT X

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Chasidy Gomez, and says:

66. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count IX and those paragraphs are incorporated in Count X as if wholly set forth herein.

67. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

68. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Gomez of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38644.

69. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Gomez, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the East Chicago Public Library.

70. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is One Hundred Thirty Four Thousand Sixty and 70/100 Dollars (\$134,060.70), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Chasidy Gomez, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT XI

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Clifton Johnson ("Johnson"), and says:

71. During the audit period, Johnson had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

72. During the audit period, Johnson improperly received funds of the Library in violation of Ind. Code § 36-12-2-21 or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

73. The nature of the breach by Johnson was so egregious as to constitute gross negligence or an intentional disregard of his duties.

74. The total amount of loss to the East Chicago Public Library is as follows:

- | | | |
|----|---|-------------|
| a. | Life insurance premiums improperly paid | \$504.58 |
| b. | Health, dental, and/or vision insurance premiums paid | \$52,131.68 |

75. As a direct and proximate result the breach of Johnson's duty to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Fifty Two Thousand Six Hundred Thirty Six and 26/100 Dollars (\$52,636.26).

76. Clifton Johnson is liable to the State of Indiana and to the East Chicago Public Library in the amount of \$52,636.26.

77. Demand has been made upon the Defendant, Clifton Johnson, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Clifton Johnson, in the amount of \$52,636.26, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT XII

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Clifton Johnson, and says:

78. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count XI and those paragraphs are incorporated in Count XII as if wholly set forth herein.

79. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

80. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Johnson of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38644.

81. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Johnson, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the East Chicago Public Library.

82. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is One Hundred Fifty Seven Thousand Nine Hundred Eight and 78/100 Dollars (\$157,908.78), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Clifton Johnson, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT XIII

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Gary McCracken ("McCracken"), and says:

83. During the audit period, McCracken had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

84. During the audit period, McCracken improperly received funds of the Library in violation of Ind. Code § 36-12-2-21 or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

85. The nature of the breach by McCracken was so egregious as to constitute gross negligence or an intentional disregard of his duties.

86. The total amount of loss to the East Chicago Public Library is as follows:

- | | | |
|----|---|-------------|
| a. | Life insurance premiums improperly paid | \$706.20 |
| b. | Health, dental, and/or vision insurance premiums paid | \$23,898.56 |

87. As a direct and proximate result the breach of McCracken's duty to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Twenty Four Thousand Six Hundred Four and 76/100 Dollars (\$24,604.76).

88. Gary McCracken is liable to the State of Indiana and to the East Chicago Public Library in the amount of \$24,604.76.

89. Demand has been made upon the Defendant, Gary McCracken, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Gary McCracken, in the amount of \$24,604.76, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT XIV

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Gary McCracken, and says:

90. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count XIII and those paragraphs are incorporated in Count XIV as if wholly set forth herein.

91. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

92. The State is a party suffering a pecuniary loss as a result of a violation by Defendant McCracken of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38644.

93. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant McCracken, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the East Chicago Public Library.

94. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Seventy Three Thousand Eight Hundred Fourteen and 28/100 Dollars (\$73,814.28), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Gary McCracken, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT XV

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Aldolfo Velez ("Velez"), and says:

95. During the audit period, Velez had a duty to properly account for, deposit, and/or properly receive funds of the East Chicago Public Library, to assure that the funds of the Library were expended as authorized by law, and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

96. During the audit period, Velez improperly received funds of the Library in violation of Ind. Code § 36-12-2-21 or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

97. The nature of the breach by Velez was so egregious as to constitute gross negligence or an intentional disregard of his duties.

98. The total amount of loss to the East Chicago Public Library is as follows:

- | | | |
|----|---|-------------|
| a. | Life insurance premiums improperly paid | \$822.60 |
| b. | Health, dental, and/or vision insurance premiums paid | \$30,850.89 |

99. As a direct and proximate result the breach of Velez's duty to the East Chicago Public Library, the Library suffered a pecuniary loss in the amount of Thirty One Thousand Six Hundred Seventy Three and 49/100 Dollars (\$31,673.49).

100. Adolfo Velez is liable to the State of Indiana and to the East Chicago Public Library in the amount of \$31,673.49.

101. Demand has been made upon the Defendant, Adolfo Velez, for payment and no payment has been received as of the date of this filing.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, requests the Court to enter judgment for the State and against the Defendant, Adolfo Velez, in the amount of \$31,673.49, plus costs, attorney fees, prejudgment interest, and all other just and proper relief.

COUNT XVI

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Aldolfo Velez, and says:

102. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count XV and those paragraphs are incorporated in Count XVI as if wholly set forth herein.

103. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

104. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Velez of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38644.

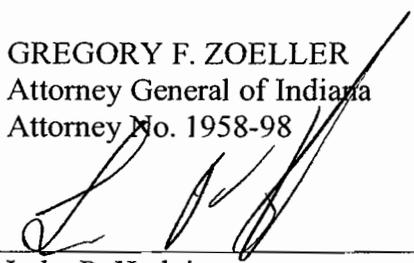
105. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Velez, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds for the East Chicago Public Library.

106. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Ninety Five Thousand Twenty and 47/100 Dollars (\$95,020.47), plus attorney fees, costs, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to: (1) enter judgment for the State and against the Defendant, Aldofo Velez, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney No. 1958-98

By: 

Luke P. Hodgkin
Deputy Attorney General
Attorney No. 27162-49

Office of the Indiana Attorney General
302 West Washington Street
Indiana Government Center South, Fifth Floor
Indianapolis, IN 46204-2770
Telephone: (317) 232-6356

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

EXAMINATION REPORT

OF

EAST CHICAGO PUBLIC LIBRARY

LAKE COUNTY, INDIANA

January 1, 2008 to December 31, 2009



FILED

02/23/2011



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OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Director	Manuel Montalvo	01-01-08 to 12-31-10
Treasurer	Chasidy Gomez	01-01-08 to 12-31-10
President of the Board	Clifton Johnson	01-01-08 to 12-31-10



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302 WEST WASHINGTON STREET
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Web Site: www.in.gov/sboa

INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE EAST CHICAGO PUBLIC LIBRARY, LAKE COUNTY, INDIANA

We have examined the financial information presented herein of the East Chicago Public Library (Library), for the period of January 1, 2008 to December 31, 2009. The Library's management is responsible for the financial information presented herein. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the financial information presented herein and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the financial information referred to above presents fairly, in all material respects, the financial information of the Library for the years ended December 31, 2008 and 2009, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

The Schedule of Long-Term Debt, as listed in the Table of Contents, is presented for additional analysis and is not a required part of the basic financial information. It has not been subjected to the examination procedures applied to the basic financial information and, accordingly, we express no opinion on it.

STATE BOARD OF ACCOUNTS

November 23, 2010

EAST CHICAGO PUBLIC LIBRARY
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES
ALL GOVERNMENTAL AND FIDUCIARY FUND TYPES
As Of And For The Years Ended December 31, 2008 And 2009

	Cash and Investments 01-01-08	Receipts	Disbursements	Cash and Investments 12-31-08
Governmental Funds:				
General	\$ 1,082,892	\$ 8,054,708	\$ 8,477,508	\$ 660,092
Gift	5,825	10,198	9,634	6,389
Library Cinema Grant (CD06-414)	174	-	174	-
Ezra Keats Mini Grant	-	500	-	500
United We Stand Grant (CD06-402)	153	-	153	-
Non-Competitive Grant (FEC07-507)	102,948	-	102,948	-
Prime Time Grant (E07-206)	1,210	-	1,210	-
Library Cinema Grant (C07-306)	-	5,680	5,280	400
Summer Reading (E08-104)	-	9,150	9,150	-
United We Stand Grant (C07-305)	-	30,972	26,843	4,129
Citizens Foundation Grant (CF08-105)	-	1,500	1,500	-
State Tech Fund Grant	975	900	900	975
Library Improvement Reserve	330,715	375,715	330,715	375,715
Fiduciary Fund:				
Payroll Withholdings	8,667	710,438	713,334	5,771
Totals	\$ 1,533,559	\$ 9,199,761	\$ 9,679,349	\$ 1,053,971
	Cash and Investments 01-01-09	Receipts	Disbursements	Cash and Investments 12-31-09
Governmental Funds:				
General	\$ 660,092	\$ 7,034,846	\$ 6,826,713	\$ 868,225
Gift	6,389	8,635	13,175	1,849
Excess Welfare Distribution	-	90,880	-	90,880
Ezra Keats Mini Grant	500	-	500	-
Library Cinema Grant (C07-306)	400	-	400	-
United We Stand Grant (C07-305)	4,129	-	4,129	-
Summer Reading (FE08-936)	-	7,000	7,000	-
State Tech Fund Grant	975	2,026	1,321	1,680
Library Improvement Reserve	375,715	10,000	-	385,715
Fiduciary Fund:				
Payroll Withholdings	5,771	549,298	549,917	5,152
Totals	\$ 1,053,971	\$ 7,702,685	\$ 7,403,155	\$ 1,353,501

The accompanying notes are an integral part of the financial information.

**EAST CHICAGO PUBLIC LIBRARY
NOTES TO FINANCIAL INFORMATION**

Note 1. Introduction

The Library was established under the laws of the State of Indiana. The Library provides the following services: culture and other administrative services.

Note 2. Fund Accounting

The Library uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Budgets

The operating budget is initially prepared and approved at the local level. In addition, funds for which property taxes are levied or highway use taxes are received are subject to final approval by the Indiana Department of Local Government Finance.

Note 4. Property Taxes

Property taxes levied are collected by the County Treasurer and are distributed to the Library in June and December. State statute (IC 6-1.1-17-16) requires the Indiana Department of Local Government Finance to establish property tax rates and levies by February 15. These rates were based upon the preceding year's March 1 (lien date) assessed valuations adjusted for various tax credits. Taxable property is assessed at 100% of the true tax value (determined in accordance with rules and regulations adopted by the Indiana Department of Local Government Finance). Taxes may be paid in two equal installments which become delinquent if not paid by May 10 and November 10, respectively.

Note 5. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statute (IC 5-13-9) authorizes the Library to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

EAST CHICAGO PUBLIC LIBRARY
NOTES TO FINANCIAL INFORMATION
(Continued)

Note 6. Pension Plan

Public Employees' Retirement Fund

Plan Description

The Library contributes to the Indiana Public Employees' Retirement Fund (PERF), a defined benefit pension plan. PERF is an agent multiple-employer public employee retirement system, which provides retirement benefits to plan members and beneficiaries. All full-time employees are eligible to participate in this defined benefit plan. State statutes (IC 5-10.2 and 5-10.3) govern, through the PERF Board, most requirements of the system, and give the Library authority to contribute to the plan. The PERF retirement benefit consists of the pension provided by employer contributions plus an annuity provided by the member's annuity savings account. The annuity savings account consists of members' contributions, set by state statute at 3% of compensation, plus the interest credited to the member's account. The employer may elect to make the contributions on behalf of the member.

PERF administers the plan and issues a publicly available financial report that includes financial statements and required supplementary information for the plan as a whole and for its participants. That report may be obtained by contacting:

Public Employees' Retirement Fund
Harrison Building, Room 800
143 West Market Street
Indianapolis, IN 46204
Ph. (317) 233-4162

Funding Policy and Annual Pension Cost

The contribution requirements of the plan members for PERF are established by the Board of Trustees of PERF.

Note 7. Subsequent Events

Grant Award

The Library received notification of the award of 32 computers estimated at \$52,650 from Opportunity Online Hardware Grant through the Bill and Melina Gates Foundation. The Library will be required to provide local matching funds in two phases. Phase I requires \$11,050 by February 26, 2010, and Phase II requires \$19,500 by February 25, 2011. The Library provided the Phase I local match by February 26, 2010, from the Library Operating Fund.

Financial Concerns

In March 2010, the Library contracted with a financial consultant to review revenues, expenses, budgets, assist with cash flow projections, and to recommend avenues of cost reductions and revenue enhancements. The goal of which is to assist the Library in securing funding for an Energy Savings Contract project. The Financial Consultant presented a report to the Library Board which indicated the Library was negatively affected by the circuit breaker tax credits. The report indicated that the Library must increase revenues or decrease expenditures by \$1.23 million.

EAST CHICAGO PUBLIC LIBRARY
NOTES TO FINANCIAL INFORMATION
(Continued)

The report included several suggestions to reduce expenditures including the implementation of furlough days, renegotiating health care premiums and terms, passing health care costs to employees, and reducing hours of operation.

To increase revenues, the report suggested increasing user fees and seeking relief from the Distressed Unit Appeals Board in 2011.

To date, the Library has reduced the workforce and reduced healthcare premiums by contracting with a different health care provider.

Tax Anticipation Warrants

On January 10, 2010, the Library received tax anticipation warrants in the amount of \$998,478 which are due to be repaid by December 31, 2010.

EAST CHICAGO PUBLIC LIBRARY
 SUPPLEMENTARY INFORMATION
 SCHEDULE OF LONG-TERM DEBT
 December 31, 2009

The Library has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Governmental activities:		
Rainy day loan	\$ 126,316	\$ 84,211

**EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS**

LIBRARY DIRECTOR TRAVEL

The Library Director travels extensively for which he is generally advanced hotel charges and per diem amounts. In most cases, claims are prepared based upon hotel confirmations from the internet, which are attached to the claim. It is based upon these confirmations that checks are prepared payable to the hotel and provided to the Director to take with him to pay for his hotel stay. At the same time, a check is issued to the Director for the per diem request. His Administrative Assistant will prepare a letter or memo to the Associate Director of Finance informing her of the upcoming trip, the dates, and the dollar amount to be advanced, which is at the rate of \$100 per day. In one case, the per diem was advanced from the Petty Cash Fund.

In a few cases, hotel bills were subsequently provided to substantiate the travel; however, only on rare occasions are seminar documents attached to substantiate the dates of the events attended or attendance at such events.

Listed below are items for which the Library reimbursed the Director for travel. It is unclear as to how these trips are related to Library business.

<u>Date of Trip</u>	<u>Trip Description</u>	<u>Hotel</u>	<u>Transportation</u>	<u>Per Diem</u>	<u>Totals</u>
Travel in 2008:					
June 7 to June 10	Puerto Rican Day Gala 2008 in New York	\$ 1,095.55	\$ 349.34	\$ 400.00	\$ 1,844.89
September 1 to September 8	Economic Development Conference in San Juan Puerto Rico (Per internet research no such conference found)	1,220.80	335.94	800.00	2,356.74
Travel in 2009:					
April 26 to April 27	Unemployment Insurance Rally in Indianapolis (Unemployed construction workers and other workers protested cuts in unemployment)	109.04	174.55	200.00	483.59
June 20 to June 21	Jefferson Jackson Day Democratic Party Fundraiser	138.04	174.55	100.00	412.59
October 17 to October 18	Meeting with State Representative for Statewide agenda to promote Latino issues	412.06	174.55	200.00	786.61
October 24 to October 25	Latino Alumni Association Business Meeting	161.28	227.70	200.00	588.98
October 28 to October 29	Oral Argument Hearing between City of East Chicago and Foundations of East Chicago	109.98	-	200.00	309.98
December 9 to December 10	Indiana Latino Caucus Associated with the Democratic Party	-	-	200.00	200.00
Travel in 2010:					
May 14 to May 15	Jefferson Jackson Day Dinner 2010 Democratic Party Fundraiser	206.03	-	200.00	406.03
August 5 to August 7	Annual Conference on Distance Teaching and Learning, at the University of Wisconsin - Madison	212.97	-	300.00	512.97
Totals of unknown Library business trips		<u>\$ 3,665.75</u>	<u>\$ 1,436.63</u>	<u>\$ 2,800.00</u>	<u>\$ 7,902.38</u>

All claims, invoices, receipts, accounts payable vouchers, including those presented to the governing body for approval in accordance with IC 5-11-10, should contain adequate detailed documentation. All claims, invoices, receipts, accounts payable vouchers, regarding reimbursement for meals and expenses for individuals must have specific detailed information of the names of all individuals for which amounts are claimed, including the nature, name, and purpose of the business meeting, to enable the governing body to authorize payment. Payments which do not have proper itemization showing the business nature of the claim, may be the personal obligation of the responsible official, employee or other person for whom the claim is made. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)

It should be noted that for the May 14 to May 15, 2010, trip for the Jefferson Jackson Day Dinner in 2010, attached to the claim was email correspondence between the Associate Director of Finance and the Library Director in which the Associate Director of Finance questioned whether or not she should be paying this claim based upon the manual excerpt quoted below. The Associate Director states, "I would like to point out to you on page 4-11 of the State Board of Accounts Manual 'Political Expenditures'. I believe the 2010 Jefferson Jackson Day Dinner by the Indiana Democratic Party falls under this category. "How would you like me to proceed with your request for hotel room and per diem"? The Director replied, "Please proceed as normal."

Expenditures for political purposes, contributions to political campaigns, directly or indirectly, which are not authorized by statute may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

Public funds may not be used to pay for personal items or for expenses which do not relate to the functions and purposes of the governmental unit. Any personal expenses paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 8)

We requested Manuel Montalvo, Director, reimburse the Library \$7,902.38 in travel expenses for trips which are political in nature, personal, or for which a Library business purpose could not be determined due to a lack of supporting documentation. (See Summary, page 32)

For the Economic Development Conference attended from September 1 to September 8 in San Juan, Puerto Rico, documents were not maintained to substantiate a conference and a search performed via the internet could not confirm such a conference took place. We also noted that the Director was advanced per diem for 11 days; however, hotel receipts indicated the Director only stayed 7 days.

Dates of Trip	Trip Description	Excess Per Diem
September 1 to September 8, 2008	Economic Development Conference in San Juan, Puerto Rico paid per diem September 9 to September 11	\$ 300.00

We requested Manuel Montalvo, Director, reimburse the Library \$300 for per diem paid from September 9 to September 11 for which validity of the advancement could not be substantiated. (See Summary, page 32)

Additionally, duplicate hotel charges were made as follows:

Dates of Trip	Trip Description	Amount
September 1 to September 4, 2008	Economic Development Conference in San Juan, Puerto Rico Hilton Ponce Golf and Casino Resort	\$ 492.06

We requested Manuel Montalvo, Director, reimburse the Library \$492.06 for a hotel bill duplicating some of the same dates as a previously paid hotel bill. (See Summary, page 32)

EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)

The Library paid \$150 to Galaxy Travel to change flight reservations for this trip to San Juan, Puerto Rico. The original flight was booked on July 30, 2008, to depart on Monday, September 1, 2008, and return on Monday, September 8, 2008. The change was made on August 1, 2008, to have the return date changed from Monday, September 8 to Thursday, September 11, 2008. No information was provided to indicate why the return date was changed only one day after the original flight was scheduled.

The Director and the Technical Support Help Desk Technician were scheduled to attend the American Library Association 2010 Midwinter Meeting in Boston, Massachusetts. The meeting dates were indicated as from January 15 to January 19, 2010, based upon internet research. The Technical Support Help Desk Technician attended the conference; however, the Director did not attend the conference.

The Library paid \$927.05 to the Courtyard Marriott. Of the \$927.05, \$772.54 was for Luis Avila, who is the Technical Support Help Desk Technician, who arrived on January 14 and departed on January 19, 2010, and the remaining amount of \$154.51 was for Manuel Montalvo, Director, for the night of January 16. The Library also incurred the cost of an airline ticket for the Director of \$209.20 which was due to depart on January 16, 2010, and return on January 17, 2010, as well as the per diem paid to the Director in the amount of \$200. None of these amounts were reimbursed to the Library by the Director. Because no information from the ALA 2010 Midwinter Meeting was retained to support the travel, it is not known why the Technical Support Help Desk Technician attended the meeting or why he needed to attend for the entire meeting period when the Library Director was only going to attend the meeting for one day. Additionally, the only information provided indicating the reason the Director did not attend was a note attached to the claim from his administrative assistant indicating he did not attend due to inclement weather. We are requesting that Manuel Montalvo, Director, reimburse the Library the cost of his hotel room, the airline ticket, and the per diem as follows:

	<u>Hotel</u>	<u>Transportation</u>	<u>Per Diem</u>	<u>Total</u>
American Library Association 2010 Midwinter Meeting in Boston, MA	\$ 154.51	\$ 209.20	\$ 200.00	\$ 563.71

We requested Manuel Montalvo, Director, reimburse the Library \$563.71 for expenses incurred due to cancellation of travel for which documentation was not provided to indicate the hotel and travel agent were contacted about refunds for weather related cancellations. Also, for per diem which was advanced for a trip which was not taken. (See Summary, page 32)

Finally, the following is stated in the Library's Travel Policy and Procedures:

"Airline travel will be in the coach section of the aircraft. If you choose to purchase you own ticket, you may do so and submit a claim for reimbursement. Staff is responsible for any additional service fees incurred as a result of changes after tickets are purchased with the exception of an emergency or if changes were requested by ECPL."

**EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)**

The schedule below reports the changes made to airline ticket purchase dates in which documentation was not provided to indicate changes were based upon "an emergency" or a change requested by the Library.

<u>Dates of Trips</u>	<u>Trip Description</u>	<u>Amount</u>
November 24 to November 27, 2007	Trip to Guadalajara for bookfair: Changed return dated from December 1 to November 27	\$ 208.00
September 1 to September 8, 2008	Economic Development Conference in San Juan, Puerto Rico: Changed return date from September 8 to September 11	150.00
February 9 to February 10, 2009	Certified Public Library Administrator Course: Management of Technology: Changed return date from February 11 to February 10	<u>271.00</u>
Total charges for changes to travel dates		<u>\$ 421.00</u>

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

We requested Manuel Montalvo, Director, reimburse the Library \$421.00 for changes to travel dates which were not supported as changes made due to emergencies or Library business necessitated. (See Summary, page 32)

When the interests of the library require it, the library board may authorize any member of the library board or any person in the employ of the library to be absent from the public library, and to pay out of its funds the necessary hotel and board bills and transportation expenses of such member or person while so absent in the interests of such library. [IC 36-12-3-14]

Meals, Lodging, and Transportation Expenses. When traveling outside the corporation limits on official business, board members and employees may be reimbursed for meals, lodging, and other necessary traveling expenses. The claim for reimbursement should be completely itemized and should be supported by as many receipts as it is possible to obtain. The amounts of food and lodging expense reimbursement should be fixed by the library board and entered in the board minutes as a permanent record. The library board may also set a per diem rate for meals and other necessary traveling expenses in lieu of requiring meal receipts and other miscellaneous travel receipts. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 8)

DIRECTOR'S REIMBURSEMENTS

The contract for the Library Director states the following:

"In order that the Director may more efficiently carryout his duties as Director of the East Chicago Public Library, the Board will pay to the Director Five Hundred and 00/100 (\$500.00) Dollars each month for costs and expenses related to the leasing, maintenance and operation of a new vehicle."

On June 19, 2007, the Personnel Committee increased this vehicle allowance to \$600 each month.

EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)

Included with the Director's payroll check for December 14, 2007, he was reimbursed \$236.52 based upon an invoice from Flikkema Motors of Northwest IN dated December 6, 2007, for installation of front brake pads on his 2005 Saab. On June 27, 2008, he again submitted the invoice for the installation of front brake pads, but the Associate Director of Finance discovered the duplication and did not pay it. He also submitted an invoice from the same vendor which was dated January 8, 2008, and was reimbursed \$362.29 for installation of brake pads, an oil change, drainage of the plug washer, and top-off of fluids.

Also, on November 18, 2009, a claim was paid to Lubrifleet Power Wash, Inc., in the amount of \$1,078.26 for the purchase and installation of two new front tires, and wiper blades. The invoice was dated February 19, 2009, but it did not indicate to which vehicles these services were performed. The Associate Director of Finance would not pay the bill until she was informed by the Director's Administrative Assistant that the work was performed on the Library's 2005 Toyota Sienna Van, which she then wrote on the invoice. We emailed Lubrifleet Power Wash Inc., and received documentation that the services were performed on a 2005 Saab, which is the Director's vehicle.

We requested Manuel Montalvo, Director, reimburse the Library \$1,677.07 for repairs and maintenance performed on his personal vehicle for which he is receiving a \$600 per month vehicle allowance to cover such expenses. (See Summary, page 32)

On February 19, 2008, the Library paid the City of East Chicago for fuel usage from the period of July 1, 2007 to December 31, 2007. The total paid was \$1,906.78, of which \$1,022.65 was fuel for the Director's personal vehicle.

We requested Manuel Montalvo, Director, reimburse the Library \$1,022.65 for fuel paid for by the Library for the Director's personal vehicle for which the Director receives \$600 per month vehicle allowance. (See Summary, page 32)

Mileage Reimbursement. Library board members and library employees may be reimbursed for actual miles traveled in their own motor vehicle on official business of the library at a reasonable rate per mile as fixed by the library board. The mileage rate should be fixed by the library board and entered into the board minutes as a permanent record.

Reimbursement for mileage should not include travel to and from the board member's or employee's home and the library in which he or she works. . . .

Fixed Travel Allowance Not Allowed. In Official Opinion No. 74 of 1953, the Attorney General held that statutes do not authorize payment of a fixed travel allowance (fixed amount regardless of the number of miles traveled) to city officers and employees. This opinion, by extensions, applies to library trustee and employees. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 8)

EMPLOYEE AND BOARD MEMBER TRAVEL

Former Library Board member, Ernest Jones accompanied the Library Director on his trip to Guadalajara in November, 2007. On August 23, 2007, airline tickets were purchased for Mr. Jones from Galaxy Travel to depart on November 27, 2007, and return on December 1, 2007. On November 20, 2007, the tickets were exchanged at a cost of \$200 for a departure date of November 24 and a return date of November 27, 2007. As with the Library Director there was no indication of an emergency or Library directive to support this change in travel plans.

EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)

We requested Ernest Jones, former Board member, reimburse the Library \$200 for the airline ticket exchange for which the reason was not substantiated. (See Summary, page 32)

On October 2, 2009, Luis Avila and Jose Garcia were reimbursed travel expenses which included \$35 and \$25, respectively for shuttle service. Each was also reimbursed \$10 for fuel since they drove the Library's Toyota Sienna Van to the conference in Columbus, Ohio. Information was not provided to substantiate the need for shuttle service when a Library vehicle was available for transportation.

When the interests of the library require it, the library board may authorize any member of the library board or any person in the employ of the library to be absent from the public library, and to pay out of its funds the necessary hotel and board bills and transportation expenses of such member or person while so absent in the interests of such library. [IC 36-12-3-14]

Meals, Lodging, and Transportation Expenses. When traveling outside the corporation limits on official business, board members and employees may be reimbursed for meals, lodging, and other necessary traveling expenses. The claim for reimbursement should be completely itemized and should be supported by as many receipts as it is possible to obtain. The amounts of food and lodging expense reimbursement should be fixed by the library board and entered in the board minutes as a permanent record. The library board may also set a per diem rate for meals and other necessary traveling expenses in lieu of requiring meal receipts and other miscellaneous travel receipts. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 8)

INSURANCE COVERAGE

The Library retains a Treasurer bond with RLI Insurance Company in the amount of \$50,000 for each of the years 2008, 2009, and 2010. The Library also has a Commercial Umbrella Policy with Citizens Insurance which covers the period from July 1, 2009 to July 1, 2010, which includes \$50,000 coverage of employee theft including ERISA compliance.

ADDITIONAL AUDIT COSTS

Additional audit costs were incurred due the extensive examination of travel claims and compensation paid by the Library.

Audit costs incurred because of theft and shortage may be the personal obligation of the responsible official or employee.

Audit costs or other costs incurred because of poor records, nonexistent records or other inadequate bookkeeping practices may be the personal obligation of the responsible official or employee of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

TUITION PAYMENTS

On January 21, 2009, the Library Board adopted Resolution 3-09 which states in part: ". . . to appropriate funds for post-graduate tuition reimbursement for the Director; Indiana State Library requires that the Director complete 100 library education hours within a five (5) year period."

**EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)**

After the Board adopted that resolution, the Director received a reimbursement of \$270.70 based upon a credit card receipt from Indiana University, which was dated December 10, 2007, over one year prior to the date the resolution was passed.

Since passing that resolution, the Director has been reimbursed for the following:

<u>Date Paid</u>	<u>Vendor</u>	<u>Type of Course</u>	<u>Amount</u>
09-16-09	The University of Wisconsin, Madison	Basic Library Management	\$ 415.00
12-16-09	The University of Wisconsin, Madison	Spanish for the Library	45.00
06-25-10	Bisk Education - University of Notre Dame, Tampa Florida	Effective Leadership	2,011.80
08-18-10	Bisk Education - University of Notre Dame, Tampa Florida	Leading Teams and Organizations	2,011.80
Total			<u>\$ 4,483.60</u>

IC 36-12-3-16(a) states:

"The library board may adopt a resolution allowing money to be disbursed under this section for lawful library purposes, including advertising and promoting the programs and services of the library."

IC 36-12-3-16(b) states in part:

"With the prior written approval of the library board and if the library board has adopted a resolution under subsection (a), claim payments may be made in advance of library board allowance for any of the following types of expenses: . . .

(11) Expenses related to the educational or professional development of an individual employed by the library board, including:

- (A) inservice training;
- (B) attending seminars or other special courses of instruction; and
- (C) tuition reimbursement; if the library board determines that the expenditures under this subdivision directly benefit the library."

BOARD MEMBER COMPENSATION

As stated in prior reports, the Library Board approved the payment of health insurance premiums for Board members. Most of the members of the Board are receiving this "compensation", which includes family coverage. The Board members do not contribute toward the cost of the insurance and this fringe benefit is not included on a Miscellaneous Income Statement, Federal Form 1099.

The Library paid \$59,754.72 and \$61,928.67 in 2008 and 2009, respectively, for dental, health, and vision insurance coverage for the Board members. As of September 30, 2010, the Library paid \$50,819.54 for dental, health, and vision insurance premiums for the Board members. Premiums per Board member, in 2008 and 2009, ranged from a low of \$8,458.92 for single coverage to a high of \$18,679.56 for family coverage.

EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)

The Library also pays for life insurance for the Board members. This is included on a Federal Wage and Tax Statement, Form W-2 as a fringe benefit. In 2008 and 2009, the Library paid \$3,326.40 and \$1,412.16 per year for life insurance for the Board members. Premiums ranged from a low of \$343.20 to \$1,144 in 2008 per Board member. In 2009, per Board member premiums, ranged from \$172.28 to \$577.20.

IC 36-12-2-21 states:

"A member of a library board shall serve without compensation. A board member may not serve as a paid employee of the public library, except the treasurer as provided in section 22 of this chapter."

COMPENSATION AND BENEFITS

The Library employs both seasonal and part-time employees. The rates of pay for these individuals are not included in the Salary "Ordinance" approved at the end of each calendar year for the employees. The Director determines the rate of pay for these individuals.

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution or salary schedule adopted by the governing body unless otherwise authorized by statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

PAYMENT PRIOR TO RECEIPT OF GOODS OR SERVICES

The Library paid Greentree Builders \$73,877 for the installation of new flooring at the main branch. The Library paid the contractor 50% before the project began. The cost included both material and labor, but a breakdown of each was not indicated on the invoices or proposal.

The first installment in the amount of \$36,938.50 was paid to Greentree Builders on January 25, 2008. A second installment of \$10,000 was paid to Greentree on February 28, 2008. This installment was also paid prior to the start of the project, which according to an email from the Library Director attached to the invoice and claim indicated the project was to begin on March 1, 2008. This second installment was necessary to purchase materials. Greentree indicated on their invoice that the second installment was due to underestimating the materials cost needed to begin the project.

Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Public Libraries, Chapter 10)

CONTRACTS

Payments for Services Not Supported by a Contract

As discussed in the prior report, payments were made to two attorneys without a contract. The two attorneys were paid at hourly rates of \$175 and \$150.

EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)

Payments made or received for contractual services should be supported by a written contract. Each governmental unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

Duplication of Services

In 2008, the Library had a contract with Regional Services to provide lawn care and landscaping services throughout the 2008 season. The contract listed services they would perform, but also indicated, "We have listed the following services we can provide, or modify, to better suit your needs." This service cost the Library \$30,000 for the year or \$5,000 per month for the months of May thru October. On July 15, 2008, the Library paid \$4,925 to Greentree Builders to perform landscaping services at the Main Branch. These services consisted of removing old mulch and weeds, installing new mulch, aerating and fertilizing the grass. Nothing was indicated as to why the Library did not request Regional Services to perform such duties as part of their contract.

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

Payment to Individuals

On various occasions, payments were made to individual owners of businesses instead of the vendor indicated on the invoice. For example, payments were made to Jose Perez and Arthur Pollard Jr., for services performed by Pride Contractors and Myers Builders, respectively.

Payments for services provided by an organization should go directly to the organization and not to an individual employee of the organization. All payments for services should be supported by a written contract. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

GIFT FUND PURCHASES

The Library has a gift fund which accounts for various donations made to the Library. For the most part, donations are to be used for the various Library programs. In 2008, claims reviewed included \$263.80 spent for various lunches for Board members at Board meetings, as well as for others from local restaurants for which the business nature of the lunch was not indicated. In 2009, these claims reviewed totaled \$492.16. Additionally, claims were paid from the Gift Fund for the purchase of tickets to various events such as Union Benefica Mexicano Dinner/Scholarship, I Too Sing America Organization for a program which benefits a scholarship fund, and for the Northwest Indiana Black Expo Fall Community Awards Dinner recognizing elected state legislators. In each of these examples, two tickets were purchased with no indication as to who attended these events.

IC 36-12-3-16(a) states:

"The library board may adopt a resolution allowing money to be disbursed under this section for lawful library purposes, including advertising and promoting the programs and services of the library."

**EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)**

Use of Gift Funds. If the library board chooses to receipt any gift (restricted or unrestricted) to a separate fund or funds, the following will apply.

1. Gift money may be spent without budgeting or appropriation.
2. If restricted, it must be spent according to the donor's restrictions.
3. If unrestricted, it may be spent as determined by the library board within the scope of its statutory authority.
4. The fund or funds may be accumulated and may be spent at any time the library board determines, unless otherwise required by the terms of the donor. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 3)

Meals, Lodging, and Transportation Expenses. When traveling outside the corporation limits on official business, board members and employees may be reimbursed for meals, lodging, and other necessary traveling expenses. The claim for reimbursement should be completely itemized and should be supported by as many receipts as it is possible to obtain. The amounts of food and lodging expense reimbursement should be fixed by the library board and entered in the board minutes as a permanent record. The library board may also set a per diem rate for meals and other necessary traveling expenses in lieu of requiring meal receipts and other miscellaneous travel receipts. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 8)

Governmental funds should not be donated or given to other organizations or individuals unless specifically authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

FINANCIAL CONCERNS

Beginning in 2008, the Library Board began having concerns over finances due to State imposed tax caps and a declining tax base. In an attempt to alleviate some of the concerns, they reintroduced a resolution for voluntary retirement which allows employees who are eligible under the Public Employees Retirement Fund to retire to maintain insurance coverage at the Library's expense until age 70. Under the Resolution, the employee remains on the Library's insurance plan until age 65 when the employee becomes eligible for Medicare. Then, the Library will pay the premium of a Supplemental Medical Insurance plan of the former employee's choice until they reach age 70.

Additionally, the Library laid-off some employees, terminated others, and reduced full-time employees to part-time. They also reduced the hours of some of the outreach centers.

In 2010, the Library hired D. Cole and Associates as a financial consultant to review revenues, expenses, budgets, and assist with preparation of cash flow projections, and to recommend avenues of cost reductions and revenue enhancements. The financial consultant was hired to assist in securing funding for an Energy Savings Contract project.

The report from D. Cole and Associates was presented at the April 27, 2010, Finance Committee meeting. The highlights of the report included that the Library was negatively affected by the circuit breaker tax credits and reduced collections in 2009 losing approximately 32% or \$1.7 million of their maximum tax levy. For 2010 and 2011, the Library is estimated to lose approximately 50% or \$2.6 million of its maximum levy to the circuit breaker tax caps and low collections. D. Cole and Associates informed the Library they must increase revenues or decrease expenditures by \$1.23 million.

EAST CHICAGO PUBLIC LIBRARY
EXAMINATION RESULTS AND COMMENTS
(Continued)

To achieve reductions in expenditures they made several suggestions including instituting furlough days, renegotiating health care premiums and terms, passing additional health care costs to employees, and reducing hours of operation.

In order to increase revenues, they suggested increasing user fees and seeking relief from the Distressed Unit Appeals Board in 2011.

The Library immediately began by approving certain reductions in workforce.

Despite the concerns over the financial condition of the Library, the Director incurred \$14,071.29, \$13,555.94, and \$12,296.19 in 2008, 2009, and to September 30, 2010, respectively, in travel expenses. Included in these amounts are reimbursements for travel for the Technical Support Help Desk Technician and the Safety and Security Specialist to accompany him on some of the trips which were to Puerto Rico, Boston, Arizona, and California for International Book Fairs, American Library Association Conferences, Certified Public Library Association Conferences, and National Association of Latino Elected and Appointed Officials Conferences. Also, included are several trips to Chicago with hotel stays and per diem payments when mileage claims indicate Chicago is less than 30 miles from the Library. Payments were made of full day per diem amounts for the day prior to conferences to allow for travel. One claim, which was for a trip to Indianapolis for an Indiana Chamber Lunch, included two days of per diem at \$100 per day as well as a hotel bill. It should be noted that the Director earns hotel rewards at most of the hotels he stays at, which are not returned for use by the Library.

The Library also continues to pay the Director a \$600 per month car allowance and for his post graduate education so that he can meet the educational requirements imposed by the State Library to retain the Director position. Furthermore, the Board continues to receive full medical, dental, and vision insurance coverage at zero cost to them personally.

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

Any compensation, premium, bonus, or product earned as a result of the purchase of goods or services by the governmental unit becomes the property of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Libraries, Chapter 4)

EAST CHICAGO PUBLIC LIBRARY
EXIT CONFERENCE

The contents of this report were discussed on November 23, 2010, with Chasidy Gomez, Treasurer; Manuel Montalvo, Director; Clifton Johnson, President of the Board; Ernest Jones, former Board member; Denise Carrasquillo, Associate Director of Finance; and Carmen Fernandez, Board attorney. The official response has been made a part of this report and may be found on pages 21 through 31.

**OFFICIAL RESPONSE OF THE EAST CHICAGO PUBLIC LIBRARY TO
THE INDIANA STATE BOARD OF ACCOUNTS 2010 AUDIT REPORT**

I. General Response. As a general response to the audit report, the East Chicago Public Library (*Library*) directs attention to the following:

a. Despite a very thorough and comprehensive examination of Library finances from September to December 2010 by the Indiana State Board of Accounts (*SBOA*), there were no instances of fraud or misappropriation of Library funds; and, although the SBOA's notice to the Library indicated the audit would be limited to years 2008 and 2009, the audit actually encompassed years 2007 through 2010, again with no instances of fraud or misappropriation of funds.

b. Libraries are specifically exempted from those sections in the Indiana Code cited by SBOA relative to payment of claims.

c. All claims and expenditures were approved by the Library's Board of Trustees (*Trustees*), which, as required by Indiana law, is the governing body granted the legal authority to do so.

d. All of the above notwithstanding, the Library has commenced review of all its policies, procedures and contracts, including relevant sections of the Executive Director's contract, for conformance with recommendations of the SBOA, if applicable.

II. Response to Specific Findings. We respectfully request reconsideration of the following findings in the audit report:

a. Jefferson Jackson Day. In response to the findings referencing the Jefferson Jackson Day dinners in Indianapolis, it is important to note that *no public funds were paid to the Democratic Party or any other political organization*; and we are secure in the

knowledge that no public funds would have been accepted by these organizations. Billings for food and lodging were based on our understanding of the Trustee Manual, which indicates that advocating for your library is a worthwhile endeavor and that therefore meeting with legislators, lobbyists and others involved in library issues and legislation currently before Indiana lawmakers is included within the definition of library business. Thus, a request is respectfully made for reconsideration of findings in this regard.

b. Hotel and Per Diem. With respect to other travel, please note that: (1) none of the travel within the SBOA findings was in violation of Library travel policies, and (2) all travel and travel expenditures were approved by the Library's Trustees, the governing body authorized to do so by Indiana law, which body believed the travel was either in the best interests of the Library, or aided in the Executive director's professional development, or both. Thus, a request is respectfully made for reconsideration of the findings relative to these expenditures.

c. Double Billing. Please see attached Exhibit A, evidencing an error in the audit findings of double billing for lodging. Thus, a request is respectfully made for reconsideration of the finding relative to this finding.

d. Economic Development. The Executive Director's participation in economic development activity that may lend itself to development in the Library's city directly impacts property taxes that directly impact Library funding. Thus, a request is respectfully made for reconsideration of the finding relative to this activity.

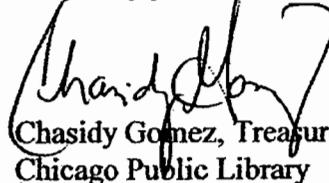
e. Reimbursement. Relative to reimbursement as it relates to the Executive Director's vehicle please see attached Exhibit B, which shows that his contract was

amended in June 2007 to not only increase allowance to \$600 but also to add a provision that "gasoline charges and maintenance expenses incurred during official library or board business shall be borne by the Board along with current outstanding debit." Thus, a request is respectfully made for reconsideration of findings relative to these expenditures.

In summary, as indicated above there are items cited in the audit that upon reconsideration may be found not to be in violation of any Indiana law or SBOA rule. Most important, there was no fraud or misappropriation of funds, all expenditures cited were approved by the Library Trustees, and the Library has undertaken review of all its policies, procedures and contracts.

Thank you for your consideration in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chasidy Gomez", is written over the typed name and title.

Chasidy Gomez, Treasurer East
Chicago Public Library

08/28/2008

1919

Migration	Description	P.O.	Invoice	Amount
21 074	ROOM/M.MONTALVO/ECONOMIC MTG. *** Total ***			492.06 492.06
<p style="font-size: 2em; font-family: cursive;">Exhibit A</p>				

Vanessa Lopez
 Conference Center Sales Manager

1 San Geronimmo Street
 Administrative Office
 San Juan Puerto Rico 00901

T: 787-721-0303 Ext. 6025
 M: 787-382-1981
 F: 787-722-2910

Website: www.hiltoncaribbean.com/sanjuan/



From: Hilton Hotels Confirmed [mailto:hiltonhotels@att1-app.hilton.com]
Sent: Thursday, August 28, 2008 9:49 AM
To: Vanessa Lopez
Subject: Hilton Hotels Confirmation #3320139545



Hilton Ponce Golf & Casino Resort

1150 Caribe Avenue
 Ponce, 16
 Puerto Rico, 00716
 Tel: 7872597676
 Fax: 7872597674

[Directions to Hotel](#)

[5 Day Weather Forecast](#)

[Local Guide](#)

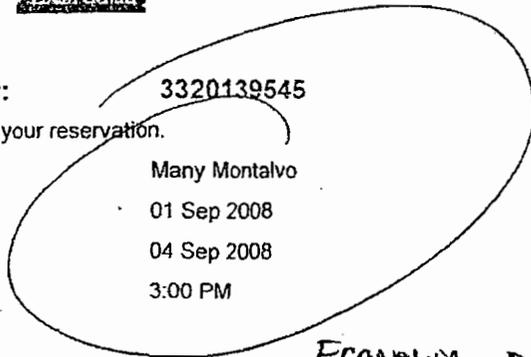
Make the Most of Your Stays

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Name: Many Montalvo
 Arrival Date: 01 Sep 2008
 Departure Date: 04 Sep 2008
 Check-in Time: 3:00 PM



Economic Dev. Mtg
 IN Ponce 1-4

AND airline miles for your stay.

Check-out Time: 12:00 PM

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Points & Miles®. No Blackout Dates. Only Hilton HHonors. [Click here](#) to learn more and book your next trip or reward.



Rate Information:

Rate per night: 139.00 USD
Total for Stay per Room:
Rate 417.00 USD
Taxes 75.06 USD
Total 492.06 USD

Total for Stay: 492.06 USD

Includes estimated taxes and service charges.

Tax & Service Charges:

- There is a 11.00% Per Room Per Night tax.
- There is a 29.19 USD Service Charge.

Additional Charges:

- The quoted rate does not include a Resort Fee equal to 7% of the rate per night, per room. This charge will be collected at check out and will include the use of our Fitness Center, tennis courts, recreational facilities and daily newspaper (available at the Front Desk). Prices are subject to change without notification from the hotel.
- Valet parking: 10.00/night Self parking: 4.50/night

Rate Rules and Cancellation Policy:

- Your reservation is guaranteed for late arrival.
- Should you need to cancel please contact us before 11:59 PM on 30 Aug 2008 local property time to avoid cancellation penalties.

Room Information:

Rooms: 1
Clients: 1 Adult
Non-Smoking Confirmed
Room Type: 1 KING POOL/ OCEANVIEW
Your room type preferences have been submitted with your reservation, and are subject to hotel availability.

To Help You Along on Your Journey ...

Our Hotel:

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- [Accommodations](#)

Services and Amenities:

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Dining Options:

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US

501/K1J
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RATE PLAN C-GOVA08
HH# 811723602 GOLD
AL:
BONUS AL: CAR:

CONFIRMATION NUMBER : 3316506229

12/9/2010 PAGE 1

9/2/2008	CHECK (NUMBER 1917)	MELANY	1930248		\$1,220.80
9/4/2008	OLAS SPA # 0	LINTR	1933470	\$123.05	
9/4/2008	ATLANTICO BAR AND GRILL # 510	LINTR	1933489	\$113.50	
9/4/2008	SWIMMING & TENNIS	MMR	1933747	\$20.00	
9/4/2008	MUNICIPAL SALES TAX	MMR	1933747	\$0.20	
9/4/2008	STATE SALES TAX	MMR	1933747	\$1.20	
9/4/2008	GUEST ROOM	FARESTI	1934193	\$140.00	
9/4/2008	RESORT FEE	FARESTI	1934193	\$16.80	
9/4/2008	ROOM TAX	FARESTI	1934193	\$12.60	
9/4/2008	OCCUPANCY MUNICIPAL TAX	FARESTI	1934193	\$5.00	
9/5/2008	BELLMAN'S GROUP PORTARGE	LILLY	1934874	\$4.50	
9/5/2008	MAID SERVICE	LILLY	1934884	\$1.00	
9/5/2008	ATLANTICO BAR AND GRILL # 560	LINTR	1935154	\$8.56	
9/5/2008	SWIMMING & TENNIS	NMELEND	1935231	\$25.00	
9/5/2008	MUNICIPAL SALES TAX	NMELEND	1935231	\$0.25	
9/5/2008	STATE SALES TAX	NMELEND	1935231	\$1.50	
9/5/2008	GUEST ROOM	FARESTI	1935839	\$140.00	
9/5/2008	RESORT FEE	FARESTI	1935839	\$16.80	
9/5/2008	ROOM TAX	FARESTI	1935839	\$12.60	
9/5/2008	OCCUPANCY MUNICIPAL TAX	FARESTI	1935839	\$5.00	
9/6/2008	GUEST ROOM	FARESTI	1937180	\$140.00	
9/6/2008	RESORT FEE	FARESTI	1937180	\$16.80	
9/6/2008	ROOM TAX	FARESTI	1937180	\$12.60	
9/6/2008	OCCUPANCY MUNICIPAL TAX	FARESTI	1937180	\$5.00	
9/7/2008	GUEST ROOM	ANGELO	1938758	\$140.00	
9/7/2008	RESORT FEE	ANGELO	1938758	\$16.80	
9/7/2008	ROOM TAX	ANGELO	1938758	\$12.60	
9/7/2008	OCCUPANCY MUNICIPAL TAX	ANGELO	1938758	\$5.00	

VS ~~XXXXXXXXXX~~

9/9/2008

260576 A

MONTALVO, MANUEL

05033A

FOR BILLING INQUIRIES PLEASE CONTACT: CREDIT MANAGER
VICTOR PRATTS AT VICTOR.PRATTS@HILTON.COM. TELEPHONE
787 721 0303, EXT 6232 OR 6256.


Caribe Hilton
 San Juan

LOS ROSALES STREET, SAN GERONIMO GROUNDS
 SAN JUAN, PR 00901
 TELEPHONE 787-721-0303 FAX 787 722 2948

MONTALVO, MANUEL
 5612 WEGG AVE

 EAST CHICAGO, IN 46312
 US

501/K1J
 9/4/2008 11:01:00AM
 9/11/2008 12:36:00PM R
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RATE PLAN C-GOVA08
 HH# 811723602 GOLD
 AL:
 BONUS AL: CAR:

4-11
CONFERENCE in
SAN JUAN

CONFIRMATION NUMBER : 3316506229

12/9/2010 PAGE 1

9/8/2008	GUEST ROOM	ANGELO	1940099	\$140.00	
9/8/2008	RESORT FEE	ANGELO	1940099	\$16.80	
9/8/2008	ROOM TAX	ANGELO	1940099	\$12.60	
9/8/2008	OCCUPANCY MUNICIPAL TAX	ANGELO	1940099	\$5.00	
9/9/2008	ROOM SERVICE # 535	LINTR	1940418	\$29.35	
9/9/2008	GUEST ROOM	FARESTI	1941712	\$140.00	
9/9/2008	RESORT FEE	FARESTI	1941712	\$16.80	
9/9/2008	ROOM TAX	FARESTI	1941712	\$12.60	
9/9/2008	OCCUPANCY MUNICIPAL TAX	FARESTI	1941712	\$5.00	
9/10/2008	GUEST ROOM	FARESTI	1943475	\$140.00	
9/10/2008	RESORT FEE	FARESTI	1943475	\$16.80	
9/10/2008	ROOM TAX	FARESTI	1943475	\$12.60	
9/10/2008	OCCUPANCY MUNICIPAL TAX	FARESTI	1943475	\$5.00	
9/11/2008	VS [REDACTED] BALANCE	NDIAZI	1944262	\$328.11	\$0.00

personal credit card

VS [REDACTED]

9/9/2008 260576 A

MONTALVO, MANUEL

05033A

FOR BILLING INQUIRIES PLEASE CONTACT: CREDIT MANAGER
 VICTOR PRATTS AT VICTOR.PRATTS@HILTON.COM. TELEPHONE
 787 721 0303, EXT 6232 OR 6256.



Caribe Hilton

San Juan

LOS ROSALES STREET, SAN GERONIMO GROUNDS
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TELEPHONE 787-721-0303 FAX 787 722 2910

MONTALVO, MANUEL
5612 WEGG AVE

EAST CHICAGO, IN 46312
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12/9/2010 PAGE 1

VS [REDACTED]

9/9/2008 260576 A

MONTALVO, MANUEL

05033A

FOR BILLING INQUIRIES PLEASE CONTACT: CREDIT MANAGER
VICTOR PRATTS AT VICTOR.PRATTS@HILTON.COM. TELEPHONE
787 721 0303, EXT 6232 OR 6256.



Estela Montalvo <[redacted]>

no subject)

messages

Manny Montalvo <[redacted]>
to: ralph.madera@hilton.com

Thu, Dec 9, 2010 at 3:22 PM

Mr. Madera,

Per our conversation I am requesting confirmation that may stay at the Caribe Hilton in San Juan for the Government Officials Business Development conference that I attended with several other officials was from 9-4-08 to 9-11-08 and not from 9-1-08 to 9-4-08 as appeared on my receipt. Your attention to this matter is greatly appreciated.

Thank you,

Manuel Montalvo
Director, East Chicago Public Library
219-545-3140

Ralph Madera <Ralph.Madera@hilton.com>
to: Manny Montalvo <[redacted]>

Thu, Dec 9, 2010 at 3:24 PM

As per your requested,

Thank you,

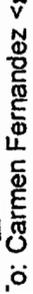
From: Manny Montalvo [mailto:[redacted]]
Sent: Thursday, December 09, 2010 5:22 PM
To: Ralph Madera
Subject:

[quoted text hidden]

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 manuel montalvo.doc
44K

Thu, Dec 9, 2010 at 3:30 PM

 To: Carmen Fernandez <@hilton.com>

Tell me what u think.

Manny Montalvo

Begin forwarded message:

From: Ralph Madera <Ralph.Madera@hilton.com>
Date: December 9, 2010 3:24:12 PM CST
To: 'Manny Montalvo' <>
Subject: RE:

[Quoted text hidden]

 manuel montalvo.doc
44K

Thu, Dec 9, 2010 at 3:52 PM

Manny Montalvo <>
To: 

[Quoted text hidden]

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Exhibit B

Proposal

E

Personnel Request

1) In order that the Director may more efficiently carryout his duties as Director of the East Chicago Library, the Board will pay to the Director a maximum of Six Hundred and 00/100 (\$600.00) Dollars each month, provided further that gasoline charges and maintenance expenses incurred during the use on official library or board business shall be borne by the Board along with current outstanding debit. (APPROVED UNDER NEW BUSINESS)

2) The Director/Board Members shall be encouraged to attend appropriate professional meetings at the local, state, national and international levels for professional growth. It is anticipated and agreed that the Director will incur certain personal expenses for the official business of the Board or Library. As such, the Board agrees to reimburse the Director for any such expenses incurred by the Director on behalf of the Library or Board, subject, however, to the Board's prior approval if expenses exceed Five Hundred and 00/100 (\$500.00) Dollars with proper substantiation. (APPROVED)

Proposal

F

Conference

- 1) 24th Annual NALEO Conference in Orlando, Florida; June, 2007. Director (est. \$1250.00) and registration of one Associate (est. \$300.00) (APPROVED UNDER NEW BUSINESS)

Personnel Committee Chairperson

**EAST CHICAGO PUBLIC LIBRARY
SUMMARY**

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Manuel Montalvo, Director:			
Library Director Travel, pages 9 through 12:			
Trips political in nature, personal, or lacked Library business purpose	\$ 7,902.38	\$ -	\$ 7,902.38
Unvalidated per diem advancements	300.00	-	300.00
Payment of two hotels for same dates	492.06	-	492.06
Cancelled travel	563.71	-	563.71
Unsubstantiated changes to travel dates	421.00	-	421.00
Director's Reimbursements, pages 12 and 13:			
Repairs and maintenance of Director's personal vehicle	1,677.07	-	1,677.07
Fuel for Director's personal vehicle	1,022.65	-	1,022.65
Total Manuel Montalvo, Director	<u>12,378.87</u>	<u>-</u>	<u>12,378.87</u>
Ernest Jones, former Board member:			
Employee and Board Member Travel, pages 13 and 14	200.00		
Paid February 9, 2011, Receipt 027312		200.00	-
Totals	<u>\$ 12,578.87</u>	<u>\$ 200.00</u>	<u>\$ 12,378.87</u>

AFFIDAVIT

STATE OF INDIANA)
)
Porter COUNTY)

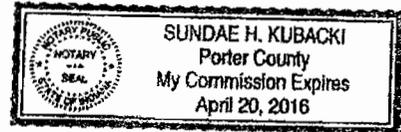
I, Michelle M. Janosky, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the East Chicago Public Library, Lake County, Indiana, for the period from January 1, 2008 to December 31, 2009, is true and correct to the best of my knowledge and belief.

Michelle M. Janosky
Field Examiner

Subscribed and sworn to before me this 27 day of January, 2011.

Sundae H. Kubacki
Notary Public

My Commission Expires: April 20, 2016
County of Residence: Porter



STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SUPPLEMENTAL REVIEW
OF

EAST CHICAGO PUBLIC LIBRARY
BOARD MEMBER COMPENSATION
LAKE COUNTY, INDIANA

January 1, 2008 to December 31, 2010



FILED
04/13/2011



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Examination Result and Comment:	
Introduction	4
Board Member Compensation.....	4-6
Exit Conference.....	7
Official Response	8-15
Summary	16
Affidavit	17

OFFICIALS

Office

Official

Term

Director

Manuel Montalvo

01-01-08 to 12-31-10

Treasurer of the Board

Chasidy Gomez

01-01-08 to 12-31-10

President of the Board

Clifton Johnson

01-01-08 to 12-31-10



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF EAST CHICAGO PUBLIC LIBRARY

We have examined the records of the East Chicago Public Library for the period from January 1, 2008 to December 31, 2010. We specifically examined the records relating to the benefits paid by the Library on behalf of the Library Board and certify that the records are satisfactory to the best of our knowledge and belief, except as stated in the Examination Results and Comments. The financial transactions of this office are reflected in the Examination Report of the East Chicago Library for the period ended December 31, 2009.

STATE BOARD OF ACCOUNTS

March 16, 2011

EAST CHICAGO PUBLIC LIBRARY
BOARD MEMBER COMPENSATION
EXAMINATION RESULT AND COMMENT

INTRODUCTION

The State Board of Accounts previously released an examination report for the East Chicago Public Library for the period ended December 31, 2009 (Report B38429). Included in that report was an Examination Result and Comment relating to benefits paid by the Library on behalf of the Library Board members. Our report was reviewed by the Indiana Attorney General's office and certain officials of the Indiana State Library. It was determined that the benefits paid by the Library on behalf of the Board members were not in compliance with laws and regulations as permitted by State statutes governing Libraries. Therefore, we have issued this report which includes, in detail, the amounts paid by the Library for health and life insurance benefits for members of the Library Board for the past 3 years.

BOARD MEMBER COMPENSATION

Health, Dental, and Vision Insurance

As stated in prior reports, the Library Board approved the payment of health, dental, and vision insurance premiums for Board members. Most of the members of the Board are receiving this "compensation," which includes family coverage. The Board members do not contribute toward the cost of the insurance and this fringe benefit is not included on a Miscellaneous Income Statement, Federal Form 1099.

Following is a schedule of premiums paid by the Library for Board members dental, health and vision insurance plans:

	2008 Premiums			Total
	Dental	Health	Vision	
Marco Arredondo	\$ 446.28	\$ 7,905.00	\$ 107.64	\$ 8,458.92
Chasidy Gomez	986.28	14,545.20	166.92	15,698.40
Clifton Johnson	1,294.20	17,153.88	231.48	18,679.56
Gary McCracken	446.28	7,905.00	107.64	8,458.92
Aldofo Velez	446.28	7,905.00	107.64	8,458.92
Totals	<u>\$ 3,619.32</u>	<u>\$ 55,414.08</u>	<u>\$ 721.32</u>	<u>\$ 59,754.72</u>

EAST CHICAGO PUBLIC LIBRARY
BOARD MEMBER COMPENSATION
EXAMINATION RESULT AND COMMENT
(Continued)

	2009 Premiums			
	Dental	Health	Vision	Total
Marco Arredondo	\$ 223.14	\$ 3,952.50	\$ 53.82	\$ 4,229.46
Hector Cavazos	358.14	5,968.29	76.98	6,403.41
Chasidy Gomez	986.28	14,545.20	166.92	15,698.40
Clifton Johnson	1,294.20	17,153.88	231.48	18,679.56
Gary McCracken	446.28	7,905.00	107.64	8,458.92
Aldofo Velez	446.28	7,905.00	107.64	8,458.92
Totals	\$ 3,754.32	\$ 57,429.87	\$ 744.48	\$ 61,928.67

	2010 Premiums			
	Dental	Health	Vision	Total
Hector Cavazos	\$ 1,346.26	\$ 19,670.54	\$ 254.32	\$ 21,271.12
Ricardo Garcia	134.80	5,195.90	74.70	5,405.40
Chasidy Gomez	950.18	11,361.20	156.12	12,467.50
Clifton Johnson	837.70	13,770.48	164.38	14,772.56
Gary McCracken	374.68	6,513.40	92.64	6,980.72
Aldofo Velez	939.72	12,810.88	182.45	13,933.05
Totals	\$ 4,583.34	\$ 69,322.40	\$ 924.61	\$ 74,830.35

Summary of Health, Dental and Vision Premiums by Year:

	2008 Total	2009 Total	2010 Total	Three Year Totals
Board member:				
Marco Arredondo	\$ 8,458.92	\$ 4,229.46	\$ -	\$ 12,688.38
Hector Cavazos	-	6,403.41	21,271.12	27,674.53
Ricardo Garcia	-	-	5,405.40	5,405.40
Chasidy Gomez	15,698.40	15,698.40	12,467.50	43,864.30
Clifton Johnson	18,679.56	18,679.56	14,772.56	52,131.68
Gary McCracken	8,458.92	8,458.92	6,980.72	23,898.56
Aldofo Velez	8,458.92	8,458.92	13,933.05	30,850.89
Totals	\$ 59,754.72	\$ 61,928.67	\$ 74,830.35	\$ 196,513.74

**EAST CHICAGO PUBLIC LIBRARY
BOARD MEMBER COMPENSATION
EXAMINATION RESULT AND COMMENT
(Continued)**

The Library also pays for life insurance for the board members. This is included on a Federal Wage and Tax Statement, Form W-2 as a fringe benefit.

Following is a schedule of the premiums paid by the Library for life insurance policies for the board members:

	2008 <u>Total</u>	2009 <u>Total</u>	2010 <u>Total</u>	Three Year <u>Totals</u>
Board member:				
Marco Arredondo	\$ 331.80	\$ 133.20	\$ -	\$ 465.00
Diana Garcia-Burns	331.80	266.40	44.40	642.60
Hector Cavazos	-	66.60	224.40	291.00
Ricardo Garcia	-	-	180.00	180.00
Chasidy Gomez	331.80	266.40	224.40	822.60
Clifton Johnson	215.76	173.28	115.54	504.58
Gary McCracken	324.04	173.28	208.88	706.20
Aldofo Velez	331.80	266.40	224.40	822.60
Totals	<u>\$ 1,867.00</u>	<u>\$ 1,345.56</u>	<u>\$ 1,222.02</u>	<u>\$ 4,434.58</u>

We requested repayment of health, dental, vision and life insurance premiums from board members as follows:

	Health, Dental, <u>and Vision</u>	Life Insurance	<u>Total</u>
Board member:			
Marco Arredondo	\$ 12,688.38	\$ 465.00	\$ 13,153.38
Diana Garcia-Burns	-	642.60	642.60
Hector Cavazos	27,674.53	291.00	27,965.53
Ricardo Garcia	5,405.40	180.00	5,585.40
Chasidy Gomez	43,864.30	822.60	44,686.90
Clifton Johnson	52,131.68	504.58	52,636.26
Gary McCracken	23,898.56	706.20	24,604.76
Aldofo Velez	30,850.89	822.60	31,673.49
Totals	<u>\$ 196,513.74</u>	<u>\$ 4,434.58</u>	<u>\$ 200,948.32</u>

IC 36-12-2-21 states: "A member of a library board shall serve without compensation. A board member may not serve as a paid employee of the public library, except the treasurer as provided in section 22 of this chapter."

We requested the above individuals reimburse the Library in the amounts specified for compensation they were not entitled to. Subsequent to our request, Marco Arredondo and Ricardo Garcia executed installment promissory notes with the Indiana Attorney General's Office for repayment of amounts owed.

EAST CHICAGO PUBLIC LIBRARY
BOARD MEMBER COMPENSATION
EXIT CONFERENCE

The contents of this report were conveyed to the Library Board members by a letter dated March 17, 2011. The official responses have been made a part of this report and may be found on pages 8 through 15.



BLACHLY, TABOR, BOZIK & HARTMAN, LLC

March 29, 2011

**Via Facsimile (317-232-4711) and
Certified Mail - Return Receipt
#7011 0110 0000 1757 4472**

David L. Hollenbeck
Thomas F. Macke
Randall J. Zromkoski
Craig R. Van Schouwen
Patrick Lyp
Jeffrey S. Wrage

STATE BOARD OF ACCOUNTS
ATTN: Mr. Michael H. Bozyski, CPA
302 West Washington Street, Room E418
Indianapolis, IN 46204

RE: Hector Cavazos, 4201 Ivy Street, East Chicago, Indiana 46312

Tracey S. Wetzstein
Ethan S. Lowe
Jason M. Denny
Scott R. Bozik

Dear Mr. Bozyski:

OF COUNSEL
James S. Bozik
Duane W. Hartman
Kingsley G. Regnier

Please be advised that my law firm has been retained by Hector Cavazos concerning all matters related to the State Board of Accounts audit of the East Chicago Public Library. I would respectfully request that you forward all future correspondence concerning this matter to me.

Quentin A. Blachly
(1934-1997)

Glenn J. Tabor
(Retired)

This correspondence is intended to serve as Mr. Cavazos' formal response to your letter dated March 17, 2011 entitled "Notice of Result of Examination." Initially, it should be noted that your March 17th letter indicates that the period covered was from January 1, 2008, to December 31, 2009. Be advised that Mr. Cavazos was not appointed to the East Chicago Public Library Board until July 13, 2009, and was not administered his oath of office until August 24, 2009. For your convenience, I have attached Mr. Cavazos' Certificate of Appointment to this letter confirming these dates. In addition, Mr. Cavazos did not begin receiving insurance benefits until approximately October 2009. Accordingly, I would request that you revise your records to reflect these dates. Once your records have been revised this should substantially reduce the amount of benefits that the State Board of Accounts claims Mr. Cavazos' received during this time period. To the extent that your letter includes benefits alleged to have been received by Mr. Cavazos after this time period, I would appreciate if you could contact me and confirm same.

Prior to discussing the specifics of your letter dated March 17, 2011, I believe it would be beneficial to provide you with a general background on Mr. Cavazos and his experiences on the Library Board. Mr. Cavazos is a small business owner that operates an office for American Family Insurance in East Chicago. Mr. Cavazos has operated his business for the last ten (10) years. In July 2009, Mr. Cavazos was asked by Richard Medina, the East Chicago City Council President, to serve on the Library Board. Initially, Mr. Cavazos was reluctant to accept this appoint to the Board given the fact that he had not previously served on similar Boards/Commissions. However, after some careful consideration, Mr. Cavazos accepted the appointment to the Library Board.

56 South Washington, Suite 401
Valparaiso, IN 46383
219.464.1041 phone
219.464.0927 fax

Merrillville Office
219.738.2824

Fort Wayne Office
260.459.3288



BLACHLY, TABOR, BOZIK & HARTMAN, LLC

State Board of Accts
March 29, 2011
Page Two

Upon accepting his appointment to the Board, Mr. Cavazos met with the former director of the Library, Manuel Montalvo, to discuss the Board and receive an orientation to the Library. During this meeting Mr. Montalvo informed Mr. Cavazos that all members of the Library Board were eligible to receive health, vision, dental and life insurance benefits for themselves and their families. At no point in time during this conversation did Mr. Montalvo indicate to Mr. Cavazos that the State Board of Accounts had previously contested the Board's ability to receive these benefits. At the time of this meeting, Mr. Cavazos and his family were being insured through his employer. Subsequent to this meeting, Mr. Cavazos elected to switch insurance carriers in order to receive the benefits afforded to Library Board members. To the best of his knowledge, Mr. Cavazos originally began being covered by the Library's insurance in October 2009. Had Mr. Cavazos been properly advised at this time that the State Board of Accounts was contesting the Board's ability to receive these insurance benefits, Mr. Cavazos would have declined same and continued to be insured by his employer.

At no point in time was Mr. Cavazos made aware that any issues existed related to these insurance benefits until November 2010 when the State Board of Accounts recent audit of the Library was made public. As you are aware, the State Board of Accounts' Examination Report of the Library consists of approximately Thirty-Three (33) pages and alleges a number of issues related to the compensation/reimbursement paid the former Library Director, Manuel Montalvo. Subsequent to the disclosure of the audit, Mr. Cavazos was informed that the State Board of Accounts had originally raised issues with these insurance benefits dating back to 2006. In addition, following the disclosure of the audit, Mr. Cavazos was informed that that the Library Board's attorney had been aware of the issues and taken the position that the Board's receipt of these benefits was not illegal and/or improper. Attached for your review, please find a copy of an article from the Times newspaper wherein the Board's attorney indicates that the State Board of Accounts position on these benefits is "squishy" and that the Board's receipt of same is not necessarily illegal.

On February 9, 2011, Mr. Cavazos was informed by the Library's director that his original appointment to the Board was improper and that, therefore, his position was being vacated. A copy of Mr. Montalvo's February 9, 2011, letter is attached. It is believed that Mr. Cavazos was removed from the Board due to his desire to address the problems identified in the audit rather than maintain the status quo. As you can see from Mr. Montalvo's February 9th letter, Mr. Cavazos' insurance benefits were terminated effective February 9, 2011, and February 28, 2011.



BLACHLY, TABOR, BOZIK & HARTMAN, LLC

State Board of Accts
March 29, 2011
Page Three

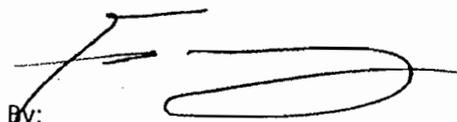
On March 9, 2011, Mr. Cavazos was re-appointed to the Library Board by the new Mayor of East Chicago, Anthony Copeland. A copy of Mr. Cavazos' most recent Certificate of Appointment is also attached to this letter for your review. Mr. Cavazos accepted this re-appointment to the Board in order to continue addressing the issues with the Board and Library. In being re-appointed to the Board, Mr. Cavazos has elected against continuing to receive the insurance benefits offered to Library Board members. Attached is a copy of an email from the Library's Human Resource Director, Espie Kolodziej, confirming that Mr. Cavazos is no longer receiving these benefits. It should also be noted that Mr. Cavazos and his family are currently uninsured as a result of his decision to decline these benefits. In speaking with Mr. Cavazos it is my understanding that his employer's insurance program is currently closed so that he and his family are prevented from re-enrolling at this time.

Despite the foregoing, Mr. Cavazos understands the State Board of Accounts' position on these benefits and willing to attempt to negotiate a settlement whereby said issues can be resolved. That said, in order so that Mr. Cavazos can better understand the State Board of Accounts demand for reimbursement, I would appreciate if you could provide me with a detailed explanation of the calculation that you used in determining that the total value of these benefits totaled Twenty-Seven Thousand Nine Hundred Sixty-Five Dollars and Fifty-Three Cents (\$27,965.53). Upon my receipt of this calculation I will review same with my client and provide you with a further response.

Both Mr. Cavazos and I look forward to receiving and reviewing your response to this letter. To the extent that you believe it would be beneficial, Mr. Cavazos is agreeable to meeting in person and/or participating in a telephonic conference to further discuss these issues.

If you have any questions or would like to discuss this matter further, please feel to contact me.

Very truly yours,
BLACHLY, TABOR, BOZIK & HARTMAN

By: 
Ethan S. Lowe

ESL/jlg
Enclosures
cc: Client



Murphy Law Firm

Attorneys at Law

6939 Kennedy Avenue

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April 8, 2011

Mr. Paul Joyce, CPA
Indiana State Board of Accounts
Deputy State Examiner
302 West Washington Street
Room E-418
Indianapolis, Indiana 46204-2765

RE: Office Examined: East Chicago Public Library
Period Covered: January 1, 2008 to December 31, 2009
Amount Due Treasury: \$5,585.40
On Account of: Board Member Compensation
Our Client: Ricardo Garcia
Our File No.: 15662

Dear Mr. Joyce:

I am writing on behalf of our client, Ricardo Garcia, to formally respond to the claim of indebtedness made by the State Board of Accounts reference the above-captioned matter.

During the period covered, Mr. Garcia served as a member of the East Chicago Library Board. During the course of service as a Board Member, Mr. Garcia received the health insurance premium payment benefits claimed upon the advice of the Library Board's legal counsel, Carmen Fernandez. Having retained independent legal counsel subsequent to receipt of notice of indebtedness, Mr. Garcia hereby offers to reimburse the fringe benefits provided in the amount claimed.

Mr. Garcia understands that the amount claimed beyond the period covered to the present date. Specifically, the amount claimed includes all health insurance premium payments made from May 1, 2009 to March 31, 2011. Enclosed, please find Mr. Garcia's draft, No. 182, in the amount of \$232.72 towards the claimed amount. Additionally enclosed, please find the properly executed Promissory Note setting forth payment of the remaining claimed amount in monthly installment payments.

Mr. Paul Joyce
RE: Ricardo Garcia
April 8, 2011
Page 2

We are requesting the explanation herein be included in the public record of the audit. Further, we are requesting a copy of the finalized audit once the same has been made public.

Thank you for your attention to this correspondence.

Very truly yours,

MURPHY LAW FIRM

BY: J. JUSTIN MURPHY

JJM:cah

Enclosures: 1) Promissory Note
2) Amortization Table
3) Draft No. 182 in the amount of \$232.72

cc: Ricardo Garcia

March 28, 2011

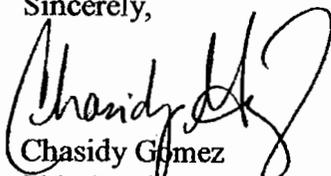
State Board of Accounts
Att: Michael H Bozyski, CPA
302 West Washington Street, Room E418
Indianapolis, Indiana 46204-2765

RE: Notice of Result of Examination

Please be advised that during the period of January 1, 2008 to December 31, 2009, in which the State Board of Accounts performed an examination on the East Chicago Public Library, my position on the East Chicago Public Library Board was Treasurer.

According to IC 36-12-2-21, this would exempt me from the amount due to the Treasury, as stated on the report by the State Board of Accounts. Please see the enclosed attachment that supports my explanation.

Sincerely,


Chasidy Gomez
2115 Purdue Drive
East Chicago, IN 46312



STATE OF INDIANA

Roberta L. Brooker, State Librarian

Mitchell E. Daniels, Jr.
Governor

INDIANA STATE LIBRARY
315 West Ohio Street
Indianapolis, IN 46204
Phone: (317) 232-3735
Fax: (317) 232-0002
TDD: (317) 232-7763

February 25, 2011

Via Email and U.S. Mail

Manual Montalvo, Director
East Chicago Public Library Trustees
East Chicago Public Library
2401 East Columbus Drive
East Chicago, IN 46312-2998

RE: Insurance Benefits for Library Board Members

Dear Mr. Montalvo and East Chicago Public Library Trustees:

It has been brought to the attention of the Indiana State Library (ISL) that the East Chicago Public Library (ECPL) is continuing to provide health insurance benefits to its board members despite being notified by the Indiana State Board of Accounts that this practice is inconsistent with Indiana state law.

IC 36-12-2-21 clearly states that, with the exception of the treasurer, library board members **shall serve without compensation**. Compensation includes health/dental/vision/life insurance benefits. To the extent that the ECPL board members are currently receiving some form of compensation for serving on the ECPL board, that compensation is in violation of Indiana law and must be immediately discontinued with regard to all board members with the possible exception of the treasurer.

The question whether or not library board positions can be considered "lucrative positions" has been posed recently by various people. According to Indiana law, the only library board position that could be a lucrative position is the Treasurer. The other board members are ineligible to receive any form of compensation and therefore the other library board positions are not lucrative.

An ISL representative will follow up with the ECPL at a later date to confirm that the ECPL has rectified this situation.

Regards,

Sylvia Watson
General Counsel

CC: Roberta Brooker, ISL Director
Jim Corridan, ISL Deputy Director
Attorney Carmen Fernandez

IC 36-12-2-21 Compensation

Sec. 21. A member of a library board shall serve without compensation. A board member may not serve as a paid employee of the public library, except the treasurer as provided in section 22 of this chapter.
As added by P.L.1-2005, SEC.49.

LAW OFFICE

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March 30, 2011

Mr. Michael H. Bozyski, CPA
Deputy State Examiner
State Board of Accounts
302 West Washington Street
Room E418
Indianapolis, IN 46204-2765

RE: Clifton Johnson – East Chicago Public Library

Dear Mr. Bozyski:

This is to advise that I represent Clifton Johnson regarding the matters raised in your letter of March 17, 2011 making demand for the payment of \$52,636.26.

Please direct all future correspondence and communications concerning this matter to my attention.

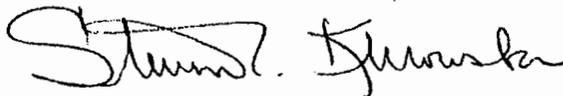
We must respectfully decline to honor your demand for repayment of this sum.

I am requesting on my client's behalf that the State Board of Accounts provide my office with a detailed account on which this demand for payment is based.

I look forward to receipt of the information requested.

If you require anything further from us at this time, please do not hesitate to contact my office.

Very truly yours,



Steven A. Kurowski
Attorney at Law

SAK:dlv

AFFIDAVIT

STATE OF INDIANA)
)
LAKE COUNTY)

I, Michelle M. Janosky, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the East Chicago Public Library, Lake County, Indiana, for the period from January 1, 2008 to December 31, 2010, is true and correct to the best of my knowledge and belief.

Michelle M. Janosky
Field Examiner

Subscribed and sworn to before me this 7 day of April, 2011.

Carol J. Cody
Notary Public

CAROL J. CODY
Notary Public
State of Indiana
My Commission Expires Oct 11, 2014

My Commission Expires _____

County of Residence: LAKE