

February 9, 2015

Coatesville Area School District
Dr. Cathy L. Taschner, Superintendent
3030 C.G. Zinn Road
Thorndale, PA 19372

RE: Public Release of Investigative Reports

Dear Parents, Staff and Community Members:

Today, after much thoughtful consideration and deliberation, and in the interests of openness, transparency and accountability, the Board of School Directors for the Coatesville Area School District is making available to the public the Investigative Report and the Supplement to the Investigative Report prepared by my firm, Conrad O'Brien PC, as well as the Report of our forensic accountants, BDO USA, LLP. As directed by the Board of School Directors, these now publicly-available reports contain very little blacked out text, with the blacked out text being limited primarily to the names or identities of individuals not specifically mentioned or referenced in the Chester County 18th Investigative Grand Jury's Report dated December 3, 2014.

As detailed in these investigative reports, when we embarked on our investigation more than a year ago, we encountered a school district that was rife with issues of fiscal mismanagement, lack of accountability, abuse of power and the misappropriation, and even theft, of school district funds. Fortunately, in the time between our initial retention and the public release of these investigative reports, the school district and its new leadership have taken significant strides and made remarkable progress in correcting and rectifying many of the issues and concerns raised in the reports. Indeed, in the last six months, we have seen the majority of the recommendations in the reports either fully or partially implemented, including, but not limited to:

- The performance of a personnel audit and the review of all teacher and administrator certifications and staff criminal histories.
- The decentralizing of the hiring process at the school district, with an eye toward eliminating cronyism, nepotism and favoritism.
- The development and implementation of clear policies, procedures and protocols related to the handling, counting and depositing of cash at the school district.

- The development and implementation of clear policies, procedures and protocols related to the rental of school district facilities.
- The drastic reduction in the number of school district employees with district-funded cellular phones and phone plans.
- The development and implementation of clear policies, procedures and protocols related to employee travel reimbursements.
- The implementation of competitive bidding practices for school district contracts.
- The retention of a new Solicitor.
- A resolution to seek reimbursement from the former Superintendent and the former Athletic Director for any school district funds allegedly misused, misappropriated or stolen during their tenure.
- A resolution to take legal action against the former Solicitor for alleged overbilling and improper use of school district technology.
- A limited waiver of the attorney-client privilege in order to allow the Chester County District Attorney's Office to review records and conduct interviews of attorneys associated with the former Solicitor's law firm regarding allegations of overbilling.

All of these changes and improvements have been implemented with the goal of restoring the public trust and preventing any future misuse or abuse of authority at the school district.

In closing, I would like to take the opportunity to commend the caring, dedicated and unrelenting staff, parents and community members of the Coatesville Area School District, all of whom were instrumental and played a key role in bringing about the undeniable culture change and progress at the Coatesville Area School District over the last year. Further, I would like to commend the new leadership at the Coatesville Area School District, spearheaded by several new members of the Board of School Directors, new Superintendent Dr. Cathy Taschner and new Solicitor Michael Levin, for their unwavering commitment to correcting past digressions and moving the school district forward from the indiscretions and abject failures of prior leadership. Without the commitment and support of all of these individuals, both inside and outside of the hallways of the Coatesville Area School District, the type and extent of meaningful change and progress that has occurred to date, and that hopefully will continue to occur into the future, would have been impossible and proven futile.

Sincerely,



Matthew H. Haverstick

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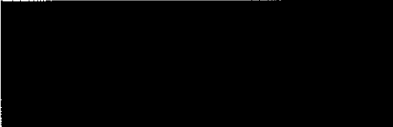
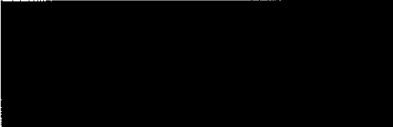
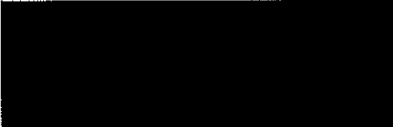
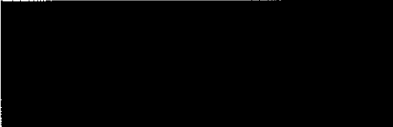
**INVESTIGATIVE REPORT TO THE BOARD OF SCHOOL
DIRECTORS FOR THE COATESVILLE AREA SCHOOL DISTRICT**

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I. INTRODUCTION

A. SCOPE OF WORK/MANDATE

On or about October 22, 2013, our firm, Conrad O'Brien PC, was retained as special independent counsel by the Board of School Directors (the "Board") for the Coatesville Area School District ("CASD") for two primary purposes:

1. To interface, liaise and cooperate with the Chester County District Attorney's Office (the "DA's Office") concerning its ongoing criminal investigation into allegations of nepotism/cronyism at CASD, allegations of the misuse, misappropriation and theft of CASD funds and property, and allegations of obstruction of justice and witness tampering by the Solicitor and the Board; and
2. To conduct our own independent internal investigation into not only the potentially criminal allegations being investigated by the DA's Office, but also the actions of CASD's Solicitor and the Board following the discovery and subsequent public disclosure of offensive text messages between CASD's former Superintendent and former Director of Activities, Athletics & Compliance.

As has been well documented in the media, the retention of our firm came as the result of a public backlash following the disclosure of racist, sexist, bigoted and otherwise distasteful text messages between CASD's former Superintendent, Richard W. Como, and James A. Donato, III, CASD's former Director of Activities, Athletics & Compliance. Both Mr. Como and Mr. Donato have since resigned from their positions, and are no longer affiliated with CASD. Both Mr. Como and Mr. Donato are believed to be targets of the DA's Office's criminal investigation for issues and allegations discussed in the content of the text messages, but not for actually sending the offensive text messages. Although despicable, disgraceful and reprehensible, merely sending and receiving offensive text messages without more is generally not a crime or illegal.

Our retention also arose following the public revelation by the DA's Office that CASD's Solicitor, James Ellison, Esquire, was a potential target of its criminal probe and, therefore, that the Solicitor had a conflict of interest that precluded the Solicitor from continuing to represent CASD in the criminal investigation and related matters. In this regard, the DA's Office publicly accused the Solicitor and the Board of attempting to obstruct, impede and delay its criminal investigation. In conjunction with our retention, the Solicitor advised us and the Board that he would be "walled off and isolated from the District's further handling of these matters," and that no information related to these matters should be shared with him or his law firm going forward. See R&S000420-21. The Solicitor continues to represent the Board and CASD with regard to day-to-day matters not involving the text message scandal or the DA's Office's criminal investigation.

B. METHODOLOGY OF INVESTIGATION

1. Witness Interviews

Due to the fact intensive nature of our investigation, we interviewed in excess of ninety witnesses over a five month period, all of whom were current or former employees of CASD,

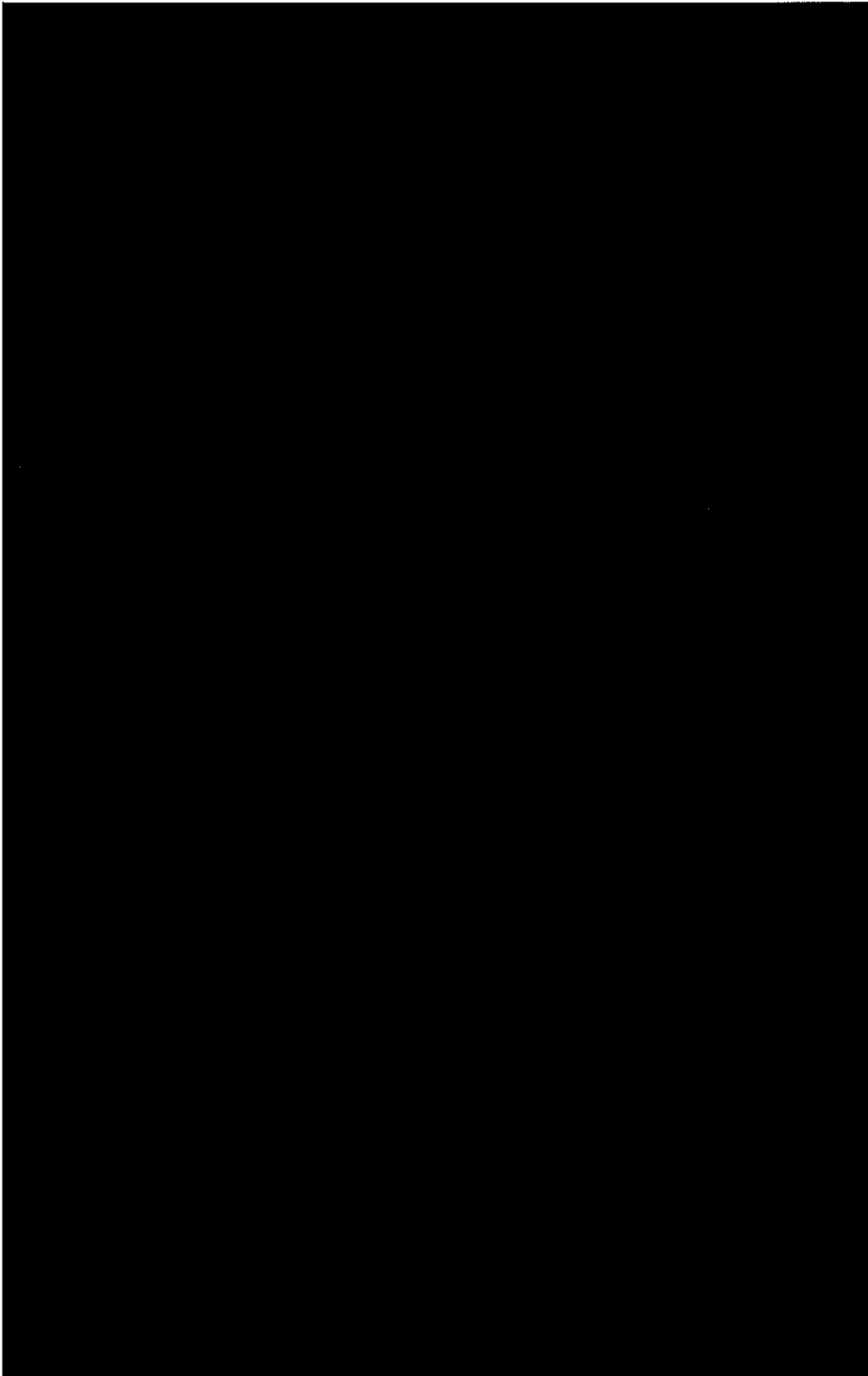
and many of whom we interviewed with union representatives or individual counsel present. A few of the witnesses we interviewed on more than one occasion. The majority of witnesses we interviewed in-person at CASD, while a few of the witnesses were interviewed by phone for convenience. All of the witnesses appeared voluntarily, and none of the witnesses were intimidated or threatened with insubordination if they failed to cooperate or answer our questions. The witnesses interviewed included the following:

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We also accompanied several of these current and former employees of CASD to separate interviews conducted by the DA's Office as part of its criminal investigation. Several of the witnesses also had a union representative or union counsel present at these government interviews.

We attempted to interview several other former employees of CASD potentially with knowledge of facts relevant to our investigation, but they either refused our request to be interviewed through individual counsel or did not respond. Those former employees who declined to be interviewed are:

1. Como, Richard—Former Superintendent
2. [REDACTED]
3. [REDACTED]
4. Donato, James—Former Director of Activities, Athletics & Compliance

In addition to current and former employees of CASD, we also interviewed several community members and taxpayers who voluntarily reached out to us with information, as well as complaints, for us to investigate.

Likewise, we interviewed several witnesses from third-party vendors and contractors of CASD that were implicated in our investigation, including, but not limited to, representatives from Reclamere, Inc., DMS Computer Forensics Investigations, LLC, Verizon Wireless and Jostens, Inc.

We attempted to personally interview the Solicitor, but counsel for the Solicitor would only agree to answer our questions indirectly through counsel. We provided counsel for the Solicitor areas of questioning, and, in response, counsel for the Solicitor provided us general answers.

Lastly, during the final stages of our investigation, we attempted to interview a witness from the Solicitor's former law firm, Rhoads & Sinon, who worked closely with the Solicitor and who we believed had relevant and helpful information to our investigation. A majority of the Board, however, refused to allow us to interview this witness because of the expense of our investigation and their belief that we had interviewed enough people to complete our investigation and report.¹

¹ If the Board permits us to interview this witness, or other attorneys from Rhoads & Sinon, we will supplement this report accordingly.

2. Document Review

In conjunction and coordination with our witness interviews, we collected, reviewed and analyzed tens of thousands of pages of paper documents and electronically stored information ("ESI"). The paper documents and ESI we reviewed and analyzed came from three primary sources:

1. The various departments and offices within CASD, with the majority of documents coming from the Business Office, the Human Resources Department, the Facilities Department, the IT Department and the Athletics Department.
2. The law firm of Rhoads & Sinon, which provided us with its client file related to the text messages.
3. Witness interviews, during which interviewees provided us with documents either during or after interviews.

The paper documents and ESI collected, reviewed and analyzed included, but were not limited to:

- Personnel files
- Deposit slips, revenue audit trails and related banking documentation
- Purchase orders, payment information and related expenditure documentation
- Salary documents, timesheets and related information
- Supplemental, overtime and extra duty pay records and related information
- Vendor payment histories, encumbrance reports and related documentation
- Reimbursement records and related information
- Summer school records and related information
- Fundraising records and related information
- Athletic event gate records, receipts, revenues and deposits
- Athletic event concession stand records, receipts, revenues and deposits
- School banker records, receipts, revenues and deposits
- Facility rental records, contracts, payment information and related documentation
- Cellular phone and data plan records, invoices and payment information
- Football championship ring records, invoices and payment information
- Computer forensic vendor records, invoices and payment information
- Solicitor's client file related to text messages
- Solicitor's billing statements, invoices and payment information
- Sale of tax lien records, agreements and related documentation
- Full text message transcript retrieved from cellular phone of Mr. Donato
- Emails and correspondence to and from Mr. Como, Mr. Donato, Mr. Ellison and other school administrators
- School policies and procedures
- Audit reports and related documentation
- Timelines and notes prepared by witnesses
- Prior confidential and privileged reports prepared for Board by outside counsel

Much of these paper documents and ESI have been produced to the DA's Office as part of its criminal investigation in response to no less than five (5) grand jury subpoenas received by CASD since our retention. We are continuing to produce documents to the DA's Office on a rolling basis, and we will continue to do so until all of the DA's Office's document requests are fulfilled and completed.

3. Retention of Accounting and Computer Forensics Experts

Shortly after our retention and the commencement of our investigation, we retained two experts to help us navigate the complicated and sophisticated accounting and computer-related issues at the heart of this matter.

First, in January 2014, we retained a forensic accounting firm, Alpern Rosenthal, to provide forensic accounting and consulting services related to our investigation. Specifically, we asked that Alpern Rosenthal conduct a thorough review and analysis of the CASD Athletic Department and, to the extent possible, quantify any financial damages experienced by that department during the tenure of Mr. Donato. Similarly, we asked that Alpern Rosenthal, to the extent possible, quantify any additional cash-related losses experienced by CASD, primarily as the result of alleged cash skimming by Mr. Donato and/or Mr. Como. Alpern Rosenthal is drafting a report of its findings, conclusions and recommendations, which will be provided to the Board at later date as a supplement to this report.

Second, in January 2014, we retained a computer forensics firm, Stout Risius Ross, Inc. ("SRR"), to take custody and possession of the ESI data collected by the computer forensics firm initially retained by the Solicitor, Reclamere, Inc., and to review and assess Reclamere's collection efforts. SRR also was tasked with putting the data collected in a reviewable format to be reviewed for purposes of our investigation and to produce to the DA's Office in response to requests related to their criminal investigation. SSR has provided us with a report assessing Reclamere's collection efforts, which is included in the appendix of documents to this report. *See* CASD019075-76. In sum, SSR concluded that Reclamere's collection efforts were incomplete, unverifiable and far below industry standards. *See id.* As a result, SSR recommended that CASD recollect all of the ESI data that Reclamere initially collected to ensure complete and verifiable copies of all data and information. *See id.* This collection effort was subsequently performed and completed on April 3-4, 2014.

II. EXECUTIVE SUMMARY

As we delved into the facts and circumstances surrounding the racist, sexist and bigoted text messages that initiated our investigation, several new and, at times, unrelated issues and concerns became readily apparent. We followed all leads and complaints where they took us and, in the process, uncovered a disturbing and, unfortunately, recurring pattern at Coatesville Area School District ("CASD") of abuse of power, lack of accountability, incompetence, fiscal mismanagement, bloated legal costs and the misappropriation (and even theft) of limited CASD resources. This report must be digested in its entirety to fully understand all of the issues and concerns our investigation uncovered, but what follows is a brief, high-level synopsis of the four major themes we encountered.

First, there is in undeniably pervasive culture at CASD of nepotism, favoritism and cronyism that was exacerbated during the tenure of the former Superintendent Richard Como. While Superintendent, Mr. Como hijacked the hiring process at CASD, unilaterally deciding who would be hired and fired and who would be promoted to positions of authority within the District. Mr. Como's friends and family were the primary beneficiaries of this culture.

At the administration level, Mr. Como had a penchant for hiring young, inexperienced and impressionable individuals that he could mentor, manipulate and control. Included amongst these administrative hires is probably the most blatant instance of nepotism at CASD—Matt Como—who was hired by his father to be the Supervisor of Night Custodians without any legitimate management experience and no custodial experience at all. This hiring practice at the administrative level often led to the employment of unqualified and under-qualified individuals, causing them to frequently turn to the Solicitor for what should have been routine administrative duties and matters.

At the lower levels, Mr. Como used his authority to award friends, former students and, most notably, former athletes with patronage jobs as classroom aides, custodians, coaches or wherever other positions existed at the time. The fact that several of these patronage hires may have had criminal histories that legally precluded them from working in a school district was never a deterrent to Mr. Como. Rather, Mr. Como simply hired first and then asked questions later, often calling on the Solicitor to legally justify certain hires' retention.

In addition to taking care of his own family and friends, Mr. Como also curried favor with the CASD Board of School Directors by hiring their friends and family. Several current and former Board members have family and friends employed at CASD because of direct requests made by them to Mr. Como. Mr. Como almost always obliged the hiring requests of Board members, with Mr. Como even responding to one Board member's request with: "When we can't help each other[']s family out we don't deserve to be in this arena."

Second, during the tenure of both Mr. Como and former Athletic Director James Donato, CASD funds were regularly and systematically misused, misappropriated, diverted and even stolen from several sources at CASD, including, but not limited to, the Athletic Department, the Facilities Department, Student Council and Summer School.

The most egregious misappropriation and theft of CASD funds appears to have occurred in the Athletic Department, where the evidence suggest that Mr. Donato skimmed and pocketed cash revenues from gate receipts and concession stands at CASD athletic events. In addition to CASD athletic events, Mr. Donato also unilaterally arranged for other non-school district events to be held at CASD facilities for alleged cash payments to him in contravention of CASD's Use of Facilities Policy. Often times, CASD employees would then staff these non-school district events, with CASD funds being used to pay their wages.

Allegations have been raised that Mr. Como also may have skimmed and pocketed cash revenues collected for Student Activities and Summer School programs at CASD. Although these general allegations cannot be definitely substantiated, it is clear that Mr. Como specifically diverted and misappropriated CASD funds in order purchase championship rings for the 2012

CASD football team and coaches. Indeed, in order to pay for the rings, Mr. Como directed that funds be transferred from the Student Council account and the High School Budget, and that cash be skimmed from Summer School payments and deposited into a separate account. All of this, of course, was accomplished covertly and under the threat of retribution from Mr. Como for noncompliance.

Third, although maybe not deliberate or illegal, the billing practices of CASD's Solicitor, James Ellison, Esquire, are highly suspect and questionable. On their face, Mr. Ellison's legal bills often contain vague descriptions, questionable hours and inappropriate charges for travel time. However, beyond their face, the legal bills raise the more troubling issue of CASD's overreliance and overdependence on Mr. Ellison. Mr. Ellison is consulted too often on even the most trivial of issues, even if not legal in nature. Moreover, even if not called upon, Mr. Ellison appears to routinely insert himself into the affairs of CASD. It appears that no limits have been placed on the availability and opportunities for Mr. Ellison to bill for his advice and consultation.

Moreover, it appears that Mr. Ellison has used this overreliance and overdependence to his personal advantage by having CASD provide him with a CASD-funded cell phone and iPad. We are simply unaware of any other school district in this Commonwealth using taxpayer funds to pay for the *entire* cell phone and data plans for a privately-retained Solicitor, especially when that Solicitor can, and admittedly does in this case, use that technology for personal use, as well as for other clients.

Fourth, and finally, there is clear and convincing evidence that, following the initial discovery of the racist, sexist and bigoted text messages, certain members of the Board and Mr. Ellison attempted to suppress and conceal the public disclosure of the messages. This effort appears to have been primarily driven by the legitimate fear amongst the Board and Mr. Ellison that, if the text messages were made public, it would "devastate the district." However, the way in which this effort was carried out was clumsy, reckless and imprudent.

The evidence suggests that, at first, the plan of the Board and Mr. Ellison was to have Mr. Como stay on as Superintendent until the end of the year and then have him retire, without the text messages being made public. That initial plan apparently then changed to permit Mr. Como to retire at the beginning of the year, again without the text messages being publicly released. This all changed, however, once the two whistleblowers met privately with the media and publicly released the transcript of the text messages. At this point, the Board and Mr. Ellison were left frantically trying to address the text messages that they feverishly tried to suppress.

Following the public disclosure of the text messages by the whistleblowers, Mr. Ellison then embarked on his own "independent investigation" into the actions and conduct of the whistleblowers, apparently because he and the Board felt angered and betrayed by the public release of the text messages by individuals employed at CASD. Indeed, at this point, it became less about the hurtful words and conduct of the two texters and more about targeting and disciplining the two whistleblowers, if possible. Other administrators at CASD were tasked with "papering the record" in order to justify discipline against, or termination of, the two whistleblowers. And Mr. Ellison had attorneys at his firm research if, how, when and under what circumstances CASD could legally discipline or terminate the whistleblowers. This overt targeting and harassment of the whistleblowers by Mr. Ellison continued up until the point of our

retention. The fear is that this targeting and harassment has continued since our retention, but under more furtive circumstances and under the guise of other investigations still allegedly being conducted by Mr. Ellison and other counsel.

Based on our investigation, we detail a number of recommended changes in operations, practices and policies later in this report. Among the most significant are:

- Conduct a thorough personnel audit, including an examination of the hiring practices and processes at CASD and a review of the criminal histories of all employees;
- Draft clearly defined policies, procedures and protocols for the handling, counting and depositing of cash at CASD;
- Draft clearly defined policies, procedures and protocols for the rental of school facilities at CASD;
- Eliminate all CASD-funded cell phones and plans, or, at a minimum, drastically reduce the number of CASD employees with CASD-funded cell phone plans;
- Draft and implement a formal whistleblower policy for CASD and appoint a compliance officer/whistleblower contact; and
- Immediately issue an RFP for a new CASD Solicitor.

We are mindful that some of the recommendations, if implemented, would have substantial budgetary, organizational or other practical impacts and impediments. As such, the recommendations should be taken for what they are—our best thoughts based on the information garnered through our investigation, and a starting point for further debate and analysis.

III. PRIMARY ACTORS

A. RICHARD W. COMO

1. Background

Richard W. Como began his career in education in the Fall of 1969 as a Health and Physical Education Teacher and Assistant Football Coach at Upper Merion High School. *See* CASD012248. In 1977, Mr. Como was promoted to Administrative Assistant, Coordinator of Student Activities and Athletics, and Head Coach at Upper Merion where he remained until 1983, when he took a position as an Assistant Football Coach at Duke University. *See id.* After three seasons, Mr. Como left Duke in 1986, and became a Physical Education Teacher and Head Football Coach in the Coatesville Area School District. *See id.* The following year, Mr. Como was hired as Director of Student Activities and Athletics at Upper Merion High School. *See id.* After only a year, Mr. Como returned to Coatesville in 1988, when he was hired as an Assistant Principal at the High School. *See* CASD012213. Mr. Como served as Assistant Principal from the Fall of 1988 until the Summer of 1995 when he applied for and was promoted to Principal. *See* CASD 012210.

In the Fall of 2005, Mr. Como, who at the time was taking courses in pursuit of his doctorate, which he never obtained, became Superintendent of the District, remaining in this position until his resignation on September 24, 2013. *See* CASD012104. At the time of his

resignation, Mr. Como had an annual salary of \$247,495. See CASD012110. This was a 10% increase over his prior year's salary, with this increase being approved by the Board because of "complete satisfaction" with Mr. Como's efforts even though faced with "extreme challenges," which the Board felt Mr. Como "handle[d] with the up most [sic] integrity." CASD012116.

2. Management Style

Witness descriptions of Mr. Como's management style varied; however, several consistent narratives emerged.

(a) Coach or Bully?

Mr. Como ran the District using fear and intimidation as his primary method of persuasion. For example, District employees who failed to comply with Mr. Como's directives would frequently be "dressed down" during staff meetings—that is, Mr. Como would reprimand or "call out" an employee in front of that employee's peers. Several witnesses noted that Mr. Como would less frequently berate employees in private, reserving his harshest criticism for an audience so others could learn from the example. In this regard, most described Mr. Como as a "bully," and even those witnesses that likened this behavior to that of a coach admitted that Mr. Como's methods were, many times, inappropriate. One witness, a friend of Mr. Como's, defended Mr. Como's actions saying that Mr. Como "bullied even his friends." This is consistent with the accounts of many other witnesses who stated that "there wasn't anyone that Mr. Como didn't dress down."

Mr. Como ran the District like a power-hungry dictator. The very few employees who challenged Mr. Como's decisions or stood up to him were ostracized. Mr. Como valued those who bent to his will and distanced those who questioned his methods. He created an environment where employees were afraid to ask questions or voice their opinions for fear of retribution. One witness recalled an instance where Mr. Como approached her about her supervisor's dating life. When the employee declined to comment, Mr. Como "reminded" the employee that he had the power to move her anywhere in the District if she refused to answer him.

It appears that Mr. Como frequently used his authority to make employment decisions to extract information from employees or quash an employee's attempt to challenge his decision. For example, a witness recalled hearing Mr. Como remind a high-level administrator that he was the reason she had her job when she questioned his approach.

This abrasive and abusive management style appears to have been Mr. Como's *modus operandi* since at least 1996 as evidenced by a July 7, 1997 letter from [REDACTED], who at the time was the Assistant Superintendent, to Mr. Como about his Performance Evaluation for the 1996-1997 school year. See CASD012192-96. [REDACTED] wrote:

While I have applauded your passion for components of the educational program, I must present to you the observation that prudent judgment, composure, and professional attitude are all descriptors for this area. *I have validated that on multiple occasions your professionalism was overtaken by your personal*

passion, thus negating your professional attitude. Specifically, we are a customer driven agency and as such combative confrontation with parents proves to create nothing more than adversarial roles. Through the closing of this school year, I have received the names of approximately 22 adults whose position it was, that you created for them a pugnacious atmosphere. What is worse, these parents contended that they feared for retribution upon their children as a result of their coming forward.

CASD012193 (emphasis added).

(b) "Inner Circle"

Referred to as his "clique," "posse," and "inner circle," the group of people that Mr. Como surrounded himself with played a very important role in Mr. Como's reign as Superintendent. Although witness statements regarding who exactly comprised this "inner circle" varied, there were several individuals consistently named. For example, every witness stated that head of the Guidance Department, Rebecca ("Becky") Layfield, was close to Mr. Como. Ms. Layfield herself acknowledged that she and Mr. Como are close friends. Ms. Layfield cleans Mr. Como's home and pays his bills. She keeps her second car in Mr. Como's garage and helps Mr. Como with essentially anything that necessitated the use of a computer. A witness recalled that Ms. Layfield would frequently leave in the middle of the school day to "meet the plumber at Rich's" or because "furniture was being delivered" at Mr. Como's house.

This relationship was described by witnesses as primarily personal rather than professional in nature. However, witnesses recalled that Mr. Como came to see Ms. Layfield almost every time he visited the high school and that Mr. Como "summoned" Ms. Layfield to his office several times a week. It appears that employees believed that Ms. Layfield acted as Mr. Como's "eyes and ears" at the high school. Employees continue to fear that Mr. Como is seeking information through Ms. Layfield.

Mr. Donato was also always named as being in Mr. Como's inner circle. When questioned how and why Mr. Como and Mr. Donato were so close, most witnesses guessed it was because both men are of Italian heritage and share a love of sports, especially football. Assistant Superintendent Dr. Angelo Romaniello, Director of Human Resources Erika Zeigler, and Solicitor James Ellison were named with relative consistency as being a part of this group. Sometimes included were the Head Football Coach, the Director of High School Education, a former Principal and now Physics Teacher, and a former CASD Police Officer.

With the exception of Ms. Layfield, the other members of Mr. Como's inner circle share common characteristics: they are relatively young and owe their current positions in large part to Mr. Como. These characteristics are, as one witness aptly described it, a reflection of Mr. Como's deliberate attempt to surround himself with young, impressionable people that he could manipulate and who, because of his aid in advancing their careers, were indebted to him or otherwise possessed a strong sense of loyalty. Mr. Como placed members of his inner circle in decision-making positions and used his influence over them to ensure that decisions were made

in accordance with his plans. Each individual in Mr. Como's circle represented a measure of control Mr. Como could exert over the affairs of the District.

Mr. Como's control over Ms. Zeigler, for example, ensured that those individuals Mr. Como wanted hired were hired. In fact, witnesses recalled that Ms. Zeigler had a special "Como file" containing the resumes of individuals that Mr. Como wanted hired. Mr. Como's control over Ms. Zeigler essentially gave Mr. Como control over hiring. Additionally, Mr. Como used the former CASD police officer's presence to "legitimize" his actions. For instance, several witnesses recalled that the officer was present when Mr. Como and Mr. Donato took money from parent boosters who were working at the concession stand during a large track meet. The witnesses, who did not think Mr. Como and Mr. Donato should be taking the money, felt they could not protest given that the officer was there with Mr. Como.

Dr. Romaniello often served as Mr. Como's henchman or scapegoat. Mr. Como would use Dr. Romaniello to carry out questionable actions and would instruct employees through Dr. Romaniello. Mr. Como was also close with Mr. Ellison, who was frequently present at the Benner Administration Building during meetings at which employment decisions were made. Mr. Ellison's name was consistently used as a basis for actions Mr. Como and others took. As with the former police officer, Mr. Como would use Mr. Ellison's presence or instructions to legitimize employment decisions and other actions.

(c) Relationship With Board

The majority of witnesses interviewed who gave information regarding Mr. Como's relationship with the Board stated that Mr. Como had the Board "wrapped around his finger" or "in the palm of his hand." One witness described Mr. Como as a politician. He would be the first person to arrive at Board meetings and the last to leave, and he knew who to befriend. Mr. Como did favors for Board members by, for example, hiring their family and friends. In exchange, Mr. Como was given relative autonomy to make unilateral decisions regarding everything from hiring to the budget. An example of this control is that Mr. Como was given complete authority to hire and fire employees during the summer months. Although his decisions were subject to Board approval during the first Board meeting of the following school year, witness statements establish that the Board simply "rubber stamped" any decision he made.

3. CASD Culture and Community Perception

Several witnesses observed that Mr. Como tended to gravitate towards individuals who were troubled. Although a part of this tendency appears to have been driven by Mr. Como's desire to provide support and opportunity to those facing adversity, Mr. Como's contempt for those who achieved success without his assistance suggests that this inclination had its genesis, in large part, in insecurity and ego. Individual success, which could not be at least partially attributed to Mr. Como, appears to have frustrated and annoyed Mr. Como. While some witnesses speculated that this was a result of jealousy or insecurity, others thought it was because Mr. Como could not use their success to his advantage. Since these individuals were successful without his assistance, they did not owe Mr. Como and were less likely to bend to his will. Unlike those who felt indebted to Mr. Como and who deferred to Mr. Como, these individuals

did not show the same amount of deference. Their success, therefore, thwarted Mr. Como's mission to exert complete control over the School District's operations.

(a) Text Messages

Witnesses' reactions to the text messages differed. Many showed little surprise about the vulgar language and sexist comments, but most were surprised by the racist comments and loose talk of misappropriating district resources. Many people were surprised by the racial epithets in Mr. Como's texts because he was so active in the black community and generally favored many black students. Others, however, perceived Mr. Como as misogynist and racist. These witnesses noted that Mr. Como surrounded himself with white males and observed that, while Mr. Como made an effort to employ minorities in support positions, only 10% of the professional staff is composed of minorities. A few witnesses perceived Mr. Como as basing his furlough decisions based on race and gender. Many witnesses had direct knowledge of Mr. Como making misogynist comments.

Generally, witnesses do not believe Mr. Como was skimming or stealing from the school for his own enrichment because he made in excess of \$200,000 per year. These witnesses opined that if Mr. Como was doing anything suspect, he was most likely redirecting money to other school programs or to the Athletic Department. Others noted that despite a high salary, Mr. Como was "cheap"; he would seek reimbursement for travel to and from Board meetings, to sporting events and to the prom. There were also a few witnesses who stated that Mr. Como had CASD employees cut his grass, paint his house, and plow his driveway. Many witnesses perceived Mr. Donato as driving the conversation in the texts and thought Mr. Como had simply become caught up in the discussion.

(b) Athletics-Focused

All witnesses, with the exception of one, stated or acknowledged that Mr. Como was sports-focused. Many described Mr. Como as a "football guy" and felt that he ran the School District the way a coach would. Mr. Como would stand on the sidelines during football games and required administrators to attend home games. He was heavily involved in hiring coaches, and when teachers were furloughed for budgetary reasons, Mr. Como insisted that coaches retain their positions over others with more seniority.

Witnesses also stated that Mr. Como authorized purchases for the football team using funds not designated for athletics. For instance, Mr. Como approved the purchase of a camera to be used to record football games, but used funds from the technology budget to pay for it. Mr. Como also allegedly purchased athletic equipment for the football team at the end of the fiscal year, but would charge it to the following year's budget. Witnesses also reported that Mr. Como used the high school's budget to pay for football coaches to attend a conference during the 2011-2012 school year.

(c) Nepotism and Favoritism

After Mr. Como became Superintendent, he changed the hiring process. What had been done at the school level was centralized in administration. School principals, assistant principals, and others at the school level were cut out of the process and Human Resources and Central

Administration took control. Additionally, as stated, the Board gave Mr. Como the authority to make unilateral hiring decisions during the summer months (when much of the hiring was done). These changes allowed Mr. Como to exert significant control over the hiring process, which Mr. Como used to his advantage. Mr. Como hired family, most notably his son, and friends. He hired former athletes and the family of Board members. These individuals were hired without being interviewed and, since the majority occurred during the summer months, without formal Board approval.

(d) Alleged Misuse and Misappropriation of District Resources

As will be discussed more fully below, there is evidence to suggest that Mr. Como used District resources to advance his own agenda. He directed that CASD funds be used for unauthorized purposes and enriched himself and those in his circle by advancing their positions and arranging for them to get raises. He also arranged for CASD to purchase his personal generator (that CASD did not need) to avoid having to take a loss for a making the wrong purchase. While the evidence of literal “skimming” of cash from school funds is less conclusive, there is enough to suggest that Mr. Como misappropriated CASD funds for his personal benefit.

B. JAMES A. DONATO III

James A. Donato, III, the former Athletic Director for CASD, was one of the two main players in the text message “scandal.” Mr. Donato is a main target of the internal investigation due to allegations of Mr. Donato skimming money from CASD proceeds, questionable reimbursements, and Mr. Donato’s poor history of running the Athletic Department, record keeping and money tracking procedures

1. Background

On November 23, 2009, Mr. Donato received Board approval to be hired as the Director of Activities, Athletics & Compliance (“Athletic Director”), effective December 1, 2009. *See* CASD011833. His starting salary was \$86,614.00, but Mr. Donato, who received regular pay increases despite pay freezes for other employees, had a yearly salary of \$97,850.00 at the time of his resignation. *See* CASD011824; 011817.

Mr. Donato initially interviewed for the Head Football Coach position, but he was unsuccessful. It does not appear that Mr. Donato interviewed separately for the Athletic Director position. In fact, it does not appear that anyone else other than Mr. Como was involved in Mr. Donato’s being hired as Athletic Director. Mr. Donato submitted his resume on August 6, 2009 directly to the Director of Human Resources with a copy to Mr. Como. *See* CASD011850, 11846 (correspondence submitting application). Mr. Como was the only person who rated Mr. Donato on an interview form, even though the interview form expressly provides space for the Superintendent, Assistant Superintendent, and Principal to rate the candidate’s interview and sign. *See* CASD011836.

Several witnesses reported that Mr. Como informally promised the position of Head Football Coach to Mr. Donato. Instead, another coach was hired for the 2009-2010 school year. Witnesses reported that Mr. Como lobbied for Mr. Donato to be hired in that position. However, when the majority of the interview committee wanted to hire someone other than Mr. Donato,

Mr. Como followed suit. Several witnesses reported that the Head Football Coach was hired because he was a stronger candidate, based on his interview, qualifications, and previous record as a football coach in another district. Mr. Donato was hired as Athletic Director after the head coaching position was filled and did not begin in this position until December 2009 because he wanted to complete the season as football coach at Kennett High School. *See* CASD011848. Many witnesses reported that Mr. Donato was promised the position of Athletic Director as a “consolation prize.” Many witnesses involved with the football team reported that Mr. Donato was continually after the job of Head Football Coach and was hoping that the Head Coach would fail. Mr. Donato called the Head Coach to disingenuously “congratulate him” after he was hired in that position, and the Head Coach was not pleased that his competition for the position was now his supervisor as Athletic Director.

Many witnesses reported Mr. Donato cultivated an image of someone with who made a lot of money and that of a “frat boy.” Mr. Donato allegedly drove around in a Range Rover and wore name brand clothes. He “dressed like a student”; he never wore a tie like other teachers and administrators and would often roll up his sleeves to “show off” his tattoos. Witnesses reported that Mr. Donato bragged about having “women on the side” to further cultivate the “frat boy” or “ladies’ man” image.

Mr. Donato was arrested in 1990 for simple assault, criminal conspiracy and harassment but the charges were “nolle prossed/withdrawn.” *See* CASD011897.

In the wake of the text message scandal, the Board allowed Mr. Donato to resign from his position as Director of Activities, Athletics & Compliance. His resignation was accepted by the Board at the September 23, 2013 meeting, effective as of August 29, 2013. *See* CASD011815.

2. Performance of Duties

Most witnesses reported that Mr. Donato was inept as an Athletic Director, reporting that he was extremely disorganized, lazy and constantly absent. Although Mr. Donato’s title was officially the Director of Activities, Athletics & Compliance, he did very little for the “activities” or “compliance” portion of the position and solely focused on athletics. Even when performing his duties as athletic director, witnesses reported that Mr. Donato was generally incompetent at his job. Mr. Donato would “disappear” from the school during the day, allegedly working only from 9:00am to noon. Witnesses reported hearing that Mr. Donato would frequently go to the gym or to Wegman’s in the middle of the day.

Even within the athletics portion of his position, Mr. Donato did not appear at many of the sporting events besides football games. During football games, Mr. Donato would watch the game from the sidelines instead of performing other supervising or athletic director duties and would leave the game at halftime in order to collect the gate boxes with money from ticket sales. Mr. Donato received a “satisfactory” review from for the 2012-2013 school year, as documented in a memorandum from the Assistant Superintendent to Mr. Donato, dated June 28, 2013. *See* CASD011818. Assistant Superintendent writes that while the overall rating was “satisfactory,” Mr. Donato needed “more attention toward the total activities calendar needs when planning events. An emphasis must be made to communicate with all principals and complete staff

concerning all events.” *Id.* During his tenure, Mr. Donato did not improve upon these issues as numerous witnesses expressed concerns regarding his lack of communication and organization.

When Mr. Donato began as Athletic Director, several of his predecessors offered help Mr. Donato with the transition, specifically regarding prior practices as to record keeping, ticket sales, and concession stands. Mr. Donato refused any such training or guidance. Prior to Mr. Donato taking over as Athletic Director, the Department and Director kept extensive records regarding record keeping and athletic team statistics. Numerous witnesses reported that Mr. Donato destroyed all records when he began work as the Athletic Director and there were few records remaining from Mr. Donato’s tenure when he resigned.

3. Alleged Skimming of School Funds, Suspect Purchases & Gambling

There were rampant rumors that Mr. Donato took money as often as possible, but mainly from ticket sales and concession sales during sporting events. Witnesses reiterated several jokes and rumors regarding Mr. Donato skimming money from the Athletic Department. A common joke was the “the Athletic Director’s salary is what they pay you and how much you can steal” and witnesses reported the rumor that Mr. Donato counted money from athletic events as “one for me, one for Coatesville.” Mr. Donato himself joked about skimming cash from sports gate receipts. There were ample opportunities for these jokes and rumors to become a reality.

At most CASD sporting events, including football, basketball, soccer, field hockey, wrestling and track, tickets were sold for entry into the events. During these athletic events, Mr. Donato failed to implement any ticket reconciliation methods to ensure that the amount of tickets sold corresponded with the money collected and failed to follow any procedures to count the money in the cash box at the end of the event. Instead, Mr. Donato collected the money before the games were over and returned to the athletic department office, where he would allegedly count the money alone; no one else was ever present to watch or check as Mr. Donato counted the money. No witnesses could report seeing Mr. Donato physically take money from the ticket sales for himself. However, it is likely that Mr. Donato did so based on his pattern and practice of apparent naked theft and self-dealing during his tenure as Athletic Director. The ticket sellers and ticket collectors that were interviewed said that, under Mr. Donato, there was no clear procedure in place for ticket reconciliation or money counting, especially as compared to under the prior Athletic Directors.

There were also instances reported when Mr. Donato took money from the concession stand at various sporting events, which were run by student groups or booster clubs and meant to benefit those groups. Witnesses reported that there were several instances where they saw Mr. Donato physically taking money from the cash box at the concession stand, without any explanation or documentation as to how much money he was taking. Witnesses also reported that Mr. Donato asked for a “fee” in cash from the student or parent group running the concession stand, without explanation as to the purpose of any such fee. That fee had not been implemented under prior Athletic Directors and Mr. Donato only wanted the fee in cash and did not require any documentation for the fee, suggesting that the fee went directly to Mr. Donato and not to the Athletic Department.

Mr. Donato dealt in cash as often as he could, and many witnesses classified Mr. Donato's mentality as "he would do anything for a dollar." A few witnesses reported that Mr. Donato himself sold water bottles at graduation for \$1 per water bottle. Mr. Donato also held various fundraisers out of the Athletic Department with no report as to where this money raised was going or deposited and Mr. Donato would only accept cash (outlined in further detail below). For example, witnesses recalled a fundraiser where Mr. Donato sold Coatesville wrist watches out of the athletic office; Mr. Donato charged \$25.00 per watch and the watches apparently did not work.

It was also widely rumored and reported that Mr. Donato had a gambling problem. Witnesses reported Mr. Donato would go to Valley Forge Casino two to four times per week, or more during the summer months. It was also reported that Mr. Donato went to Valley Forge Casino during the school day. He regularly received literature from the casino to the athletic office at CASD in order to hide the literature from his wife.² Witnesses reported going to the casino with Mr. Donato on occasion and reported that Mr. Donato knew all the pit bosses, dealers and cocktail waitresses at the casino. When at the casinos, Mr. Donato played the \$25-\$50 per hand blackjack tables. Witnesses also reported that Mr. Donato frequently bet on sporting events, most often college and NFL football and basketball games. Mr. Donato allegedly bet four figures on any single game. The common theory among numerous witnesses was that Mr. Donato took money to fund his gambling. There were jokes that Mr. Donato paid his bookie (which Mr. Donato was known to have) with cash wrapped in Coatesville paper. Witnesses also reported Mr. Donato joking that he hoped for a big gate at the football game after having a bad week of gambling losses; a "bad week" meant that he lost around \$4,000. There were also rumors that Mr. Donato owed his sports bookie a lot of money and in the wake of the text message scandal, people were heard to comment they "hope the DA gets Donato before his bookie does."

4. Relationship with Mr. Como

Mr. Donato and Mr. Como had a close friendship, as evidenced by the extensive text messages between the two men, but no witness was able to explain the basis for their friendship. Numerous witnesses have said it was clear that Mr. Donato was in Mr. Como's "inner circle." Mr. Donato was frequently seen in closed-door meetings with Como at Benner Administration Building, where Mr. Como's office was located. After countless witness interviews, the basis behind Mr. Como and Mr. Donato's close friendship remained unclear. A former assistant football coach was rumored to have introduced Mr. Como and Mr. Donato, but he reported that it was not arranged or a formal meeting. Numerous witnesses offered their personal theories as to the reason or background behind Mr. Como and Mr. Donato's friendship, but no one could offer more substantive facts as to the basis of this friendship. Some witnesses heard a rumor that Mr. Donato was offered the job by Mr. Como because of Mr. Donato's financial problems; Mr. Donato was apparently struggling to pay the mortgage on his house. While Mr. Donato did not seem to have respect for other teachers and employees at the school, Mr. Donato seemed to hold Mr. Como in high regard and publicly referred to Como as "The General."

² Mr. Donato recently received, at his former school address, year-end tax information from Valley Forge.

Regardless of the reason for the connection between Mr. Como and Mr. Donato, it is evident that Mr. Donato enjoyed many advantages from his close relationship with Mr. Como. In fact, Mr. Donato may not have been hired but for Mr. Como's intervention. There were several changes implemented prior to the hiring of Mr. Donato. Numerous witnesses believed that these changes were implemented by Mr. Como so that Mr. Donato was eligible for a position that he would not have otherwise been qualified.

First, the Athletic Director position was changed so that only a Pennsylvania teaching certificate was required, instead of requiring a principal's certificate as was previously required under the prior two athletic directors. The requirement was apparently changed immediately prior to hiring Mr. Donato. Witnesses understood that Mr. Como changed this requirement so that Mr. Donato was eligible for hire because he did not have his principal's certificate. As a result, Mr. Donato was unable to discipline students, as per the "compliance" portion of his title.

Second, the hierarchy was changed so that the Athletic Director would report directly to the Superintendent, Mr. Como. Specifically, the posting states that the athletic director "reports directly to the Superintendent of school and will work collaboratively with all secondary building level principals." Prior to Mr. Donato, the athletic director reported directly to the building principal, as is required by PIAA rules. Numerous witnesses thought Mr. Como changed the policy so that Mr. Donato would report directly to Mr. Como in an effort by Mr. Como to completely control over the Athletic Department. Third, prior to Mr. Donato, the Athletic Director was a part-time position; the prior Athletic Directors split their duties between Assistant Principal and Athletic Director (the official position title was "Director of Activities, Athletics & Compliance"). Thus, the prior Athletic Directors were responsible for discipline and activities, not only athletics. Even though Mr. Donato's title was Director of Activities, Athletics & Compliance, it was an unspoken agreement that his sole responsibility was that of Athletic Director.

Once Mr. Donato was hired, he continued to receive special treatment from Mr. Como. Many witnesses reported that nothing happened in the district without Mr. Como's knowledge and direct or indirect approval. While witnesses could not definitively state whether Mr. Como knew about Mr. Donato skimming money from the Athletic Department, most witnesses suspected that Mr. Como had some knowledge of Mr. Donato's financial practices. (Witnesses varied as to whether Mr. Como was stealing from the athletic department for personal use.) Mr. Donato's deficiencies as Athletic Director – even those formally noted by the Assistant Superintendent's June 2013 review of Mr. Donato – were overlooked and accepted by Mr. Como.

C. JAMES E. ELLISON, ESQUIRE

James E. Ellison, the current solicitor for the Coatesville Area School District, plays an oversized role in the affairs of the district. Mr. Ellison is reported to be a target of the DA's Office's criminal investigation over concerns related to high legal bills, his excessive involvement with all matters at CASD and his handling of the discovery of the offensive text messages between Mr. Como and Mr. Donato. Overall, Mr. Ellison's pervasive presence at CASD helped enable a culture of centralized and corrupt power at CASD.

1. Background

Mr. Ellison was retained as CASD Solicitor in 2002 while a partner at the Harrisburg law firm Rhoads & Sinon. Mr. Ellison has been the primary point of contact for CASD on all legal matters since 2002. Despite repeated requests, CASD has been unable to produce a contract or any formal retention between Rhoads & Sinon and CASD, apparently because (in violation of the Rules of Professional Responsibility governing lawyers in this Commonwealth) no fee agreement between CASD and Rhoads & Sinon has ever been executed.³

In 2002, Rhoads & Sinon submitted a proposal for legal services, noting that Mr. Ellison would serve as the general solicitor. *See* CASD003093-132. While Mr. Ellison was the primary contact for CASD, numerous Rhoads & Sinon attorneys worked on matters relating to CASD. According to Rhoads & Sinon's 2002 proposal, Mr. Ellison was experienced as a solicitor as evidenced by his work for Harrisburg School District, which he apparently had represented for five years as of the 2002 proposal. *See* CASD003099. The Board first voted to appoint Mr. Ellison as Solicitor in 2002, with Rhoads & Sinon allegedly having an "open contract" with CASD for ongoing representation. On January 24, 2006, CASD issued a RFP of Legal Services. *See* CASD021871-76. The stated purpose was to provide interested law firms with information to enable them to submit proposals for consideration for legal services for the 2006-07 school year, with an option to extend for four years. *See id.* Rhoads & Sinon submitted a proposal on February 28, 2006. *See* CASD003620-3718. Mr. Ellison was approved as the CASD Solicitor for the 2006-2007 school year during a May 22, 2006 Board meeting following a vote of 8-1-0. *See* CASD003617.

In 2006, when Rhoads & Sinon submitted a new proposal to CASD, Mr. Ellison had gained additional experience as counsel for school districts: Rhoads & Sinon noted Mr. Ellison's experience as solicitor for Harrisburg School District and Central Dauphin School District and as insurance defense counsel for Palmyra School District, Pottsville School District, Shippensburg Area School District, Easton Area School District and Steelton-Highspire School District. *See* CASD003620-3718. Mr. Ellison thus appeared qualified to handle the position of Solicitor for CASD. Nevertheless, there were, and continue to be, ongoing problems with Mr. Ellison's work for CASD.

In December 2013, Mr. Ellison and Rhoads & Sinon announced that the firm would sever its relationship with Mr. Ellison effective on December 31, 2013. The two parties allegedly entered into a "separation agreement" for this split, but media stories and internal reports suspected that Mr. Ellison was terminated from the firm in light of the DA's Office's ongoing criminal investigation into Mr. Ellison. In fact, it appears that Mr. Ellison was not terminated by Rhoads & Sinon.

³ The non-existence of a fee agreement is not merely an academic issue. The fee agreement between a lawyer and client is the keystone of that relationship, because the agreement sets out critical terms, such as hourly rates, agreement on reimbursement of expenses and scope of representation. Without a signed fee agreement or similar document, there was and is no way for CASD to determine whether Rhoads & Sinon fulfilled the terms of its multiple representations of the District, and in turn no way for the taxpayer to monitor whether CASD is being overbilled, properly represented, etc.

Despite Mr. Ellison's departure from Rhoads & Sinon and the DA's Office's ongoing criminal investigation, Mr. Ellison and his new firm, Susquehanna Legal Group, LLC, were retained by CASD. *See* CASD020973-74. Mr. Ellison's rehiring occurred during a Special Board Meeting that was called on December 26, 2013, allowing for Mr. Ellison's rehiring to occur under somewhat murky and questionable circumstances. Mr. Ellison raised his hourly rate from \$180.00 per hour to \$200.00 per hour. *See id.* The Board did not put out any RFP for a new Solicitor, but instead hired Mr. Ellison under what appeared to be rushed and secretive circumstances during CASD's winter break.

Unlike the previous retention while Mr. Ellison was at Rhoads & Sinon, a contract exists for Mr. Ellison's most recent engagement as CASD Solicitor. *See* CASD020973-74. This fee agreement, apparently signed on or about January 1, 2014 by Mr. Ellison and the Board President, has never been provided to us despite repeated requests for a copy (so that CASD, among other things, could cease violating the Right-To-Know-Law by failing to produce requested records). Mr. Ellison reportedly required a signed fee agreement so that he could procure legal malpractice insurance, although why a fee agreement would be necessary for an attorney to obtain malpractice coverage is unclear.

2. Alleged Overbilling

Continued community and law enforcement concerns surrounding Mr. Ellison arise in the context of his deep involvement with CASD and with Rhoads & Sinon's historically high legal bills. Numerous witnesses reported that Mr. Ellison was consulted over nearly every issue or concern that arose at CASD, even the most minor or trivial issues for which an attorney's specialized services are not otherwise necessary. Mr. Ellison routinely inserted himself in nearly all of the operational affairs at CASD, and he was frequently called upon by Mr. Como and members of the Board to advise on nearly any matter affecting CASD. The Board and Mr. Como seemingly put no limits on the availability of the Solicitor to be consulted (and thus bill) for matters that otherwise could and should have been handled internally by CASD employees. Partially as a result of the excessive reliance on Mr. Ellison, the legal bills to CASD were significantly higher than other similarly-sized school districts. As recently as March 5, 2014, Mr. Ellison submitted an invoice to CASD for \$74,320.20 for his services (through Susquehanna) for January and February 2014. *See* CASD021877-81.

The issues surrounding CASD's over-reliance on Mr. Ellison and the inordinately high legal bills are outlined further in the Factual Findings below.

3. Perceived Enabler

One major issue at CASD, discussed at length herein, was Mr. Como's centralized power in CASD. Mr. Ellison clearly contributed to the perception, if not the reality, of CASD's atmosphere of centralized and corrupt power. This appearance continues through the present day, and manifested itself as recently as a week prior to the submission of this report.⁴

⁴ Specifically, Mr. Ellison is believed to have controlled, or at least heavily influenced, the Board's public response to the discovery of offensive emails in the possession of a senior administrator. The ill-conceived press strategy led to an unnecessary and publicly ugly fight with the DA's Office. As will be seen with the public response to the texting scandal, the Board's statements, written or influenced by Mr. Ellison, contained factual inaccuracies, were

Employing similar practices as Mr. Como, Mr. Ellison often unilaterally made decisions without the proper checks and balances that should otherwise be in place for a school district; this conduct leaves the impression that, at times, the Board was ill-informed of Mr. Ellison's activities or, even worse, not informed at all. Ultimately, Mr. Ellison left the impression that his actions were for his benefit, and not necessarily for CASD's.

Mr. Ellison was very close with Mr. Como and the two often had "closed door" meetings in Mr. Como's office. No witnesses were able to state what was discussed in those meetings. Nevertheless, based on the observable conduct and witness interviews, Mr. Ellison likely co-opted into implementing Mr. Como's agenda. Mr. Ellison often facilitated the hiring of certain individuals, or helped to ensure that other individuals were not fired from CASD. Each of these individuals (who frequently were wholly unqualified, or should have been terminated), had a personal tie to Mr. Como. The hiring practices and specific individuals are discussed in detail below.

Mr. Ellison's conduct also leaves the clear impression that his actions, at times, were undertaken so that Mr. Ellison would be viewed in a favorable light, regardless of the District's interests. This has been especially true in the wake of the release of the text messages. For example, on October 8, 2013, Mr. Ellison emailed individuals on the Board a draft, self-serving press release regarding his representation of CASD and justifying his substantial legal fees. *See* CASD014690-91. The same day, before any response or comment appears to have been made, Mr. Ellison sent the release to the Assistant Superintendent instructing him to: "Cut and paste the release set forth below to a new document and forward it to [the Director of Technology] to be placed on the district website." CASD014690.

IV. FACTUAL FINDINGS

The following factual findings are based almost entirely on our witness interviews and our review of those relevant documents provided to us by CASD, Rhoads & Sinon and the interviewees. Where appropriate, documents have been referenced by Bates number to support our factual findings and included in the numerically ordered appendix of exhibits that accompanies this report. Those quotations not supported by appended documents are quotes garnered from witness interviews.

A. PERVASIVE NEPOTISM, FAVORITISM AND CRONYISM AT CASD

Following the departure of former Superintendent [REDACTED], CASD stakeholders were generally demanding that the School District hire someone from within the District who understood those challenges unique to the district. They found their man in new Superintendent Richard W. Como. Unfortunately, that familiarity with CASD, and with Coatesville generally, may have contributed to many of its problems in the form of pervasive nepotism, favoritism and cronyism. This nepotism, favoritism and cronyism led to the employment of many unqualified and under-qualified employees, causing the School District to incur excessive and often unnecessary legal bills from its Solicitor James Ellison, Esquire, and

poorly conceived from a strategic vantage point, and turned what could have been an opportunity to portray the Board's actions in a positive light into a public relations disaster.

his former law firm Rhoads & Sinon, and costing district taxpayers an unquantifiable amount of resources.

It is very clear that personal relationships have had—and perhaps continue to have—a direct, and often negative, impact on personnel decisions at CASD. It is also clear that Mr. Como stood at the nexus of this abuse of process. Mr. Como affected decisions with regard to hiring, promotions, and terminations. Although there appears to be a culture at CASD that accepts such behavior, and although Mr. Como exercised his influence with the assistance—or, at times, the acquiescence—of others, Mr. Como was clearly the driving force. And although several witnesses offered praise of Mr. Como’s ability to motivate and his understanding of the specific challenges facing the District, nearly all witnesses reported that Mr. Como’s nepotism was a major issue during his reign as Superintendent. The only witnesses that did not acknowledge the scourge of nepotism, favoritism and cronyism at CASD were those that had personally benefitted, and even some of the employees that did benefit acknowledged that it was a problem for the District.⁵

1. Typical Hiring Process at CASD

Prior to analyzing specific instances of potential nepotism, favoritism and/or cronyism, it is necessary to establish the typical hiring process, free of nepotism, favoritism and cronyism to act as a backdrop against which certain hiring decisions can be judged.

Typically, when a position becomes open, the Human Resources Department (“HR”) will receive a position guide from the supervisor of the open position, from which HR then compiles a job posting. The job must be posted for a certain amount of time, usually ten days, per union rules. Potential candidates submit applications, and as they do, those applications are placed in a folder designating them as being submitted for a particular job. The supervisor of the open position is then charged with reviewing the file and (usually) for setting up a panel to conduct interviews.

After a candidate is recommended, the candidate’s name is placed in front of the Board for approval. It appears that the Board generally follows the recommendations of school officials, without ever meeting or inquiring further about the individual. However, at least one witness reported that the Board usually wants to meet a candidate for a director-level position. A given Board agenda will include a large number of employment recommendations, and the Board typically votes on those recommendations in one large block.

⁵ It is important to note that the following review of CASD’s hiring practices with regard to the individuals named is not intended to be an evaluation of their performance. A review of facts pertinent to their performance is necessary to highlight that Mr. Como’s hiring decisions often produced unsatisfactory results. Our review is not meant to convey legal advice with regard to employment actions pertaining to these individuals. Indeed, witnesses differed in their own evaluations of the quality of the work produced by the employees listed below, with some receiving praise from many witnesses. The following sections are simply meant to highlight the ways in which certain individuals in positions of authority at the District used their influence to ensure their friends and family were hired and then remained employed by the District, often times to the detriment of the District.

Notably, this process is in place only for hiring during the school year. During the summer, when the Board does not meet, the Board delegates to the Superintendent the authority to hire and accept resignations, subject to Board approval when it reconvenes near the beginning of the school year. Although this appears to have been intended (or at least sold) as a matter of expediency, witnesses reported that a great deal of hiring has been done during the summer months, after which the Board would routinely “rubber stamp” those employees that Mr. Como saw fit to hire during the summer months.

2. CASD’s Formal Nepotism/Cronyism Policy

Recognizing that nepotism, favoritism and cronyism “can degrade staff morale, can arouse public distrust, and [are] an obstacle to teamwork, effectiveness and quality performance,” CASD has had in place a formal Nepotism/Cronyism Policy since November 2001. *See* CASD019009-10. The purpose of this policy is to “prevent nepotism and cronyism,” by “discouraging any possible favoritism,” “minimizing internal disciplinary problems that may evolve,” and “restricting the formation of personal cliques.” *Id.*

The Policy lays out three specific “guidelines” for school officials to follow and allows for exceptions to the Policy “at the sole discretion of the Board.” CASD019009-10. First, no Board member is allowed to vote to approve the employment of any close relative. *See id.* Second, no employee may supervise or be supervised by a close relative. *See id.* Third, any potential employee with certain enumerated ties to the District cannot be hired “without first fully disclosing the qualifying relationship prior to the selection process, and to the Board of School Directors prior to the Board vote authorizing employment.” *Id.* At least six Board members must vote to allow a candidate with a disqualifying relationship to be employed. *See id.*

Although this formal policy exists on the books at CASD, it does not appear to have been closely followed or enforced, at least not during the tenure of Mr. Como.

3. Mr. Como’s Hijacking of Hiring Process at CASD

A personal connection to an administrator or Board member need not preclude one’s employment at the District. Indeed, many jobs in this world are filled by individuals that have a personal connection to someone within the hiring organization. However, as a general principle, the existence of a personal relationship should demand that the candidate be beyond reproach in terms of background and performance, as to eviscerate any notion of nepotism, favoritism or cronyism.

The evidence suggests that Mr. Como used the potential for CASD employment to take care of friends and family, and to curry favor with those from whom he wanted or needed something in return. This often left the school district with unqualified employees, and in certain situations, employees whose criminal records should have precluded them from working at the district in the first place. Some of these employees did—and in some cases, continue—to perform well in their positions. However, others have woefully underperformed.

Over the course of Mr. Como's tenure as Superintendent, the normal hiring process, as described above, changed, becoming increasingly centralized and often proceeding outside the parameters of the normal hiring process. Witnesses reported this shift was not immediate under Mr. Como. Some place the shift at two years ago, and others at four to five years ago, but witnesses generally agreed that the process was centralized away from the individual schools and into the Benner Administration Building. The involvement of principals and teachers was reduced, and the hiring committee—if there was one—would be comprised of members who had no connection to the position being filled, but rather close connections only to Mr. Como.

The shift also brought an increase in direct involvement from the Superintendent's office. For example, in addition to the normal file which included applications for any given position, there was a file that included the resumes of candidates with the personal approval of Mr. Como. These candidates were often suited for only low-level positions, with which the Superintendent would typically not be concerned.

Witnesses offered conflicting reports of the mechanics of this file (*e.g.*, where it was located), but there was resounding agreement that certain applications for employment were designated as being favored by Mr. Como (marked as "Good" or something similar) and placed in a particular file apart from the normal "position" file that supervisors reviewing applications for potential employment knew had to be reviewed. Director of Human Resources, Erika Zeigler, reported that she occasionally received a file that already had a "hiring form" attached to it, which meant that the candidate had already been hired without proceeding through HR.

To be fair, at least one witness—a principal in the district—reported that the centralization of hiring was not all bad, and Ms. Zeigler noted that control of hiring often vacillated between Central Administration and the individual schools. However, although centralization can be a means to efficiency, witnesses reported the current centralized scheme is not an efficient one. Plus, not only is such a system prone to abuse, but the evidence here leaves no question that the centralized hiring process at CASD was, in fact, abused by Mr. Como.

4. Ms. Zeigler's Role in Hiring Process

It is impossible to confront the hiring practices at CASD (and indeed, the employment practices, generally) without addressing the role of the Director of Human Resources, Erika Zeigler, herself an apparent benefactor of the culture of nepotism, favoritism and cronyism at the School District.

Ms. Zeigler began her career at CASD in 1998 as a Physical Education teacher. *See* CASD012589; 012596. She held that position from 1998 until 2003, during which time she served as a field hockey coach, a lacrosse coach, and the faculty manager for both boys and girls sports for 9th to 12th grade. She was also active in activities related to the marching band.

Also, during that time, she earned a masters degree in Sport & Athletic Administration from West Chester University, *see* CASD012631, obtained her Principal Certification from Drexel University, and took classes at various universities on a range of subjects. *See* CASD012414.

Ms. Zeigler was clearly an active member of the CASD staff, who took steps to improve her position within the District, a process which appears to have coincided with Mr. Como's rise to Superintendent in 2005. In 2003, Ms. Zeigler became Dean of Students, a position into which Mr. Como "steered" her because he knew she was working on her principal certification. Her personnel file does not include any record of this promotion, but Ms. Zeigler stated that she held that position for approximately a year and a half before becoming an assistant principal, a position for which Mr. Como recommended her. Ms. Zeigler's meteoric rise continued under Mr. Como when she finally became Director of Human Resources effective August 14, 2007, after again being recommended by Mr. Como. *See* CASD012394; 012397; 012403.

Ms. Zeigler described the process through which she was hired as Director of Human Resources as being per the normal hiring process. She submitted a letter of interest and then interviewed with a panel of six or seven individuals. However, each of the individuals she named were described by various other witnesses as being—at one time or another—in Mr. Como's "inner circle."

Although Ms. Zeigler attempted to cast Mr. Como's involvement in her hiring as distant, Ms. Zeigler's Recommendation for Employment Form shows only Richard Como's recommendation. *See* CASD012397. Indeed, a review of Ms. Zeigler's personnel file shows that, with the exception of a handful of her extra duty positions, Mr. Como, and Mr. Como alone, recommended her for nearly all of her jobs at CASD. *See, e.g.,* CASD012414. Thus, although Ms. Zeigler did take steps to build her resume throughout her time at CASD, her ascension from Physical Education teacher to Director of Human Resources occurred in such a noticeably short time that it is impossible to ignore the influence of Mr. Como, with whom Ms. Zeigler acknowledged a friendly relationship. Mr. Como hand-picked Ms. Zeigler for the position even though she had no HR experience, based on the knowledge that he would be able to easily influence and control her.

Indeed, one witness described an interaction in which Mr. Como openly stated to Ms. Zeigler: "Just remember, no other Superintendent would hire you for the job but me, so without me, you wouldn't have this job." This is, of course, characteristic of Mr. Como's general interpersonal dynamic—demeaning and domineering—but it is also very telling with regard to Ms. Zeigler's rise to her current position. To be fair, several witnesses described her as doing her job well, and her evaluations throughout her career were very strong. Others objected not necessarily to her job performance, but to the centralization of hiring that occurred under her (and Mr. Como's) watch. Many witnesses, however, outright questioned how Ms. Zeigler could possibly be qualified to be the Director of Human Resources with absolutely no HR experience and pointed to the district's hiring practices as proof.

Whether Ms. Zeigler is capable of doing the job for which she was hired is the subject of debate. The fact is, however, CASD's employment practices, generally, and its hiring practices, particularly, have been disastrous during Ms. Zeigler's tenure. As is detailed below, the District often disregarded the normal procedure in order to hire unqualified individuals, at times turning a blind eye to criminal pasts that should have at the very least been more of an issue than they were. There is no doubt that much of this was done at the behest of Mr. Como. But Ms. Zeigler was in a position from which she knew, or at least should have known, that what Mr. Como was doing was inappropriate, unethical or even illegal.

Ms. Zeigler initially stated during our interview of her that she does not recall Mr. Como telling her to hire a candidate that she should not have hired, but given other witness testimony, it is difficult to see such a claim as anything but an untruth. Indeed, toward the close of our interview with Ms. Zeigler, she, like many others at the District, invoked the pressure she felt to do what her boss—Mr. Como—was telling her to do. She stated that she would go to Mr. Como to do what she thought was right, but he would put her in a position in which she felt she had to go along with him.

Ms. Zeigler is certainly not alone in this feeling, nor is she alone in her desire to use the chain of command as a shield. However, Ms. Zeigler was in a high-level administrative position from which she could have challenged many of the inappropriate actions of Mr. Como. Further, Ms. Zeigler's position that she operated solely at the behest—and out of fear—of Mr. Como is undermined by the fact that she participated in the questionable "internal investigation" of Teresa Powell and Abdallah Hawa *after* Mr. Como had already resigned from CASD. According to Ms. Zeigler, she was asked by Mr. Ellison to participate, but acknowledged that she recognized at the time that her presence could be interpreted as a way to justify terminating people. Thus, at best, Ms. Zeigler does not act with the independence one would expect from a high-level administrator, and at worst, the blame she is casting on her "superiors" is disingenuous.

5. Mr. Como's Preferential Treatment of His Own Family and Friends

There is no doubt that Mr. Como ensured that certain individuals close to him were employed by the District. He did not just get people jobs, though. He promoted people based on loyalty, not necessarily their ability, and he allowed certain people to work hours and take pay raises that no one else did. Nearly every witness reported that there was a group within the school that was tight with Mr. Como. Witnesses differed in the way they referred to it, but many called it simply his "inner circle."

Witnesses also differed in the people they placed inside the "inner circle," with a few consistently named. It appears, though, that the "inner circle" was an evolving group of administrators and some teachers with whom Mr. Como surrounded himself and who shared the common trait of an unwillingness to defy Mr. Como. Witnesses described this group as having an "air of untouchability."

Even spouses of the "inner circle" apparently benefitted, as [REDACTED], [REDACTED] was hired at CASD as a teacher. [REDACTED] was eventually furloughed; however, it was only after Mr. Como and [REDACTED] unsuccessfully attempted to have her transferred to another position at CASD to save her from being furloughed.

The members of Como's "inner circle" were given jobs in order to enable Mr. Como to exercise total control over operations of CASD. This may have also been at least part of the reason behind placing his friends and family in certain positions within the District, as some did attain relatively key positions within the District, but the employees described below seem to be in their position, not to enable Mr. Como's control, but *because* Mr. Como was allowed to exercise total control. Simply put, Mr. Como took care of those close to him, and in order to do so, he used what was at his disposal—the Coatesville Area School District.

(a) Blatant Nepotism—Hiring of Son

The hiring of Mr. Como's son, Matt, is perhaps the most obvious example of nepotism at CASD. Witnesses provided somewhat conflicting reports of Matt Como's job performance, with a majority of witnesses raising questions about his work ethic.⁶ However, there was near universal agreement that the process through which Matt Como came to hold his position was inappropriate.

Matt Como is currently employed as the Manager of Custodians and Grounds ("Manager"), a position he has held for the last three years. He was initially hired in July of 2009 to serve as the Manager of Night Custodians ("Night Manager"). The job of Night Manager, which had existed in the district at some point, was eliminated several years prior to Matt Como's hire. Witnesses reported that the previous Manager—[REDACTED]—had for years been requesting that the Night Manager position be reinstated. However, that did not occur until Matt Como filled that position. In other words, *it appears that the Night Manager position was created again just for Matt Como*. Such a theory is bolstered by the fact that when [REDACTED] retired, and Matt Como filled the Manager position, he retained the responsibilities associated with the Night Manager position, and that position was once again eliminated.

Prior to being hired by CASD, Matt Como had been residing in Florida and working for a number of companies, including a company called MSI Merchandising Company, which Matt Como described as a vendor for Home Depot. His job at MSI was listed on his application as "District Manager," which at least implies some managerial experience. However, Matt Como was laid off from that job in late 2007 or early 2008, after which he worked in Sales/Customer Solutions for Sears and Roebuck, and then as a Freight Supervisor for Columbia Sportswear. See CASD011453. The description of these jobs on his resume does include some managerial experience, but Matt Como was hired at the district in July 2009 to oversee custodians, and his resume included an utter lack of any custodial experience whatsoever. See CASD011456-57.

The normal process for hiring, as described above, should filter unqualified or under-qualified candidates from the applicant pool. However, that process does not appear to have been followed in the case of Matt Como. According to witness accounts, it was "no secret" that Mr. Como wanted to hire his son. Matt Como claimed to have applied online for the position of Night Manager in 2009. He also claimed to have been interviewed by [REDACTED], the former Business Manager, and [REDACTED]. However, we found absolutely no support for those assertions in documentation or through witness accounts, and Ms. Zeigler was unable to tell us who within the District was involved in the hiring of Matt Como. Indeed, [REDACTED] and [REDACTED] both emphatically denied ever interviewing Matt Como for a position at CASD.

Further, the only hiring document in his personnel file—a Recommendation for Employment Form for the "Night Custodial Supervisor" position—was not signed or attributed to anyone. See CASD011435. Although his initial hiring was approved by the Board at the

⁶ Notably, those working under Matt Como appeared to be more positive about the way in which Matt Como performed his duties. This, of course, could be interpreted in two ways. First, Matt Como does an acceptable job, and those criticizing him are doing so due to some preconceived notions flowing from the circumstances of his hire. Or, second, those working for Matt Como were afraid to speak candidly to us, for fear of losing their jobs. Given the recent climate at CASD, we are more inclined to believe the latter.

April 28, 2009 meeting, *see* CASD022692, given that the Board is perceived as a "rubber stamp" for hiring decisions, it appears that his hiring was simply processed at the behest of his father, Superintendent Richard Como, and there is absolutely no record of his promotion to Manager in his personnel file.

This is particularly troubling given that Matt Como has a criminal record. Many witnesses reported that Matt Como has a criminal record that should have precluded him from working at the District. This may or may not be true, but a review of Matt Como's personnel file with regard to criminal records illuminates several issues. According to Matt Como's Pennsylvania State Police Clearance, he was convicted of Theft by Unlawful Taking or Disposition, a Second Degree Misdemeanor. *See* CASD011458-60. It is not clear what he was charged with initially, however, and his personnel file does not include an FBI Clearance, which would have possibly shed some light on this arrest. In addition to the one forgery charge, we were able to glean from different sources that Matt Como was also charged with felony forgery. This is notable because, as will be discussed more below, district employees were required to disclose arrests and/or convictions for certain "reportable offenses." A second degree misdemeanor is not a reportable offense, but if he was initially charged with a more severe crime or if he was truly arrested and/or convicted of felony forgery, then he would have had a "reportable offense" on his record. However, when he filled out the required disclosure form in 2011, he indicated that he had not been arrested and/or convicted of a reportable offense. *See* CASD0011425.

It is certainly possible that Matt Como told the truth on his disclosure form. However, the fact that Matt Como's personnel file is missing a required clearance at all is extremely disconcerting and raises a reasonable suspicion as to why. This missing criminal history clearance was addressed a number of times in witness interviews. One witness described reviewing Matt Como's personnel file and, before being reprimanded for doing so by Ms. Zeigler, noticing that a criminal history report was missing. Ms. Zeigler, when asked about this criminal history report, was unclear with regard to what and when she knew about this missing criminal history. Ms. Zeigler stated that a "checklist" that accompanies personnel files and tracks the submission of appropriate documentation into the file was complete for Matt Como, which leads her to believe the FBI clearance was there at some point. She does not know what happened to the FBI clearance, but she stated that she did notice it at one point after she was asked to make a copy of the personnel file. At first, she indicated she noticed the missing clearance when she was asked to make a copy for our firm. Then, however, she stated that she noticed it when she was asked to make a copy for Mr. Ellison, prior to our request. Her lack of clarity in this regard is also suspicious, and raises serious questions with regard to Ms. Zeigler's role in Matt Como's employment.

Even if Matt Como had been hired "by the book," the fact remains that his performance appears to be unsatisfactory. As Manager, Matt Como described his duties as including managing employees, inventory and supplies, hiring, training, discipline and advancement. At the time he was hired as Night Manager, [REDACTED] held Matt Como's current position. [REDACTED] was described by many witnesses as an exemplary employee. Matt Como, however, received far less complimentary remarks from witnesses. Some witnesses described Matt Como as qualified for managing people, which is what his job basically entails. However, others described Matt Como as difficult to locate with the implication that he is not available in

the same way that [REDACTED] was. Others explicitly questioned whether Matt Como works the appropriate number of hours in any given day, or even shows up to work at all. Matt Como has received at least one positive review but that review was conducted and signed by Assistant Superintendent Angelo Romaniello, with nearly no feedback included in the “comments” section, implying a less than thorough review. *See* CASD11422-23.

Matt Como’s performance has not been the only source of consternation with his employment, with many witnesses complaining about Matt Como’s salary increases over the last several years. When he started, he was paid a salary of \$50,000, which increased to \$59,537 after one year. *See* CASD011433. A year after that increase, he was promoted to Manager, and his salary went to \$78,000, which increased in each of the next two years, to \$83,200 and \$88,608, respectively. *See* CASD011421; 011424; 011426. There is no evidence of the Board ever approving these salary increases, nor does Matt Como’s personnel file contain any documentation to this effect. Rather, it appears that the only person who authorized these significant salary increases was his father, Superintendent Richard Como.

When asked about his salary, Matt Como suggested that his salary is fair, as he was taken on the responsibilities of two positions, the Manager and the Night Manager, assuming of course that he is actually fulfilling those responsibilities. Still, it is worth noting that while Matt Como received these salary increases, most school district employees were facing pay freezes.⁷

(b) Hiring of Former Students and Athletes

Given the impetus for this report—the racist, sexist and bigoted text messages exchanged between Mr. Como and Mr. Donato—many of our interviews addressed the existence of racism at the district. Some witnesses pointed to the hiring of former students and athletes, many of whom are minorities, as evidence that Mr. Como is, ultimately, not a racist. Others, however, pointed to the fact that the jobs filled by former students and athletes were generally low-level positions for which they received little pay, such as aide and custodial positions. The fact is that Mr. Como gave what are, in essence, patronage jobs to several young people of color, but when it came to promoting within the ranks of influence, the lack of minority employees is stark.

Witnesses reported that these jobs were generally filled by individuals that Mr. Como wanted to “give a chance.” Indeed, many of these employees took advantage of the “chance” provided by Mr. Como and furthered their educations, albeit on CASD’s dime. However, this practice also resulted in the hiring of several employees with criminal histories that should have, at the very least, given the district pause, while others had criminal histories that should have precluded their employment altogether. Also, many of these employees felt empowered to take issues directly to Mr. Como, instead of through the normal chain of command, creating a multitude of problems at the district.

⁷ At least two witnesses claimed that Mr. Como also wanted to hire his [REDACTED] for a position at CASD. The first witness stated Mr. Como was considering [REDACTED] for an HVAC position in the Facilities Department. The second witness claimed that Mr. Como wanted [REDACTED] to be hired in the IT Department, but the Director of Technology refused because he did not need any additional staff at the time.

(i) Classroom and One-on-One Aides

Although aides have prerequisites for employment beyond a high school diploma, those requirements are not necessarily obstacles to filling the positions with under-qualified candidates. In addition to a high school diploma or equivalent, witnesses reported that aides are required to do twenty (20) hours of professional development, and they need to be “highly qualified.” The “highly qualified” requirement means that the candidate achieves a bachelor’s or associate’s degree, or, in lieu of those degrees, the candidate can go through a rigorous assessment. The rigorous assessment is satisfied by watching twenty (20) hours of video.

Not surprisingly, witnesses reported that these requirements do not provide sufficient training, which reverberates up and down the ladder, causing problems for both students and teachers. Compounding matters is the fact that teachers do not have any authority over aides and can, therefore, not discipline them. Rather, principals conduct the aides’ evaluations, leaving teachers—the ones in the building with the closest contact to aides—to simply report aides to principals and administrators. Additionally, many of the aides who were hired at Mr. Como’s prerogative felt empowered by their relationship to Mr. Como, which left the teachers in an even more difficult position. One teacher stated that she reported to the administration that certain aides were not qualified, but she saw no action.

A prime example of a questionable aide hire at CASD was Victor Ford. Victor Ford was hired at the recommendation of Mr. Como despite having a lengthy criminal record. He is no longer at the District after being convicted of having sex with a sixteen-year-old girl. Perhaps not surprisingly, Mr. Ford was repeatedly named by witnesses as someone that never should have been hired at CASD in the first place.

Mr. Ford is a former star athlete at Coatesville. He was hired in November of 2009 after Mr. Como allegedly informed Ms. Zeigler that Mr. Ford would be hired. Although Ms. Zeigler, by her own account, objected to Mr. Ford’s employment due to a criminal history that she believed should have disqualified him from employment, Mr. Ford was hired after Mr. Como informed Ms. Zeigler that she did not understand the law. Mr. Ford’s application for employment lists three previous jobs, two of which include incarceration as the reason for leaving those jobs. *See* CASD011958. He was hired as a part-time Special Education Classroom Aide at Gordon Education Center, and he was approved by the Board on November 23, 2009. *See* CASD011953.

Then, in September 2010, Mr. Ford was charged with various sex-related crimes following an April 2010 encounter with a sixteen-year-old girl. Per media reports, the victim reported the encounter to police on July 8, 2010. It is not entirely clear when the District learned of Mr. Ford’s charges, but he submitted an undated letter of resignation from his position at North Brandywine as the Boys 7th grade basketball coach, and that letter is stamped as received by the Human Resources Office on August 3, 2010. *See* CASD011928. Similarly, he submitted a letter of resignation from his position as an aide for the Gordon Education Center, which was dated August 9, 2010, but not stamped with a “received on” date by Human Resources. *See* CASD011929. Then, on August 23, 2010, Ms. Zeigler submitted a “termination request,” which instructed the Payroll Department to inform Human Resources as soon as Mr. Ford had received his last check. *See* CASD011931. The Board ultimately approved his resignation on September

28, 2010, after which Ms. Zeigler sent Mr. Ford a letter, dated October 11, 2010, in which she wrote that the Board had “officially accepted, with regret [Ford’s] resignation.” *See* CASD0011930.

The District’s response, at least according to Mr. Ellison’s description appearing in the local media outlets, was immediate and appropriate. However, it appears that Mr. Ellison—perhaps unintentionally—misled the media as to the nature of Mr. Ford’s employment, referring to Mr. Ford as a “hall monitor,” when, in fact, Mr. Ford was a Special Education Classroom Aide. It is certainly possible that Mr. Ellison was simply mistaken, but it is also possible that Mr. Ellison did not want the media to report that the district had employed a future sex offender in the more intimate setting of a special education classroom.

Of course, all this could have been avoided if CASD had simply heeded the warning implicit in Mr. Ford’s existing criminal record, which included at least four convictions on theft and drug charges dating from 1991 to 2002. *See* CASD011932-41. Mr. Ellison stated after Mr. Ford’s 2010 arrest that the district had complied with the law in hiring Mr. Ford, and Mr. Ellison appears to be correct, as the law at the time included a five year ban for certain crimes, including the crimes of which Mr. Ford had been convicted in 2001, putting him outside that five (5) year window upon his 2009 hiring. However, compliance with the law does not necessarily mean a decision was prudent, and very few individuals will dispute that Mr. Ford should not have been hired in the first place.

(ii) Custodians

There are two kinds of custodians working at the district: full time custodians and substitute custodians. A substitute custodian fills in for full time custodian when the full time custodian is unable to work, and if and when a full time custodian position is open, substitute custodians typically apply, and one is chosen. This is typically based on seniority, but because the substitute custodians, unlike the full time custodians, are not unionized, hiring based on seniority is practice, not a requirement.

One principal reported that she used to have some say in the hiring process for custodians. For example, if a principal did not want a certain substitute custodian to be hired fulltime in her building, then-Maintenance Manager, [REDACTED], who many witnesses described as very good at his job, would work with the principal. Witnesses also described some principals taking certain custodial concerns to Mr. Como, who would, in turn, instruct [REDACTED] as to which custodian he should hire. Mr. Como also would occasionally make his own “appointments” to custodial positions. These appointments appear to have been made because the candidate had a personal relationship with Mr. Como.

Although building principals sometimes tried to get certain custodians in their buildings, principals are not responsible for evaluating those custodians. One principal stated that principals should play a part in evaluating custodians because principals know who is coming to work and who is not. Under [REDACTED], this evaluation scheme was less of a problem, because issues with custodians could be reported to him, and he would react. Matt Como has proven less responsive, as at least one witness reported giving up trying to report issues to Matt Como, because when she did so in the past, she saw no change.

A prime example of a questionable custodian hire at CASD was Glen Hines. Glen Hines was originally hired as aide by Mr. Como, and like other Mr. Como hires, Mr. Hines reportedly played football at Coatesville. The principal to whom Mr. Hines reported stated that she had nothing to do with Mr. Hines' hiring. Mr. Como merely introduced her to Mr. Hines and told her that he had been hired and that Ms. Zeigler would be processing the paperwork. Initially, he was hired as a Special Education Classroom Aide and was approved by the Board on September 23, 2008, despite a criminal record that should have given everyone pause. *See* CASD016163. This included an early 2004 conviction for simple assault and resisting arrest, as well as a December 2004 arrest for drug charges and DUI. *See* CASD016141-47. It is worth noting that his hiring does not appear to have been unlawful under the laws at the time—merely imprudent or perhaps uninformed, as a review of his criminal records shows that he submitted them months after he was initially hired. *See id.*

Just over a month after being approved by the Board as an aide, and prior to submitting any criminal records, Mr. Hines submitted a letter of interest for a "Janitor" position. On that letter, he wrote "Attention: Mr. Como" and also listed his current position as "Aide-Counselor-Security." *See* CASD016162. According to witness accounts, Mr. Como instructed then-Maintenance Manager [REDACTED] to hire Mr. Hines and [REDACTED] was told to ignore his criminal history. Mr. Hines was approved by the Board as a substitute custodian on November 24, 2008, again before any criminal history reports were submitted. *See* CASD016160. It appears from his personnel record that he was employed as both a Substitute Custodian and a Special Education Classroom Aide during this time.

On June 17, 2009, Mr. Hines submitted both a letter of resignation as an instructional aide and a letter of interest for a full time evening custodian position. *See* CASD016149; 016153. His recommendation form for that position, however, was dated June 3, 2009—two weeks prior to submitting his letter of interest. *See* CASD016151-52. Not surprisingly, he was hired, and the Board approved him on June 23, 2009.

His time as an aide, although only a year, was not without incident. While employed as an aide, Mr. Hines requested the ability to leave early so he could attend a class he was taking. However, witnesses reported that his building principal would not let him leave because he was needed in the classroom, and that he had not earned an early departure due to disciplinary issues. Mr. Hines threatened take his request to Mr. Como, which he apparently did, because Mr. Como, through another administrator, overruled the principal. This principal reported that she wrote the entire episode up, justifying her reasons for denying Mr. Hines's early departure, and gave it to Mr. Como. His response was less than welcoming, as Mr. Como announced at a meeting shortly thereafter that he would not be questioned, which the principal interpreted as a veiled threat to her.

Mr. Hines was also disciplined for disruptive behavior and insubordination after an incident in which he berated his daughters, who were students at the school, after one of them told a teacher that she had been hit by her mother with a belt. *See* CASD016130-32. Mr. Hines caused a large disturbance, marching in and out of classrooms and yelling to the point that other school employees considered contacting the Office of Children, Youth, and Family. Witnesses reported that Mr. Como "went to bat" for Mr. Hines, and Mr. Hines was suspended only for one day.

On November 15, 2013, Mr. Hines was arrested outside of the school for drugs, and he attacked the arresting officers. He did not report this event to the school within seventy-two (72) hours, as he is required to by law, and the school took the opportunity to terminate him. Officially, he was terminated for "incompetency, intemperance, immorality, improper conduct, and violation or failure to comply with the laws of the Commonwealth." See CASD016095-96.

(iii) Coaches

Although not hired specifically as coaches, many of the former athletes that were hired as aide and custodians would then be hired as coaches. Again, it appears that Mr. Como played an oversized role here, as a review of many personnel files shows Mr. Donato approving the hiring of many aides or custodian with ties to Mr. Como as coaches within the district. Ms. Zeigler reported that she recalls coaches coming to her looking to be paid and she did not even know that they had been hired. Witnesses also described many aides and/or custodians being moved from building to building in order to remove them from buildings in which they faced discipline (rather than taking adverse employment actions against them). This appears to have been a ploy to protect the jobs of coaches.

One example of Mr. Como arranging and facilitating the hiring of coaches, and, in particular, providing them with special treatment, is the retention of [REDACTED], a Health and Physical Education Teacher and an assistant football coach. [REDACTED] was the former Head Football Coach at CASD from 2003 through 2008. He resigned in 2009 to begin coaching high school football at Conestoga Valley High School. [REDACTED] returned to coaching the CASD football team in the spring of 2013, and was hired as an assistant coach for the 2013 season. In 2013, [REDACTED] had asked for Mr. Como's approval to coach at Downingtown Area School District and, in response, Mr. Como asked him to return to CASD to coach. [REDACTED] returned to coach in the spring of 2013, however, he was not officially on staff until some point during the summer of 2013 for the 2013-2014 academic year.

Notably, with regard to [REDACTED], Mr. Como arranged him to be paid for his coaching duties before he was officially hired and before the start of the 2013-2014 academic year. Mr. Como arranged for [REDACTED] to be paid on June 6, 2013, which did not conform to the regular schedule for coaching payments. A memorandum from Ms. Zeigler regarding supplemental pay for fall sports notes that [REDACTED] "already received mid-pay prior to season per Mr. Como – confirmed with payroll on 9.18.13, [REDACTED] received the mid-point paycheck on 6.6.13 for the 2013 season." CASD021886. [REDACTED] explained that football coaches receive two payments for coaching: one check in mid-September and a second check in October. However, [REDACTED] approached Mr. Como to request early payment of his coaching stipend because his "budget was tight" following his resignation as football coach at Conestoga Valley High School. Mr. Como facilitated the early payment. Thus, [REDACTED] received the check for his coaching duties before he was officially hired. Moreover, the money for his early stipend came out of the 2012-2013 budget, even though the payment was for duties to be performed in the 2013-2014

academic year. This is a clear example of Mr. Como bypassing regular procedures to facilitate special treatment for the football coaching staff.⁸

(iv) Newly Created Positions

If Mr. Como did not have a position available in which to place a former student or athlete, often times he would simply create one. This was the case with regard to at least two former star basketball players at CASD—Lawrence Austin and John Allen.

First, Lawrence “Larry” Austin—a/k/a “Squirmy”—is employed as a “security guard” in the District. Given that the District has its own police force, it is unclear what exactly Mr. Austin does at the school. What is clear, is that Mr. Austin has had a particularly close relationship with Mr. Como. In fact, many people referred to Mr. Como as being a father-figure to Mr. Austin, and Mr. Austin was clearly affected on a personal level by the circumstances of Mr. Como’s departure. Like many of those employees who were close to Mr. Como, Mr. Austin was a former athlete at CASD. He then went on to college, an accomplishment for which Mr. Austin was quick to point out he does not get credit.

Mr. Austin was hired by CASD in 2003 as an Assistant Football Coach. Richard Como signed his recommendation for employment form. See CASD011683. Mr. Austin was then hired as an Assistant Basketball Coach in 2004. Again, Mr. Como recommended him. See CASD011679. Mr. Austin held other coaching positions throughout his time at CASD, but Mr. Como officially recommended him for only these early positions. However, in 2005, when Mr. Austin applied for the position of Tutor for Educational Assistance Program, Mr. Como was listed as his top reference, and his application had marked on it “Please Process ASAP,” although the source—or meaning—of this note is not clear. See CASD011675. Mr. Austin became a one-on-one aide at the 9/10 Center for the 2005-2006 school year.

As an aide, Mr. Austin had a series of incidents requiring disciplinary action, including, “an acrimonious verbal assault” on a teacher at the school. CASD011632-38. He voluntarily transferred to North Brandywine Middle School in February of 2007 shortly after that incident. Mr. Austin was also suspended without pay in 2012 after relieving himself in a Gatorade bottle while chaperoning an 8th grade trip to Dorney Park.

Then, in 2008, CASD posted a job for a Security Guard at Gordon Educational Center. The job description included “security experience” as a requirement and listed a number of security-related duties as the responsibilities, including “insur[ing] all departmental equipment is in proper working condition, patrol[ing] school grounds, [and] perform[ing] initial check of buildings.” CASD011608. When asked about his job responsibilities, Mr. Austin was unable to effectively articulate what his job is and how it differs from the CASD police force. When other witnesses were questioned about how Mr. Austin spends his time, many witnesses reported that several people have refused to sign Mr. Austin’s paystubs, because they don’t believe he worked the hours he was claiming.

⁸ Apparently spouses of football coaches received special treatment too, as the wife of the freshman football coach, Jacqueline Dainty, was hired in the ESL Department. Witnesses claimed that she was not qualified for her position when hired.

Without regard to his actual job description, Mr. Austin appears to have deputized himself as someone that supports students, particularly minority students, when they are having issues at CASD. Mr. Austin quite clearly stated that he believes there is rampant racism at CASD, and given his own upbringing as a minority in Coatesville, he is able to lend a perspective to situations in which he believes a teacher is interacting with a student in a way that may be ineffective given the student's background. Mr. Austin readily admitted that he believes he has—or at least had—the ear of members of the Administration, and he was completely comfortable discussing his impressions with whoever would listen, including Mr. Como. In short, according to Mr. Austin, he has not hesitated to “call people out.” Whether he was correct that they needed to be called out is, of course, a different story.

Similarly, John Allen was hired as the Title III Community Liaison, a position witnesses reported was specifically created for Mr. Allen by Mr. Como. Like many of those hired at the behest of Mr. Como, Mr. Allen was a star basketball player and went on to coach basketball at Coatesville. Unlike some of the others hired by Mr. Como, however, Mr. Allen had a college degree from Seton Hall University and a clean criminal history. Mr. Allen had two issues.

First, John Allen was employed as an ESL Community Liaison under Title III, the federal law governing programs for students for whom English is a second language. However, witnesses reported that Mr. Allen does not himself speak a second language. This would support the idea that Mr. Como created a position for Mr. Allen. Also particularly telling about Mr. Allen's position within the District, and about district hiring practices under Mr. Como, generally, is that after the text message scandal broke, Mr. Allen stopped showing up for work. When asked about it, he stated that he assumed he no longer had a job, implying his job was entirely dependent upon the presence of Mr. Como.

Second, Mr. Allen—like many district employees—took several post-secondary classes while employed at Coatesville. Unfortunately, Mr. Allen was not unionized and, therefore, did not enjoy the same benefits as certain union employees. Ms. Zeigler allegedly refused to reimburse his tuition, but Mr. Como and Dr. Romaniello allegedly overruled her. Although Ms. Zeigler ultimately signed his reimbursement form, she wrote “per Angelo” on the first reimbursement form. *See* CASD016541. Mr. Allen was reimbursed over \$4,000 for classes at the University of Phoenix over a two-year period.

6. Mr. Como's Disregard For Certain Employee Criminal Histories

There exists a subset of questionable hires at CASD, consisting of employees with criminal histories that should have either precluded them from being hired in the first place or should have possibly led to their termination after a change in the law in 2011. Given that the below analysis pertains to a change in the law, it is necessary to first establish some legal background.

(a) Act 24 of 2011

Section 1-111 of the Pennsylvania Public School Code (“Section 111”) pertains to criminal histories of current and prospective school employees. 24 P.S. § 1-111. Prior to 2011, Section 111 barred prospective school employees from employment at a school for the five-year

period following a conviction of one of certain enumerated offenses. *See* 2011 Pa. Legis. Serv. Act 2011-24 (H.B. 1352) (Purdon's).

In 2011, the Pennsylvania Legislature passed Act 24, which amended Section 111 in several important ways. First, Act 24 added several offenses to the previous list of enumerated offenses deserving of a ban from school employment and extended that ban from a five-year ban to a lifetime ban.

Second, Act 24 created three tiers of temporary bans for certain other offenses. Specifically, Act 24 added a ten-year ban for felony offenses, a five-year ban for first degree misdemeanor offenses, and a three-year ban for multiple driving under the influence/controlled substance offenses, where those offenses are graded as misdemeanors of the first degree. *See* 24 P.S. § 1-111. Under Act 24, these ten, five, and three year bans begin on "the date of expiration of the sentence for the offense." *Id.* § 1-111(f.1)(3). In other words, from the moment a convict is released from prison or probation, whichever is last occurs.

Third, Act 24 also established a protocol for reporting both previous and future arrests (for both current and prospective employees). As an initial step, Act 24 required the Department of Education to "develop a standardized form to be used by current and prospective employees of public and private schools, intermediate units and area vocational-technical schools for the written reporting by current and prospective employees of any arrest or conviction" of an offense that would result in a ban from employment at a school. *Id.* § 1-111(j)(1). Pursuant to this statutory requirement, the Department created a form entitled "Arrest/Conviction Report and Certification Form," commonly referred to as the PDE-6004 form. *See Johnson v. Allegheny Intermediate Unit*, 59 A.3d 10, 15 (Pa. Cmwlth. Ct. 2012).

Anyone employed by a school as of the date Act 24 went into effect (September 28, 2011) was required to complete the PDE-6004 form within 90 days, which meant that all forms were to be submitted by December 27, 2011. 2011 Pa. Legis. Serv. Act 2011-24 (H.B. 1352), 24 P.S. § 1-111(j)(2); *see also* CASD023516-17. Although Act 24 appeared to require the termination of any employee found to have a disqualifying offense in his or her past, there appears to have been some confusion on that point. However, a 2012 amendment to Section 111 (Act 82 of 2012) made it clear that any disqualifying offense was to result in termination of a current employee. *See Johnson*, 59 A.3d at 15, n.4 (finding that terminated employee's pre-2012 argument that Section 1-111 does not apply to pre-employment convictions was rendered moot by the passage of the 2012 amendment known as Act 82); *see also* 2012 Pa. Legis. Serv. Act 2012-82 (H.B. 190) (Purdon's).

Moving forward, Act 24 required—and Section 111 still requires—any prospective employee to complete the PDE-6004 form as a part of the application process. Further, any current employee arrested during the course of his or her employment has a seventy-two hour window in which to complete the PDE-6004 form divulging the nature of that arrest. *See* 24 P.S. § 1-111(j)(4). Current or prospective employees who willfully fail to disclose an arrest or conviction are subject to criminal prosecution for their failure to do so. *See* 24 P.S. § 1-111(j)(6). Failure to submit the form within seventy-two hours is also grounds for an adverse employment action up to and including termination. *See id.* Further, in a memorandum to "All

School Employees” dated December 6, 2011, Erika Zeigler, Director of Human Resources for CASD, wrote that any employee who fails to submit the form will be required to submit new criminal background checks and “will be placed on suspension without pay pending issuance of new clearances.” *See* CASD023516-17.

Indeed, if a current or prospective employee refuses to complete the form, or if a school administrator suspects that a current or prospective employee has a criminal offense which the employee did not include on his or her PDE-6004 form, the school administrator is required to demand a current criminal history from that employee. *See* 24 P.S. § 1-111(j)(5). Following the implementation of Act 24, “[t]he Department . . . informed school administrators that it will move to sanction administrators who fail to act as required by [Section 111].” *Johnson*, 59 A.3d at 15.

Although Section 111 does not provide a protocol outlining the reporting requirements of school officials, the Professional Educator Discipline Act requires school administrators to report to the Department “[c]onduct that has resulted in a criminal indictment or conviction for a crime set forth in [the subsections of Section 111 dealing with a lifetime ban] or other crime that involves moral turpitude.” 24 P.S. § 2070.9a. Such a report must “be filed within 30 days of receipt of information and shall include all available information relating to the conduct resulting in the charge or conviction.” *Id.*; *see also* CASD023519-21.

(b) CASD’s Response to Act 24 of 2011

On December 6, 2011, Ms. Zeigler sent a memorandum to all school employees instructing each of them to complete a PDE-6004 form and return it to her in a sealed envelope marked “confidential.” *See* CASD023516. Ms. Zeigler stated that it took time to gather all of the requested forms. However, she did ultimately receive a form from each employee at CASD.

We are aware of seven employees that disclosed prior arrests and/or convictions that were deemed to be “reportable offenses” under Act 24. Those employees are: [REDACTED], Chan Branch, Dominic Brown, Jerod Hines, Darryl Johnson, Quincy Teel and [REDACTED]. It is not entirely clear what transpired immediately after the disclosure of these offenses, but no action was taken by CASD until more than a year and a half later in spring of 2013, when their retention as employees at CASD was deemed appropriate and documented by the Solicitor. This is not entirely suspect, however, as a series of lawsuits challenging the retroactive application of Act 24’s lifetime ban worked their way through the court systems in 2012.

In fact, in December 2012, the Pennsylvania Commonwealth Court issued a trio of opinions addressing the constitutionality of the lifetime ban added to Section 111 by Act 24. The court found that Section 111 is not unconstitutional on its face; however, the court did find that the lifetime ban included in Act 24 was unconstitutional as applied to all three plaintiffs. *See generally Johnson*, 59 A.3d 10; *Croll v. Harrisburg School District*, 2012 WL 8668130 (Pa. Cmwlth. Ct. Dec. 13, 2012); *Jones v. Penn Delco School District*, 2012 WL 8668277 (Pa. Cmwlth. Ct. Dec. 13, 2012). In *Johnson*, for example, the court found that Act 24’s lifetime ban was unconstitutional, as applied to the plaintiff, because it did “not reflect upon his present abilities to perform the duties of his positions” and because the Department failed to show how a

thirty-year-old conviction “is at all predictive of future behavior and . . . warrant[s] the harsh result of a complete ban.” *Id.* at 25.

Practically speaking, the December 2012 Commonwealth Court rulings forced schools in the Commonwealth—and their legal counsel—to determine whether terminating an employee based on a prior conviction would violate that employee’s substantive due process rights. Unfortunately, the court did not provide a bright line test for school districts to follow. Rather, the court left school districts to make a case-by-case determination as to whether a conviction is sufficiently remote and unrelated to the employee’s ability to perform his or her duties such that the conviction at issue should not preclude the employee’s employment. *See Johnson*, 59 A.3d at 25.

Perhaps recognizing this lack of clarity, the Department of Education published a guide for school districts entitled “PDE Guidance on Recent Commonwealth Court Rulings Concerning Act 24 of 2011 (Section 111(e) of the School Code)” (“the Guide”). *See* CASD023522-25. The Guide instructs school districts to “continue to apply the employment prohibitions contained in Section 111 of the Pennsylvania School Code on a case-by-case basis, with student safety serving as the paramount consideration.” CASD023523. The Guide offers that “[i]f a school official, after a due diligence investigation of the facts surrounding an offense and in consultation with its legal counsel, concludes in good faith that the application of Section 111 to an individual would violate the Pennsylvania Constitution as interpreted by a Pennsylvania Court, PDE would not sanction the school official for employing the individual.” *Id.*

Although the Department acknowledged that school districts may conclude that Section 111 is unconstitutional, as applied, that conclusion must be documented. The Guide provides the following:

It is of the utmost importance that school officials document their determination not to apply the statute to the employee or candidate. Documentation must describe the process employed by school officials, their findings, and their analysis as to the constitutionality of applying Section 111 to the employee or candidate. A determination that the application of Section 111 would be unconstitutional as applied to a particular individual must be supported by a written opinion from the school’s legal counsel.

Id. The Guide also provides a list of factors for school officials and their legal counsel to consider in determining whether to apply Section 111 to a particular employee. “Primary among the factors is the nature of the particular offense” and whether the “crime is such that the individual poses a danger specifically to school students or is otherwise unsuitable for school employment.” CASD023523-24. A sexual offense or “an offense involving sexual, physical or verbal abuse against a child” are examples of such crimes. CASD023524. Other factors include:

- The time period that has elapsed since the offence.
- Whether the offense was an isolated single event or was repeated.

- The presence or absence of a subsequent criminal history.
- The nature of the person's current position and whether the offence bears a relationship to the current position.
- Whether the person was employed at a school when the crime occurred.
- Whether the conduct occurred on the property of a school.
- The employee's employment record with the school.
- Any evidence of rehabilitation provided by the employee or prospective employee since the conviction for the applicable offense.

Id.

Finally, the Guide affirms that school districts have a 30-day window in which to report to the Department information regarding arrest or conviction for an offense listed in Section 111. *Id.* "Such reports must be made regardless of the date of the offense and regardless of any conclusion that a Section 111 employment ban may not be constitutionally applied." *Id.* It is not clear whether this report to the Department should include documentation to support a district's determination that Section 111, as applied, would be unconstitutional.

(c) Solicitor Legal Opinions on Constitutionality

In late Spring 2013, Mr. Ellison drafted a series of legal opinions analyzing the constitutionality of applying Act 24 to the employees who disclosed "reportable offenses" on their PDE-6004 forms. Of the seven employees mentioned above, Ellison found that Act 24 should not be applied to five of them because disclosure would be unconstitutional, it should be applied to one of them, and one does not appear to have had an opinion drafted regarding his employment. The employee for whom no legal opinion was drafted was [REDACTED]. It is unclear why no opinion was drafted for him, but Ms. Zeigler did email Mr. Ellison indicating that she had found criminal records and was unable to determine if the offense he reported on his PDE-6004 form would have disqualified him. *See* CASD023480; 023486.

We interviewed several of the employees for whom legal opinions were drafted and a number of issues became apparent. First, many of the facts contained within these legal opinions appear to be incorrect and inaccurate. This means that the factual bases for Mr. Ellison's opinions are flimsy at best, but even worse, it shows that Mr. Ellison apparently did not take the time or make the effort to ensure that his legal opinions were factually accurate, despite billing for his time. We have summarized below the employment history of the six employees for whom Mr. Ellison drafted legal opinions on constitutionality, as well as addressed any issues pertaining to Mr. Ellison's advice.

Without having personally interviewed Mr. Ellison, certain inferences raised below amount only to theory, but the fact is that the five employees who Mr. Ellison suggested should stay at the district were all employees with ties to Mr. Como.⁹ Although Chan Branch also had

⁹ Through counsel, Mr. Ellison denied ever being directed by Mr. Como to favor any particular employee in Mr. Ellison's Act 24 analysis.

ties to Mr. Como, her personnel file contained an insurmountable volume of discipline and violations that would have prevented anyone from justifying her retention. Two of the employees—Quincy Teel and [REDACTED]—were interviewed for this report, and we were given no indication that Mr. Ellison’s ultimate conclusion was incorrect. However, that is beside the point. The District was obligated to conduct a thorough review and, instead, Mr. Ellison drafted five legal opinions that contain misstatements of facts, and district officials appear to have blindly relied on those opinions without any apparent independent review of their own. In this way, CASD can justifiably be accused of ignoring its statutory responsibilities.

(i) [REDACTED]

[REDACTED] was hired by CASD in September of 2008 as a Special Education Classroom Aide at the Gordon Educational Center. The first two references on his initial application were Mr. Como and Rebecca Layfield, and witnesses reported that [REDACTED] was hired at the behest of Mr. Como. Unlike some of Mr. Como’s other hires, most witnesses described [REDACTED] as dependable and always willing to help, and while at the district, [REDACTED] attended Immaculata University and earned a 4.0 grade point average. He became a technology aide after obtaining his degree. Although [REDACTED] received declining evaluations while at the District, and although he was disciplined for an incident in which he allowed students to use his phone on which there was a picture of him in his underwear, those incidents do not appear to define his employment with the district, as [REDACTED] record while at CASD is relatively clean in terms of discipline.

That said, [REDACTED] has a criminal past that should have, under a strict reading of the law, caused him to be terminated under Act 24. In 2007, only one year before he was hired at CASD, [REDACTED] was charged and convicted of possession of marijuana, a first degree misdemeanor, in Hampton, Virginia. *See* CASD017401-03. Then, in 2008, he was arrested for felony sale or intent to sell a hallucinogen in Kiowa County, Kansas. CASD017397-99; 017409-12. Although both charges are “reportable offenses,” on his initial PDE-6004 form, dated December 13, 2011, [REDACTED] indicated that he had never been arrested for a reportable offense. *See* CASD017394. Then, on January 5, 2012, [REDACTED] submitted a second PDE-6004 form on which he wrote: “I was arrested in 2008 of felony drug possession but the charges were dismissed w/o prejudice.” CASD017392.

In other words, at no point did [REDACTED] disclose that he had been arrested and convicted of a reportable offense in 2007. [REDACTED] personnel file does include the disposition of that 2007 arrest, and Mr. Ellison did include both offenses in his legal opinion. *See* CASD017372-75. However, at no point in Mr. Ellison’s legal opinion does he discuss the fact that [REDACTED] did not disclose his 2007 arrest and conviction on his PDE-6004 form, even though such failure to disclose subjected [REDACTED] to criminal penalties for falsifying information to authorities, as well as adverse employment actions. *See id.*

When questioned about the submission of his PDE-6004 forms, [REDACTED] indicated that he incorrectly completed the form when he first submitted it. He stated that he was called into a meeting with Mr. Como, Ms. Zeigler and Mr. Ellison and told to resubmit the form. [REDACTED] stated that there was no talk of him having to be let go because they allegedly knew about his drug convictions when they hired him. [REDACTED] also reported that he never met with Mr.

Ellison in the course of Mr. Ellison drafting the legal opinion ultimately justifying ██████ retention. In fact, both ██████ and ██████'s union representative in his interview expressed surprise that there was a legal opinion pertaining to his employment.

(ii) Chan Branch

Chan Branch was hired by CASD a one-on-one aide despite a criminal past that should have precluded her from being hired, and despite being, by every account, a horrible employee. Ms. Branch rarely showed up for work, and witnesses reported that, when she did, it would be better if she had not. One witness even reported that Ms. Branch would bring a pillow with her so she could sleep while her student was in another class. Ms. Branch would also reportedly yell at teachers in front of students. While at CASD, Chan Branch was disciplined multiple times for a variety of unprofessional acts. *See, e.g.*, CASD015290-91. Then, on or about April 19, 2013, Ms. Branch entered a classroom in which her son, who is a student at the school, was sitting, and she attacked him, striking him several times. *See* CASD015283.

Additionally, Ms. Branch had a lengthy rap sheet, including convictions for retail theft (1999), resisting arrest (2005) and endangering the welfare of a child ("EWOC") (2005), as well as arrests for assault and harassment, and a number of driving-related offenses. *See* CASD015378-86. Her conviction for EWOC should have precluded her employment, as she was hired in 2008, and the previous version of Section 111 mandated a five-year ban for that crime (it is now a lifetime ban). Startlingly, Ms. Branch was hired, despite disclosing her retail theft and EWOC convictions to school officials. Further, Ms. Branch disclosed on her PDE-6004 form that she had been convicted of those offenses, yet she was allowed to remain employed until May 2013. *See* CASD015297.

In May 2013, Ms. Ellison authored a legal opinion deciding that terminating Ms. Branch would not violate her constitutional rights. *See* CASD015284-87. Notably, Mr. Ellison wrote that terminating Ms. Branch "would not be a violation of her substantive due process rights," with emphasis on the term "not." CASD015286. When read with the other five legal opinions, Mr. Ellison's apparent emphasis on the term "not" implies that a violation of an employee's substantive due process rights is the default position at CASD. Of the six questionable employees for which Mr. Ellison authored legal opinions, Chan Branch is the *only* employee Mr. Ellison recommended terminating. However, it appears from her personnel file that she was allowed to resign, which she did on May 10, 2013. *See* CASD015282.

Although Mr. Ellison recommended termination, the legal opinion on Ms. Branch was not definitive in terms of the factual background of her EWOC charge, as Mr. Ellison wrote that on "information and belief, the [EWOC] charge emanates from an incident whereby her child was left unattended at a bus stop." CASD015286. Another witness described this same description of her EWOC charge as coming from Mr. Como. It is not clear from where Mr. Ellison got his "information and belief," but when analyzing whether an employee should be terminated, one would expect that Mr. Ellison would confirm the facts that led to the charge by, for example, attempting to procure the affidavit of probable cause that led to her arrest or attempting to speak with the arresting officer.

(iii) Dominic Brown

Dominic Brown was a special education one-on-one aide who Mr. Como directed the Director of Special Education to hire. According to witness accounts, Mr. Brown flaunted his relationship with Mr. Como. He often went straight to Mr. Como with issues, rather than through the normal chain of command. He showed up for work inconsistently, and he allegedly submitted false timesheets, only to laugh in the face of a teacher who questioned him on it.

Mr. Brown also had a criminal record that should have led, under a strict reading of the statute, to his termination under Act 24. Mr. Brown was arrested in 2000 and convicted in 2001 of a violation of the controlled substance act, warranting a lifetime ban under Act 24. *See* CASD015716-26. He was also arrested in 2002 for reckless endangerment, four counts of simple assault, and harassment. *See id.* Although these charges were included on the criminal history record in Mr. Brown's personnel file, he failed to disclose them on his PDE-6004 form. *See* CASD015649. Although he was not convicted of those crimes, he was still required to disclose them on the form. But he did not, and Mr. Ellison failed to even address that in his legal opinion justifying Mr. Brown's continued employment.

In his legal opinion justifying the continued retention of Mr. Brown, Mr. Ellison makes several conclusory statements, in essence parroting the factors the District is required to address. *See* CASD015629-32. Mr. Ellison claims that Mr. Brown had performed adequately, but makes no mention of the various disciplinary issues Brown encountered while working as a one-on-one aide, including telling a special education student to "stop acting stupid." *See* CASD015640. Nor does Mr. Ellison discuss the fact that Mr. Brown received a horrendous evaluation in May of 2012, in which his performance was judged as "unsatisfactory" on many of the metrics listed. *See* CASD015656-57. Nor does it appear that Mr. Ellison ever spoke to any of the other district employees that interacted with Mr. Brown, as many of them would have reported that Brown attempted to submit fraudulent timesheets. This is hardly the rigorous analysis one would expect of a legal opinion justifying the employment of a felon at a school.

Even if his "analysis" could be considered thorough, the last sentence of the paragraph addressing Mr. Brown's individual circumstances reads, "Overall, but for [Section 111], Mr. Teel's employment would remain unaffected." CASD015631. Thus, it appears that Mr. Ellison's legal opinion regarding Mr. Brown was merely cut and pasted from the nearly identical opinion offered to justify the retention of Quincy Teel, another employee discussed below with a criminal history that was implicated by Act 24.

(iv) Jerod Hines

Several witnesses reported that Jerod Hines, a former CASD student, was hired by Mr. Como as a classroom aide. At least one witness, however, pointed to Mr. Hines as something of a role model, noting that after some hard times, Mr. Hines turned himself around and wrote a book, which was published. Regardless of Mr. Hines' turnaround, the fact is that he had a criminal history that should have precluded him, under a literal reading of the law, from working at CASD under Act 24.

It appears from his criminal history report that, between 1995 and 2000, Mr. Hines was arrested on various drug-related charges four times. *See* CASD011541-50. His final arrest for possession with intent to deliver cocaine, possession with intent to deliver cocaine within 1000 feet of a school zone, and possession of a firearm by a convicted felon resulted in his conviction and an eight-year prison sentence. *See id.* He was granted supervised release in May 2008, with was set to expire in May 2016. *See id.*

Despite this, Mr. Hines was hired by CASD in the summer of 2009 to serve as a special education classroom aide in the Gordon Education Center, with Board approval on August 25, 2009. During his time at Gordon, Mr. Hines received mostly good and satisfactory marks on his evaluations, and was disciplined several times for lateness and “excessive use of time off.” *See* CASD011512. In 2011, he was approved for a voluntary transfer to North Brandywine after requesting a transfer “to any open paraprofessional positional [sic] within the CASD.” CASD011506.

At North Brandywine, his evaluation marks improved. However, in July of 2012, he was furloughed, only to be immediately bumped to a new position of Cafeteria/Playground Aide. He was then recalled in August of 2012 as a special education one-on-one aide at Scott Middle School. He was also hired as a substitute after school aide in August of 2012. In spring of 2013, he was reassigned to North Brandywine, after being assigned to a new student. It does not appear as though this job was posted. Finally, in August of 2013, Mr. Hines transferred to the 9/10 Center in order to “follow [his] student.”

It is not clear whether other, less connected employees at CASD also experienced such a flurry of job-preserving reassignments. However, the reassignments of Mr. Hines are notable in that they occurred while action on his PDE-6004 form was pending. Mr. Hines submitted his PDE-6004 form on December 12, 2011 (he dated it December 13, 2012, but this appears to be a mistake, as the Human Resources stamp indicates 2011). *See* CASD011484.

The date was not the only misinformation included on his form. Mr. Hines listed “possession with intent to distribute controlled substance and felon in possession of firearm.” *See* CASD011484. He then listed a 1999 and a 1995 date with Coatesville, PA listed next to the dates. *See id.* In other words, it appears that he did not include certain arrests even though they appear to have been reportable offenses.

Again, in drafting his legal opinion related to Mr. Hines, Mr. Ellison failed to address these obvious issues, instead drafting an opinion in which he misstated Mr. Hines’ actual criminal history, ignoring his most recent arrest and conviction for selling drugs in a school zone. *Compare* CASD011470 *with* CASD 011549. Mr. Ellison also stated that Mr. Hines has been a responsible employee without any indication that Mr. Ellison was aware that Mr. Hines had been disciplined for lateness and excessive time off. *See id.* Given the glaring omissions contained within Mr. Ellison’s legal opinion, it seems reasonable to conclude that he did not even bother to review Mr. Hines’s personnel file, let alone speak with Mr. Hines, when drafting his opinion. *See id.*

(v) Darryl Johnson

In August 2006, Darryl Johnson, the grandson of former Board member Paul Johnson, was arrested for felony gun charges, as well as several related crimes, including two (2) first degree misdemeanors. *See* CASD015418-19. Approximately two months later, he was hired by CASD as a substitute custodian. *See* CASD015461. Paul Johnson allegedly lobbied Mr. Como and the Facilities Department for Darryl to be hired fulltime, and his efforts paid off. In September 2010, on instructions from Mr. Como, Darryl Johnson was hired as a fulltime custodian, despite being placed on probation until October 2016. *See* CASD015419.

In completing his PDE-6004 form in December 2011, Mr. Johnson indicated that he had been arrested for or convicted of “reportable offenses.” However, in the section requesting details of those arrests/convictions, he simply listed “2702”. *See* CASD015410. This appears to have prompted CASD—presumably Ms. Zeigler—to request a full criminal history work-up, as Mr. Johnson’s file includes criminal history reports from early 2012.

Mr. Johnson’s employment record is rather unremarkable. He was disciplined once for smoking a cigarette near the school in violation of school policy, but there are no other indications that Mr. Johnson was a bad employee. *See* CASD15438. Still, he had several disqualifying convictions under the plain text of the law, requiring Mr. Ellison to draft a legal opinion justifying his retention. *See* CASD011468-71. As Mr. Johnson does not appear to have been a difficult employee, and his criminal record does not evince a recurring pattern of criminal contact, Mr. Johnson’s continued retention was not much as much of a leap as some others. However, Mr. Ellison’s legal opinion is notable for its failure to even address the fact that Mr. Johnson failed to include a description of his crimes on his PDE-6004 form. *See id.* Also, as with other legal opinions, the first page of the legal opinion pertaining to Mr. Ellison includes a reference to “Mr. Dominic Brown,” a clear indicator that the required thoroughness was not present when composing these legal opinions and that he simply cut and pasted entire sections from one opinion to the next. *Id.*

(i) Quincy Teel

Quincy Teel was initially hired by CASD as a special education classroom aide on October 27, 2009. Mr. Teel reported that Mr. Como knew he was applying for the job, and Mr. Teel was under the impression that Mr. Como was working on his behalf to secure the job. Witnesses confirmed that Mr. Teel was hired at the behest of Mr. Como. Mr. Teel transferred to a substitute aide position in order to go back to college, and after graduation, he applied for a substitute custodial position, for which he was hired. Then, in April of 2013, he was hired as a fulltime custodian. He was recommended for both jobs by Matt Como. As an aide, Mr. Teel was disciplined for lateness twice, *see* CASD017324-25, but had an otherwise clean personnel file. He does not, however, have a clean criminal record.

According to Mr. Teel’s PDE-6004 form, he was arrested and convicted in 1999 of “possession with intent to deliver” and then in 2002 for “conspiracy to kidnapping [sic].” *See* CASD017287. Mr. Teel’s criminal records, however, differ from his PDE-6004 form in several notable ways. First, his 1999 drug charge does not even appear on his criminal records. Mr.

Teel reported that the substance in question was cocaine. Second, his criminal records include convictions for theft and forgery in 1997. *See* CASD017350-56.

Mr. Teel also clarified for us the circumstances surrounding his kidnapping charge. According to Mr. Teel, the conspiracy to kidnap conviction stems from an incident in which Mr. Teel assisted others in loading a man who was injured in a fight into a car after which Mr. Teel's associates drove the man to a remote location where he ultimately died. When asked about it by authorities, Mr. Teel initially lied and then cooperated in order to have his charges reduced from more serious murder-related charges.

Mr. Ellison's legal opinion justifying Mr. Teel's continued employment does not paint an entirely accurate picture. *See* CASD017275-78. First, Mr. Ellison's opinion makes no reference to the arrests for forgery and theft, even though Mr. Teel's probation ended in or around 2005. *See id.* Given that his forgery conviction was a felony, carrying with it a ten (10) year ban from school employment, that conviction would have been a reportable offense. Yet Mr. Teel failed to disclose it on his PDE-6004 form. Further, the District—and, therefore, Mr. Ellison—should have known about those arrests/convictions, as they were included in the criminal history reports submitted upon Mr. Teel's hire in 2010. *See* CASD017350. As with other employees facing possible termination under Act 24, it appears that Mr. Ellison may not have even reviewed Mr. Teel's personnel file.

Second, Mr. Ellison misidentifies Mr. Teel's possession conviction as being for marijuana. *See* CASD017277. Mr. Teel, however, reported to us that he was convicted of possession with intent to deliver cocaine. Perhaps not surprisingly, Mr. Teel reported that he never met with Mr. Ellison while Mr. Ellison was preparing his legal opinion. It appears from email traffic that Mr. Ellison gathered the information for his opinions from Ms. Zeigler. *See* CASD023438. Optimistically, this shows that Mr. Ellison was not fabricating the facts contained in these legal opinions. But realistically, this further demonstrates a lack of thoroughness and independence in Mr. Ellison's counsel and advice. A simple ten minute conversation with Mr. Teel would have provided Mr. Ellison with the information he needed to provide a more complete legal opinion based on accurate facts.

Third, contrary to Mr. Teel's account of the situation, Mr. Ellison identifies Mr. Teel as the driver of the car used in the kidnapping. *See* CASD017277. Mr. Teel, however, reported that he was involved with loading the victim into the car, and was then told about what happened to the victim, but he did not report to us that he was the driver of the car. Again, a brief discussion with Mr. Teel could have clarified this factually important point. Indeed, in his interview with us, Mr. Teel was candid and came across as credible.

Finally, Mr. Ellison describes Mr. Teel as a reliable employee. *See* CASD017277. We have no reason to think this is inaccurate. However, it should be noted that Mr. Teel was disciplined several times for tardiness. While that may not be a reason to terminate him, it is at least worth addressing in a legal opinion addressing several factors, one of which is the employee's employment record with the school.

7. Mr. Como's Preferential Treatment of the Board's Family and Friends

Mr. Como was able to exercise influence over the hiring practices CASD, in part, because the Board acted as a rubber stamp for the candidates he pushed through. Although it is impossible to glean the intentions of Board members without interviewing them, the fact is that certain Board members were able to secure employment for their friends and family members. This may have played a part in the unwillingness of the Board to provide the necessary oversight with regard to Mr. Como's hiring practices.

(a) Dr. Taylor's Friends and Family

On June 28, 2011, former Board member Tonya Thames Taylor exchanged emails with Mr. Como regarding the hiring of her nephew, Talaer Taylor. In an email with a subject "Nephew," Dr. Taylor wrote, "Rich, thank you so much, so very much! This is SO good. By the way, it will remain confidential." Como responded, in part, "*Hey no problem. When we can't help eachothers [sic] family out we don't deserve to be in this arena. Glad to help and yes it will remain confidential.*" CASD023527-28.

Following this email, Talaer Taylor was employed for the summer of 2011. At one point during the summer, Dr. Taylor emailed Mr. Como, stating: "Talaer is not coming in today. He has called in, but I wanted to let you know." CASD023527. No one else at CASD was copied on the email, implying that Mr. Como may have been Talaer Taylor's direct (and only) supervisor.

Talaer Taylor's personnel file is scant. However, he submitted timesheets for six (6) weeks, which were signed by the Director of Technology. See CASD017366-17371. Most timesheets reference "Technology," and his work is described as either "Inventory" or "Security," but it was not clear from his file exactly what he did. See *id.* According to at least one witness, however, Talaer Taylor slept all day. He was paid \$1,380.00 during the summer 2011 for approximately three weeks of work. See CASD019237.

Dr. Taylor's nephew was not the last of her family members hired by CASD. In September 2012, Dr. Taylor's niece was hired as a part-time Technology Aide. She worked at CASD for more than year, earning \$10,775.00 over that time period. See CASD019236. Although we did not encounter an email trail akin to that pertaining to Talaer Taylor, Ms. Shaw's personnel file is notable for what else we did not encounter—criminal history records.

In October 2001, Ms. Shaw was arrested and charged with a number of crimes. In December 2002, she was convicted of four third degree felonies, including theft by unlawful taking, theft by deception, receiving stolen property, and criminal conspiracy to receive stolen property.¹⁰ See CASD015015-17; 015019-21; 015023-25. These convictions would not have precluded her from working in a school *at the time of her conviction*. However, as discussed above, Act 24 was passed in 2011—approximately a year prior to Ms. Shaw's hire—and that law

¹⁰ Witnesses stated that Ms. Shaw had been convicted of forging checks. It is inconceivable to believe that a person with a criminal history for forging checks would be assigned to the IT Department, where CASD's checks are stored and printed.

required her to report “an offense graded as a felony of the . . . third degree. . . if less than (10) ten years ha[d] elapsed from the date of the expiration of the sentence.” 24 P.S. s. 1-111(f.1). In other words, any felony apart from those specifically enumerated as deserving of a lifetime ban carried with it a ten year ban on school employment. Again this was from the end of the sentence. According to court records, Ms. Shaw’s probation would have ended in March 2010, which means she should have been precluded from working at CASD until 2020.

When Ms. Shaw applied, she indicated on her PDE-6004 form that she had never been arrested or convicted for a reportable offense. *See* CASD015006. The fact is that she submitted criminal history checks that directly contradicted her assertion on that form. This was not an oversight or even sloppy record-keeping; the hiring of Ms. Shaw was a deliberate circumvention of the laws of the Commonwealth and the policies of the district, and it was done allegedly at the direction of Mr. Como, and through the cowardly acquiescence of Ms. Zeigler. Ms. Zeigler confirmed that Mr. Como told her that CASD would be hiring Ms. Shaw, and she could not stop him.

A Secretary in the HR Department provided a theatrical rendition of what transpired when Ms. Shaw was hired. According to the Secretary, Ms. Shaw’s paperwork was given to her to process, and when she noted that Ms. Shaw’s paperwork was not complete (*i.e.*, missing criminal history information), she was told by Ms. Zeigler that “he”—referring to Mr. Como—had decided that Ms. Shaw would be hired by CASD, and the Human Resources office was to process her application. With regard to the PDE-6004 form, the Secretary was indignant when questioned as to whether Ms. Shaw had completed a PDE-6004 form, as if that unlawful oversight would have been worse than processing paperwork with no criminal history records.

It is unclear to what the Secretary thought she was referring when she said that Ms. Shaw was missing a criminal history check, because a review of her personnel record shows that her criminal history information is present. Unfortunately, so is a PDE-6004 form with blatantly false information.

Although not employed by CASD, Dr. Taylor’s [REDACTED] was hired by CASD to reportedly redesign CASD’s website. [REDACTED] is the head of a company called Milestone Management Consulting, which was retained by the school district. We have no reliable information as to the precise scope of that engagement, but witnesses describe the work performed by [REDACTED] company to be inadequate, and that he was hired at the behest of Mr. Como. [REDACTED] company was paid \$1,575.00 for its services. *See* CASD020676-77. Mr. Como authorized payment on the purchase order, which simply stated “CASD Website Redesign.” *Id.*

In addition to family, several of Dr. Taylor’s friends also were given preferential treatment and eventually hired by Mr. Como at CASD. Indeed, Dr. Taylor “nominate[d]” several of her friends for positions in emails directly to Mr. Como. In those emails, Dr. Taylor pushed for these individuals to be hired into certain positions, often without regard for whether there was a need for them.

For example, Dr. Taylor’s personal friend, Charlene Coppadge, was hired as a long term substitute teacher at the elementary school level. Dr. Taylor was given advance notice in emails

between Dr. Taylor, Mr. Como and Ms. Zeigler on October 27, 2012 that a position had opened up for Ms. Coppadge. *See* CASD021888. Mr. Como specifically sent an email to Dr. Taylor regarding this opening and wrote to Dr. Taylor: "For your eyes only. This is the date the other teacher is leaving." *Id.* Dr. Taylor then responded: "SUPER, SUPER, SUPER!!!! Thanks Rich!" *Id.*

Similarly, Dr. Taylor recommended that her close friend, [REDACTED], be hired as a long term substitute teacher at the elementary school level. On August 28, 2011, Dr. Taylor sent an email to Mr. Como, stating: "So, I believe you may need a kindergarten teacher at one of the local elementary schools. You know that [REDACTED] a person who has been in the district for years, has her certification in K-6, plus Special Ed. I will forward her resume." CASD021889. Additionally, on August 24, 2011, in an email to Mr. Como, Dr. Taylor recommended a friend and believed student, [REDACTED], for a teaching position. Dr. Taylor notes that [REDACTED] completed his student teaching in West Chester School District, has knowledge of World History and a minor in Spanish; she explains [REDACTED] "can teach American History." CASD021887.

(b) Paul Johnson's Family

The late Paul Johnson was praised by most witnesses as a good man, who worked hard for the District, and we have no reason to doubt that praise. However, it appears that Mr. Johnson also took steps to ensure that his family members were employed by CASD. The employment of his grandson, Darryl Johnson, a custodian at CASD, was addressed *supra* in the section pertaining to Act 24. However, Mr. Johnson's [REDACTED] is also employed by the district.

According to witness accounts, [REDACTED] was hired per the direction of Mr. Como. [REDACTED] submitted a letter of interest for a Substitute Secretary position on June 1, 2009. *See* CASD017225. Her employment as a "Substitute Secretary for the Gordon Education Center" for the "Summer only" was then approved by the Board on June 23, 2009. *See* CASD017222. It is not clear from the meeting minutes whether Mr. Johnson cast a vote for his [REDACTED] in violation of CASD's Nepotism/Cronyism Policy, but he was on the Board at the time. Then, on August 26, 2009, [REDACTED] was approved by the Board to be a Special Education Classroom Aide for the Gordon Education Center. Then, in August of 2009, the Board voted to transfer her from "Special Education Classroom Aide for the Gordon Education Center" to "Attendance Secretary for the Coatesville Area Senior High School." *See* CASD017226. She had submitted an application for that job previously, on April 2, 2008, listing Mr. Johnson as a reference. CASD017241-42.

She is currently an Attendance Secretary, and her performance in her position is rather unremarkable. Her evaluations started positive but have deteriorated somewhat to mostly satisfactory and needs improvement marks. *Compare* CASD017219 with VASD017206. [REDACTED] has taken several leaves of absence, including an Extended Medical Leave starting on August 28, 2013. It is not clear from a review of her personnel file whether she is back at work.

(c) Rick Ritter's Family

When asked for an example of nepotism at CASD, several witnesses pointed to Board member Rick Ritter's [REDACTED]. However, [REDACTED] was first hired by the district in 2001, well before Mr. Ritter was elected to the Board. She was furloughed in June 2002. See CASD016622. She was then rehired in 2003 after Mr. Como recommended her, and after the District received a number of letters of recommendation, including a conspicuous (and ironic) one from her then-employer noting that the only reason the company could not keep [REDACTED] on fulltime is due to that company's nepotism policy. The letter states: "Were it not for our Company's anti-nepotism rule, we would definitely have hired [REDACTED] as a full-time employee. But, since she has a relative who has worked here for many years, she is disqualified from full-time employment." CASD016634. The letter was signed by a Manager of the company, as well as the company's Senior Vice President, Richard M. Ritter. Again, however, this was before Mr. Ritter was on the Board. *Id.* Thus, it does not appear that [REDACTED] employment is necessarily tainted by nepotism.

On the other hand, Mr. Ritter's daughter, Jessica (Ritter) Groff, does appear to have benefited from Mr. Como's nepotistic practices. On April 30, 2012, Mr. Ritter emailed Mr. Como, asking:

[W]ith all of the financial issues here and in other districts, do you think my daughter Jessica has any shot at all getting an elementary teaching position, if not in CASD, in other district [sic] around the county?

She is graduating May 12 with a 3.93 GPA and received the highest scores on her student teaching this year from her sponsoring teacher and principal.

See CASD023423 (emphasis added). Mr. Ritter did not expressly request that his daughter receive preferential treatment. However, given the established culture at CASD, the implication is apparent.

Not surprisingly, four months later, in August 2012, Ms. Groff was hired by CASD as a Long-Term Substitute 6th Grade Teacher at South Brandywine Middle School. Her Recommendation for Employment Form was signed by Mr. Como. See CASD0116377-79. However, the form does not include an interview rating or even any designation as to whether or not he was actually recommending her for the position. See *id.* She was then approved by the Board on August 28, 2012. It is not clear from the Board meeting minutes whether Mr. Ritter abstained from the vote, in accordance with CASD's Nepotism/Cronyism Policy. However, he was in attendance at the meeting. See CASD023199; see also CASD023199-219.

During the first half of her first year, Ms. Groff received proficient and distinguished marks during her teacher observations. See CASD016391-93. Then, in January 2013, Ms. Groff was approved for a transfer to another Long-Term Substitute position as the Second Grade teacher at East Fallowfield Elementary School. One witness stated that a mid-year move like this, particularly from a middle school to an elementary school, rarely occurs, implying that Ms.

Groff received preferential treatment in her move. Ms. Groff was then hired as a Long-Term Third Grade teacher in East Fallowfield in August 2013, after again being recommended by Mr. Como. *See* CASD016355-57.

This is, of course, not an indication that Ms. Groff is unqualified to be a teacher at CASD. On the contrary, she graduated from West Chester University with excellent grades, came highly recommended from parties outside the District, and received good evaluations in both her student teaching and long-term substitute teaching positions. *See* CASD016343; 016345; 016404-06. The fact is remains however, that her father, a Board member, sent an email to a Superintendent known for giving people jobs as favors, and she was immediately hired.

(d) Laurie Knecht's Family

The circumstances under which Marcy Spath-Knecht, the daughter-in-law of Board member, Laurie Knecht, was hired are suspect. While there is no direct information as to whether Ms. Spath-Knecht was qualified or inadequate in her position, it is yet another example of cronyism pervasive within CASD.

Ms. Spath-Knecht is a Guidance Counselor at CASD. On June 5, 2009, she applied through Human Resources to the Guidance Counsel position at North Brandywine Middle School. *See* CASD016906. A few weeks later, on June 25, 2009, Ms. Zeigler submitted a "Professional Vacancy" notification, stating that CASD is accepting applications for the Guidance Counselor at Caln Elementary School. *See* CASD016996. "Marcy Spath" is handwritten at the top of the notification. *Id.* While Ms. Spath-Knecht applied to be a guidance counselor at a different school, it is suspect that only a few weeks later an official vacancy was posted.

On August 17, 2009, Ms. Spath-Knecht was hired as a Guidance Counselor for Caln Elementary School, effective on August 25, 2009. *See* CASD016890; 016898. She was hired as a "Temporary Professional Employee." CASD016900. The application shows that she was only rated by the Principal, and not also by the Superintendent and Assistant Superintendent as provided on the interview evaluation form. *See* CASD016894. Moreover, the rating for the interview is dated June 26, 2009, only *one day* after the official vacancy notification. *See id.* (recommending Ms. Spath-Knecht for employment and rating her application as "4" out of 5).

Once Ms. Spath-Knecht was employed as the Guidance Counselor, she regularly received "Satisfactory" ratings on her semi-annual reviews. The review was always signed by the Caln Elementary School Principal and Mr. Como. *See, e.g.,* CASD016796-800 (2011-2012 school year evaluation, dated January 20, 2012); 016828-32 (2010-2011 school year evaluation, dated January 20, 2011); CASD016870-74 (2009-2010 school year evaluation, dated January 22, 2010). On June 27, 2012, Ms. Spath-Knecht was promoted to a "Professional Employee" from the status of "Temporary Professional Employee." CASD016772; 016768

(e) William Sweigart's Family

██████████ was hired by CASD as a Behavioral Specialist in June 2008. *See* CASD017793. His ██████, William A. Sweigart, was not on the Board at the time. His initial application, however, listed Mr. Como as a reference, *see* CASD017765-69, and his interview

appears to have been conducted by Mr. Como and Dr. Romaniello, both of whom recommended him for employment. *See* CASD017759-61. The nature of [REDACTED] relationship with these two administrators is not clear, but we have seen no support for the fact that his hiring was tied to his [REDACTED]. The [REDACTED] was subsequently approved for several extra duty positions. Two of those positions—Summer Program Teacher (May of 2009) and 8th Grade Football Coach (April 2010)—were also approved by the Board when his [REDACTED] was not yet on the Board. *See* CASD017717; 017728. The first time [REDACTED] appeared on a Board agenda during his [REDACTED]’s tenure, the Board approved his resignation as football coach. This was in March 2011. *See* CASD017703.

The first time [REDACTED] appears to have participated in the hiring of his [REDACTED] was when [REDACTED] was awarded tenure in August 2011. *See* CASD017677. [REDACTED] Sweigart was on the Board at that time, was present at the meeting, and there is no indication in the minutes that he abstained from voting. *See* CASD023056; *see generally* CASD023056-76. In September of that same year, [REDACTED] applied to be a mentor to a new employee. He was granted that position despite receiving a “two out of five” rating on his Recommendation for Evaluation Form. CASD017667-69. The form was signed by Ms. Zeigler, and it included a notation of “good” over the evaluation rating section. *Id.* [REDACTED] has been approved for several other extra duty jobs since that time, *see* CASD017589; 017621; 017627; 017656, and his [REDACTED] has been on the Board and present for each of the meetings at which his [REDACTED] employment was approved. *See* CASD0231-2; 023199; 023318; 023342; *see also* CASD023102-10; 023199-219; 023318-28.

William A. Sweigart’s [REDACTED], was hired as a Playground Aide in 2007. *See* CASD022404; *see generally* CASD022390-422. At the time, William Sweigart was not on the Board and [REDACTED] was still [REDACTED]. Thus, it seems unlikely that William Sweigart had anything to do with [REDACTED] hiring. Nor does it appear he had anything to do with her hiring as a one-on-one aide in January 2008, as Mr. Sweigart was not yet on the Board. *See* CASD022475; *see generally* CASD022475-89. Although [REDACTED] remained with the district into her [REDACTED]’s tenure on the Board, we have seen no evidence that she received any preferential treatment as a result of that relationship.

(f) Neil Campbell’s Friends

We are not aware of Neil Campbell influencing the hiring of a family member. However, on June 29, 2011, Mr. Campbell forwarded to Mr. Como the resume of [REDACTED], who is a friend of a local township supervisor. *See* CASD020813-14. Mr. Campbell stated in his email that the supervisor asked that Mr. Campbell send the resume to Mr. Como for “future consideration.” Mr. Como responded, “I will see that this resume is placed in Erika [Zeigler]’s top file.” As noted previously, Ms. Zeigler kept a file of resumes of priority hires for Mr. Como. [REDACTED] was ultimately hired by CASD on January 23, 2013. CASD003505.

Given that she was hired a year and a half later, this does not appear to be a particularly egregious example of cronyism. However, it does not appear from the correspondence that Mr. Campbell knew [REDACTED] or could vouch for the quality of her work. Rather, it appears that

Mr. Campbell used his access to CASD to grant a favor to a local township supervisor, perhaps with the knowledge that Mr. Como would see that she was, in fact, hired.

(g) Former Board Members

Mr. Como has facilitated careers at CASD for former Board members after those Board members either resigned or lost their seats. While not documented, it can be inferred that certain Board members helped Mr. Como and, in turn, Mr. Como facilitated jobs for these individuals at the conclusion of their service on the Board.

For example, Donna Urban was hired as the Accounting Secretary at CASD in 2010, immediately following a term on the Board from 2003-2009. Ms. Urban was elected a Board member in 2003, and served as the Board President from 2006-2009. When Ms. Urban chose not to seek reelection to the Board, she applied and was hired as the Accounting Secretary.¹¹ Prior to Ms. Urban's election to the Board, she served as an Attendance Secretary and Ms. Urban explained that the Attendance Secretary position and the Accounting Secretary position were similar. However, some witnesses thought Ms. Urban was not qualified for her current position. Moreover, the former Business Manager stated that Ms. Urban had been hired to report to the Business Manager, but he had no input or involvement in Ms. Urban's hiring.

It is clear from speaking with Ms. Urban that she and Mr. Como were close. Ms. Urban only spoke about Mr. Como in a positive manner, explaining that Mr. Como was effective and saw him as a "coach." Not coincidentally, Mr. Como was hired as Superintendent during Ms. Urban's tenure on the Board. Mr. Urban has acknowledged speaking to Mr. Como since his resignation, and she expressed concern over Mr. Como's mental health in the wake of the text message scandal. She became very emotional when speaking about Mr. Como, and it is clear she thought highly of him. Further, it appears clear that the two helped each other out through various points in their careers.

Bob Knecht is another example of a Board member who, after he left the Board, was immediately hired by CASD during Mr. Como's tenure.¹² Mr. Knecht was on the Board while Mr. Como was Superintendent and, following his service, Mr. Knecht was hired as a teacher at CASD. Witnesses stated that Mr. Knecht and Mr. Como were friendly, which led to his subsequent hiring after retiring from the Board.

8. Mr. Como's Disparate Treatment of Employees

(a) Wrath of Mr. Como

In contrast to the treatment received by those with whom Mr. Como had close, personal relationships, those who crossed Mr. Como were subject to a variety of demeaning and unprofessional actions. This included verbally abuse, being passed over for promotions by inferior candidates, or even being forced out of CASD altogether. One witness referred to this as the "wrath of Como."

¹¹ Mr. Urban worked at Downingtown Area School District from 2009-2010. In 2010 she applied for and was hired at CASD.

¹² Mr. Knecht's sister is new Board member, Kim Mammel.

Witnesses provided a litany of employees to whom Mr. Como was verbally abusive. Abdallah Hawa, [REDACTED] and [REDACTED] are a just a few examples. Dr. Theresa Powell, in addition to facing intimidation from district officials after the release of the text messages, *see infra*, was passed over by less qualified candidates for high-level jobs within the District. However, the treatment of one former employee appears to be the prototypical example of what could happen if you crossed Mr. Como.

[REDACTED], the former Business Manager and a self-proclaimed whistleblower, openly questioned the way CASD's finances were handled. She questioned the District's sale of tax liens, which she described as a "shell game." She also questioned what she perceived as a mischaracterization of budget figures by Mr. Como and former Business Manager, [REDACTED]. As a result, she was ultimately forced to resign.

Many of the financial decisions she questioned were made by, or at the recommendation of, [REDACTED], and witnesses reported that tension existed between the two of them. Some witnesses reported that [REDACTED] was gunning for [REDACTED]'s job, a characterization [REDACTED] disputed. She acknowledged that their relationship did not begin smoothly, but [REDACTED] claimed that their relationship had improved. Ultimately, however, [REDACTED] indicated that she believed [REDACTED] and Mr. Como took steps to undermine her. She also implicated Paul Rose, the District's Comptroller and subordinate to both [REDACTED] and [REDACTED], as being part of their plot. Although [REDACTED]'s theory that she was being conspired against included some unsupported elements, her assertion that she faced unfair treatment for questioning certain policies (or disregard for certain policies) at CASD is supported by objective evidence.

For example, [REDACTED] was approved by the Board as Director of Business Administration—the formal title for "Business Manager"—on February 23, 2010, with a starting annual salary of \$180,000. *See* CASD019013. [REDACTED], however, was offered a salary of only \$130,000 for the same job. *See* CASD019014. If this was merely a cost savings measure, and administrators across the District were taking pay cuts, a \$50,000 cut may have been justifiable, but several factors indicate that was not the case. First, administrators across the District were not taking pay cuts. In fact, [REDACTED] was set to be making over \$200,000 had he stayed in the position that [REDACTED] filled after he left. *See* CASD019015. Second, the Administration determined that the Assistant Business Manager position should be cut. Thus, not only was the Administration expecting [REDACTED] to be paid less money, they were expecting her to do more work than her predecessor.¹³

Interestingly, [REDACTED] reported that she did not even want the Business Manager position, as she wanted to spend more time with her children, but she feared that an unacceptable candidate would ultimately be hired, so she applied. She was not, however, interviewed for the

¹³ To be fair, witnesses from the Facilities Department indicated that, while [REDACTED] was Business Manager, their department did not report to her, even though they had reported to previous Business Managers. Rather, when [REDACTED] became Business Manager, the Facilities Department reported to Assistant Superintendent Angelo Romaniello. We have seen no evidence that supports the idea that her lower pay was tied to this subtraction from her job description, but it is possible. It is also possible, however, that having the Facilities Department report to Dr. Romaniello was another way to slight [REDACTED].

position. Rather, Mr. Como simply called her into his office and told her that she had the job. Given that [REDACTED] had been a thorn in the financial side of Mr. Como's Administration, Mr. Como's interest in having [REDACTED] fill the open Business Manager job is curious.

It appears that Mr. Como may have wanted [REDACTED] in the role of Business Manager so that he could run her out of CASD. The fact is that [REDACTED] took certain actions that made her unpopular with Mr. Como and those close to him. She came to the District and immediately and repeatedly questioned certain policies in place in the Business Office, and she raised these concerns in both private and public meetings. She also launched her own internal investigation and started to document issues she observed.

In doing so, she drew the ire of Mr. Como, and she appears to have been targeted in a way that made her professional life unbearable. She was given an increased workload with decreased assistance, as evidenced by the District failing to fill the Assistant Business Manager position, despite [REDACTED]'s pleas that they give her help. Further, her relationship with Comptroller Paul Rose had deteriorated to such an extent that Mr. Rose proved to be unhelpful, at best, and intentionally undermining, at worst. At one point, [REDACTED] was even given the Dickensian choice of resigning, continuing as Business Manager without an Assistant Business Manager, or returning to her job as Assistant Business Manager. In other words, the District was willing to provide assistance to the Business Manager so long as [REDACTED] was not that Business Manager. *See* CASD019020-21.

Still, [REDACTED] chose to remain as Business Manager. However, she endured several hardships that were apparently intended to burden her. These included restricting her ability to communicate with Board members, overruling her with regard to issues pertaining to Paul Rose (with whom [REDACTED] had a toxic relationship), and taking steps to ensure that she was not included in certain district functions. Indeed, in email chain dated October 15, 2012, Mr. Como chastises [REDACTED] for sending an email directly to the Board with information:

These MUST BE CLEARED BY ME BEFORE SENT TO ANY BOARD MEMBERS! No Emails directly sent without my 1st hand knowledge! This IS my 2nd such reminder....

Whether requested or not *all such mail will pass thru my office* with each and every communication and given my approval each and every time from every department [sic]. Hope this time around it clears up any "At Loss" for the procedures in place to be followed in all future communiqué.

CASD019028 (emphasis in original and emphasis added).

Ultimately, [REDACTED] was forced to resign after Mr. Ellison and others accused her of "stealing" CASD property. On Tuesday, February 5, 2013, [REDACTED] was called into a meeting with Board member Joe Dunn, Ms. Zeigler, Mr. Como, Dr. Romaniello and Mr. Ellison. They told her that she was going to either resign or be fired for "stealing" CASD records and for not completing certain work required of her.

According to [REDACTED], Mr. Ellison and others accused her of taking a box of materials from the school. They also accused her of taking documents and storing them on her personal laptop computer. These “stealing” charges, however, do not appear to sit on a solid foundation. First, [REDACTED] reported that the box to which they referred held a non-district pancake griddle, and second, she—and several other witnesses—reported that taking electronic materials home in order to work on them is common practice at CASD. [REDACTED] was not issued a CASD laptop, so the use of her personal laptop was necessary to work from home.

[REDACTED] was initially informed that CASD would be suspending her with the intent to terminate her. Mr. Dunn allegedly was doing most of the talking, and he was screaming at her, a fact that Mr. Como’s Secretary confirmed. Ms. Zeigler then escorted [REDACTED] to another conference room and the others met privately without [REDACTED] present. After waiting for a long time, [REDACTED] eventually packed up her bags and went back to work. [REDACTED] was then called back into the room, and Ms. Zeigler told [REDACTED] that CASD was suspending her without pay. At this point, one of the CASD Police Officers brought [REDACTED]’s coat and purse into the room. [REDACTED] informed the group that she also had a personal laptop and a briefcase. She was particularly interested in the briefcase, because that allegedly contained medical records that [REDACTED] needed to carry with her.

Ms. Zeigler, who was the only one with [REDACTED] at this point, left the room, presumably to speak with Mr. Ellison, and after she returned, Ms. Zeigler stated that the purse and coat were all that CASD was returning to [REDACTED] at that time. [REDACTED] claimed that she was told that her belongings would be returned to her in forty-eight (48) hours. [REDACTED] called the police to report that CASD had taken her belongings. However, the local police stated that they had no jurisdiction due to CASD having its own police force.

According to [REDACTED]’s account, as well as legal bills from Mr. Ellison’s former law firm, this meeting took place on Tuesday, February 5, 2013. *See* R&S003318. Despite informing [REDACTED] that her personal belongings would be available within forty-eight hours, a computer forensics vendor retained by Mr. Ellison was contacted on Friday, February 8, 2013, by an attorney at Mr. Ellison’s law firm to discuss the possibility of imaging a laptop belonging to [REDACTED], as well as a desktop at the [REDACTED] residence. *See* CASD023424-30. On that same day, Mr. Ellison obtained a court order allowing for the search of [REDACTED]’s personal belongings. According to [REDACTED] and her attorney, Mr. Ellison waited until late in the day on Friday to obtain the order, despite being in contact with [REDACTED]’s attorney, *see* R&S03322, in order to prevent her attorney from appearing to challenge Mr. Ellison’s requested order.

[REDACTED] ultimately resigned, but she did so in a four page letter sent to each Board member, detailing the abuse she endured and summarizing the financial issues and concerns at CASD. *See* CASD014765-68. Notably, although the letter of resignation was written on March 14, 2013, it was effective February 4, 2013. *See id.* [REDACTED] wrote that this effective date was insisted upon by Mr. Ellison in an attempt to limit CASD’s exposure for the retaliatory actions taken starting the with the February 5th meeting discussed above. *See* CASD014768.

Most witnesses seemed to lack any real grasp of what happened when [REDACTED] left CASD, but a number of witnesses did report that they thought [REDACTED] was being set up by

the Board. One witness, who purported to have observed some of the actions taken by ██████ during her time at CASD, openly questioned ██████'s motives and disputed ██████'s self-characterization as a whistleblower. That witness went as far as to imply that ██████ is a serial plaintiff in search of school districts against whom to bring suit. However, that witness is not entirely credible, as she appears to have some loyalty to Mr. Como, particularly because she appears to have been given a job by Mr. Como. Given that ██████'s account is consistent with most other witnesses, claims of ██████ as a purely self-interested actor are unsupported.

Rather, ██████ appears to have been an invested employee, interested in seeing the District's finances run in a responsible way, and with strong opinions as to what that meant. Her downfall appears rooted in one of two scenarios: (1) she was either not adept at—or interested in—the politics necessary to survive in Mr. Como's administration; or (2) anyone that questioned the actions taken by Mr. Como's Administration and pushed for changes to financial policy to the extent ██████ did was doomed to fail so long as Mr. Como sat in the Superintendent's office.

(b) Sanctuary of Mr. Como

As alluded to previously, Mr. Como took care of those in his "inner circle," both personally and professionally. Like a good coach, Mr. Como was very protective of his "team," and, if you were fortunate enough to be part of his "team," you were treated differently than others. This included special perks and, more frequently, special accommodations that may not have been available to them but for their relationship with Mr. Como. The following is a non-exhaustive list of examples of individuals who were protected and defended by Mr. Como.

(i) Becky Layfield

Rebecca ("Becky") Layfield began her career as a physical education teacher at CASD nearly thirty-five (35) years ago. *See* CASD012964. Today, she is the Head of the Guidance Department and an Athletic Trainer. *See* CASD012728. Witnesses described Ms. Layfield as highly qualified for her positions and her personnel records confirm that she has consistently received exemplary performance reviews. *See, e.g.,* CASD012929-32. Despite her qualifications, however, witnesses objected to Ms. Layfield's receipt of certain "perks" (including having her own golf cart and having 24/7 access to district buildings) as a circumstance of her relationship with Mr. Como.

The exact nature of Ms. Layfield's relationship with Mr. Como is unknown, but it is clear that the two have a close personal relationship cultivated over the course of their long careers at CASD. This personal relationship extends outside of the workplace, with Ms. Layfield herself admitting that she helps Mr. Como around the house, paying bills and essentially doing anything that involved the use of a computer. Witnesses noted that Ms. Layfield would even leave in the middle of the day to "meet the plumber" or to be present for the delivery of furniture at Mr. Como's house. Some witnesses are baffled by Ms. Layfield's relationship with Mr. Como, noting that she did everything for him and he treated her poorly.

Most witnesses described Mr. Layfield as the primary source of Mr. Como's information about the daily activity at CASD. Many witnesses reported acting with hesitation in Ms. Layfield's presence for fear that whatever they did would make its way back to Mr. Como. Several witnesses even reported that they fear, with Ms. Layfield still working at the school, Mr. Como would remain apprised of the happenings within CASD and retaliate against them.

Indeed, we received several reports that Ms. Layfield was approaching witnesses interviewed as part of our investigation and the DA's Office's investigation, and inquiring as to the types of questions being asked. When confronted with this accusation, Ms. Layfield acknowledged that she had spoken to witnesses about our investigation, but stated that she was primarily concerned with personal inquiries we made about her. She stated that she was unaware that she was unable to discuss our investigation with others. When advised not to approach witnesses about their statements, particularly as to their interviews or contacts with the DA's office, because it could be perceived that she was intimidating witnesses or interfering with our investigation or that of the DA's Office, Ms. Layfield appeared to express genuine concern about her actions, and we have not received any new reports of her approaching witnesses since that time.

As a Guidance Counselor, Ms. Layfield is covered by a Collective Bargaining Agreement and her salary is based on a nine-month contract year. *See* CASD014814-73. However, Guidance Counselors are entitled to work up to twenty days over the summer months, and when "required to work beyond the contracted school year, [are] reimbursed on the basis of pro-ration of their base salary." CASD014832. Specifically, under subsection IV.H.2 of the Collective Bargaining Agreement ("Extra Pay for Extra Duty"), they are paid 2.62% of their base salary for each week of summer employment. *Id.* According to Ms. Layfield, Guidance Counselors may work more than twenty days over the summer "as needed."

Ms. Layfield stated that the Department Head (which she is) always works at least six weeks; that's "just the practice." She explained that the Guidance Department is required to develop the master schedule and with the new state testing requirements, students have to be pulled from electives to take remediation classes. According to Ms. Layfield, this "takes all summer." It appears that Ms. Layfield enjoyed the benefit of being able to work any and all days over the summer if she desired and was compensated for her time, and that others resented this because they too would work additional days for the additional money if they had the option. Witnesses attributed Ms. Layfield's ability to work extra (and earn extra money) solely to her personal relationship with Mr. Como.

(ii) [REDACTED]

[REDACTED] has not been at CASD for several years, but he is included here because several witnesses described him as being in the "inner circle" at one time, and [REDACTED] represents a particular outcome of Mr. Como's employment policies—an employee that should have been terminated but was allowed to continue working due to his personal relationship with Mr. Como.

[REDACTED] was the Director of Buildings and Grounds until that position was eliminated in 2011. *See* CASD016052-53. [REDACTED]'s departure has a much deeper storm

though, than a simply elimination of a position. In 2008, after noticing irregularities in the amounts being taken from CASD's gas pump, two district employees set up video cameras to determine what was happening to the missing gas. These two employees—both of whom worked in the Facilities Department—discovered their boss, ██████████ allegedly stealing gas.

These two employees took the evidence they had gathered and informed Mr. Como of the alleged theft. Rather than thanking them for a job well-done, however, Mr. Como reportedly scolded the employees, informing them that he was not happy they had set up cameras without telling him. They allegedly were forced to turn over all cameras and footage, and Mr. Como informed everyone involved that the incident was over.

According to ██████████'s employment records, the incident was not entirely over. According to a letter from Mr. Como to ██████████, Mr. Como adjusted ██████████'s punishment from a suspension pending board approval of his termination to a thirty day suspension accompanied by a mandate that ██████████ relinquish supervisory control over his department. *See* CASD016058-59. Several witnesses reported that, after this alleged gas theft incident, ██████████ was moved to the under construction Rainbow elementary where he allegedly served a project manager role. According to several witnesses, ██████████ did little, if anything, in this project manager role and was essentially paid each day to show up and sit at a desk (if he showed up at all).

Several witnesses indicated that ██████████ was allowed to stay because he had information that would have been embarrassing for Mr. Como and, according to Mr. Como, harmful for CASD. Those witnesses suggested that the information would have portrayed Mr. Como as a racist and a sexist, years before the text messages that sparked this investigation were made public. Indeed, in December 2012 (nearly nine months before the text messages were publicly disclosed), ██████████ filed a Charge of Discrimination with the EEOC, claiming:

During my employment, Superintendent Richard Como regularly made racist and sexist comments at work about employees and students to staff members who found it offensive, but were powerless to speak out. He also routinely instructs the hiring committees to how they are to rate applicants for various positions, in which his racism and sexism were evident. I regularly told him he should not do this but he ignored me.

CASD023518 (emphasis added). ██████████ Charge is allegedly still pending more than a year later.

(iii) ██████████

██████████ is an employee of CASD who has enjoyed benefits from his ties to Mr. Como, mainly enjoying what appears like unlimited months of Medical Leave for injuries that allegedly were falsified. ██████████ was hired as an electronic technician tradesman, which was approved by the Board on September 28, 2010 and effective on October 18, 2010. *See* CASD017150.

Mr. Como supported hiring [REDACTED], as evidenced by an email on August 16, 2010 from Mr. Como to the Director of Human Resources, attaching [REDACTED]'s resume and stating: "PLEASE SAVE THIS RESUME AND EMAIL ADDRESS." CASD017140 (emphasis in original). Shortly thereafter, on August 25, 2010, the electrician job was posted. See CASD017151. [REDACTED] was then hired on September 28, 2010.

The Manager of Maintenance signed [REDACTED]'s "Recommendation for Employment Form" on September 13, 2010. See CASD017158. Nevertheless, the Manager of Maintenance felt that he was "forced" to hire [REDACTED] because he was recommended by Mr. Como. The Manager of Maintenance was responsible for hiring [REDACTED], but [REDACTED] reported to the Energy Manager. Even though the Manager of Maintenance was one of the few witnesses who stated he did not always show deference to Mr. Como, he still knew his place and knew that Mr. Como ruled the school.

[REDACTED] supposedly had ties to Mr. Como through sports. He supposedly played football with one of Mr. Como's sons. Some witnesses reported that [REDACTED] also knew Mr. Como because he cut Mr. Como's hair. The tie between [REDACTED] and Mr. Como is documented in his workers' compensation file, where an email from the CASD Health and Safety Specialist asks to be kept apprised of the status of [REDACTED]'s workers' compensation case because it "is a political 'hot potato' for me and his supervisor because of [REDACTED]'s personal connections." CASD017915.

Once hired, [REDACTED] was often disciplined for his lateness, however, he never suffered from further consequences other than a mild reprimand. On one occasion, the Manager of Maintenance called [REDACTED] because he was not at work and [REDACTED] explained he was running wire on Mr. Como's house (this incident is summarized in further detail below). While on Mr. Como's roof, [REDACTED] allegedly fell through the roof and injured his knee. He applied for Workers' Compensation benefits for those injuries, a claim which was denied. He has been receiving medical disability benefits since his injury.

It is extremely concerning that [REDACTED] has been on FMLA and/or Medical Leave of Absence since October 1, 2012, when he first claimed he was injured. The Board has continually approved FMLA and Medical Leave of Absence since October 1, 2012. See CASD017178 (Board approving FMLA for 10/1/12-12/14/12); 017179 (Board approving FMLA/ Medical Leave of Absence for 12/17/12-2/1/13); 017180 (Board approving Medical Leave of Absence for 2/4/13-3/15/13); 017181 (Board approving Medical Leave of Absence for 3/18/13-5/31/13); 017182 (Board approving Medical Leave of Absence for 6/3/13-7/1/13); 017183 (Board approving Extended Medical Leave of Absence for 7/2/13-8/15/13); 017184 (Board approving Extended Medical Leave of Absence for 8/6/13-12/31/13).

As to his alleged injuries and subsequent benefits, [REDACTED] was likely falsifying his claim for Workers' Compensation benefits. Witnesses reported claims that [REDACTED]'s papers were "falsified" so that he would be eligible for disability leave. Notably, the Director of Human Resources and the CASD Health and Safety Specialist allegedly never heard any reports that [REDACTED] has fallen through Mr. Como's roof, despite the rumor being rampant within CASD.

Instead, both allegedly heard he injured himself while performing work on school property, specifically installing a white-board in a classroom. There are conflicting witness reports as to whether [REDACTED] injured his knee on school premises or whether he hurt his back and his treating chiropractor hurt his knee while treating him for back pain.¹⁴ [REDACTED] was, apparently, being treated for knee pain long before any further injuries sustained at the school.

Adding to the questionable nature of his injuries is surveillance referenced in his workers' compensation file. At the time of the injury, [REDACTED] was doing construction work on his new business venture; photographs on the business' website shows [REDACTED], with an eight-foot paint roller, painting on the ceiling and arching his back. See CASD017911. There were also reports that [REDACTED] was seen painting his wife's house after he was already injured.

Following [REDACTED]'s alleged injury, it became even more evident that he and Mr. Como had a personal relationship. Mr. Como was very involved in trying to ensure that [REDACTED] was paid benefits when, otherwise, Mr. Como would not have any involvement in Workers' Compensation benefits. When [REDACTED] first met with the Health and Safety Specialist, he became aggressive, allegedly threw a pencil, stated that the Health and Safety Specialist could not prove anything and stormed out of the room. Following this tirade, the Assistant Superintendent became outraged that the Health and Safety Specialist did not approve Workers' Compensation benefits. The Health and Safety Specialist said it became especially clear that [REDACTED] and Mr. Como were close and he stated that he did not want to "be a part of their felonious conspiracy [to obtain workers' compensation benefits]." Mr. Como later asked why the Health and Safety Specialist was wrongfully denying [REDACTED] a benefit to which he was entitled. The Health and Safety Specialist stated that Mr. Como had never before been concerned as to any other employee at CASD receiving (or being denied) Workers' Compensation benefits.

(iv) [REDACTED]

[REDACTED] is the Secretary for the Athletic Department. She is also [REDACTED].¹⁵ [REDACTED] began working as a secretary in the Athletic Department at the beginning of the 2010-2011 academic year; for three years before that she was a secretary in the Attendance Office. [REDACTED] filled the position as Athletic Department Secretary when the former secretary retired. She obtained the position after having told Mr. Como that she had an interest in a secretarial position outside the Attendance Office. Mr. Como suggested the possibility of working in the Library or Athletic Department, and Mr. Donato, who allegedly found [REDACTED] attractive, wanted [REDACTED] for the position.

[REDACTED] was initially hesitant to accept the position because, as a year-round position, it would require her to work summers, which she was not required to do in the Attendance Office. According to the Director of Human Resources, Mr. Como explained to [REDACTED]

¹⁴ [REDACTED]'s claim regarding his knee appears falsified. According to the Workers' Compensation file, [REDACTED]'s provider made a written statement that he had no contact with [REDACTED]'s knee and thus, did not cause a meniscus or ACL tear as [REDACTED] claimed during hearing testimony. See CASD017943 (1/29/2013 email to CASD Health and Safety Specialist stating same).

¹⁵ [REDACTED].

██████████ that she could refrain from taking comp time during the school year and then use all of her comp and vacation time during the summer. According to Mr. Como, this would essentially enable her to take summers off. ██████████ apparently agreed to this arrangement and took the position.

██████████ was supposed to track her comp time, but allegedly did not. Witnesses stated that ██████████ took most of the summer off, nevertheless, working only one or two days per week. No other employee benefitted from this type of arrangement, and it does not appear that the Board approved this arrangement, or was even aware of it.

██████████ has recently been informed that this arrangement will not continue. She apparently will be required to work summers going forward.

(v) ██████████

██████████ is a Physics Teacher in the high school, a job he has held since the beginning of the 2013-2014 school year. Prior to that, he was the Principal of Reeceville Elementary School, a position which he held for six years. During his interview, ██████████ gave several reasons for the unusual “demotion” from Principal to teacher. His stated reasons included stress, his wife and that he preferred working with older kids. He conveniently did not attribute alcoholism as a reason for the position change; ██████████ stated he is a “recovering” alcoholic.¹⁶ When ██████████ changed positions from Principal to teacher, Mr. Como told the Director of Human Resources that ██████████ should keep his Principal’s salary. This salary was corrected by the Board, so that ██████████ would receive the appropriate, lower teacher’s salary.

██████████ has a history as an alcoholic and, in particular, Driving Under the Influence (“DUI”) arrests. In June 2013, ██████████ received his first DUI. He explained he was approximately one mile from his house, was pulled over speeding and the officer smelled alcohol. At the time of his interview, as of December 2012, ██████████’s charges were pending, but he had been accepted into the Accelerated Rehabilitative Disposition (“ARD”) Program, with a final hearing scheduled on December 17, 2013. Being admitted into the ARD program is not a conviction and, under Pennsylvania law, ██████████ is not required to report the June 2013 DUI arrest to the district. Nevertheless, when he received his DUI, he spoke with Mr. Como and the Director of Human Resources, who stated he would not be fired. ██████████ stated he was not worried about being fired in reporting the first DUI, presumably because of his close ties with Mr. Como. It is unknown whether other employees have been fired under similar circumstances.

Following the first DUI, in fall of 2013, several teachers approached ██████████ about receiving treatment for his alcoholism. ██████████ claimed he only drinks at home, alone, and only beer. He stated that his drinking does not affect his work; however, several concerned teachers thought that his drinking was, in fact, affecting his work. Some teachers said that that

¹⁶ While ██████████ freely spoke about his history of alcoholism and subsequent DUI (at the time of the interview he had only been arrested with the first DUI), ██████████ later accused us of a HIPAA Violation for confronting him about his alcoholism and DUI. There is no basis for this accusation and asking a witness—who is appearing on his free will—about rumors surrounding his alcoholism and DUI arrest is not a HIPAA Violation.

██████ smells like alcohol at work, although ██████ disagreed. After the “intervention,” and a few weeks before Thanksgiving, ██████ checked himself into four days of inpatient rehab, followed by eight days of patient hospitalization. ██████ stated this was the first time he had sought treatment and claimed he has been sober since the treatment.

██████ was arrested again on January 25, 2014 for a DUI, despite his claims that he was recovering and had been sober since his rehab treatment. This arrest was his second DUI within eight months. Because of the second DUI arrest, his ARD acceptance was revoked in March 2013. ██████ did not immediately report his arrest from the second DUI and did not report the revocation of his ARD admittance. Under Pennsylvania law, ██████ must voluntarily report his DUI arrest within 72 hours. ██████ was allegedly told by his attorney to not report his arrest. He only reported the DUI arrest once confronted by CASD administrators after they viewed a media story about his arrest.

Mr. Ellison viewed this reporting as in compliance with Pennsylvania law because he reported the arrest after being confronted about the arrest, and he did not “intentionally” fail to not report because he attorney advised him not to. The failure to report his arrest and revocation of ARD should have subjected ██████ to adverse employment actions, including termination; the failure to report may also have possible criminal penalties. Despite his blatant violations, ██████ is still employed by CASD. Several Administrators voiced their concern over the way in which the second DUI arrest was handled and voiced concern that ██████ was not subject to any adverse employment action.

██████’s continued employment and lack of adverse employment action is, in part, due to his friendship with Mr. Como and the subsequent protections he received as a result of that friendship. Mr. Como and ██████ have a history of friendship, as Mr. Como and ██████ had been friends since Mr. Como was the High School Principal and ██████ was a teacher in the high school. In fact, witnesses described Mr. Como as a mentor to ██████. Mr. Como also included ██████ on interviews, such as hiring the Head Football Coach, even though ██████ was a Principal of an elementary school and should have had no input on the hiring of a high school football coach. Mr. Como attempted to ensure that ██████ kept his Principal’s salary, despite becoming a teacher and thus “downgrading” his pay-grade. While the decision was reversed by the Board, the sentiment remains that Mr. Como protects his allies.

B. ALLEGED MISAPPROPRIATION AND THEFT OF ATHLETIC DEPARTMENT FUNDS

1. Alleged Theft of Gate Receipts at Athletic Events

The CASD Athletic Department has traditionally lacked written policies and procedures regarding cash collection. Protocol for cash collection during athletic events has been passed down through informal training from one athletic director to the next. While prior athletic directors were receptive to this training, Mr. Donato was not interested in these details. He purged the Athletic Office of the records of his predecessors and failed to keep his own. Whether this mismanagement was a deliberate attempt to obscure questionable practices or simply an unintended result of his ineptitude, the effect was the same: incomprehensible and incomplete records, which suggest at least circumstantial evidence of theft.

Understanding the proper handling of athletic gate receipts is critical to highlighting Mr. Donato's manifest failures in this area. CASD is authorized to charge admission to night games played at the high school. With the exception of baseball and softball, the high school has night games in almost every sport. Outdoor night games are typically played in the football stadium. The stadium has four gates at which two individuals each (one ticket seller and one ticket taker) sell and collect admission tickets. The Athletic Director is responsible for staffing these positions and for facilitating ticket sales and the resulting deposits.

(a) Pre-Mr. Donato Ticket Sales Procedures

The following was the ticket sales procedure prior to Mr. Donato's tenure at CASD. On the evening of the event (which in the case of a football games was usually a Friday night), the Athletic Director would prepare five cash boxes: one for each gate and one box for extra change. Each box would be filled with \$250.00 (\$125.00 in \$1.00 bills and \$125.00 in \$5.00 bills) for ticket sellers to use as change when selling tickets. At the beginning of the season, the Athletic Director would withdraw "start-up money" from the bank. The start-up money, usually \$1,500.00 to \$1,700.00, would be used to stock the cash boxes during the first few games and was kept in the safe in the Athletic Department. After the season began, the Athletic Director would have to return to the bank on several occasions to get additional small bills that could serve as change for these cash boxes.

The Athletic Director would then bring a cash box, a Ticket Seller's Return Form, and two rolls of tickets to each of the four gates. The Athletic Director would keep a fifth cash box in case one of the sellers ran out of change. The ticket sellers would sell tickets. Patrons would present their tickets to the ticket collector to gain admission. The ticket collector would collect the tickets but did not retain the tickets after the game was over.

The Athletic Director would assign a Ticket Seller's Return Form and two rolls of tickets—one roll would be for adult tickets, which cost \$5.00; one roll would be for student tickets, which cost \$3.00—to each gate. *See* CASD003235. The form would include the date, sport, opponent, ticket seller and ticket taker assigned to the gate and the amount of the change. The Athletic Director would staple the starting ticket from each roll to the top corner of the Ticket Seller's Return Form for each corresponding gate. Accordingly, each Ticket Seller's Return Form would have two starting tickets stapled to it (one from the adult roll, one from the student ticket role). The rolls of tickets were generic, but were different colors. Unlike Mr. Donato, his predecessors would deliberately select the color of the tickets so that, during any given game, the adult tickets at each gate would be a different color than the student tickets at each gate. The starting tickets were stapled to the form at the beginning of the game so that at the end of the game, the ticket seller could identify how many tickets were sold during the game by cross-referencing the last ticket sold.

When the seller was done selling tickets, she would staple the last ticket from each of her two rolls to the Ticket Seller's Return Form. Based on the range of the two sets of tickets (starting ticket from each roll and ending ticket from each roll) stapled to the form, she would calculate the number of tickets sold by type (adult or student) and multiply this by the ticket price (\$5.00 or \$3.00, respectively) to determine how much money she should have collected, accounting for the \$250.00 in change she had from the beginning of the game. She would then

count the money she had collected to determine whether she had collected the amount she should have collected based on the number of tickets sold. She would fill in the Ticket Seller's Return Form with this information. This last step of counting the money typically occurred in the presence of the Athletic Director towards the end of the game.

After the money was reconciled with the number of tickets sold, the Athletic Director would take the money and records from each gate back to the Athletic Department office where, he would count the money again, recording the total amount of each bill collected from all gates on a tricolored deposit form. He would then fill out a deposit slip and place the money in the safe in the Athletic Department office where it would remain until the following Monday. On the few occasions where the Athletic Director would not recount the money immediately upon return to the Athletic Department office, he would place the money directly in the safe where it would remain until the following weekday (usually Monday morning).

The following Monday morning, the Athletic Director would give an envelope with the money, the deposit slip and two of the three copies of the tricolored form to the courier to bring to the Business Office. The white copy of the tricolored form would be included in the envelope with the money, the yellow copy of the tricolored form would be given to the Business Office for its records, and the Athletic Director would retain the pink copy for his records. The Athletic Director would then record the amount of the deposit on a spreadsheet he maintained that documented the date of each game, the opponent, the amount of collected from ticket sales and other notes, including the weather. These notes were intended to give the Athletic Director an idea of why the gate receipts were low or high for any given game. If, for example, the spreadsheet showed that it was raining one night, this would explain why they collected less from ticket sales. After recording this information on his spreadsheet, the Athletic Director would place the "tear away" from the deposit slip and the pink copy of the tricolored form in a binder with the other Ticket Seller's Return forms, of which there were four per game (one from each gate).

Mr. Donato's predecessors would sometimes arrange for programs to be sold during football games. The money from program sales would be counted and recorded with the money from ticket sales.

This same process was followed during basketball games, except that there was only one entrance and thus one ticket taker, one ticket seller, one cash box and one set of documents. Basketball games also differed in that the District charged \$3.00 for adult tickets and \$2.00 for student tickets. This process was also followed, albeit on a smaller scale, during the home night-games of the high school's other sports teams.

(b) Ticket Sales for PIAA Events

The Pennsylvania Interscholastic Athletic Association, Inc. ("PIAA") is a non-profit corporation whose purpose is to develop and enforce rules regulating interscholastic athletic competition. PIAA members consist primarily of public middle schools and high schools, and membership is voluntary. One of the ways the PIAA promotes its mission is by organizing games between member schools. Sale of tickets at these games is PIAA's primary source of revenue, and the PIAA requires that member schools report and remit revenues to the PIAA.

The CASD High School is a PIAA member and hosts PIAA events. The CASD Athletic Director is responsible for ensuring that the PIAA events are conducted in accordance with PIAA rules. This includes the responsibility of reporting gate receipts generated during any PIAA event. *See, e.g.*, CASD017865. The PIAA "Championship Contest Financial Report" form requires that the Game Manager (in the case of CASD, this is generally the Athletic Director) list general information about the PIAA event, including the date, site, teams and results. *See, e.g.*, CASD017866. The form also requires the Game Manager to report net cash receipts. *Id.* This requires that the Game Manager list the ticket number of the first and last ticket sold from each PIAA-provided roll of tickets. *Id.* The form instructs the Game Manager to "subtract the number of the [first] ticket sold from the [number] of the last ticket sold and add one to determine the number of tickets sold" as to each roll. *Id.* To verify, the Game Manager is then to multiply the number of tickets sold by \$5.00 (the cost of admission for everyone at PIAA events) to determine the total receipts. *See* CASD017866. From this amount, the Game Manager subtracts the total cash disbursements made to determine the net cash receipts, which is provided to the PIAA. *Id.* The cash disbursements are listed on a separate "Cash Disbursement" form that is to be submitted together with the Championship Contest Financial Report form. *See* CASD017867-69.

With the exception of officials who must be paid by check, event personnel who earn \$99.00 or less for their work during the event are to be paid in cash at the conclusion of the event from the cash generated from gate receipts. *See* CASD017865. This is the amount subtracted from the total cash disbursements on the Financial Report form. *See* CASD017866. The Cash Disbursement form requires the Game Manager to list the name, position and amount of money each worker is paid during the event and the worker is required to sign the form to confirm they were paid. *See* CASD017867-69.

(c) Mr. Donato's Ticket Sales Procedures

When Mr. Donato became Athletic Director he was not receptive to his predecessor's training and advice regarding ticket collection and accounting. Witnesses described Mr. Donato as unorganized and apathetic to procedures meant to promote accuracy, consistency, and transparency. Some efforts were made to keep track of ticket sales during Mr. Donato's tenure, but it appears these efforts were made by ticket sellers rather than Mr. Donato. One ticket seller, who worked frequently under former athletic directors, as well as under Mr. Donato, stated that she continued to account for her sales, but that this procedure was not followed by others or enforced by Mr. Donato. This ticket seller seemingly followed procedure out of self-preservation, not on account of Mr. Donato's insistence.

Mr. Donato's records relating to gate receipts are lacking. He does not appear to have maintained any of his own records similar to the spreadsheet his predecessors used, and although he retained Ticket Seller's Return Forms, the forms were often incomplete or not comprehensive, presumably because the forms were not always used. *Compare, e.g.*, CASD018230 (Ticket Seller's Return when Donato was Athletic Director) with CASD018103 (Ticket Seller's Return before Donato became Athletic Director). Mr. Donato's record keeping process for ticket sales appears to have consisted of his filling out a deposit slip, making a note on the slip of the sport from which the revenue was generated and then emailing the Staff Accountant in the Business Office the amount of the deposit and the source of the revenue. *See, e.g.*, CASD010744-45. A

few of the deposit slips note that there was rain during an event, likely to explain a low amount, *see, e.g.*, CASD009729, but it does not appear that Mr. Donato retained any more comprehensive records within the Athletic Department.

Witnesses recalled that Mr. Donato was less regimented in his ticket sales and collection process. He did not always distribute or collect cash boxes at each of the four gates at the same time and the cash boxes did not consistently contain \$250.00 in change. Mr. Donato told several ticket sellers not to count the cash collected or count the tickets. He would tell ticket sellers, "I got it," when they asked about counting the money, and he would not require that they sign anything when he collected the cash boxes. After collecting the cash boxes, Mr. Donato would have one of the custodians escort him back to the Athletic Department. The Custodian would help Mr. Donato bring the boxes into the Athletic Department office, and leave Mr. Donato to count and deposit the money.

Mr. Donato was not consistent with when he made deposits and did so much less frequently than his predecessors. *Compare* CASD010720, 10743-48 (Mr. Donato's October 2012 deposits) with CASD009635-36; 009647 (October 2009 deposits under Mr. Donato's predecessor). For example, documents show that Mr. Donato's predecessor made eighteen deposits in October 2009, *see* CASD009635; 009647, while Mr. Donato made only two in October 2012. *See* CASD010720.

(d) Evidence of Skimming By Mr. Donato

Several witnesses stated that it was not a secret that Mr. Donato was taking money "off-the-top" of Athletic Department revenue for his own benefit. While no person interviewed admitted that they witnessed Mr. Donato skimming money first-hand, most conceded that they had heard rumors that he was skimming, and the vast majority readily conceded that they would not be surprised if he was. Some witnesses went so far as to say that they were certain Mr. Donato was stealing despite the fact that they never witnessed it personally.

As stated *supra*, many witnesses stated it was common knowledge in the Athletic Department that Mr. Donato was skimming. People would joke that the Athletic Director's salary "is what they pay you and how much you can steal." It was apparently also well-known within the Athletic Department that Mr. Donato gambled frequently. One witness recalled that on one occasion, Mr. Donato joked about hoping there was a big gate at the football game to compensate after telling the witness he was having a losing week.

Another witness recounted a conversation she overheard between Mr. Donato and the Head Football Coach during which Mr. Donato specifically joked about stealing money from students. Specifically, in early 2010, a company that provides test preparation/student tutoring services allegedly had arranged to come to the high school on a Saturday and provide tutoring and/or test preparation services to students free of charge. Mr. Donato informed the Head Football Coach that they would be charging \$25.00 per student. When the Head Football Coach asked why they would charge since the company was offering their services for free, Mr. Donato allegedly responded: "That's money for me/us."

Beyond these rumors, however, are several suspect incidents, practices and records that suggest these rumors were based in truth.

(i) Significant Decrease in Department Deposits

Gate receipts dropped precipitously during the first two years of Mr. Donato's tenure as Athletic Director. During the 2008-2009 school year, Athletic Department revenue from all sports' admissions totaled \$63,514.00. *See* CASD017884-85. The following year, Mr. Donato became Athletic Director, and admissions revenue decreased to \$56,476.00. CASD00935-36. Revenue decreased again in his second year; in the 2010-2011 academic year, Mr. Donato made only fourteen deposits from admissions totaling only \$44,726.00. *See* CASD009713. This is a nearly \$12,000.00 decrease from the previous year and an almost \$19,000.00 decrease from the 2008-2009 academic year. *Compare* CASD009713 with CASD017884-85 and CASD00935-36.

While revenue during the 2011-2012 year increased more than \$9,000.00 to \$54,507.69, this amount remained below the "pre-Donato" admissions revenue. *Compare* CASD 010783 with CASD 017884-85. Revenue again decreased the following year to \$51,596.40. *See* CASD010720. This decrease in revenue from the 2011-2012 to 2012-2013 academic years is especially troubling given that the 2012-2013 year is the year that the football team made it to the PIAA Class AAAA Championship in Hershey, Pennsylvania, *see* CASD 014310, and thus, one would expect gate receipts to have been higher than usual this year. Also troubling is the fact that the during first three months of the 2013-2014 academic year, just after Mr. Donato resigned, Athletic Department revenues from admissions already totaled \$59,225.24, more than Mr. Donato had ever collected in an entire school year. *See* CASD009774-75. That Mr. Donato was redirecting money from gate receipts is the most likely explanation for such low revenue during his tenure, particularly given that the football team experienced unprecedented success during this time.

(ii) Misreporting Gate Receipts

As Athletic Director, Mr. Donato acted as Game Manager during PIAA events, and he was responsible for completing and submitting all required documents and a check from the gate receipts. It does not appear that Mr. Donato retained all records regarding this obligation, but from the records he did keep, he appears to have complied with this obligation, at least partially. On at least one occasion, however, his reporting practices were suspect. On the "Championship Contest Financial Report" form for a PIAA football game against Wissahickon, Mr. Donato reported ticket sales from three different gates, but the Cash Disbursement Form lists four ticket sellers and four ticket takers. *See* CASD017866-69. Given the fact that the District typically operates four gates during football games and given that these forms list staff for four gates, it is highly likely that four gates were in operation during this game. It is unclear then why Mr. Donato reported sales at only three gates. While Donato may have combined sales at two gates, there is no apparent reason why he would do so.

(iii) Charging Admission for Other Events

The District is only permitted to charge admission to high school evening games. However, multiple witnesses stated that they received complaints that the District was charging

admission to afternoon games held at the high school, as well as basketball games held at the middle school. For example, the Principal at Scott Middle School received complaints from parents who were upset about being charged to attend their children's games. Apparently, Mr. Donato decided that the District would charge \$1.00 for adults and \$0.50 for children as admission. The Middle School Athletic Director would collect the money and give it to Mr. Donato. It appears that Mr. Donato also charged for middle school wrestling events. *See* CASD010771. It is unclear the frequency with which Mr. Donato charged for middle school athletic events and whether he consistently deposited the money collected. However, records indicate he made deposits from collections at middle school games on at least a few occasions. *See, e.g.,* CASD010768; 010770-72.

2. Alleged Theft of Concession Stand Revenues at Athletic Events

Concessions are sold at CASD sporting events, primarily at high school football games, basketball games and track meets. How and by whom the stand is run differs depending on the sport. Witnesses recalled several suspect incidents relating to concession sales.

A booster club is "[a]ny organization comprised of parents or community members who choose to support an extra- or co-curricular activity." CASD018609-11. Booster clubs are "adult organizations" that "sponsor adult fund raising activities carried out in the name of the school." CASD018609. CASD Booster Club Guidelines provide that booster clubs are permitted to "raise funds by food concessions and like activities with pre-approval of the building principal." *Id.* Booster clubs are financially independent from the District, but are required to provide the Business Office with a year-end report, and must comply with PIAA regulating standards. *See* CASD018610.

During regular season football games, concessions are sold by the Band Boosters. During playoff games, the Football Boosters operate the concession stand. Witnesses did not report any issues relating to concessions at CASD football games. According to witnesses, the Band Boosters were a "tight group" that was "very vocal"; Mr. Donato knew he could not "mess with" the Band.

There were reports, however, that Mr. Donato demanded that the Football Boosters, who allegedly worked the concession stand during the Bert Bell Midget Football tournament (discussed below), give him 20-25% of the cash proceeds from the concession sales. While there is a deposit for the use of facilities from Bert Bell events (one in the fall of 2010, another in the fall of 2011), there is no corresponding deposit from this 20-25% cut of the concession sales. *See* CASD009737-41; 010820-23. In fact, in an email sent from the Staff Accountant to Mr. Donato on January 3, 2011, the Staff Accountant specifically asks if the \$1,000.00 deposit was for "Bert Concession." CASD009741. Mr. Donato responds that it was instead for "Bert Bell Football Field Usage 1,000.00." *Id.*

Concessions during track meets are sold by the Track Boosters, which is mostly comprised of parents ("parent boosters"). While the Athletic Department is responsible for admissions during track meets, the Track Boosters operate the concession stand independently from both a practical and financial standpoint. Consistent with CASD Booster Club Guidelines, the Track Boosters are financially independent from the District, maintaining their own account

at DNB First, where they deposit revenue generated from fundraising efforts including concession sales. *See* CASD018592-94. These funds generally are not deposited into the District's General Fund and the Athletic Department is not entitled to a portion of the proceeds. The money raised is intended to directly benefit the track team.

With the help of the Girls Track Head Coach, the Track Boosters generally operate the concession stand as follows: Before the meet, parents contact vendors (usually local fast-food businesses) to place orders and schedule delivery for the day of the meet. These vendors are paid in cash when they deliver the food on the day of the meet. Also prior to the day of the meet, parents purchase packaged food and supplies. They typically make these purchases, which include water, sports drinks and hotdog buns, at wholesale retail stores using cash withdrawn from the DNB First Account. The actual type and amount of food purchased will vary depending on the size of the event; for instance, they generally only purchase fast-food items for championship meets, not during regular season meets.

On the day of the meet, the parent boosters who are operating the stand are given start-up money intended to enable them to pay vendors and make change for patrons. Again, the amount varies depending on the event; it is only about \$100.00 for regular season meets, but it is \$500.00-800.00 for large meets in May. Parent boosters operate the stand. Because the Pennsylvania Department of Health requires that an individual with his or her food-handler's license be present during food sales, one of the parent boosters is always someone who is licensed. At the end of the meet, two parent boosters count the money and fill out a deposit form with the amount. The Treasurer of the Track Boosters or the Girls Head Track Coach then deposits the money in the DNB First Account.

Each spring, the Coatesville Area School District hosts two large track meets. The first, the Ches-Mont League Track and Field Championships, usually occurs mid-week during the second week in May and is an all-day event. Track teams from approximately ten area high schools (primarily from Chester County) come to compete for the league title. The second, the District One Class AAA Track and Field Championships, is a larger meet that occurs over two full days, usually during the third week in May. More than 100 PIAA member high school track teams from throughout District One (which includes Bucks, Chester, Delaware, and Montgomery County schools) come to compete.

Unlike a regular season track meet, which typically generates only \$100.00-150.00 in sales, sales during the Ches-Mont and District One meets are a huge source of fundraising for the Track Boosters. During the 2012 Ches-Mont Meet, the Track Boosters raised \$3,000.00 from concession sales. *See* CASD018592; 018595-97. In 2011, they raised more than \$6,830.00 during the District One meet. CASD018594; 018603-08.

(a) 2011 District One Track Meet

The 2011 District One meet was held on Thursday, May, 19, 2011, and Friday, May 20, 2011. The night before the first day of the meet, May 18, 2011, the Parent Booster who was organizing concessions for the meet received a telephone call from the Girls Head Track Coach, who told the Parent Booster that she was to give all money from concession stand sales to Mr.

Donato. The Track Boosters had never before been required to funnel their fundraising money through the Athletic Department, and so the Parent Booster was surprised.

When the Parent Booster asked for a reason, the Girls Head Track Coach said he had been given an order that “this is what we have to do.” Apparently, this phone call was preceded by a meeting during which Mr. Como and Mr. Donato told the Track Coach that he was to instruct the Track Boosters that it would be done this way. The Track Coach said he did not know why they were required to do it this, and the Parent Booster described him as visibly upset. The Parent Booster asked if there would be any procedure in place to account for the money submitted to Mr. Donato. The Track Coach said that it had not been discussed, but he said he thought it was a great idea when the Parent Booster suggested coming up with a procedure.

The Parent Booster created a “Log Sheet for Concession Stand Money” to track the money submitted to Mr. Donato. CASD018590-91. The Log Sheet had a place to record each time Mr. Donato came to take the money, with a place for the time the money was taken, the amount of the money, and the signatures of two parent boosters who counted and verified the cash amount. *Id.* This information was to be filled in each time Mr. Donato collected money over the course of the two-day meet. *Id.* The completed Log Sheet shows ten entries for cash amounts counted by parent boosters and collected by Mr. Donato totaling \$6,328.26. *Id.* However, the Log Sheet also contains a note that “Additional money was taken from the concession stand by Rich Como without being counted. Other parties w/Mr. Como were [Former CASD Police Officer] and Mr. Jim Donato. The money was taken from an active drawer.” *Id.*

This note refers to an incident that occurred on May 19, 2011, which was recounted by several witnesses, including the Former Police Officer referenced in the notes, as well as the Parent Booster who wrote the note and another parent booster who was in the concessions stand at the time. Specifically, on the morning of Thursday, May 19, 2011, a CASD Former Police Officer received a call from Mr. Como instructing him to come to the high school track. Mr. Como did not inform the Former Police Officer why he was needed, and the Former Police Officer did not ask. The Former Police Officer stated that when he arrived, Mr. Como was waiting and he “looked pissed.” Mr. Como simply stated, “Come with me,” and the Former Police Officer followed. The men walked to the concession stand and Mr. Como went inside, saying to the parent boosters: “I need the money” you have collected.

Parent boosters working the concession stand recalled that the stand had been very busy all morning and as a result, they did not have time to count the money they had collected to that point and set aside for Mr. Donato. The boosters explained this to Mr. Como. Witnesses stated that at this point “things got heated” and described visible “hostility” between Mr. Como and the parent boosters. Mr. Como went to the cash box and began taking cash out and shoving it in his pockets. The parent boosters objected that they needed time to count it but felt there was nothing they could do, because Mr. Como had arrived with the Former Police Officer in tow and because, for many of them who were both parent boosters and District employees, they felt they could not say anything for fear of retaliation. There was a line of patrons waiting to purchase food outside the concession stand and many thought that the stand was being robbed. All witnesses interviewed about this exchange recalled that Mr. Como walked off with the money. The Parent Booster recorded all other amounts collected by Mr. Donato over the course of the two-day meet on the Log Sheet the Parent Booster had prepared, and noted this exchange and the

fact that “[a]dditional money was taken.” CASD018590-91. Following the meet, Mr. Donato deposited \$6,831.00 in concessions money in the General Fund. *See* CASD018603-08. The District then wrote a check for this amount to the Track Boosters. *See* CASD018603-08; 018594, 018612.

When interviewed, the Parent Booster stated that there was no way of knowing how much money Mr. Como took or verifying that the \$6,831.00 check the Track Boosters later received was for the full amount taken. However, an analysis of the records relating to these sales produces a range of possible amounts. Specifically, the records kept by the Track Boosters (the “Log Sheet for Concession Stand Money”) shows that Mr. Donato collected \$6,328.26 of the cash the Boosters had counted and recorded. *See* CASD018590-91. Since the check to the Boosters exceeded this amount, the money that Mr. Como “stuffed in his pockets” was at least the difference between these two amounts, or \$502.74 (\$6,831.00 minus \$6,328.26).

Additionally, by comparing sales over both days of the meet it is likely that this \$502.74 amount was actually less than the money actually collected. According to the Log Sheet, as of 12:55 p.m. on the second day of the meet, the Track Boosters had collected \$2,900.00. *See* CASD018590-91. Assuming that concession sales during the first day of the meet were at least as high as they were during the morning of the second day (which is likely given witness descriptions of the event), one would expect the amount collected as of this time on the first day would be comparable to \$2,900.00. The amount recorded on the Log Sheet as of 1:00 p.m. on the first day is only \$500.00 plus “[a]dditional money . . . taken . . . by Rich Como.” CASD018590-91. For collections on this first day to have been comparable to collections on the second day then the additional money collected by Mr. Como would have been around \$2,400.00. Thus, the amount of the check attributed to this collection, \$502.74, is less than what one would expect.

(b) 2012 District One and Ches-Mont League Track Meets

During both the 2012 Ches-Mont League Track and Field Championships and the 2012 District One Class AAA Track and Field Championships, track concessions were funneled through the Athletic Department in this same way, but these times without incident. The Track Boosters recorded every exchange with Mr. Donato and insisted that he sign the form verifying he had taken that amount (although he did so without verifying that the amount he was collecting matched the amount they wrote on the Log Sheet). The amount of both checks they received matched their records. *See* CASD018592-93; 018595-602; 018614-17; 018622-26.

In 2013, The Track Boosters were again ready to account for money funneled through the Athletic Department, but collections ceased as abruptly as they had started. No explanation was given to explain this second sudden change in procedure.

(c) Basketball Games

Prior to the spring of 2012, the Student Council for the ninth and tenth grades (9/10 Student Council) functioned as a student activities group separate from the eleventh and twelfth grade Student Council (11/12 Student Council). As a separate group, the 9/10 Student Council sold concessions during basketball games.

(i) Pre-Mr. Donato Operation

In operating the concession stand at basketball games, the 9/10 Student Council followed the general student activities fundraising policies and procedures outlined above. On average, the 9/10 Student Council would raise \$700.00-800.00 per game, but during a big game, they might raise as much as \$1,100.00. If another student activities group wanted to run the concession stand, they could do so, but they did not keep the revenue from the sales. Instead, the 9/10 Student Council would pay them \$80.00 per game for their service in running the stand. One of the 9/10 Student Council advisors would fill out a deposit slip transferring \$75.00 or \$80.00 to the student group running the stand. The student group would operate the concession stand during the game, and the money from the sales would be deposited in the 9/10 Student Council account consistent with general student activities fundraising policies.

(ii) Mr. Donato's Operation

When Mr. Donato became Athletic Director, he informed one of the 9/10 Student Council advisors that there would be a "change in policy." Mr. Donato informed the 9/10 Advisor that there would be a \$50.00 fee per game for use of the concession stand. *See* CASD018588.¹⁷ Mr. Donato asked that the fee be paid in cash. This sudden change in policy, the fact that Mr. Donato insisted that the fee be paid in cash and Mr. Donato's demeanor, generally, made the 9/10 Student Council Advisor uneasy. He forwarded an email from Mr. Donato about the "policy" to the High School Principal. *See* CASD018587-89. He also unilaterally decided he would protect himself by accounting for the fee paid by transferring money from the 9/10 Student Council account to Mr. Donato. He asked Mr. Donato to which account he should make the transfer. Mr. Donato told him that the transfer slip should be made to the Coatesville High School Athletic Department and the 9/10 Advisor completed deposit slips accordingly.

The 9/10 Advisor received a call from an employee in the Business Office in charge of Accounts Payable. The Employee told the 9/10 Advisor that there was no account with that name so money would not be transferred. The Advisor, however, continued to complete the deposits slips with this account information. Each time the Advisor did so, he would email Mr. Donato to inform him, and in doing so, would blind copy the High School Principal on the email. Mr. Donato inquired several times where the money was and the Advisor informed him that he had submitted transfer slips. Mr. Donato stopped asking where the money was and did not attempt to enforce this "policy" the following year.

After the 9/10 Student Council was consolidated with the 11/12 Student Council, Mr. Donato himself began running the concession stand at basketball games, including PIAA games. He typically had three faculty members, one of whom was a certified food handler, work at the stand. They received extra duty pay for their services, just as they would have had they been working as a ticket seller or ticket taker during the game. Before each game, one of the workers was responsible for purchasing food and supplies for the concession stand, usually from a

¹⁷ The \$75.00 fee payment referenced in this email is for an athletic club that ran the stand.

wholesale store. This worker retained her receipts, which she would submit to Mr. Donato for cash reimbursement.

On the evening of the game, Mr. Donato would give the workers \$25.00-75.00 in start-up money to be used as change when patrons made purchases. During the game, Mr. Donato would come to the concession stand at regular intervals to collect the money from concessions thus far sold. One of the workers who was interviewed recalled that they would frequently run out of change because Mr. Donato collected the cash so frequently.

A game with a small turnout would typically raise approximately \$300.00, whereas a game with a large turnout would raise \$600.00 to \$700.00. The workers allegedly did not count or record the money raised; it was Mr. Donato's sole responsibility. Neither the Athletic Department Revenue Audit Trail nor any other Athletic Department records retained by Mr. Donato show deposits attributable to concession sales at basketball games. CASD 010720; 010757-66. Consequently, it is not clear where this money was deposited, if it was at all.

(d) Non-CASD Sanctioned Events

CASD facilities were used to host two large non-CASD track meets in the spring of 2013. The first, a CYO Track Meet, was held at the school on May 5, 2013. Mr. Donato allegedly opened the concession stand during this event and retained the money raised for his personal benefit. Mr. Donato used the same employees and procedure he did when he ran the concession stand at basketball games. However, because it was a large event, he did not have sufficient staff to keep pace with consumer demand. He therefore enlisted the help of a CASD custodian, and Mr. Donato himself helped to operate the stand. Mr. Donato allegedly pocketed the cash from the concession stand at regular intervals throughout the day without documenting how much was taken. Those who worked concessions during the meet stated that they raised a "couple thousand dollars" from concession sales.

On June 1, 2013, CASD hosted the second event, an Archdiocese Track Meet. The crowd at this event was allegedly "huge" and it was a "very hot day." This resulted in the concession stand running out of supplies at one point and required Mr. Donato to enlist the assistance of more than his usual three employees. Mr. Donato allegedly had six CASD employees, including his three regular employees, the Custodian who had helped during the previous CYO Meet, and three students, operate the concession stand. As discussed below, at least one of the workers was paid partially in cash and partially in extra duty checks. Consistent with his procedure at the CYO Meet, Mr. Donato allegedly pocketed the money throughout the day, usually opting to take the larger bills and leave the smaller bills for change. Witnesses who worked during the event stated that they raised far more than the CYO event, and guessed that they raised an amount comparable to what the Track Boosters raised during the District One Track Meet (more than \$6,000.00).

3. Alleged Theft of Other Athletic Department Funds

In addition to the "ComoNato" tax imposed on gate receipts and concessions, there are several cash collections that occurred during Mr. Donato's time as Athletic Director that have raised serious concerns in the community.

(a) Ches-Mont Cheerleading Competition Fees

Each year, several cheerleading teams from local area high schools gather for the Ches-Mont Cheerleading Competition. The competition is typically held in the morning on the first Sunday of February (this year, for example, it was held on February 2, 2014). The School that hosts the event changes each year depending on whose turn it is in the rotation. The schools in this rotation include: Downingtown, West Chester, Avon Grove, Sun Valley, Bishop Shanahan, and Coatesville. Last year, in February 2013, CASD hosted the event for the first time. The team, however, did not participate in the competition, but they received Mr. Donato's prior approval to use the facilities.

The benefit of hosting the event is the opportunity to raise money from fees and other fundraising efforts that occur during the event. To participate in the competition, each team had to pay \$175.00. The cost was per team, not per school. Thus, if a school's freshman, junior varsity and varsity teams all participated, the school would pay \$525.00. About twenty teams participated in the event (which would amount to \$3,500.00 in fees). Although much of the money from fees was used to cover costs (e.g., mat rentals, fees for security, judges and janitors, and awards), there were other sources of revenue from this event including tickets, t-shirts, vendor fees and concessions.

In addition to charging teams a fee for participating in the competition, the hosting school charged spectators, including family members, friends and classmates. The amount the school would charge for admission was up to the hosting school but typically ranged from \$5.00-10.00. Witnesses could not recall the amount the District charged for admission but guessed it was \$5.00-7.00 for students and \$10.00 for adults.

When Mr. Donato gave approval for use of the facilities, he told the Cheerleading Boosters,¹⁸ who were organizing the event, that he would be taking a portion of the ticket sales. He insisted that the Boosters use "his ticket seller" (one of the ticket sellers who regularly worked during CASD events) to sell tickets, which the Boosters did. This seller was responsible for selling the tickets and collecting the money. It does not appear that his ticket seller used the Ticket Reconciliation form to record the number of tickets sold. *See* CASD018268-309.¹⁹ The Cheerleading Boosters wanted to keep track of how many people attended the event. Accordingly, the parent booster who was responsible for collecting the tickets retained each ticket and placed it in a tin. The plan was to count the tickets at the conclusion of the event to determine the number of spectators.

T-Shirts sales, concessions, vendors fees (\$75.00 per vendor, of which they had three) and "tumble-off" entry fees (\$5.00 per participant), provided additional sources of revenue during the event. The Boosters collected money from these sales and fees. The Boosters had planned to count all the money following the event after which they would determine the split with Mr. Donato. However, when the Boosters convened at the conclusion of the competition,

¹⁸ *See* Section B.2, *supra*, for an explanation of the function of a booster club.

¹⁹ These are Mr. Donato's Ticket Reconciliation records for the 2012-2013 academic year. None of the forms correspond with the Ches-Mont Cheerleading Tournament.

each parent booster responsible for cash collection allegedly stated that Mr. Donato had taken all of the cash from tickets, concessions and t-shirt sales. Additionally, he confiscated the tin of tickets from the ticket taker thereby preventing the Boosters from determining the number of spectators and otherwise reconciling ticket sales.

A short while later, Mr. Donato approached the Boosters and handed them \$3,000.00 in cash, allegedly stating, "Here's your half." The Cheerleading Coach also recalled that Mr. Donato said something to the effect of: "I never would have imagined how much money this would bring in. We should do this every year." After Mr. Donato left, the parent boosters expressed their concern that the amount of money Mr. Donato presented as their half was low, but they concluded that they lacked documentation to fight it.

A review of the Athletic Department deposits records reveals that Mr. Donato did not deposit any of "his half" of this money. *See* CASD010720; 010764-69.

(b) Basketball Jackets and Warm-ups

During late February or early March 2010, Mr. Donato allegedly agreed to purchase jackets for the Boys Basketball team. The team allegedly collected \$1,200.00 and submitted it to a substitute secretary filling-in for the Athletic Department Secretary who was on vacation at the time. When the now-former Athletic Department Secretary returned from her vacation, she received a phone call from the Substitute Secretary, who informed the former Athletic Department Secretary that the money collected was locked in a drawer in her desk. The Substitute Secretary allegedly stated that Mr. Donato had told her to put the money in the desk for the former Athletic Department Secretary to deal with when she returned and told her, "Don't tell Mr. Como because he always wants money deposited right away." When the former Athletic Department Secretary returned from vacation, she gave the money to Mr. Donato to count and prepare a deposit slip. Mr. Donato returned the money to the former Athletic Department Secretary with a deposit slip for something much less than \$1,200.00; she guessed the actual amount was between \$720.00-750.00. The former Athletic Department Secretary believes that Mr. Donato retained the difference.

Mr. Donato also allegedly told the coach for the Girls Basketball team that he would provide the team with sneakers and warm-ups if each player paid him \$25.00 in cash. The coach agreed and each of the approximately twenty-four players on the team contributed \$25.00 and received this gear. The coach and concerned parents believe that Mr. Donato retained the cash collected and purchased the gear using solely CASD Athletic Department funds.

(c) Uniforms for Senior Pictures

One witness reported that Mr. Donato may have required athletes to pay \$25.00 cash for use of their uniforms for senior pictures, which had been done free of charge in the past. Mr. Donato's stated reason was to pay for inventory or restocking, because he would have to remove the uniform from inventory for the pictures and then put it back after the pictures were taken.

4. Alleged Misuse and Abuse of Extra Duty Pay System

CASD pays employees “extra duty pay” for working various extra jobs outside of the employees’ regular duties. For example, employees may earn extra pay for extra duty by working at various CASD sporting events. Mr. Donato kept sloppy and inconsistent records regarding those employees who worked events to earn extra duty pay, leaving an opening for both employees and Mr. Donato to abuse the extra duty pay system. Mr. Donato also abused the extra duty system by arranging to pay individuals with extra duty pay for non-CASD sanctioned events.

(a) Pre and Post-Mr. Donato Procedures

According to numerous witnesses, employees were paid \$40.00 per game to work various positions at CASD sporting events, such as ticket sellers, ticket collectors, supervisors, security, and score board operators. Allowances for extra duty pay are included in the employees’ various union contracts. *See* CASD014832-33; CASD014805-06.

According to witnesses who received extra duty pay, these payments were standardized and occurred prior to Mr. Donato’s tenure. Usually, the same employees would work at all of the sporting events, mainly as ticket sellers or ticket collectors. Witnesses who received extra duty pay for working at various athletic events explained that payments were made in a lump sum at the end of the season for all games worked in the form of a check from CASD (or as part of their paycheck). For PIAA district and state events, workers are paid immediately after the event in cash from the gate receipts. Employees must sign to acknowledge their receipt of cash at the event and list their social security number for tax purposes. The cash payment for PIAA events was also accepted practice prior to Mr. Donato taking over as Athletic Director and is not an example of the cash-only dealings by Mr. Donato.

The witnesses who regularly received extra duty pay, and who have worked the athletic events both under prior Athletic Directors and Mr. Donato, explained how prior Athletic Directors tracked the number of athletic events worked to ensure the correct amount of extra duty pay was issued. At the beginning of a season, the employee was given a schedule and asked to sign up for the games she wanted to work. The prior Athletic Directors kept track of how many games each employee was scheduled to work and how many games each employee actually worked to determine the correct amount of extra duty.

Following Mr. Donato’s tenure, the procedure for accounting for extra duty pay became more organized. The acting Athletic Director keeps his own spreadsheet to track the number of games worked by each employee. He also now requires each employee to sign a verification sheet on the night of the event to verify that he or she worked that event and should be paid.

(b) Mr. Donato’s Procedures

Mr. Donato was inept at keeping records as to who was owed extra duty pay and for which games. As opposed to prior athletic directors, Mr. Donato kept poor and sloppy records to account for which employees worked at which sporting events. Witnesses recounted that at the beginning of the season, Mr. Donato would distribute a spreadsheet and the employees would have the opportunity to select the games they wanted to work.

Following the events, Mr. Donato would e-mail a spreadsheet to payroll in the business office containing the number of "extra duty pays" the employee should receive and the amount due to each employee. The e-mails did not contain any detail whatsoever as to which specific sporting events were worked and on which days. For example, a March 4, 2013 e-mail from Mr. Donato to payroll states that a custodian should receive "4 extra duty pays which would be \$160.00." CASD010701. Similarly, a June 10, 2013 email from Mr. Donato to payroll lists that three different employees should receive two, seven, and three extra duty pays, respectively, at \$40.00 each. *See* CASD014703.

This lack of procedure and lack of detail in requesting extra duty pay for certain employees left openings for abuse of system, mainly by Mr. Donato. Mr. Donato could use the extra duty pays as a vehicle for a "bonus system," allowing Mr. Donato to reward certain individuals he favored with supplemental extra duty pay. He could also use his system to compensate workers for out-of-pocket costs that Mr. Donato otherwise should have paid, essentially charging his own costs back to CASD.

Some witnesses who regularly worked at the various athletic events stated that they kept their own records as to which games they worked and would track the number of games actually worked versus the amount in the pre-season sign-up sheet. Not surprisingly, Mr. Donato did not keep independent records of which employees worked at which specific events and on which date. Some witnesses complained that they worked more games than Mr. Donato's records showed, and thus were often not compensated accordingly by CASD unless they corrected the amount owed with Mr. Donato or payroll.

(c) Mr. Donato's Abuse of System

Mr. Donato abused the extra duty pay system by authorizing extra duty pay for individuals who worked events that were not sanctioned by CASD. Thus, Mr. Donato was paying individuals with CASD funds for non-CASD events and those events from which CASD did not receive revenue. Mr. Donato seemed to use the extra duty pay system to reimburse or pay employees at events that were not listed on the Rental Income Reports or not properly applied for through the facilities department, as discussed below. Mr. Donato utilized the extra duty pay to pay or reimburse employees so that he could directly (and solely) benefit from the proceeds of the event and/or facility rental fee.

The Bert Bell Midget Football tournaments were instances of Mr. Donato abusing the extra duty pay system so that employees would be paid by the school, and Mr. Donato could keep the money generated from any facility rental. The Custodian of the CASD stadium worked at the Bert Bell tournaments. This Custodian recalled that he was paid by CASD in the form of extra duty checks for the Bert Bell tournaments he worked which were held on Saturdays. The circumstances surrounding the rental of the facility for the Bert Bell organization strongly suggest that Mr. Donato was profiting, at least in part, from the facility rentals. As detailed above, there is an application for a facility rental to Bert Bell for \$1,500.00, however, that facility rental and any proceeds, are not listed on the Rental Income Report, suggesting that Mr. Donato kept the proceeds for himself. Further, according to internal emails, on two other occasions, CASD deposited \$1,000.00 from facility rentals to Bert Bell. It is unclear whether the

amount of the deposit constituted the entire facility rental fee as that facility rental is not documented elsewhere.

The CYO and Archdiocese track meets that were held at CASD during May and June 2013 are other major examples of Mr. Donato's abuse of extra duty pay. For example, a spring 2013 spreadsheet records one employee having worked nine track meets and another employee having worked six track meets. *See* CASD014702. However, there were less than six home track meets during the entire 2013 spring season. The employee receiving the nine extra duty pays recounted that she worked at the CYO and Archdiocese track meets on May 5, 2013 and June 1, 2013. That employee was compensated for her work at both of those track meets with extra duty pay. Since those track meets were full-day track meets, Mr. Donato issued a certain amount of extra duty pays to cover a full day's worth of work. The witness recounted that she was paid six additional duty pays for the May 5th CYO Track Meet and five extra duty pays for the June 1st Archdiocese Track Meet.

Paying for employees' salaries or extra time for non-CASD events by using school funds through the extra duty pay system is essentially stealing from the District, especially when CASD is not receiving revenue from these rentals. The CYO and Archdiocese track meets were events not sanctioned by CASD. Presumably CASD did not receive any revenue from those meets, as the events are not listed in any of the school records, including the Rental Income Report for 2011-2012 school year. *See* CASD011030-31. The only record of the events is the custodial payroll records. *See* CASD010703; CASD010705.

Mr. Donato further exploited the extra duty pay system by using the system to reimburse an employee for her out-of-pocket expenses spent to stock the concession stand. The same employee who was paid extra duty for working at the CYO and Archdiocese track meets also purchased supplies with her own funds to stock the concession stands at both the CYO and Archdiocese track meet. The witness recounted that for the supplies purchased for the June 1, Archdiocese track meet, she was reimbursed partially in cash and partially with extra duty pays.²⁰ The witness received some cash upfront for reimbursement. Mr. Donato stated he did not have enough cash to fully reimburse the witness and so, she was partially reimbursed with three additional extra duty pays.

Mr. Donato clearly took advantage of the extra duty pay system by reimbursing the witness with school funds for her out-of-pocket expenses rather than for her work, and at a non-CASD event. It is also suspicious as to why Mr. Donato did not have sufficient cash to reimburse the witness for the concession supplies when ample funds were generated through concession sales. Instead, it appears Mr. Donato was taking the money from the concession sales for his own use and using the school funds to directly reimburse the employee for her out-of-pocket expenses. However, the concession sales should have generated sufficient proceeds to allow the employee to be reimbursed. While there are no documents showing the amount of money generated from these concession sales, numerous witnesses worked at the Archdiocese track meet on June 1st and all stated it was very crowded. The concession stand supplies sold out and so the witness sent her son to purchase more water, Gatorade, Chick-Fil-A sandwiches and

²⁰ The witness was reimbursed solely in cash for the concession stand supplies following the May 5th CYO track meet.

pizzas. If the concession stands sold enough food and drink that they needed to be restocked, there would likely be sufficient money to reimburse the witness for her out-of-pocket expenses. The inescapable conclusion is that Mr. Donato would periodically take money from the concession proceeds and wrongly keep this for himself rather than reimburse the employee.

C. ALLEGED THEFT AND/OR DIVERSION OF CASH PAYMENTS FOR FUNDRAISERS AND SUMMER PROGRAMS

1. Collection of Cash for Fundraisers

Generally, student organizations at CASD High School, under the direction of the student organization's advisor(s), do their own fundraising through the sale of merchandise and tickets to school events. The students and their advisor(s) are responsible for collecting the money, counting it, recording the amount in the organization's records and filling out a voucher. The student advisor then gives the money and voucher to the School Banker. The School Banker counts the money to verify that the voucher is accurate, notes the amount in his records, and puts the money in the school safe. A courier comes each school day at 11:00am to collect the money. If a large amount of money is collected after 11:00am, the School Banker will call the courier, who will return to the school to collect the money.

This practice of having the courier return to the school began a few years ago when Mr. Como allegedly instituted a new policy following an incident in which money was allegedly stolen from a safe at one of the schools. Under this policy, there could not be more than \$100.00 in the school safe overnight. Some CASD employees interviewed were unaware this policy existed, and even those who were aware of the policy were unable to recall the source of the directive and did not think it was regularly followed. Documents, however, show that a memo regarding the "School Deposits" policy was sent by a former Assistant Business Manager to school principals on November 15, 2007. *See* CASD 014783. The policy provides:

Any and all monies that have been collected and placed in your school safe in excess of \$100.00 need to be deposited with the Business Office/[Former Business Manager]. At no time should a school have more than \$100.00 in their safe. Some examples of monies would be obligations, parking, fundraisers, ticket sales, vending machines, and non-PTO funds. Please remind your teachers that they should not be keeping large sums of money in their desk or file cabinets overnight.

To assist our schools with this procedure, our inventory supply person/courier, [] or his substitute, will be picking up your deposits on a daily basis. Please prepare your deposits in the school district approved deposit bags. [The courier] has been instructed not to accept any deposits that are not in sealed school district approved deposit bags. [The courier] will deliver the deposits to Benner Education Services Center for recording and depositing in our checking account with our financial institution. Schools may access those funds, via a check, within one week.

For security reasons, you must adhere to this procedure. Please follow this procedure accurately and expeditiously. It is imperative that all Principals comply with this procedure as you are ultimately responsible for all monies that come through your school.

CASD014783.

(a) Student Council

Around the same time Mr. Como adopted this new policy, Mr. Como approached the Student Council Advisors about Student Council fundraising. He told them “not to get their hands dirty” counting the money they raised. He told them to just give him the money collected and he would have his secretary count it. This arrangement made the Student Council Advisors very uncomfortable, and although they felt they could not challenge Mr. Como’s instructions, they wanted to protect themselves. Together, the Advisors confided in another employee, who had taught both women when they were in high school and who they felt they could trust. They asked this employee to count the money for them. The employee agreed to do so and together they decided on the following process: the students would collect the money, one of the Advisors would bring the money to the employee who would count the money and record the amount on a deposit slip. The employee would then disarrange the money to make it look as if it had not been counted, and place it in a large envelope. The employee gave the envelope and the deposit slip to the Advisors.

When Mr. Como called to say he was coming to the high school to collect the money, one of the Advisors would bring it to him usually outside the building where he waited in his car. The Advisors and/or the School Banker would receive a call from either someone in the Business Office or someone from Mr. Como’s office who would communicate the amount of money counted and deposited. The Advisors noted discrepancies on several occasions and communicated these discrepancies to others. They did not, however, approach Mr. Como about it or otherwise attempt to challenge this process; nor did anyone else who was aware of these inconsistencies. This failure to speak up or speak out was not a result of indifference, but a consequence of the culture Mr. Como fostered at the high school. Teachers were afraid to speak up for fear of retribution and, in this particular instance, a challenge would involve making serious allegations which could not be readily proved.

Almost all witnesses stated that they did not believe Mr. Como was skimming money for his own personal benefit, but suspected he was instead “redirecting” money as he saw fit. However, at least one witnesses specifically overheard a conversation in which Mr. Como joked about misappropriating money. Specifically, this witness overheard Mr. Como say to one of the Student Council Advisors: “Hey, did you get the skimmage off the top of this?”

(b) Faculty Basketball Game

In the winter of 2009, one of the faculty advisors for the 9/10 Student Council organized a faculty basketball game to raise money for Student Council. For \$2.00 per ticket, students

could get out of second period and watch the ninth and tenth grade teachers play a basketball game against the eleventh and twelfth grade teachers. Prior to the event, one of the advisors from the 11/12 Student Council approached the 9/10 Advisor who was organizing the event and told him that Mr. Como said not to count the money; Mr. Como would come collect the money, count it and take care of the deposit. The 9/10 Advisor was suspicious. He thought it was odd that the Superintendent would personally come down to the School and collect the money. Despite the instruction not to count the money, the 9/10 Advisor counted the money. He counted approximately \$2,000.00 and filled out a deposit slip, which he submitted with the money. Following the event, he checked the amount deposited against his records and he asserts there was no discrepancy.

However, another teacher who collected money from these ticket sales allegedly had a different experience. This Teacher allegedly called the Former Business Manager (who at the time was the Assistant Business Manager) following the game and told the Former Business Manager that the money she collected was taken from her before she had the opportunity to count it. The Teacher was allegedly frantic and wanted to make sure it was all accounted for but had no way of verifying that the correct amount was deposited. The Former Business Manager promised to investigate the issue, which she did. She discovered that the money taken from the Teacher had been deposited together with other money collected during the event and therefore, there was no way to verify that the correct amount was deposited. The Former Business Manager believes that Mr. Como learned that the Teacher was questioning this process because the following year, the District made cuts and the Teacher's entire department was furloughed. According to the Former Business Manager, this was an example of Mr. Como's practice—using furloughs to “carry out vendettas.”

(c) Dress Down Days

The Coatesville Area School District organizes “dress down days” about once a month, or as frequently as the need or desire arises, to raise money for charitable causes. *See generally* CASD0014464-69; 0018486-507. For example, the District will hold a dress down day to raise money for a student who has had a death in the family, *see, e.g.*, CASD014468, or for victims of a tragedy in the community, *see, e.g.*, CASD 018492, or simply for a charitable organization around the holiday season, *see, e.g.*, CASD 014469. Once a dress down day is approved, the faculty organizer sends a memo to all employees informing them of the date and reason for the dress down day. *See, e.g.*, CASD 014468. Employees donate \$2.00 or \$3.00 and dress more casually that day. *See* CASD014468. Employees submit their money to the main office of their respective schools, and the secretary and principal in that office count the money and place it in an envelope for collection. *See* CASD014469. No record of the amount collected is retained by the individual schools.

When organized by a specific school in the District, the principal of that school will collect the money raised from the secretary in the main office of each school and bring it to Mr. Como's secretary in the Benner Administration Building. *See* CASD014469. When organized at the District level, each principal is required to collect the money raised at his or her school and bring it to Mr. Como's office in Benner. *See* CASD 014467. Participating employees in the Benner building bring their donations directly to Mr. Como's secretary. *Id.* In either case, Mr. Como's secretary counts the money and gives it to the Business Office to be deposited.

Dress down days typically raise \$1000.00 to \$2,000.00, but certain causes have generated in excess of \$6,000.00. *See, e.g.*, CASD014309; 017891. Cash deposits are made to the Agency Fund and checks are made out to the beneficiary shortly after the deposit is made. CASD017891.

2. Collection of Cash for Summer Programs

(a) Summer School

Prior to 2012, CASD Summer School was run by the Chester County Intermediate Unit (“CCIU”). In 2012, this role shifted to the District, and registration was centralized in the Guidance Department at the high school. Because the Guidance Department is generally responsible for monitoring the academic progress of students and for general registration during the academic year, registration for summer school was seen as a natural extension of these duties. For the past two summers, the registration process has occurred as follows:

Students register for Summer School over a two-week period beginning a week after the school-year ends. Between 9:00am and 3:00pm on Monday through Thursday of these weeks, students and/or parents come into the Guidance Department to register. They bring with them a registration form and payment. *See* CASD018101. Payment may be made in the form of cash or money order. *Id.* As with the District’s other “cash or money order only” policies, the reason given for not accepting checks was that the District did not want to deal with the cost of checks bouncing. Witnesses interviewed questioned the wisdom of this policy. In 2012, the cost for a retrieval credit course (taken by students who had failed the course during the academic year and therefore needed to re-take the course) was \$225.00, and the cost for an original credit course (for students looking to get ahead in their course work) was \$325.00 for CASD students. *See* CASD018101. In 2013, these prices increased to \$300.00 and \$400.00, respectively.

The Guidance Department Secretary would take the registration form and payment, and then give the parent or student a handwritten receipt. The secretary would maintain a copy of the receipt for her records. She would staple this receipt to the registration form and send both to the high school Principal. The secretary would then record the name of the student, the course in which the student enrolled, how much the student paid and other identifying information into a spreadsheet she maintained for the Guidance Department.²¹ *See* CASD018055-72.

At the end of each day of the two-week registration period, the Guidance Department Secretary would count the cash and money orders she collected to ensure that the amount of money she collected matched the amount of money she should have collected based on her records. If a student or parent had not paid or had only given partial payment, the secretary would make a note on her spreadsheet. She would organize the money into stacks based on the

²¹ Guidance Department records show that while the majority of students who registered for Summer School paid the required fee, the fee was waived for several students. School districts are permitted to charge summer school tuition. However, students who are below the poverty level or who qualify for free or reduced lunch should not be charged. Here, it is not clear whether the District waived the fee for students below the poverty level and for those who qualify for free or reduced lunch. Given the number of students in the District who fall below the poverty level, and the small number of students for whom the fee was waived, it is possible that some students were improperly charged tuition for Summer School.

denomination of each bill and write the number and total amount of each type of bill collected on a sticky note, which she would attach to the top of each stack. She would then give the money collected, with the exception of \$100.00 which she would keep as change, to the head of the Guidance Department, who was responsible for taking the money to the Business Office each day.

The CASD also ran a cyber-based summer school program. Students registered in this program take their classes online at home and come to school for the midterm and final exams only. The registration process for this program was done with the regular registration process. The only additional step was that the Guidance Department would share the student information with the teacher who is responsible for creating student accounts, giving them access to the cyber-based programming.

(b) Camp Academia

Last summer, Cheyney University partnered with Coatesville Area School District's Camp Academia to provide a free science camp during the week of July 29, 2013 for up to fifty middle school students. *See* CASD018446-62; 018478-79; 018509-10. Unlike the math and language arts portions of CASD's Camp Academia, which were held in District facilities from 8:00-10:30am, Monday through Thursday, this week of camp was held at Cheyney University from 8:00am until 2:30pm. *See* CASD018446-62; CASD 018478-79; 018509-10; 018410. Cheyney paid for transportation to and from the university for CASD students and for staff who worked at the camp, and provided lunch. *See* CASD018478-79; 018509-10; 018410. Cheyney did not charge tuition to students and did not require any payment from the District. *See* CASD018478-7; 018509-10; 018410. In fact, Cheyney provided stipends for CASD faculty members who worked at the camp. *See* CASD018478-79; 018509-10; 018514.

Despite the fact that the Cheyney University portion of the Camp Academia operated at no cost to the District, Mr. Como insisted that students be charged \$50.00 to register. *See* CASD0018410; 018446-62; 018478-79; 018509-10. His given reason for charging students for this week of camp was that students attending the math and language portions of the camp were required to pay, so the science camp students should have to pay as well. The Director of Middle Schools and the Assistant Principal of South Brandywine Middle School took issue with this logic. *See* CASD018478-79; 018509-10. Cheyney had hoped to have up to fifty students attend, but only thirteen registered for this week of camp. The Director of Middle Schools and Assistant Principal attributed this to the \$50.00 cost and felt that the District's "low income students did not have the opportunity to participate because of the \$50 charge." *See* CASD018478-79; 018509-10; 018410.

The \$50.00 payments for the Cheyney portion of Camp Academia (totaling \$600.00—thirteen students registered, with one on scholarship and twelve who each paid \$50.00) were grouped with the rest of the Camp Academia payments and deposited with summer school money. *See* CASD014342; 014372, 014382. According to registration records, seventeen students registered for one or more of the four weeks of Camp Academia. *See* CASD018446-62; 018410. In total, thirty registration slots were filled by these seventeen students at a cost of \$50.00 per week. *See* CASD 018410. The registration records show that a total of \$1,300.00 was expected to have been deposited and collect—thirty registration slots at a cost of \$50.00 per

slot (\$1,500.00) less \$200.00, the cost of a four week scholarship for one of the students. *Id.* However, only \$1,100.00 was deposited for Camp Academia registration (\$1,000.00 in cash and \$100 in money orders), and Mr. Como's secretary, who counted this money recalled that after she submitted the \$1,100.00 and paperwork to the Comptroller, the money and paperwork was apparently misplaced but then found. *Id.*; CASD014372.

Although the District received a stipend for each CASD staff member who supervised the students during the week at Cheyney, the staff did not receive payment. Rather, the money went directly into the General Fund. *See* CASD018478-79; 018509-10. It appears that Cheyney contemplated that teachers would supervise children while they were at the University and in transit thereto, and the stipend was meant to compensate them for their work during the summer months, when they would not otherwise be required to work. However, Mr. Como made administrators, who are already required to work summers, supervise the students. Thus, the supervision of the students was not an additional cost for the District. Nevertheless, the District submitted an invoice to Cheyney as "reimbursement" for the services of these administrators. *See* CASD018509-10.

A few months earlier, in mid-October 2013, the Assistant Principal sent an email to the Director of Middle Schools expressing his concerns about the reimbursements the District received from Cheyney in light of the fact that Cheyney did not charge students, paid for meals and transportation, and provided supervisors with a stipend for their work during the program. *See* CASD018478-79. He wrote: "In plans for next summer and in clearing my conscious [*sic*] of this as a potential concern that has been in question by teachers and one of the Professors from Cheyney, I feel it is important to share with you to communicate with [the Assistant Superintendent] about the reasons why we charged students and allocations of the funds." *Id.* The Director of Education responded to this email, echoing the Assistant Principal's concern and confirming that the program was run the way he had represented in his email. *Id.* She copied her response to the Assistant Principal and forwarded the Assistant Principal's original email to the Assistant Superintendent and Comptroller in the hopes "that questions/concerns posed will be answered." *Id.* It does not appear that any action was taken in response.

On January 7, 2014, the Director of Middle Schools and the Middle School Assistant Principal involved in the program received a email from a Cheyney Representative requesting their feedback on the program. *See* CASD018511-16. The Representative wrote that he was requesting feedback because "the funds we are using are federal government funds and it comes with accountability." CASD018511-16. Upon receiving the January 7, 2014, the Director of Middle Schools contacted the new Business Manager and the Acting Superintendent immediately. *See* CASD018509-10 (Fitts email string). The Business Manager responded by recommending that the Director of Middle Schools forward the information to the District Attorney's Office for review, which she did. *Id.*

D. INTENTIONAL DIVERSION AND MISAPPROPRIATION OF CASD FUNDS TO PURCHASE FOOTBALL CHAMPIONSHIP RINGS

1. Mr. Como Authorizes Purchase of Rings

At the end of the fall 2012 season, for the first time in the School's history, the Coatesville Area School District high school football team made it to the PIAA Class AAAA Championship in Hershey, Pennsylvania. *See* CASD014310. Though the team was defeated by North Allegheny High School in the championship game on December 15, 2012, the fact that the team made the championship is a source of great pride for those in the District. To celebrate a successful season, Mr. Como decided that the District would purchase rings for students, coaches, and other individuals who arguably contributed to the team's success. According to witness statements, Mr. Como unilaterally decided who would receive rings, and the handwritten notes of the Assistant Superintendent show that it was, at some point, Mr. Como's intention that Board Members receive rings or pendants. *See* CASD014573. Mr. Como, Mr. Donato and the Head Football Coach designed the rings considering two or three different designs over a two to three month-period. The District ordered eighty-six rings and three pendants from Jostens, a company which, in addition to selling celebratory rings, pendants and other specialty items, provides graduation materials and prints yearbooks for primary and secondary schools, and colleges. It also appears that Mr. Como and/or Mr. Donato ordered fifteen engraved "PIAA State Football" "AAAA Runner-up" medals from Jostens. *See* CASD017886-88.

2. Mr. Como Negotiates Backroom Deal With Jostens

The cost of the rings, pendants and medals was reduced significantly when Mr. Como executed a deal with a Jostens Sales Representative to purchase additional services from Jostens (despite the fact that the District had an existing contract with another provider) in exchange for a reduced price on the rings. More troubling than the backroom deal with Jostens, however, is the fact that Mr. Como appears to have used CASD money from other sources to fund the purchase, depositing cash from Summer School tuition payments and transferring money from both a Student Activities Account and a General Fund Account to pay for the rings, which were provided not only to students but to coaches, staff, administrators and even family members of these individuals.²² *See* CASD014504-20.

A June 28, 2013 Statement from Jostens shows that the original retail price for the rings was \$350.39 per ring and \$303.39 per pendant, for a total cost of \$33,277.74. *See* CASD014498; 014546-64. Mr. Como, however, made a deal with a Jostens Sales Representative whereby Mr. Como agreed that the District would use Jostens for class rings, diplomas and graduation materials for 2014-2018 school years in exchange for a lower price for the rings. *See* CASD014541; 014584; 014587. This agreement was reduced to writing in a Total Service Agreement, which was executed by Jostens, but not by the District. *See* CASD014541-44. An October 21, 2013 Invoice shows that the reduced price for the items was \$225.00 per ring and \$195.00 per pendant, for a total cost of \$19,935.00. *See* CASD014503; 014521. Jostens also charged a \$516.00 service cost, which made the total cost for the rings \$20,451.00. *See*

²² Historically, championship rings for athletic teams at CASD were paid for with funds from booster clubs or other outside organizations affiliated with the team, and were not paid with CASD taxpayer funds.

CASD014499-502; 014605-06. Additionally, the District ordered fifteen engraved medals from Jostens. CASD017886-88. The initial invoice shows a total cost of \$425.00, *see* CASD017887, but the price was reduced, presumably pursuant to the agreement Mr. Como made with Jostens. *See* CASD017886-88. Unlike the rings, it is unclear who received the medals.

For years, another company, Student Services, has provided graduation services for the CASD High School. *See* CASD 014570. The contract for these services was scheduled to expire at the end of the 2012 school year. *Id.* Prior to its expiration, the High School Principal approached Mr. Como about renewing the contract. Mr. Como approved renewal and on January 19, 2012, the High School Principal, on behalf of the District, executed a contract ("Economy Purchase Agreement") renewing the Student Service Agreement through the 2016 school year. CASD014567-69.

In the spring of 2013, Mr. Como called the High School Principal to his office. When the High School Principal arrived in Mr. Como's office, Mr. Donato was there. Mr. Como told the High School Principal that they were going to use Jostens for graduation services in order to get a good deal on the rings. The High School Principal reminded Mr. Como about the Economy Purchase Agreement with Student Services. Mr. Como responded that "agreements are made to be broken" and "they will fuck up somehow" but told the High School Principal not to do anything until after graduation.

After the news of the text messages broke, a representative from Student Services called the High School Principal to ask what was happening. The High School Principal told the Student Services representative about the instruction to use Jostens for graduation, but said he intended to continue to use Student Services. Once an Acting Superintendent was appointed, the High School Principal approached the Acting Superintendent to inform the Acting Superintendent that he intended to use Student Services consistent with their contractual obligation. The Acting Superintendent, after consulting with the Solicitor, told the High School Principal to move forward with Student Services. Following the September 2013 Board Meeting, the High School Principal met with the Board President. The High School Principal told the Board President about the agreement with Student Services and the issue with Jostens. The Board President told the High School Principal to honor the agreement with Student Services, and the High School Principal did.

3. CASD Funds Diverted to Pay for Rings

As stated, the total cost for the rings and pendants under Mr. Como's deal with Jostens was \$20,451.00 (\$19,935.00 for the rings and pendants themselves, plus a \$516.00 service cost). *See* CASD014499-503; 014605-06. Jostens invoices show that to date, the District has paid Jostens \$11,069.25 for the rings. *See* CASD014578; 014605-06. This amount was spread over two payments. The first, on April 17, 2013, was for \$4,137.75. *See* CASD014578; 014580. The second, on June 20, 2013, was for \$6,931.50. *See* CASD014577-78; 014580. Although the source of the funds for the initial \$4,137.75 payment was arguably, legitimately collected and applied through student fundraising, the source of the funds for the second \$6,931.50 payment were improperly obtained; in fact, documents show that additional funds were wrongly transferred with the intent to use them to pay the balance due to Jostens. For example, the Assistant Superintendent's handwritten notes show that it was intended that the District make

another \$6,931.50 payment to Jostens in September 2013, and before May 30, 2013, \$15,000.00 be transferred as a "miscellaneous expense" from the Director of Education's Budget in the General Fund to the "Agency Fund Special Collections" to finance a third payment and any additional payments. CASD014573.

(a) First Payment Made From T-Shirt Sales

On Friday, December 14, 2012, the day before the CASD High School football team left for the PIAA Class AAAA Championship in Hershey, Pennsylvania, the District held a district wide "Red & Black Spirit Day" and pep rally. CASD014310-11. During the week leading up to the Spirit Day, students, teachers, staff and administrators were encouraged to purchase Red Raiders t-shirts for \$12.00 ("cash only") to demonstrate school pride and show support for the team. The shirts were to be delivered to CASD buildings on Thursday, December 13, 2012, and were to be worn the following day during the Spirit Day.

A few weeks earlier, Mr. Como approached the Student Council Advisors to ask if Student Council would sell t-shirts to support the football team. Mr. Como did not say specifically what the money raised would be used for, but the Advisors assumed it would be used to purchase something for the team. Although it was unusual that the Student Council would sell t-shirts on behalf of the football team, it was the first time that the football team had made the championship game and so, the Advisors agreed to sell t-shirts.

Mr. Como and several players on the team designed the t-shirts. The design process took longer than expected and as a result, the order, placed on Friday, December 7, 2014, had to be expedited in order to arrive on time. The t-shirt order was fulfilled by the brother of one of the Student Council Advisors, and this enabled the t-shirts to be produced and shipped on short notice. The shirts, which cost \$6.00, were sold for \$12.00. One thousand shirts were ordered and Advisors estimated that 900 were sold. The cost for the shirts (\$6,000.00) was paid out of the proceeds from the sale after it occurred. Despite the fact that the email advertising the event stated that only cash would be accepted, a number of students paid by checks made out to Student Council. These checks totaled \$863.61, and because they were made out to Student Council, they were deposited in the Student Council Account. The remaining sales were made in cash.

Mr. Como directed the Advisors to give him the money after the pep rally on December 14, 2012. One of the Advisors gave Mr. Como all cash revenues from the sale. Mr. Como took the money to the Business Office. Mr. Como gave the cash to the Comptroller, telling him that it was the money raised from the sale of the t-shirts but that he did not want the money going into the Student Council account. Mr. Como said that the money was to be used to purchase a "memento" for the football team. He asked the Comptroller where the money could go. The Comptroller suggested that the money go into the Agency Fund and Mr. Como agreed.

In four separate deposits on December 14, 2012, December 18, 2012, December 19, 2012, and January 24, 2013 for \$1,500.00, \$2,237.00, \$388.00, and \$12.00 respectively, the Comptroller deposited the cash into the Agency Fund designated as "Red Raiders Spirit Day." CASD014309-23.

On April 17, 2013, Mr. Como asked the Comptroller for the total amount in the Red Raiders Spirit Day Account. The Comptroller informed Mr. Como that there was over \$4,000.00. Mr. Como told the Comptroller to cut a check to Jostens for the full amount. When the Comptroller asked for an invoice, as was protocol, Mr. Como informed the Comptroller that he did not yet have an invoice, but one would be forthcoming. Mr. Como explained that he needed the check that day because the Jostens representative was coming to the school. The Comptroller cut a check to Jostens for \$4,137.75 that same day. *See* CASD014578, 014580-81. Documents show that an invoice dated April 17, 2013 was sent to the Assistant Superintendent by email on May 29, 2013, and that the payment was processed that same day. *See* CASD014498, 014584-86. The invoice shows a \$4,137.75 payment due for "2012-2013 Student Awards." CASD014585. The paperwork for the check states that it is "Partial Payment for Red Raider Football Team Awards (As Requested by R Como/A Romaniello)" and that "Invoice is Forthcoming Per A Romaniello And Will Be Provided to A/P." CASD017890. This entire first payment was funded by the t-shirt sales.

(b) Second Payment Made From Multiple, Illegitimate Sources

Unlike the first payment to Jostens, which was financed solely by student fundraising specifically intended to "support the football team," the second payment of \$6,931.50 was financed by a check from the Track and Field Coaches Association of Greater Philadelphia, *see* CASD014326, a cash deposit which was represented to have been from a dress down day held on June 27, 2013 (when school was not in session), but was actually summer school tuition money, *see* CASD014327, and a transfer from the Student Council's Student Activities Account which was authorized by the Student Council Advisors without their knowledge of the purpose of the transfer and which was repaid with cash collected for summer school.

On May 24, 2013, the Staff Accountant deposited a check for \$1,000.00 from the Track and Field Coaches Association of Greater Philadelphia, Inc. in the "Red Raiders Spirit Fund" Agency Account. CASD014324-25. The deposit slip refers to the source of funds as "School Spirit—Red Raiders Dress Down Day," even though, according to witness accounts and given the lack of a recorded dress down day in school records, there was no dress down on this date. *Id.* Handwritten notes on a paper photocopy of check show that the money was to be deposited in the Agency Account-Special Collections, Red Raisers Dress Down Day- Mr. Richard Como. CASD014326. Witnesses stated that they believed the \$1,000.00 check was from a Catholic Youth Organization (CYO) track event held at the school around the date on the check.

In June 2013, after the school year had ended, Mr. Como called both Student Council Advisors. Only one answered. Mr. Como asked the Advisor who answered whether the Student Council Account had money in it and if so, how much. The Advisor answered that there was money in the account and guessed that it was about \$8,000.00. Mr. Como told the Advisor that he was going to transfer the \$8,000.00 in the Student Council Account to another account, but he assured her he would repay the money. Mr. Como told the Advisor to fill out a deposit slip and bring it to the Benner Administration building by the following morning at 11:00am. The Advisor agreed. She explained that she felt uncomfortable, but "he was her boss and you didn't say no to him." She further explained that she did not ask what the money was for because "it didn't matter what it was for because she didn't want to lose her job so she would have done it regardless."

Per Mr. Como's instructions, the Advisor partially filled out a deposit form. *See* CASD 014328. She wrote "CASH Student Council 9-12" on the lines for Student Activity Account Name and School. Below this she wrote "transfer to." *Id.* On the bottom half of the form, she again wrote "transfer to," put \$8,000.00 on the line for withdrawal amount, and signed her name. *Id.* She left the rest of the form blank. She wrote "transfer to" twice on the form because she had not done a transfer between accounts before, and she was therefore uncertain how it worked. The following day, the Advisor went to the high school in search of the High School Principal. She wanted to tell him what was going on before she gave the deposit form to Mr. Como. When she arrived at the high school, the Principal was in a meeting so she left. She then drove to Benner where she dropped the deposit form in Mr. Como's office.

Documents show an \$8,000.00 transfer from the Student Council Account (F81-C) into the Agency Fund (F89) on June 28, 2013. *See* CASD014309. The transfer was attributed to the Red Raiders Spirit Day Account. CASD014309. The deposit form, which had been partially completed by the Student Council Advisor, was finished by the Assistant Superintendent who wrote "Agency Fund, Special Collection – Red Raiders" on the line for "pay to the order of," dated the form and signed his name. CASD014328. As will be discussed more fully below, the Assistant Superintendent also included the information about a \$3,250.00 deposit on this form. *Id.* The \$8,000.00 transfer from Student Council's Account to the Red Raiders Spirit Day Fund is labeled only "Benner Transaction" in the Student Council's account activity records. CASD010979-80.

During the first week of the 2013-2014 academic year, on or about August 19, 2013, the Student Council Advisor received a call from the School Banker. The School Banker asked the Advisor if she had seen a deposit form which he showed her. The Advisor recognized it as the form she had partially filled out per Mr. Como's direction. The School Banker pointed to several places on the form and referring to the portions of the form complete by the Assistant Superintendent stated: "This isn't your handwriting." The Advisor acknowledged that this was the case as she had only partially completed the form and the rest had been completed after she signed it. The School Banker said he was going to retain the form in his records, and he and the Advisor decided to tell the High School Principal.

The School Banker then showed the Advisor that on July 8, 2013, \$4,100.00 cash was deposited into Student Council's Account. *See* CASD017897-100. A witness testified that she made the deposit at Mr. Como's request; she was summoned to Mr. Como's office, handed a stack of cash that had been counted, and was told to make the deposit. The deposit was noted as "Benner Transfer" in the School Banker's records; the School Banker explained to the Advisor that he had called the Business Office about the deposit someone in the Business Office had instructed him to label the transfer as such. *See* CASD 018389. The records of the transaction show that the \$4,100.00 cash was all in \$20 bills which were divided into five stacks—four stacks with fifty \$20 bills each (\$1000.00 total per stack), and one stack of five \$20 bills (the additional \$100). *See* CASD017897; 017900. The four stacks of \$1000.00 had each had a sticky note on top indicating the type and number of bills and the total amount. *Id.* Looking at these sticky notes, it appears that each stack had initially comprised fifty-five \$20 bills, but that the second "5" in "55" is written over with a "0". *Id.*

Given the timing of this deposit (at the end of the two-week summer school registration period), the fact that the \$4,100.00 deposit was, like summer school money, cash, *see* CASD017897-100, and in light of the fact that there appears to be more than a \$9,000.00 difference between the deposits from summer school in 2012 and the deposits in 2013, *compare* CASD018055-72 *with* CASD014402, and an approximately \$10,000.00 difference between what Guidance Department records indicate should have been deposited in the General Fund from summer school in 2013, and what was actually deposited, *compare* CASD014342 *with* CASD014402, this \$4,100.00 deposit into the Student Council account was almost certainly cash collected for Summer School.

Also in the Red Raiders Spirit Day Account at the time of the \$6,931.50 payment to Jostens was a \$2,050.00 cash deposit made on June 28, 2014. CASD014309. This cash deposit was made at the same time as the \$8,000.00 transfer from student council and was initially included on the same deposit slip. *See id.*; CASD 014328. However, a separate deposit slip was prepared when the Staff Accountant noticed that the \$2,050.00 in cash had been “accidentally” intermingled with \$1,200.00 in Summer School money orders. CASD014327.

On or about June 27 or 28, 2013, the Assistant Superintendent brought the deposit slip authorizing the \$8,000.00 transfer from Student Council’s Account to the Red Raiders Spirit Day Account, which has been partially completed by the Student Council Advisor (as explained above) and then partially completed and signed by the Assistant Superintendent, to the Comptroller and Staff Accountant in the Business Office. CASD014328. In addition to the \$8,000 transfer, the deposit slip listed a \$3,250.00 deposit (\$1,200.00 in money orders, \$2,050.00 in cash) to the “Agency Fund, Special Collections-Red Raiders” and calculated a total deposit of \$11,250.00. *Id.* When the Staff Accountant went to process the deposit, she noticed that the \$1,200.00 in money orders were for summer school. The Staff Accountant went to the Comptroller about the issue and he told her to call the Assistant Superintendent, which she did. The Assistant Superintendent said that the money orders should not be deposited into the Agency Fund with the cash.

The Staff Accountant revised the deposit form the Assistant Superintendent had provided, striking the \$1,200.00 money order amount and writing “F10” for the General Fund next to it, and revising the total deposit amount to \$2,050.00 and the total transaction amount to \$10,050.00. CASD014328. The Staff Accountant also prepared a separate deposit slip dated June 27, 2013, which lists the denominations of the bills comprising the \$2,050.00 cash deposit and refers to the source of the funds as “School Spirit-Red Raiders Dress down day.” CASD0014327. The Staff Account also referenced the other deposit form showing the \$8,000.00 transfer, writing: “See attached signature [Student Council Advisor] approved by [Assistant Superintendent].” *Id.*

The Assistant Superintendent admitted that the \$2,050 cash deposit was Summer School tuition money. The cash was given to him by Mr. Como who directed the Assistant Superintendent to deposit the cash into the Red Raiders Spirit Day account.

Documents confirm the Assistant Superintendent’s admission that the \$2,050.00 cash deposit was from Summer School Tuition. Documents show that four \$300.00 money orders were deposited as Summer School tuition on June 28, 2013. CASD014342. Curiously, no cash

was deposited as Summer School Tuition that day. Also the source of the \$2,050.00 cash deposit on June 28, 2014 was listed as "School Spirit-Red Raiders Dress down day" on the deposit form, but no dress down day was held that date. *See* CASD014327. In fact, school was not in session. Additionally, the denominations of the bills which comprise the \$2,050.00 deposit are: six \$100 bills; seventy-two \$20 bills; and only ten \$1 bills. *Id.* This is an unlikely result had the money been generated as part of a dress down day collection where individuals typically contribute \$2.00-3.00 each. Summer School cash collection would be consistent with these denominations given that students pay \$300.00-400.00 per course.

The denominations of the bills, the fact that the purported source of the funds could not have been the actual source, the fact that no cash deposits for Summer School were made on June 27 or 28, 2013 (*see* CASD 0014342) when Guidance Department records show that thousands of dollars were collected (*see* CASD 018055-72), and the fact that the \$2,050.00 cash deposit was "accidentally" mingled with Summer School money orders, all confirm that the source of this cash deposit was Summer School tuition payments.

The second payment to Jostens for \$6,931.50 was made by a check dated June 20, 2013, which was posted as withdrawn from the Agency Fund on June 28, 2013, the same day the \$8,000.00 transfer from Student Council and the \$2,050.00 cash deposit from Summer School were processed. *See* CASD014309, 014577-78, CASD 017893-96. As with the first payment, this payment was processed by the Comptroller without an invoice. CASD017894. On the paperwork accompanying the withdrawal order, the Comptroller wrote that the "Invoice will be provided as soon as received from vendor (as per [the Assistant Superintendent])." *Id.* These same documents provide that the withdrawal was in payment for "Football Team & Senior Class Awards (as requested by [the Assistant Superintendent])." *Id.* The Comptroller never received an invoice for this payment.

(c) Additional Funds Diverted to Make Third Payment

Documents show that since the second Jostens payment, additional funds have been deposited and transferred into the Red Raiders Spirit Day Agency Fund Account to finance additional payments due to Jostens.

At some point during the 2012-2013 academic year, Mr. Como approached the Director of Education to ask if he could "borrow" \$3,000.00-4,000.00 from the Director of Education's budget to help pay the first installment for the rings. Mr. Como assured the Director of Education that he would repay the money once they collected fundraising money from t-shirt sales. The Director of Education, however, stated that he needed the money for graduation costs.

Despite his failure to secure the Director of Education's approval for the transfer, in April 2013, Mr. Como either personally, or through the Assistant Superintendent, directed the Comptroller to transfer \$15,000.00 from the Director of Education's budget to the Red Raiders Spirit Day Agency Fund Account. The Comptroller stated that he "forgot" to do so until the close of the District's fiscal year (June 30, 2013), and therefore, did not actually make the transfer until June 28, 2013. This \$15,000.00 transfer occurred on the same day as the \$8,000.00 Student Council transfer, the \$2,050.00 Summer School deposit, and the \$6,931.50 payment to

Jostens. CASD014309. The Comptroller assumed that the Director of Education authorized, or at least knew about, the transfer.

In September 2013, when the Comptroller informed the Assistant Superintendent that he had made the \$15,000.00 transfer, the Assistant Superintendent stated that it should not have happened and that the money should be transferred back to the Director of Education's budget. The Comptroller transferred the money back to the Director of Education's account, but this transfer was backdated to the 2012-2013 fiscal year (June 30, 2013). *See* CASD014309.

On July 9, 2013, a \$1,800.00 cash deposit was posted to the Red Raiders Spirit Day Agency Fund Account. *See* CASD014309. A deposit form dated July 2, 2013, attributes the source of the funds to "School Spirit – Red Raiders Dress Down Day. CASD014337. However, as with the \$2,050.00 cash deposit described above, there was not dress down day on this date; in fact, school was not in session. Also as with the \$2,050.00 deposit, the cash collected comprised eight, \$100 bills and fifty, \$20 bills. *See* CASD014337-40. A dress down day would not have generated bills of these denominations.

As with the \$2,050.00 cash deposit on June 28, 2014, the Assistant Superintendent admits that this \$1,800.00 cash deposit was from Summer School tuition and that Mr. Como gave him the money and directed that it be deposited into the Red Raiders Spirit Day account. This admission is again confirmed by the timing and content of the deposit, and the impossibility of the stated source of the funds being the actual source of the funds.

Additionally, it appears that money may have been skimmed from the cash collected. Sticky notes attached to the stacks of cash show that the stack of \$100 bills had initially been ten for a total of \$1,000.00, but both numbers are crossed out, and 8 and \$800 are written next to them. *See* CASD014340. The sticky note attached to the stack of \$20 bills was also altered; although unclear, it appears that initially it was written that the stack contained fifty-five \$20 bills but that the second 5 is changed to a 0. *See* CASD014340.

Although the Assistant Superintendent's handwritten notes show that a third payment to Jostens was due to be made in September, this payment has not been made. Since September, administrators have received multiple invoices, telephone calls, and emails from the Jostens Sales Representative seeking payment of the \$9,381.75 still owed on the rings. Jostens has also called and emailed administrators regarding providing graduation services. *See, e.g.,* CASD014539; 014565. For example, on January 7, 2014, the Jostens Sales Representative sent an email to two administrators "to chat about things & the Jostens/Coatesville partnership that was slated to begin this year." CASD018388. The amount stated as due in the most recent invoices assumes the deal that Jostens would be awarded the contract to provide graduation services, and the most recent invoice dated March 14, 2014 shows this \$9,381.75 amount still owing. *See* CASD 17883.

E. ALLEGED MISUSE, MISAPPROPRIATION AND THEFT OF CASD FUNDS RELATED TO FACILITY USAGE AND RENTAL

CASD Facilities are rented to both internal (CASD) groups and outside groups (those unaffiliated with CASD). There is one policy that governs those rentals and related fees and the

Facilities Department informally developed accepted procedures by which this policy is implemented. During Mr. Donato's tenure as Athletic Director, he disregarded all policies and accepted practices when renting out facilities and the associated facility rental fees. Mr. Donato also dealt with cash whenever possible, allowing him to improperly profit from the rental of CASD facilities.

1. Policy and Practice for Rental of CASD Facilities

The School District has one limited policy, Policy 707, which governs the "Use of School Facilities." This policy was adopted on April 26, 1990, but last revised on December 5, 2005 (hereinafter "Policy 707"). See CASD014607-14611. Policy 707 governs facility use and spells out some conditions for facility rentals and the fees for rentals. Despite having a written policy regarding the appropriate fees, the Policy is neither comprehensive of clear.

Policy 707 classifies various groups and specifies the fees applicable to those groups. Certain groups are divided into "classes" to determine what a group must do and pay to rent a facility. Class I consists of school groups. No fees are required for these groups, and custodial fees are only applied to school related groups for weekend and holiday use. Class II covers scholastic activities, service and governmental groups, whose membership is comprised of CASD residents. No rental fees are charged but custodial and utility fees apply only if the use is outside of normal operational times. Class III covers non-school related activities that are primarily organized by CASD residents and provide service to the District. Rental, custodial and utility fees apply if the use occurs outside normal operation times.

Class IB, IIB, and IIIB are a Class I, II, or III group that charges a fee for the activity, which exceeds \$100 per person for the activity. Rental, custodial and utility fees apply to Class IIB and IIIB if the use occurs outside normal operation times. The fees that apply to Class IB groups is never addressed. Class IV covers any other entity that charges a fee, admission, registration, and other private groups, for-profit groups, homeowner associations, special interest, religious groups, colleges and universities. All rental, custodial and utility fees apply. There are several groups and situations that are either not addressed among the classes listed or where it is unclear in which category the group would fit.

Policy 707 specifies several types of activities that may be conducted in school facilities, including a ban on the use of space for "partisan political activity." CASD014608.

The Policy lists rental fees for each facility use. Fees consist of a rental fee plus a utility fee, and range from a \$270.00 rental fee and a \$32.00 per hour utility to \$2,500.00 rental fee and a \$150.00 per hour utility fee with lights or \$50.00 per hour fee without lights. CASD014610. The Policy further lists special rates for sports camps involving District students and staff. Specifically, camps run by district employees for the CASD sports program are not charged any fee and camps whose attendees are primarily composed of District students are charged only \$250.00 per week for an outdoor sports camp and \$450.00 per week for an indoor sports camp at the 9/10 or 11/12 center. All other private camps were billed for the standard rental and utility fees. See CASD014611.

The Policy specifies that there is a custodial fee of \$33.00 per hour in addition to the rental and utility fees. *See* CASD014610. The policy is not more explicit regarding the custodial fee and does not address whether the fee is dependent on the facility being rented, the amount of custodians required to work, or what time of day or day of week the facility is being rented. This requirement seems to apply to both CASD and outside events (those events not directly related to CASD) but the policy does not contain explicit instructions regarding the application of the custodial fee. According to numerous witnesses with knowledge of the facilities department, the Manager of Custodians and Grounds was also responsible for ensuring that the appropriate custodian(s) were working at any event held at any facility on the CASD premises.

Policy 707 requires that an application for use of facilities be completed with the Department of Buildings and Grounds (i.e. Facilities Department). Other procedures that must be followed in order to rent a CASD facility are not specified by any school policy. Witnesses with knowledge of the Facilities Department explained that a group which wants to rent a facility will request to do so through the Facilities Department Secretary. The Facilities Department Secretary then sends the facilities request form and CASD policy to the renting entity. Upon receipt of the completed application, the Facilities Department Secretary sends the form to the building principal for approval or denial. Depending on the facility requested (e.g., cafeteria or soccer field), the Principal or Athletic Director will determine whether the facility is available on the day and time requested. The Manager of Custodians and Grounds also signs off on the facilities request after the Principal and/or Athletic Directors approves. If the request is granted, the Facilities Department Secretary informs the entity of the approval and sends the invoice. The approval letter is signed by the Manager of Custodians and Grounds. The check for the facility rental is sent to the business office for deposit. Internal school groups still must request the facility using the appropriate paperwork, but the group is not charged, unless it is outside school hours.

The Policy does not specify what type of involvement the Superintendent or Assistant Superintendent will have in facility rental decisions. Witnesses with knowledge of the facilities department have stated that it is the Superintendent's or Assistant Superintendent's decision as to if fees should be waived. That mandate or power is not explicitly stated in Policy 707. If the Superintendent and Assistant Superintendent does have that power, he still should not be given free-range to exercise a fee waiver without an explicit reason and other approval.

The Facilities Department does not keep any master calendar for all of the rentals and events. This is not required by any school policy. Witnesses stated that each building principal, or the athletic department, kept its own calendar for events.

2. Rental of CASD Athletic Facilities Under Mr. Donato

It is apparent that Mr. Donato was not following the policies or procedure regarding Athletic Department rentals. Instead of funneling all requests and paperwork for athletic facilities through the Facilities Department and the Facilities Department Secretary, the rental of athletic facilities went through Mr. Donato; the Secretary to the Athletic Director kept the calendar. Mr. Donato did not use the required facility request paper work when handling the

requests.²³ Mr. Donato consistently double-booked events without anyone's knowledge. According to the former Manager of Custodians and Grounds, he would regularly receive phone calls that a facility was double-booked, without the Manager of Custodians and Grounds having any knowledge of any event being held on that particular day. Often, Mr. Donato would rent out the facility and the former Manager of Custodians and Grounds would only learn of an event that occurred after-the-fact. Many witnesses cited Mr. Donato's lack of organizational skills as the primary reason why he consistently double-booked the facilities.

Custodians were needed to work at the facility whenever it was in use by both CASD groups and outside groups. Thus, according to the former Manager of Custodians and Grounds, he had to have knowledge of the ongoing and upcoming events so that he could schedule the appropriate custodians to work the events. Mr. Donato would often sidestep the Manager of Custodians and Grounds and schedule custodians to work events without informing the Facilities Department or the Manager of Custodians and Grounds. The former Manager of Custodians and Grounds refused to sign off on those custodians overtime payments when they worked without his knowledge, however, the custodians still got paid through another method other than custodian payroll, either directly from Mr. Donato in cash or from the school in the form of overtime or "extra duty" paychecks, as summarized in further detail below.

3. Mr. Donato's Inconsistent Application of Fee Schedule

Mr. Donato did not follow Policy 707, as it pertains to facility rental fees. Mr. Donato took it upon himself to choose which entities must pay to rent a facility and those for which he would waive any fee. Mr. Donato would also require cash payment; this led to lack of documentation regarding any rental or any money deposited for CASD.

(a) Payment vs. Waiver of Fee

Policy 707 contains specific information regarding those entities that must pay to rent any facility and the fee schedule for certain CASD facilities. The manner in which Mr. Donato operated was as if he was unaware of these policies or, more likely, blatantly disregarded any established policy.

Mr. Donato unilaterally decided which entities had to pay to rent a facility and those which did not, and applied this self-created policy indiscriminately for CASD and non-CASD sanctioned events. Mr. Donato did not have any method or standard for deciding whether a fee should be waived. This decision was likely based on a personal connection between Mr. Donato and the entity or how Mr. Donato could personally profit from the facility rental.

Bert Bell is one such instance where Mr. Donato decided to decrease the facility rental fee, with no documented basis while also personally collecting the revenue generated from the facility rental. On November 19, 2011 Bert Bell Midget Football League ("Bert Bell") rented out the CASD stadium for a football tournament. See CASD014616 (a facility rental form was

²³ The Facilities Department Secretary only recalled a few instances where Mr. Donato handled the facility request himself instead of funneling the request through her. However, other witnesses recalled that Mr. Donato would almost exclusively handle the athletic facility requests. One would not expect the Facilities Department Secretary to necessarily be aware of each instance in which facility requests were not funneled through her.

not used for this rental; the organization improperly used a PIAA contract form thus there are insufficient details regarding this rental). The fee listed on the form that was submitted was \$1,500.00 field usage fee. It is unclear why the arbitrary amount of \$1,500.00 to rent the stadium was listed on the application; the rental fee for the stadium, as listed in Policy 707, is \$2,500.00. *See* CASD014610. The facility rental is not listed on the Rental Income Report for the 2011-2012 school year. *See* CASD011030-31.

However, documents show that Bert Bell paid \$1,000.00 for the use of CASD facilities on two occasions; first in November 2010, *see* CASD009741, and second on October 17, 2011, *see* CASD010823. The first payment does not correspond with any rental listed on the Rental Income Report. As to the second payment, it is not clear whether this was in payment for the November 19, 2011 facilities usage or a separate rental not listed on the Rental Income Report. Assuming it was for the November 2011 rental, there is nothing to explain the \$500.00 difference between the \$1,500.00 fee listed on the rental form and the \$1,000.00 deposit except that Mr. Donato misappropriated the difference. If this was not in payment of the November 2011 rental, the entire \$1,500.00 is unaccounted for.

Mr. Donato also applied fee rentals to internal groups and sports camps at his discretion, in violation of Policy 707. The Head Football Coach stated he was charged to use the fields to run a football camp. The Head Coach runs this football camp every summer and the only attendees are CASD students. The participants pay the Booster Club, via check, and the money is used for shirts for the camp participants and camp costs, such as paying the coaches; the Booster Club retains the excess money for its fund. Approximately two years prior to Mr. Donato's resignation, Mr. Donato began charging the Head Coach for use of the fields. The Head Coach had not been charged in the previous years under Mr. Donato and knew other coaches had not been charged for facility use for summer camps. Records reflect an invoice in the amount of \$540.00, dated June 18, 2012, to the Coatesville Varsity Football Booster Club for a "football skills camp – 1st-8th grade" held at the 11/12 Center. CASD010875. This amount is also listed on the Rental Income Report for the period ending June 30, 2012, with a note that Mr. Donato collected and deposited the money. *See* CASD0011030. Records also show an invoice in the amount of \$540.00. *See* CASD020680.

The fee of \$540.00 is evidence of the arbitrary manner in which Mr. Donato charged, or waived, facility fees. Other witnesses and coaches recounted that they were not charged for summer camps. Moreover, the fee is not in compliance with Policy 707. As summarized above, Policy 707 requires that outdoor sports camps primarily composed of district student involvement are charged \$250.00 per week. The summer camp was run by district coaches and was composed of district student involvement (1st-8th grade) and thus, should at most be charged \$250.00 per week. Additionally, the fee was paid in a check so it is unlikely that Mr. Donato skimmed money from this charge. However, there is nothing to verify that the amount collected by Mr. Donato was the same amount that was deposited.

There was also an issue with facility rental pertaining to the Ches-Mont Cheerleading Competition, held in February 2013. The Ches-Mont Cheerleading League holds a competition every year on the first Sunday of February and rotates the host school among those participating in the league. CASD hosted the competition in February 2013. The varsity cheerleading coach spoke about the tournament and it was a large fundraising opportunity for the school, both in

hosting the event and through other fundraising efforts that occur during the event. Many teams and spectators attend the event. Even though this event can generate a substantial amount of money, this event is not reflected on the Rental Income Report, *see* CASD011027-29. It is therefore unknown whether Mr. Donato waived any facility rental fee or whether he kept the rental fee for himself. It is questionable that such a large event is not listed on the Rental Income Report at all, even when the report also lists when fees were waived. This event was a large fundraising effort and large amounts of cash were generated throughout the event thus, it is suspect that it is not listed or documented at all. Mr. Donato's involvement in taking much of this cash is set forth in further detail above.

Records also show that Mr. Como was involved in decisions whether to waive fees for certain entities, but the full extent of Mr. Como's involvement in deciding whether to waive fees or whether the decisions were made in conjunction with Mr. Donato is unknown. While the Superintendent may have the ability to waive facility rental fees, it is unclear if he must have a stated reason for doing so. One such instance of Mr. Como exercising his power was the rental of the Friendship Elementary School gymnasium to the Friends of Doug Smith, a political campaign. The letter to the organization from the Facilities Department, dated May 7, 2013, contains a handwritten note: "Waive fee per attached." Nothing more is known about the organization, besides that it is a political organization, or whether there was any relationship tie between the organization and Mr. Como or Mr. Donato. It is unclear how Mr. Como determined which organizations or entities should receive a fee waiver, although this decision was likely based on a personal connection with the organization. Nevertheless, this facility rental and fee waiver is concerning for two reasons. First, Policy 707 explicitly prohibits school facilities being used for "partisan political activity." Thus, in renting the facility to this political group, CASD is in violation of the school policy. Second, this facility rental is in violation of campaign finance laws. The fee waiver should be considered a donation of the facility, also considered an in-kind campaign contribution by CASD to the Friends of Doug Smith. This in-kind campaign contribution by CASD is illegal.²⁴

(b) Collection of Cash for Rentals

Mr. Donato required that some organizations or entities pay him in cash to rent a CASD facility presumably so that he could either skim or keep the rental fee.

For example, witnesses have speculated that Mr. Donato profited from both the CYO and Archdiocese track meets. Witnesses report that Mr. Donato charged \$5,000.00 in cash to rent the track for two Saturday events for the CYO and the Archdiocese. According to the custodial payroll reports, there were two such meets: the CYO track meet on May 5, 2013, *see* CASD010703, and the Archdiocese track meet on June 1, 2013, *see* CASD01075. Some witnesses reported that Mr. Donato tried to charge more than \$5,000.00 to host the two events, but ultimately the CYO/Archdiocese would not agree to pay a higher sum. While numerous witnesses heard that Mr. Donato charged \$5,000.00 for the rental, there is no documentation regarding a facility rental or any fee paid to CASD and so, the exact amount Mr. Donato

²⁴ No campaign finance reports could be found for this candidate, so it is impossible to tell whether he declared the in-kind contribution, and if so at what value.

received cannot be confirmed by the school records. It is likely the rental payment was given to Mr. Donato, which he accepted for his own use and profit. While the form of the payment is unknown, it was likely a cash payment given Mr. Donato's penchant for cash-only dealings. It is reported that Mr. Donato physically received a paper bag filled with cash as payment for this facility rental.²⁵ Mr. Donato also wanted to charge spectators an entry fee of \$10.00 at the door. The CYO refused to allow this entry fee. Ultimately, the Track Coach reported that the CYO was upset at the way they were treated by Mr. Donato. Numerous witnesses interviewed did not know about the CYO events until after-the-fact. The Assistant Athletic Director did not find out about the event until he arrived at the school on the day of the track meet to take his son to basketball practice and saw hundreds of people at the school to attend the event.

Another issue that arose surrounding the CYO/Archdiocese track meets was a donation promised by the CYO to the track team. According to a CASD Track Coach, a representative from the CYO (██████████) called the coach and asked if the CYO could make a \$1,000.00 donation to the CASD track program. ██████████ said he had been working with Mr. Donato to use the facility. When the Track Coach approached Mr. Donato about the donation, Mr. Donato responded that the Track Coach could either take the \$1,000.00 donation or the track parents/track booster club could work the concession stand at the track event (and presumably keep the proceeds). The Track Coach chose to accept the \$1,000.00 donation for the track team, which left Mr. Donato to work the concession stand. Numerous witnesses who worked at the CYO track meets recall Mr. Donato actually working in the concession stand with other employees. (Further information regarding the employees working this event will be addressed in later sections.) Following the event, when the \$1,000.00 donation arrived, Mr. Donato informed the Track Coach that the deal had changed and Mr. Donato would take \$500.00 and the track club would receive \$500.00. Witnesses believe that the \$1,000.00 donation was ultimately deposited into the Agency Account to fund the Jostens rings, and records support this belief. See CASD014324-25.

Mr. Donato also profited from a deal he hatched with ██████████ to host a Play-By-Play Classics basketball tournament. ██████████ would host his tournament at CASD every year with the agreement that everyone would be charged \$10.00 at the door. Mr. Donato and ██████████ would then split the proceeds in half. This deal came to light in December 2013, when ██████████ contacted the interim athletic director about the 2013-2014 school year Play-By-Play Classic and was told he had to submit a facilities rental form in order to rent out the facility. ██████████ responded that he had never submitted any such form before under Mr. Donato.

As discussed above, Mr. Donato also most likely profited from Bert Bell's facility rental.

4. Mr. Donato's Misuse of Overtime and Extra Duty Pay

Mr. Donato arranged for CASD employees to work at non-CASD sanctioned events but had the school compensate these employees by arranging for employees to receive overtime pay or "extra duty" pay for working these events. Sometimes Mr. Donato would pay the employees

²⁵ It is believed that the DA's Office has interviewed people involved with this event and determined how much cash was provided to Mr. Donato.

directly in cash; the exact source of this cash is unknown (i.e. whether it came from the facility fee, concession proceeds or ticket sales).

This misuse of overtime pay occurred at the May 5, 2013 CYO track meet where, according to the custodial records, a Custodian collected ten and one-half hours of overtime for the "CYO Track Meet." CASD010703. Because this event is not listed on the Rental Income Report for 2012-2013 school year, it follows that CASD did not receive revenue from this event. Thus, any overtime payment that was made to the Custodian at the football stadium was at a detriment to CASD. This misuse also occurred as to the June 1, 2013 Archdiocese track meet. According to custodial records, one Custodian collected twelve hours of overtime and another Custodian collected eight and one-half hours of overtime for the "Archdiocese of Phila. Track Meet." CASD010705. Further, three school police officers each received several hours of overtime pay for a track meet held on June 1, 2013. Two police officers each received seven hours of overtime on June 1, 2013. *See* CASD019172 (7 hours of overtime for "Trackmeet 7:30 – 2:30p.m."), CASD019173 (7 hours of overtime for "CYO Track + PIAA Volleyball). A third police officer submitted a time sheet for ten hours of overtime for working the same "track meet" on June 1, 2013. *See* CASD019174 (10 hours of overtime). As was the case with the May 5 track meet, this event is not listed on the Rental Income Report for the 2012-2013 school year and CASD did not receive any revenues from the event.

The issues arising around "extra duty" have been summarized in further detail above.

F. ALLEGED MISUSE, MISAPPROPRIATION AND THEFT OF CASD RESOURCES FOR PERSONAL BENEFIT

1. Employees Allegedly Working at Mr. Como's House

Mr. Como wielded his power and influence within CASD to divert resources away from CASD for his own personal benefit. The use of district resources for Mr. Como's personal benefit consisted of both labor by CASD employees and physical resources. These employees would perform work at Mr. Como's house during the school day, often in lieu of performing their duties for CASD.

Numerous witnesses described the wide-spread rumors that Mr. Como had CASD employees performing various work and upkeep around his house. Witnesses reported that Mr. Como had CASD employees cut his grass, paint his house and plow his driveway when it snowed. There were several reports that two of the athletic trainers did landscaping at Mr. Como's house. The Director of Technology reported that he performed technology support work at Mr. Como's house during the school day at Mr. Como's request. While he stated he did this work on his lunch break, it is unlikely that the Director of Technology was traveling to and from Mr. Como's house, and performing work there, within his allotted lunch break. Ms. Layfield frequently went to Mr. Como's house throughout the school day to take care of and oversee upkeep on the house. Several witnesses with knowledge of Ms. Layfield's relationship with Mr. Como reported that Ms. Layfield also left in the middle of the day to go to Mr. Como's house. These witnesses recalled specific instances when Ms. Layfield stated she was going to Mr. Como's house to meet the plumber or wait for a washing machine delivery.

Especially appalling is one employee who performed roof repairs at Mr. Como's house during the work day and was caught by his supervisor for doing so. This employee was hired as an electronic technician tradesman, effective on October 18, 2010. *See* CASD017150. This employee allegedly played football with one of Mr. Como's sons. Mr. Como supported the hire of this employee, as evidenced by an email on August 16, 2010 from Mr. Como to the Director of Human Resources, attaching the employee's resume and asking the Director of Human Resources to save the resume. CASD017140. As an electronic tradesman, this employee worked in the facilities department and his direct report was to the Energy Manager. The Manager of Maintenance recalled an incident when he called the employee because he had not reported to work within the facilities department. The employee said he was not at work at CASD, but instead was working at Mr. Como's house to fix the roof. This employee allegedly fell through Mr. Como's garage roof while working.²⁶ Even though this employee was not at work at the required time, nothing could be reported and no consequences imposed because he was working at Mr. Como's home per Mr. Como's request. Further, this employee was working at Mr. Como's house during his regular hours; essentially CASD was paying him to work at Mr. Como's house instead of completing his normal responsibilities within the District.

2. Purchase and Repurposing of Mr. Como's Home Generator

Mr. Como took advantage of his power within the District to unofficially require CASD to purchase a generator from Mr. Como that the District did not otherwise want. A generator purchased by Mr. Como was repurposed for district use even though it was not one that CASD would have chosen to purchase based on the model and its size. The former Business Manager stated that he was not pressured to purchase the generator, however, he acknowledged that he could not have said no to Mr. Como's request that CASD purchase the generator from Mr. Como. It is clear that the only reason the generator was purchased by CASD was because it was forced onto the District by Mr. Como.

Mr. Como's idea of purchasing a generator for use in his house first arose following Hurricane Irene in 2011 because Mr. Como's house lost power for several days. The house was not equipped with a generator at that time and the Manager of Maintenance provided Mr. Como with a portable generator for temporary use. At that time, the Manager of Maintenance also suggested that Mr. Como purchase a generator for his house and recommended the company Generac. Subsequently, Mr. Como purchased, through his contractor, a generator for his house. After the generator was purchased, and delivered and installed in Mr. Como's house, Mr. Como determined it was undersized for his house. Mr. Como asked the Business Manager if the maintenance department could use a generator and asked if CASD would purchase the generator directly from Mr. Como. Mr. Como explained to the Business Manager that he could not return the generator because it was installed and formatted for propane use in Mr. Como's house. The Business Manager spoke with the Manager of Maintenance, who said that the maintenance department would purchase and use the generator to use for the food service freezer.²⁷ It was arranged that CASD would purchase the generator directly from Mr. Como and repurpose it for

²⁶ The employee was denied workers' compensation benefits for injuries sustained when he fell through the roof and has been out on FMLA and/or Medical Leave since October 1, 2012, as discussed in further detail above.

²⁷ Following Hurricane Irene, the food service freezer lost power and significant amounts of food was destroyed. Since that hurricane, the maintenance department had considered purchasing a generator to avoid future outages.

school use. The Manager of Maintenance was directed to pick up the generator from Mr. Como's house and the generator was picked up in January 2012. The generator was not installed until July 2013, approximately one and a half years after it was picked up at Mr. Como's house, because the generator had to be converted from propane to natural gas use and the electricians needed sufficient time their schedules to install the generator.

After the generator was picked up from Mr. Como, a purchase order was created, at the direction of the Business Manager, for the purchase of the generator in the amount of \$3,000.00 to the vendor ██████████²⁸ CASD017902. On January 17, 2012, a check was issued by CASD to Mr. Como's contractor, ██████████, in the amount of \$3,000.00. CASD017901. Handwritten on the check is "Payable to Richard Como"; presumably this is ██████████'s writing. *Id.* Notably, the issuance of the purchase order for the generator did not follow normal protocol. Typically, if a new vendor is used, the vendor is first approved by the Accounting Department, the purchase order is generated by the department making the order (i.e. facilities department), and the purchase order is approved by the Business Manager. However, the reverse procedure was used regarding the generator: the purchase order was generated and approved by the Business Manager and subsequently sent to the Manager of Maintenance to sign.

Moreover, this was not the generator that would have otherwise been chosen and purchased by the Manager of Maintenance if he had not otherwise been unofficially required to purchase it from Mr. Como. Although the Facilities Department wanted to purchase a generator for the food service freezer, he would have purchased a bigger generator that would have supported more than just the food service freezer. Mr. Como's generator had to be converted from propane use to natural gas use so it was compatible with the district. Additionally, if the Manager of Maintenance had purchased a generator for the district directly from a supplier, CASD would have paid less for the same generator. CASD received a government discount and does not pay sales taxes, as opposed to an individual (such as Mr. Como) who does not receive those same benefits. The Manager of Maintenance estimated that he could save 25% to 30% on the sales price when he purchased such equipment on behalf of CASD. Additionally, CASD probably could have spent more than it spent for Mr. Como's generator and thus, would have considered generators that were larger and more suitable for the district's needs. The Manager of Maintenance estimated that he would have spent \$3,000.00 to \$5,000.00 for a generator for CASD's use if he had purchased the generator directly for CASD.²⁹ Instead, CASD suffered because Mr. Como wielded his power and influence over the CASD employees. Mr. Como required the district to use its resources to purchase inadequate equipment merely because Mr. Como would be inconvenienced if he were to keep the generator at his house.

3. Title III iPads for Mr. Como's "Inner Circle"

On or about on October 19, 2012, twelve iPads were purchased with Title III funds. Title III funds provide language instruction for limited-English proficient students (*i.e.*, English as a Second Language ("ESL") students), including immigrant children, so that the children may attain English proficiency and meet state standards. The iPads were purchased with Title III

²⁸ It was reported that ██████████ was one of Mr. Como's former students.

²⁹ The \$3,000.00 that CASD could have spent on a generator directly from a supplier would have bought a larger generator for CASD. CASD could have spent \$3,000.00, which would have purchased more after taking in account savings from the government discounts and no sales tax.

funds and were intended to be used by and for ESL students. However, the iPads were not used or distributed as intended even though they were purchased with Title III funds for ESL students' use. Instead, the iPads were distributed among Mr. Como and those in his "inner circle." Some iPads were, inexplicably, sitting idle in the office of the Assistant Superintendent.

According to the CASD Purchase Order to Verizon, on October 19, 2012, twelve iPads were purchased at a cost of \$8,441.88 (\$703.49 per iPad). *See* CASD021883. The Verizon records show orders for iPads on October 12, 2012, each costing \$529.99 with a Verizon data plan at a cost of \$39.99 per month. *See* CASD020741-64.

The Assistant Superintendent was in charge of the distribution of the Title III iPads. In an email on November 20, 2012, from the Assistant Superintendent's secretary to the Assistant Superintendent, the breakdown of the Title III iPads shows that elementary schools should get seven iPads, middle schools should get three iPads, and high school should get two iPads. *See* CASD021882. However, based on other documents, especially Technology Equipment Release Forms, the iPads were not distributed in that manner.

Mr. Como instructed that many of the iPads be distributed either to himself or among those in his "inner circle." Mr. Como received three of the iPads. *See* CASD020757, 020761, 020763 (handwritten notes "Rich 1", "Rich2" and "Rich2" on three different Verizon receipts for iPads). Mr. Donato signed for and received one iPad on January 28, 2013. CASD020768; *see also* CASD020759 (handwritten note "James Donato" on one Verizon receipt for an iPad). According to witnesses, specifically the Director of Technology, Mr. Donato was given an iPad per the instruction of Mr. Como. Mr. Donato's wife had "claimed" the first iPad that Mr. Donato was given by the district and this served as a replacement. The Director of the Middle Schools also received one iPad on November 27, 2013. *See* CASD020767.

The Assistant Superintendent was instructed to provide a list to the IT Department regarding those who received iPads; no such list has ever been provided. As noted in a January 29, 2013 email to the Director of Technology, the Assistant Superintendent has four iPads that are "unassigned." CASD020772. It is suspect as to why these iPads were not being used by anyone, and especially not by the ESL students, but instead these devices remain unused in the office of the Assistant Superintendent.

4. Suspect and Questionable Reimbursements

CASD has an established policy governing job related expenses and reimbursement for those expenses. However, the policy is vague and gave a lot of discretion to the Superintendent. Thus, as often happened within CASD, the Superintendent had wide-ranging discretion to submit his own reimbursements and approve reimbursement submitted by others.

(a) Policy on Job Related Expenses

CASD policy regarding Job Related Expenses, Policy 331 (hereinafter "Policy 331") was adopted on June 28, 1990. *See* CASD018477. Policy 331 specifies:

Payment of the actual and necessary expenses, including traveling expenses, of any administrator of the district that are incurred in

the course of performing services for the district whether within or outside the district, shall be reimbursed in accordance with this policy.

Id. Policy 331 specifies that the mileage reimbursement is paid at the current Internal Revenue Service business mileage reimbursement rate allowance. To assist those administrators traveling within the district and seeking mileage reimbursement, CASD has a "District Mileage Chart" (or mileage matrix) that specifies the exact distance between each building in the district. *See* CASD018476 (the District Mileage Chart was last updated on December 18, 2012). There is no further detail or documents elaborating on the policy or procedure for mileage reimbursement. The employee seeking the mileage reimbursement does not have to present any proof of travel or reason for his travel, whether within or outside the district.

Policy 331 further specifies that requests for travel and job expenses must be itemized and that each entry state the reason for the expenditure. CASD018477. Policy 331 specifies that the validity of an expense as being job related shall be determined by the Superintendent, or designee. *Id.* Notably, no further information is included regarding approval or guidelines as to what is considered "job related."

The limited policy regarding reimbursements gives the Superintendent wide ranging power to approve various reimbursements. Under the vague policy, the Superintendent has free reign to designate an expense as "job related," thus allowing an employee to be reimbursed for a wide range of activities without much justification. Moreover, the lack of detail concerning mileage reimbursements also allows the Superintendent almost unlimited power to approve mileage reimbursements, regardless of the reason for the travel or without further proof of travel.

(b) Reimbursements Under Mr. Como's Reign

The CASD reimbursement policy is vague and gives wide ranging authority to the Superintendent, making it easily susceptible to abuse. Those in Mr. Como's "circle," benefited from Mr. Como's ability to exercise discretion as it appears their reimbursement requests were reviewed with a less discerning eye.

(i) Travel and Mileage Reimbursements

While administrators were generally permitted per Policy 331 to be reimbursed for mileage, some witnesses stated that they did not submit for such reimbursements. It seemed that the mileage reimbursements were not a top priority for many who were eligible for such reimbursements. Conversely, Mr. Como, Mr. Donato, Ms. Layfield, and Matt Como all submitted mileage reimbursements monthly.

Mr. Como sought reimbursements for all travel to and from the various schools within the District. He sought reimbursement for traveling to the Board meetings, traveling to and from sporting events, and traveling to the prom. *See* CASD018445 (5/29/2013 seeking reimbursement for the board meeting at the 9/10 center; 5/31/2013 seeking reimbursement for traveling to "Prom at CASH"). It appears from documents collected that Mr. Como failed to use the mileage

matrix created for internal travel among schools within the District. *Id.*; 018557; *see also* CASD018476. Additionally, Mr. Como sought reimbursement for travel outside of the district. Mr. Como first sought reimbursement for travel to Hershey to pick up football tickets on December 8, 2012 and then for attending a football game in Hershey on December 15, 2012. CASD018577. Any further information about this football game in Hershey is unknown from these documents; it is unclear why attending a football game in Hershey is considered Mr. Como “performing services for the district,” as required for reimbursement in Policy 331.

Mr. Donato submitted reimbursement for his travel as well and his requests were “approved” by Mr. Como and Mr. Donato himself. *See* CASD018415 (approval signatures by James Donato, signing for “Principal, Supervisor or Director” and by Richard Como, signing for “Director of Elementary or Secondary Education”). He often submitted reimbursement request for travel to away games. *See Id.* Such requests are especially suspect for Mr. Donato because several witnesses stated that he would often not appear at games, with the exception of football games, and generally did not have a strong visual presence as Athletic Director. While MapQuest directions are attached to these reimbursement requests, those alone are not proof of Mr. Donato’s travel. *See* CASD018416-018431. Policy 331 does not require more detail or proof of travel and Mr. Donato’s limited presence in performing his duties as Athletic Director raises the question as to whether Mr. Donato was attending away games or whether he was merely requesting reimbursement for distances that he did not actually drive.

Matt Como submitted excessive mileage reimbursements every month, which ranged from \$200.00 to over \$400.00. *See* CASD018463-65. Some of the most excessive reimbursement requests were during the summer months, when school is out of session. *See, e.g.,* CASD018464 (receiving mileage reimbursement for following: \$441.66 from check issued on 7/28/11; \$484.52 from check issued on 8/25/11; \$591.25 from check issued on 9/22/11). Matt Como stated that he calculates his mileage by resetting the odometer on his car each day; he did not use the school mileage matrix. Further, Matt Como’s records are not detailed, but instead state driving from facility to facility without any explanation. *See* CASD018468-69; 018472-74. Matt Como’s reimbursements were approved by the Business Office. Initially, the Manager of Maintenance approved Matt Como’s reimbursement requests but that duty was taken away from this Manager. While unspoken, Mr. Como could have set up a different approval system to approve his son’s mileage requests so that nothing was questioned or second-guessed.

(ii) “Job Related” Reimbursements

Mr. Como and Mr. Donato also took advantage of the reimbursements system generally, beyond just mileage reimbursements, by improperly classifying reimbursements as “job related expenses” per CASD Policy 331. Mr. Como was not otherwise questioned regarding his approval for a wide variety of reimbursements. As was commonplace in the district, Mr. Como gave more favorable treatment to those in his “inner circle” and freely approved requests for their reimbursement, even when the proper procedure was not followed or suspect reimbursements were requested. This practice contributed to the suspect transactions and favoritism that was the common atmosphere at CASD.

Mr. Donato benefited from his relationship with Mr. Como in getting approval for varying suspect expenses. Witnesses who work in the business office and who are responsible

for payroll and issuing reimbursement checks stated that Mr. Donato often submitted requests for reimbursement from restaurants but would only submit the credit card receipt, and would not submit the receipt with an itemization of the order. Those witnesses explained most of these receipts were for restaurants that served alcohol, for which CASD does not authorize reimbursement. Nevertheless, when Mr. Donato was questioned or pressed for a more detailed receipt, Mr. Como would instruct the business office to merely approve the request, without requiring further detail. The employees in the business office were told not to question Mr. Como or ask more questions.

Many witnesses reported that Mr. Como often approved questionable reimbursements for Ms. Layfield. The records for Ms. Layfield do not reflect as egregious reimbursement requests as others in CASD. Nevertheless the payments listed in Ms. Layfield's "Vendor Payment History" request reimbursement for items such as \$330.00 for course tuition and \$320.00 for a conference in 2011, \$76.32 for the vague description "reimbursement for Becky" in 2012 and \$137.00 for a website design in 2010. *See* CASD018433-34.

(iii) Tuition Reimbursements

Under Mr. Como, tuition and course reimbursements were seemingly classified as "job related" as many individuals were reimbursed for various tuition payments and courses. Consistently with Mr. Como's practice at CASD, individuals in Mr. Como's "inner circle" received preferential treatment for reimbursements. Further, it does not appear as though any justification was necessary as to why CASD should pay for these individuals' academic courses, however, these individuals still received course reimbursement.

John Allen, the Title III Community Liaison hired to work with ESL students, took numerous classes at the University of Phoenix from 2012-2013. *See* CASD016520-22 (University of Phoenix transcript). Mr. Allen's transcript reflects that he took six classes from December 2012 – May 2013. CASD016520. CASD paid for all of his courses. The Director of Human Resources initially refused to reimburse Mr. Allen for her tuition costs (because he was not a union member), but Mr. Como and the Assistant Superintendent overruled the Director of Human Resources' decision and approved the reimbursement. Thus, over the course of two years, Mr. Allen was reimbursed at least \$4,076.25 by CASD for his coursework at the University of Phoenix; there are several purchase orders within Mr. Allen's personnel file approving reimbursement for this coursework. A February 26, 2013 purchase order in the amount of \$438.75 for the course "Professional Communications" (Course 516) was approved by the Assistant Superintendent; while the Director of Human Resources signs her name, she notes next to her signature "per Angelo" presumably to show she did not approve the reimbursement and was overruled by Mr. Como and the Assistant Superintendent. CASD016541 (2/26/13 Purchase Order).³⁰ A May 13, 2013 purchase order in the amount of \$1,005.00 for the course "The Art and Science of Teaching" (Course 501) was approved by the Assistant Superintendent and Director of Human Resources. CASD016529 (5/13/13 Purchase Order). A June 12, 2013 purchase order in the amount of \$1,316.25 for the course "Maintaining an Effective Learning Climate" (Course 523) was approved by the Assistant Superintendent and

³⁰ A February 25, 2013 email from to the Secretary in Human Resources advises which account to apply "this charge" for a John Allen reimbursement, as described in the subject line. CASD016540.

Director of Human Resources. CASD016516 (6/12/13 Purchase Order). Finally, an October 4, 2013 purchase order in the amount of \$1,316.25 was approved by the Business Manager and Director of Human Resources for the course "Curriculum Constructs and Assessment: Secondary Methods" (Course 559). CASD016516 (10/4/12 Purchase Order).

Several other employees in Mr. Como's "inner circle" also benefitted in reimbursements for their tuition costs. Dominic Brown, a special education one-on-one aide, was reimbursed for taking college classes at Immaculata University. In 2011-2012, CASD paid approximately \$2805.00 for three courses at Immaculate University. Two of Mr. Brown's classes were a history class on "Sex Slavery" and a theology class on "Introduction to Christian Ethics." CASD015770. These classes do not appear related to Mr. Brown's position as a one-on-one aide and do not appear relevant to professional development or obtaining any teaching certificate. Nevertheless, Mr. Brown was affiliated with Mr. Como and was approved for reimbursement for these courses. Additionally, Jerod Hines was reimbursed for classes at University of West Chester. In 2012, CASD paid approximately \$777.00 for Mr. Hines to take four courses. Mr. Hines received an "F" grade in Intro to Ethics, one class for which he received reimbursement in January 2012. CASD011559. Finally, from 2009-2012, CASD paid close to \$20,000.00 in reimbursements to [REDACTED] for courses at Immaculata College in order to complete enough coursework and earn his professional certificate. CASD017976 (Professional Certificate to [REDACTED] on October 1, 2012).

While CASD reimbursement for travel and coursework is not inherently wrong, certain employees were given benefits if they were in the good graces of Mr. Como. CASD Policy 331 was very vague and most of the decision making power fell to Mr. Como. Thus, Mr. Como could apply the policy how he saw fit and how he generally handled the school district: he would allow certain employees more discretion with reimbursements, override other administrators' opinions if he disagreed and take advantage of the policy for his own purposes.

G. ALLEGED OVERBILLING AND MISAPPROPRIATION OF CASD TECHNOLOGY RESOURCES FOR SOLICITOR'S BENEFIT

1. Allegations of Overbilling By Solicitor

Although Rhoads & Sinon billed CASD at a relatively low rate, Rhoads & Sinon, and specifically Mr. Ellison, are alleged to have submitted excessive bills for time spent working on various CASD issues. There were significant problems with the legal bills in connection with Mr. Ellison's work for CASD, such as billing for time that would ordinarily be considered "associate work" and billing for travel time by calling it "preparation."

(a) General Billing Practices

Rhoads & Sinon, and specifically Mr. Ellison, represented CASD since 2002, yet there was never any contract or retainer agreement. The only documentation regarding the retention of Rhoads & Sinon is proposals for legal services. See, e.g., CASD003093-3132 (Proposal for Legal Services, April 29, 2002); CASD003620-3718 (Proposal for Legal Services, February 28, 2006/May 15, 2006). Rhoads & Sinon allegedly had an "open contract" with CASD for ongoing representation. Board meeting minutes reflect that the board voted to appoint James Ellison as

the District Solicitor. *See, e.g.*, CASD003617 (voting to appoint James Ellison as District Solicitor for the 2006-07 school year). On December 31, 2013, Mr. Ellison amicably split from Rhoads & Sinon. Mr. Ellison was appointed District Solicitor during a special board meeting on December 26, 2013; the justification for rehiring Mr. Ellison, rather than put out an RFP for legal counsel, was the emergent nature of undefined CASD legal matters. Mr. Ellison currently represents CASD as a sole practitioner at Susquehanna Legal Group, LLC.

Mr. Ellison has been the primary point of contact since Rhoads & Sinon was hired by CASD. Nevertheless, numerous Rhoads & Sinon attorneys were staffed on various matters for CASD to the point that certain matters may have been over-staffed. For example, approximately thirteen other attorneys beyond Mr. Ellison worked on the text message investigation.

All the proposals provide that CASD will be charged a “blended rate,” which is described in the proposal as a rate for all levels of attorneys working on the matter (partners and associates), but is “significantly lower than the standard rate of the attorneys who will perform a majority of the work.” *See, e.g.*, CASD003104-3105 (Proposal for Legal Services, April 29, 2002, “Billing Rates”); CASD003630 (Proposal for Legal Services, February 28, 2006/May 15, 2006, “Billing Rates”). Rhoads & Sinon charged CASD a low rate of approximately \$160.00-\$180.00 per hour, depending on the year. However, the firm billed in excess of \$7.7 million in a ten-year period, from 2002 through 2013. By way of contrast, Rhoads & Sinon only billed Central Dauphin School District \$1.7 million over the course of six years. Since Mr. Ellison became CASD’s sole Solicitor (i.e., without multiple Rhoads & Sinon lawyers also working with him), legal bills have remained high. As recently as March 5, 2014, Mr. Ellison submitted an invoice to CASD for \$74,320.20 for his services for January and February 2014.

As mentioned above, Mr. Ellison continues to represent CASD even after his departure from Rhoads & Sinon. By letter dated January 1, 2014 from the Susquehanna Legal Group, Mr. Ellison sets forth the terms of his ongoing representation of CASD. *See* CASD020973-74. Notably, Mr. Ellison specifies that CASD will be billed at a “blended rate of \$200 per hour.” Mr. Ellison inexplicably raised his rate from \$180.00 to \$200.00. Moreover, the blended rate in the context of Susquehanna Legal Group is not appropriate; a rate charging CASD the same amount for all levels of attorneys’ work on the matter does not make sense because Mr. Ellison is the lawyer from Susquehanna Legal Group apparently providing legal services to CASD.

(b) Suspect Billing Practices

(i) Vague Descriptions and Questionable Hours

Mr. Ellison would frequently submit bills with vague descriptions corresponding with large, round numbers of hours. Before 2011, Mr. Ellison’s billing descriptions were more extensive. For example, he would explain the issue he was researching or the type of preparation he was doing. However, in later years, Mr. Ellison’s time entries became less descriptive. For example, Mr. Ellison would refer generally to performing “legal research” without describing the issues he was researching. He often referred to “Graystone Issues” without further information or description of his tasks.

Mr. Ellison billed multiple hours to various issues involving “Graystone.” Graystone is a charter school within CASD. Graystone’s charter was originally granted around 2001 and revoked around 2010. The revocation and closing of Graystone was a long process that continued over several years.³¹ Mr. Ellison billed excessively on issues surrounding Graystone without further descriptions or explanation of the tasks he was performing. Most of Mr. Ellison’s entries for Graystone are billed in large, round numbered hours.

Some witnesses who dealt with Mr. Ellison reported that he did unnecessary work in an effort to drive up his legal costs. The Teachers’ Union President reported that Mr. Ellison would pursue and appeal union matters when the appeals were otherwise fruitless. She also reported that Mr. Ellison would frequently wait until the last minute to settle any matter so he could bill an excessive amount of hours for preparation of the hearing without having to attend the hearing.

(ii) Inappropriately Billing for Travel Time

The proposal for Rhoads & Sinon and Mr. Ellison’s legal work specify that the District will not be charged for any travel time. CASD003105; 003630. Nevertheless, Mr. Ellison appears to have charged for travel time, both by expressly designating it as “travel time” or by billing for his travel time under a different description. Before 2009, Mr. Ellison regularly recorded three hours of travel, for which he did not charge. *See, e.g.*, CASD004327 (indicating on bill 3.00 hours of travel time and “DO NOT CHARGE”). The travel time accompanied an entry of three hours for attending the board meeting. In these years, Mr. Ellison would occasionally bill anywhere from zero to three hours for preparation for the executive session or board meeting.

Within the last few years, Mr. Ellison billed three hours for board meeting “preparation” and three hours for the board meeting itself, sometimes also attending an executive session. Mr. Ellison stopped recording time for travel to the board meeting. However, Mr. Ellison consistently billed three hours for “preparation.” It is suspect that Mr. Ellison stopped recording travel time but consistently billed three hours of preparation time given that three hours is the exact length of time Mr. Ellison previously recorded for travel. Similarly, Mr. Ellison often billed for attendance at a hearing or arbitration in eight or nine hour chunks of time. *See, e.g.*, CASD007301 (billing 9.00 hours for “Hearing” on 11/28/12). These entries for large amounts of time appear to include Mr. Ellison’s travel time without explicitly specifying so. These hearings are especially suspect when compared with other attorneys’ entries for attendance at hearings. Other attorneys have billed similar amounts of time for such attendance but their entries include attendance and travel time.

Ultimately, however, it was impossible for us to reach a conclusion on whether Rhoads & Sinon and Mr. Ellison systematically overbilled CASD. The Board did not permit us to interview any Rhoads & Sinon lawyer about billing practices, or any other issue. Likewise, we were unable to speak with Mr. Ellison. Without those resources, we were unable to determine whether the suspect billing practices were the result of poor record keeping or deliberate overbilling.

³¹ It is acknowledged that CASD’s fight against Graystone is viewed as important for CASD’s long-term sustainability. The importance of the litigation, however, should not justify sloppy billing practices.

(c) CASD's Excessive Reliance on Mr. Ellison

A more identifiable problem is the heavy reliance many CASD administrators, including Mr. Como, placed on Mr. Ellison. The Board also relies heavily on Mr. Ellison's counsel. Numerous witnesses reported that Mr. Ellison was always called if there was even a hint at a question, problem or issue. Witnesses reported that Mr. Como's first reaction to a problem – even a minor issue – would be to call Mr. Ellison for his input. In turn, Mr. Ellison would bill extensively for his advice and guidance on even the smallest problem.

Moreover, there is not procedure or designation for one person within CASD to handle all legal matters, which led to more opportunities for potentially excessive or unnecessary billing. Mr. Ellison regularly received calls from the Superintendent, Assistant Superintendent, Business Manager, Open Records Officer, the Human Resources Department and individual Board members to handle various issues and matters for CASD. The fact that all of these individuals had open and unlimited access to contact Mr. Ellison created more opportunities for Mr. Ellison to bill time to CASD, even on the smallest matters.

(d) Attempts to Change Mr. Ellison's Billing Practices

While many Board members merely accepted Mr. Ellison's vague and excessive billing practices, a few individuals raised concerns to no avail. For example, the Teachers' Union President raised concerns about Mr. Ellison's excessive billing with the Board, alleging that Mr. Ellison was performing unnecessary legal work and appeals in an effort to drive up his legal costs. However, the Board did not listen and no changes were made.

Notably, a prior member of the Board raised significant concerns regarding Mr. Ellison's legal bills around the Summer of 2007. There are several emails regarding these concerns by and among the Board members at that time, with several members sharing in this concern. The concerns that were raised in 2007 remain the primary concerns surrounding Mr. Ellison at the time of this internal investigation. No changes were made in 2007 and Mr. Ellison remained, and continues to remain, CASD's Solicitor long after these concerns were expressed.

Specifically, the former Board member raised his significant concerns regarding Mr. Ellison's legal bills in an email to the Board on July 17, 2007. *See* CASD015850-51. He highlights the extremely high legal bills, noting that the average monthly bill over the past months ranged from \$55,000.00 to \$60,000.00; one month's total bill was \$76,000.00. *See* CASD015850. He compares the legal bills to 2000-2001, which ranged from \$20,000.00 to \$25,000.00.

The email details comparisons of CASD's legal bills with neighboring, and much larger, school districts: West Chester Area School District (WCASD) and Downingtown Area School District (DASD). As of 2007, all three school districts were actively engaged in large construction projects and teacher/support staff negotiations. CASD legal bills totaled \$646,398.57. Conversely, the legal bills of the much larger school districts were significantly less: WCASD legal bills totaled \$385,000.00 and DASD legal bills totaled \$202,739.27. CASD015850.

Other Board members, including the former Board president, responded with equal concern over the excessive legal bills. One Board member (who is still an active board member), responded that the numbers were “disturbing” and that if the board does not seek other proposals, then the board is not “being good stewards of taxpayer dollars.” CASD015837. He also raises the concern that the excessive bills “could be a result of [the Board’s] procedures, or lack thereof.” He specifically questions whether CASD overly relies on Mr. Ellison:

Perhaps we/the administration are engaging in legal advice/legal representation overkill as a source of comfort? It may be that it has, through time, become customary to seek legal advice or legal participation in situations where it really isn't needed.

Id. He questions whether everything should be sent to the attorneys because that implies that the Board seeks “review, reply or advice” from the attorney (leading to higher legal bills) and also raises the issue as to whether “bulk billing has become the norm.” All of these aforementioned issues are the specific problems that continue to surround Mr. Ellison’s practices in acting as CASD’s Solicitor. *See* CASD015842-43.

On July 23, 2007, the former Business Manager provided to the Board a spreadsheet that breaks down the legal fees incurred by CASD for July 2006 through June 2007. *See* CASD015848-49. The former Board President notes in an email on July 27, 2007 that the largest costs are “Personnel related” and notes that is an area over which the Board could control, as opposed to having Mr. Ellison resolve these issues. CASD015855.

The same former Board member also raised concerns directly with Mr. Ellison himself. By way of example, in an email dated June 18, 2007, *see* CASD015807, he questions certain entries on Mr. Ellison’s May 14, 2007 bill. He specifically asks what specific legal issue was researched over the course of four days since the bill does not specify the topic and also asks why there are several entries for reviewing a file, reasoning that an attorney should know what is in the file if he is working on it. While the Rhoads & Sinon attorney (not Mr. Ellison) is able to defend his entries, nonetheless this exchange evidences a long-term concern with Rhoads & Sinon and Mr. Ellison’s billing practices.

Also, by way of further example, former board member questions Mr. Ellison’s recommendation to appeal two CATA grievances, and also asks for the total amount billed to-date. *Id.* Mr. Ellison explains, in a lengthy email, that one grievance was a benefits issue where the exposure was \$7,500.00 and the second grievance was a CATA negotiations issue regarding elimination of extra duty pay positions. *See* CASD015819-20. Notably, as to the benefits matter, Mr. Ellison’s recommendation is to “drag out the process of determining an award as long as possible b/c [sic] it would make [the claimant’s] task of quantifying damages more difficult with every passing day.” CASD0015819. Only after further pressure by the school board member does Mr. Ellison provide his legal bills for the requested matters. *See* CASD015826. As of June 2007, Mr. Ellison had billed \$12,040.02 on the benefits issue, *see* CASD015828-29, and \$30,063.36 on the negotiations issue, *see* CASD015830. This is a concrete example of excessive billing where Mr. Ellison billed twice the amount of the grievance exposure and his plan was to “drag out” the matter—while billing even more for his work—in the hopes that the claimant would drop his complaint.

These emails are only a discrete set of examples regarding concerns over high legal bills and specific examples Mr. Ellison's questionable billing practices. What is particularly unsettling, though, is that the concerns raised in 2007 are the same concerns currently being explored by this internal investigation and by the DA's Office.

When these concerns were raised in 2007, a small shift was seen in Mr. Ellison's billing practices. In October 2007, the former Business Manager noted that Mr. Ellison "has seen the light" and there was a reduction in legal bills. CASD016007. The monthly legal bills for the fiscal year at the time of the email averaged \$31,937.00, versus \$57,392.00 the previous year, where none of the bills were less than \$40,000.00 per month. These changes appear to be short-lived, however, and Rhoads & Sinon billings steadily increased to more historic levels.

2. Alleged Misappropriation of Technology Resources

Mr. Ellison has both a cell phone with data capabilities and an iPad, both issued and paid for by CASD. The devices, and related charges, were not paid—even in part—by Rhoads & Sinon. Mr. Ellison regularly received upgrades and replacements for his phone, regularly contacted the Director of Technology for support issues and incurred several thousand dollars of roaming charges while Mr. Ellison was traveling outside of the United States. All of this technology use was approved by Mr. Como.

(a) CASD-Funded Cell Phone and an iPad

CASD pays for the data plans of both Mr. Ellison's cell phone and iPad. Since 2008, CASD has paid for several phones as well as a monthly cell phone plan for Mr. Ellison. The CASD Verizon representative reported that CASD paid for the following devices for Mr. Ellison: two Blackberry Storms, costing \$199.99 and \$179.99, and one iPhone 4s, costing \$199.99. CASD has also paid for four different monthly plans for Mr. Ellison from December 2008 through the present as follows:

- December 23, 2008 – November 29, 2011: \$64.09 per month
- November 20, 2011 – May 1, 2012: \$80.76 per month
- May 2, 2012 – July 9, 2012: \$64.09 per month
- July 10, 2012 – Present: \$86.57 per month

The aggregate cost to CASD since 2008 for Mr. Ellison's cell phone alone is approximately \$4,500.00.

CASD has also paid for Mr. Ellison's iPad since August 3, 2011. The CASD Verizon representative reported that the initial cost of the iPad was approximately \$529.99. Mr. Ellison's iPad was initially billed at \$39.99 per month. On November 8, 2011, the iPad was transferred to a different plan (share plan) and the monthly cost was reduced to approximately \$26.25 per month. Mr. Ellison has operated his iPad under the share plan, at CASD's cost, from November 8, 2011 through present.

Mr. Ellison has suggested that the Proposals for Legal Services provide for the reimbursement for such items, but this simply is not true. The proposals maintain that Rhoads &

Sinon “maintain[s] state of the art computer and technology capabilities and train[s] our lawyers to be effective and efficient in the use of such equipment.” CASD003589 (2002 Proposal for Legal Services); CASD003630-31 (2006 Proposal for Legal Services). There is no provision whatsoever that suggests technology devices and use should be reimbursed by CASD. In our collective experience, we are unaware of a taxpayer-funded client paying for the cell phone and related equipment of a privately-retained Solicitor, particularly when that Solicitor can use those technology resources for personal use, or for the use of other clients. Nor is there any explanation why Rhoads & Sinon (at its expense) did not provide Mr. Ellison with a cell phone or iPad.

(b) Technology Support & Upgrades

Mr. Ellison regularly contacted the Director of Technology for IT support and assistance. It is unknown why Mr. Ellison consistently turned to the CASD technology department for help, rather than using the technology support of Rhoads & Sinon. Specifically, Mr. Ellison relied on CASD’s Director of Technology to solve Mr. Ellison’s technology problems. For example, on July 5, 2009, Mr. Ellison emailed the Director of Technology complaining that his “blackberry has officially died” and making arrangements to drop off the cell phone with the Director of Technology. *See* CASD020775. Mr. Ellison again emailed the Director of Technology on July 9, 2010 complaining that his Blackberry could not connect to the internet. *See* CASD020776.

Mr. Ellison also regularly contacted the Director of Technology with inquiries about device upgrades and replacements. Emails between Mr. Ellison and the Director of Technology show that Mr. Ellison was desirous of having the most recent technology, without concern as to any cost to CASD for such upgrades. Further, as soon as there was any slight problem with his device, Mr. Ellison expected CASD to pay for him to receive a new device. The requests consist of the following emails from Mr. Ellison to the Director of Technology:

- October 3, 2010: an email asking: “Any word on the blackberry upgrades?” and specifying which model Mr. Ellison would like (“Torch.”). CASD020778.
- December 24, 2010: an email stating: “I dropped my storm and the screen is cracked. Need a replacement. Help?” CASD020780.
- March 4, 2011: an email with the subject line “Oooops, I did it again” stating: “I have a black screen on my phone and its [sic] not working at all. Can you order me a new one ASAP. If you have a loaner one I can use, that would be great. I’ll drive down and get it Monday.” CASD020781. Mr. Ellison’s secretary followed up regarding this request in a March 7, 2011 email, asking the Director of Technology to “reorder a new one for [Mr. Ellison] as soon as practicable.” CASD020782.
- October 17, 2011: an email asking “So how long will it take to get that iphone 4s?” CASD020791.

- September 19, 2013: an email stating “I’d like to go ahead and upgrade to the 5s.” CASD020800. Mr. Ellison follows up on this request on September 20, 2013, stating: “And if there is a 5s with additional memory, I’ll take it.” *Id.*

Mr. Ellison requested a new device often – sometimes more than once a year – and each device was issued and paid for by CASD. It is evident from the above emails that Mr. Ellison had no regard for cost to CASD when making numerous requests for the newest technology.

(c) Mr. Como Approved Mr. Ellison’s Technology Use

Mr. Como personally signed off on Mr. Ellison’s receipt of a cell phone and iPad using CASD funds. The Director of Technology reported that he issued Mr. Ellison a cell phone under Mr. Como’s directive. Moreover, October 2011 emails between Mr. Ellison and the Director of Technology refer to Mr. Como’s approval of a new cell phone for Mr. Ellison. On October 17, 2011, when Mr. Ellison requested an iPhone 4s, the Director of Technology asks, “I do not recall of Rich [Como] said it was Ok” to order a new cell phone for Mr. Ellison. CASD020793. Mr. Ellison responds, “[Como] said it was ok. But feel free to ask him.” *Id.*

Mr. Como had no qualms about signing off on Mr. Ellison obtaining an iPad from CASD. Mr. Ellison requested an iPad on May 11, 2011, writing “Hey Rich, as your solicitor, I think I need an I-pad 2! Can you take care of your lawyer???” CASD020785. Mr. Como responds the same day, “You got it! I will order for you tomorrow. Use it to keep me out of court and still working. I will count it as part of your scholarship. Room, Board, Books, Tuition.! Just keep playing well my friend ! HAHAAHAHAHA”. *Id.* Following the approval from Mr. Como, Mr. Ellison immediately emailed the Director of Technology, stating, “I spoke with Superintendent Como about obtaining an I-Pad 2 today and he has approved my request. Please confirm with him tomorrow and advise me when it is available.” CASD020786. Mr. Ellison then continued to pursue the Director of Technology regarding the availability of the iPad. *See* CASD020787-90 (emails on May 12, 2011, May 16, 2011 and June 16, 2011).

(d) Use of CASD-Funded Technology Beyond CASD Work

Mr. Ellison makes the somewhat dubious assertion that he requires a CASD issued phone because he services CASD twenty-four (24) hours per day. However, Mr. Ellison uses his CASD phone for personal and professional calls beyond just his CASD work. It has been reported that Mr. Ellison has a personal phone through AT&T and those calls are forwarded to his CASD cell phone. Nevertheless, the phone records document that Mr. Ellison also uses his CASD cell phone for personal calls as well as to return calls of other clients.

Especially egregious were roaming charges Mr. Ellison incurred on his cell phone and iPad while on vacation outside of the United States. CASD paid these charges because Mr. Ellison claimed he was working on several matters for CASD during his vacations. The Director of Technology expressed serious doubts that Mr. Ellison was working for CASD during the entire time of his vacation, and in a capacity that would justify such substantial charges.

On February 15, 2012, Mr. Ellison emailed the Director of Technology asking him to arrange for international cellular service of Mr. Ellison’s iPhone and iPad during his trip to South

Africa from February 23, 2012 through March 8, 2012. *See* CASD020795. Mr. Ellison explains that he needs international service because he “will still be working on several matters that are scheduled for hearing during my trip.” *Id.*

In July 2012, Mr. Ellison incurred substantial international cellular service charges while traveling in France. On July 10, 2012, the Director of Technology received an email from Verizon that Mr. Ellison’s iPhone account incurred \$250.00 in “international data overage charges” and his iPad incurred \$4,000.00. CASD020796. Upon receipt of these mammoth charges, the Director of Technology emailed Verizon asking that this iPad account be disconnected. CASD020797. Nevertheless, on July 14, 2012, the Director of Technology received an email that Mr. Ellison’s iPhone incurred \$1,000.00 in “international data overage charges.” CASD020798. A Verizon representative then emailed the Director of Technology on July 16, 2012, advising that the account for Mr. Ellison’s mobile number has data overages “in the amount of \$5,018.00 due to roaming charges in France.” CASD020799. The Director of Technology raised concerns regarding these fees with Mr. Como, who instructed the Director to ensure that Mr. Ellison had international data connections and Mr. Ellison would pay for the charges. No records reflect that Mr. Ellison ever paid for these outrageous July 2012 charges.

H. FINANCIAL MISMANAGEMENT BY THE ADMINISTRATION AND BOARD

1. Over-Budgeting of Revenue and Under-Budgeting of Expenses

The Auditor General’s March 2014 Performance Audit found that:

The District is facing serious financial challenges, including a \$4.9 Million General Fund Deficit. Our audit of the Coatesville Area School District’s (District) annual financial reports (AFR), independent Auditor’s reports (IAR), and general fund budgets for fiscal years ended June 30, 2006, 2007, 2008, 2009, 2010, 2011, and 2012 found that the District has a deteriorating general fund balance, culminating in a \$4,902,834 deficit for the fiscal year ended June 30, 2012.

Specifically, we found that over the last seven (7) years the District has had a dramatic \$31.1 million drop in its General Fund balance, putting it in an unstable financial position. Moreover, as referenced in the criteria box to the left, the District violated the Pennsylvania Public School Code (PSC) by authorizing expenditures that exceeded its budget and led to a deficit in the District’s General Fund.

CASD021897; 021890-908. This finding should not come as a surprise to anyone familiar with the District’s financial position.

Nearly two years ago, Standard & Poor’s Rating Services (S&P) warned that the District suffered from a deteriorating financial position. Specifically, on May 16, 2012, S&P lowered its school issuer credit rating (ICR) on CASD general obligation (GO) bonds three levels to “BBB+” and assigned a negative outlook. CASD014775-82. The downgrade reflected S&P’s “assessment of the district’s significant financial deterioration due to poor budgeting practices.”

CASD014777. S&P's decision to reduce the ICR on CASD's GO bonds was based on CASD's deficit fund balance in the 2011 fiscal year, its "[w]eak management practices and policies," and its "[m]oderately high debt." *Id.*

S&P noted five consecutive years of operating deficits averaging \$5.4 million annually. *See* CASD014779. S&P attributed these deficits to over-budgeting state aid, and under-budgeting charter school expenditures, and noted "management's history of optimistic budget assumptions and lack of a long term plan on how to replenish and maintain adequate reserves." *Id.* The assigned negative outlook reflected a concern about the already weak financial position and structural imbalance combined with a "history of poor budgeting practices." CASD014781.

These concerns were raised internally by the then-Assistant Business Manager who found that the proposed budget overstated revenue and undervalued the expense not only of charter school expenditures, but special education expenditures. These concerns fell on deaf ears however, and the District continued its practice of making "optimistic budget assumptions."

Witnesses described Mr. Como as being heavily involved in developing the budget. One former Business Manager stated that he was responsible for developing the budget with input from administrators, directors, principals and Mr. Como, but acknowledged that Mr. Como reviewed and revised the budget before it was presented to the Board. This former Business Manager stated that the Board was always presented a balanced budget but that sometimes the balanced budget was dependent upon raising taxes. Though not stated as such by this former Business Manager, another former Business Manager recognized this policy for what it was: a deliberate attempt to present a balanced budget based on knowingly inaccurate and speculative expense and revenue projections.

Although obviously all projections are speculative, there is a difference between projections based on sound assumptions and those based on knowing fallacies. According to one former Business Manager, Mr. Como was aware that certain expenses were understated. It is not clear whether the Board was specifically aware of this practice.

2. Inexplicable Sale of Tax Liens to Fill Budget Holes

Since 2005, before Mr. Como became Superintendent, the CASD has sold millions of dollars in delinquent property tax claims to third parties in exchange for what essentially is a cash advance of about \$3-4 million per year. *See* CASD020979-82; 021219-22; 021460-63; 009785-88; 010019-22; 010238-41; 010417-19; 021576-80; 021739-40. Pursuant to an Agreement of Sale and Purchase of Tax Claims by and between CASD and The Harrisburg Authority (from 2005 to 2007) and the Northwest Pennsylvania Incubator Association ("NPIA") (from 2008 to 2013), CASD agreed to sell liens for delinquent taxes levied by the District that had been turned over to the Chester County Tax Claims Bureau for collections. *See, e.g.,* CASD009856-903. The District lost money on the transaction. Not only did they sell the liens at a considerable discount, they paid approximately \$1.72 million in fees from 2005 to 2013 to Municipal Revenue Services, which acted as "broker/consultant," *see* CASD009850-55, and to law firms involved in the process. Specifically, the District paid \$176,011 in fees in 2005, *see* CASD020979-82; \$199,750 in 2006, *see* CASD021219-22; \$205,000 in 2007, *see* CASD021460-63; \$231,400 in 2008, *see* CASD009785-88; \$152,450 in 2009, *see*

CASD010019-22; \$150,621 in 2010, *see* CASD010238-41; \$190,145 in 2011, *see* CASD010417-19; \$165,000 in 2012, *see* CASD021576-80; and \$251,975 in 2013, *see* CASD021739-40.

The District remained liable to refund the buyer the face value of each cancelled tax claim certificate and agreed to repurchase unredeemed tax claims³². *See* CASD009858; 009856-903. The District eventually became financially dependent on the cash advance provided by this “sale.” However, according to a former Business Manager, because the district had increased taxes significantly in July of 2004, there was no shortfall at the end of the 2005 fiscal year to warrant the sale of outstanding tax claims at a significantly discounted value. The significance of this fact is that the necessity of a cash advance provides the only upside to the District from the transaction. Thus, the cash advance, while providing an explanation for the continued practice, does not provide an explanation for the initial implementation.

Since it appears that there was no sound financial reason for the District to enter into the transaction in the first instance, it follows that the benefit to those at whose behest the agreement was initially entered drove the initial sale. Rhoads & Sinon received \$5,000.00-10,000.00 in fees in addition to time the firm billed attributable to the tax lien transaction. CASD 009786; R&S003046-50. Mr. Ellison’s firm represented The Harrisburg Authority as general counsel from 1997 to 2004, and as special counsel until 2008. From 2007-2010, Mr. Ellison also sat on the Board of The Harrisburg Authority, which made \$30,000.00 in fees on the 2005-2007 “sales.” *See* CASD CASD020979-82 (2005 Settlement Sheet); 021219-22 (2006 Settlement Sheet); 021460-63 (2007 Settlement Sheet). This apparent conflict is allegedly what caused the NPIA to take The Harrisburg Authority’s place beginning in 2008. Unfortunately, given the economically disadvantageous nature of the tax lien transactions to CASD, the best explanation for why the District entered into the transactions is that they benefitted the law firms and middlemen touting this scheme as fiscally responsible and appropriate.

3. Consistent Overspending By Athletic Department

Despite the District’s weak financial position, Mr. Como did not place reasonable restraints on Athletic Department spending. For example, several witnesses recalled that the District put in a new turf football field the same year it made significant cuts to faculty and staff.

The Athletic Director does not have the authority or ability to unilaterally issue checks for purchases. If the Athletic Director would like to purchase something for the Athletic Department (either because it was requested by a coach or because he sees a need), the Athletic Director is required to complete a purchase order and submit it to the Director of Education and the Business Office for approval. If approved, the order is placed with the vendor. Once the order is filled and an invoice is received, the invoice is submitted to Accounts Payable in the Business Office. Accounts Payable compares the invoice to the approved purchase order and, assuming there are no conflicts or issues, cuts a check to the vendor.

³² It is thus hard to conceptualize the transaction as a “sale”—a sale denotes no obligation to ever repurchase the asset sold. Here, CASD was contractually required to buy back all tax debt that the Chester County Tax Claims Bureau could not collect. Again, it is not clear whether the Board truly appreciated the nature of the tax lien “sale.”

In the spring of 2010, CASD coaches were allegedly told that they had to cut-back on requests for equipment, because the District needed to reduce its spending. However, according to several witnesses, this directive specifically, and directives of this nature generally, did not apply to the football team. For example, despite the fact that the football team had multiple jerseys per player already, Mr. Donato allegedly approved an additional \$20,000.00 for new uniforms for the football uniforms that year. A witness who overheard a conversation between Mr. Donato and the Head Football Coach about this purchase recalled that the Head Football Coach questioned Mr. Donato about the purchase given the directive to reduce spending. The Head Football Coach asked: "How are we going to explain this \$20,000 for uniforms?" Mr. Donato responded: "Don't worry, I will hide the money." According to a former Athletic Department Secretary, that is precisely what he did.

In May or June of 2010, Mr. Donato allegedly directed the former Athletic Department Secretary to write a purchase order for middle school basketball shirts that would be used by the team the following season (winter 2011). The cost was allegedly \$60.00 or \$70.00 per shirt, which in the experience of the former Athletic Department Secretary far exceeds what they would pay for middle school jerseys. Also suspect according to the former Athletic Department Secretary was the fact that the purchase order listed SportsmanS as the vendor. She stated that the District frequently uses Kelly Sporting Goods, but uses SportsmanS for football.

At the same time Mr. Donato gave her the directive to create the purchase order for middle school basketball jerseys, he allegedly also gave her a purchase order related to the middle school baseball gear (for the spring of 2011, nearly a year away). The former Athletic Department Secretary stated that she knew these orders were fabricated, but felt there was no one to whom she could go to raise her concern.

Other Athletic Department expenditures appear to have been hidden in this way. For example, several witnesses recalled that the District purchased a video camera to record football games but charged it to audio-visual under the Director of Technology's budget.

Additionally, Mr. Como and Mr. Donato appear to have viewed the Athletic Department budget as their own personal allowance. For example, the Head Football Coach stated that Mr. Como would require that certain gear purchased for the football team also be purchased for his sons. *See* CASD018584-85. As to Mr. Donato, his former secretary recalled that Mr. Donato came in on his first day as Athletic Director wearing new Under Armour jacket and bag. When she returned from a break she found several invoices on her desk for two Under Armour jackets (one black, one brown), an Under Armour bag and an Under Armour hat. Another more recent invoices suggests that Mr. Donato also used the Athletic Department budget to purchase gear for his son. *See* CASD018586. Specifically, an August 2013 invoice from SportsmanS shows that Mr. Donato purchased a youth football, which Administrators assumed was for his son. *Id.*

**I. CONSPICUOUS ATTEMPTS TO SUPPRESS PUBLIC DISCLOSURE AND OVERT
TARGETING OF WHISTLEBLOWERS FOLLOWING RELEASE OF TEXT MESSAGES**

1. Discovery of Racist, Sexist and Bigoted Text Messages

In late Spring/early Summer of 2013, Mr. Donato requested that the Director of Technology, Abdallah Hawa, order him a new cellular phone because Mr. Donato preferred a black-colored phone instead of a white-colored one. In late June 2013, Mr. Donato's new black-colored phone arrived and Mr. Hawa transferred all of the information from his former white-colored phone to the new black-colored one. Mr. Hawa then gave Mr. Donato his new black-colored phone and placed the old white-colored phone in storage to be reissued to another user at a later date.

Approximately one month later, on or about Thursday, August 15, 2013, Mr. Hawa retrieved Mr. Donato's old-white colored phone in order to wipe it and reissue it to a new user. While wiping the phone, however, Mr. Hawa uncovered numerous racist, sexist and bigoted text messages primarily between Mr. Donato and Mr. Como, including offensive text messages related to Mr. Hawa himself. *See* R&S001111-16; 002347-2419; 018517-73. Although the phone contained text messages between several other administrators at CASD, including Assistant Superintendent Angelo Romaniello (identified as "Buffalo" in Mr. Donato's contacts) and Mr. Como's son, Matt Como (identified as "The Mayor" in Mr. Donato's contacts), the overwhelming majority of racist, sexist and bigoted text messages were between Mr. Donato and Mr. Como (identified as "The General" in Mr. Donato's contacts). *See* CASD 018517-73. Indeed, the text messages between Mr. Donato and Mr. Como, who often fondly referred to themselves as the tandem "ComoNato," were offensive to nearly every age, race, color, creed, sex, national origin and religion possible. *See* R&S001111-16; 002347-2419; 018517-73. Perhaps the most offensive aspect of these texts was the persistent and commonplace use of the terms "nigger" and "cunt" throughout many of their conversations. *See id.*

Not only did the text messages between Mr. Donato and Mr. Como contain inappropriate and unseemly commentary and remarks, but the messages also referenced illicit and potentially illegal activities, including allegations of skimming and kickbacks involving the football team (whose Hispanic coach is derogatorily referred to in the text messages as "Taco" and "Burro"). *See* R&S001111-16. Most important to this investigation, the text messages specifically referenced the alleged "TAX OFFICE of ComoNato", through which money for the school would have to allegedly "pass." *Id.* Yet, at no time, did it appear that the Board or Mr. Ellison focused on the potential illegal conduct referenced in the messages. Rather, the Board, Mr. Ellison, and even the media, became fixated on the racist, sexist and bigoted nature of the texts.

2. Text Messages Brought to the Attention of Board Member and the Solicitor

Unsure where to turn because the text messages directly involved and implicated the then-Superintendent, Mr. Hawa brought the text messages to the attention of the Director of Middle School Education, Dr. Teresa Powell, who he deemed to be the only other school director at CASD not blindly loyal and beholden to Mr. Como. After reviewing the text messages on the phone, Dr. Powell was equally offended and outraged and the two discussed who they should

inform next about the messages. The two feared bringing the text messages to the attention of the full Board because they viewed a majority of the Board as being loyal and “in the pocket” of Mr. Como. Therefore, Dr. Powell suggested that they bring the text messages only to the attention of Board member Dr. Tonya Thames Taylor, who is also the president of the local chapter of the NAACP.

The next day, on Friday, August 16, 2013, Mr. Hawa and Dr. Powell met Dr. Taylor in an alleyway behind Mr. Hawa’s house to review the text messages with her. *See* R&S000039-53. After reviewing the messages on Mr. Donato’s phone, Dr. Taylor allegedly stated, “[Mr. Como] was not going to get away with this.” Dr. Taylor then suggested that they bring the messages to the attention of CASD’s Solicitor, Mr. James Ellison.

The next day, Saturday, August 17, 2013, at around 7:00pm, Mr. Hawa, Dr. Powell, Dr. Taylor and Mr. Ellison met at Scott Middle School to review and discuss the text messages. *See* R&S000039-53. After reviewing the messages on Mr. Donato’s phone, Mr. Ellison was allegedly “appalled” and “taken aback.” Mr. Ellison allegedly stated that he had to immediately inform the President and Vice President of the Board about the offensive text messages. Both Mr. Ellison and Dr. Taylor allegedly were concerned about the messages being made public, because they allegedly feared that the messages could “devastate the district.” At this meeting, Mr. Ellison allegedly asked Mr. Hawa and Dr. Powell what they wanted out of this, to which both allegedly responded they wanted Mr. Como be “fired.” Mr. Ellison and Dr. Taylor conveyed that the plan would be to schedule a meeting with the Board Finance Committee, which, at the time, comprised Dr. Taylor, Board President Neil Campbell, Board Vice President Rick Ritter and Board member Joe Dunn.

While Mr. Hawa, Dr. Powell, Dr. Taylor and Mr. Ellison were leaving Scott Middle School following their meeting, Mr. Ellison allegedly noticed several video surveillance cameras in the parking lot of the building. Mr. Ellison allegedly asked Mr. Hawa if the cameras were working and recording, to which Mr. Hawa stated they were. *Mr. Ellison then allegedly directed Mr. Hawa to delete and erase the camera footage of them in the parking lot “so no one knows we met.”* Mr. Hawa stated that he never complied with Mr. Ellison’s directive.

Mr. Hawa also stated that Mr. Ellison instructed him to email a transcript of the text messages on Mr. Donato’s phone to Dr. Taylor from an anonymous account. Therefore, the next day, Sunday, August 18, 2013, Mr. Hawa created a fictitious, anonymous email account under the name “Leroy Coates” and emailed a complete transcript of the text messages on Mr. Donato’s phone. *See* R&S002347-2419. The emailed transcript exceeded seventy pages and contained text messages for more than a four week period, from June 3, 2013 through June 26, 2013. *See id.* The emailed transcript also contained the following disclaimer: “Here is what your leaders are t[e]xting at your school. If you have a good IT person he can get you all this info to verify it. The athletic director[’]s phone is w[h]ere this came from.” *Id.*

3. Board Finance Committee Meets to Address Text Messages

On Monday, August 19, 2013, the Board Finance Committee and Mr. Ellison (not the entire Board) met to discuss the text messages. *See* R&S000039-53. Dr. Taylor produced and provided a copy of the transcript that was provided to her by Mr. Hawa the previous day. Mr.

Ellison allegedly was tasked with conducting an immediate investigation. According to statements allegedly made by Dr. Taylor to Mr. Hawa and Dr. Powell following the meeting, the Board Finance Committee's initial plan was to suspend Mr. Como pending the resolution of Mr. Ellison's investigation.

Later that same day, the Board Finance Committee and Mr. Ellison (not the entire Board) allegedly confronted Mr. Como with the text messages. *See* R&S000039-53. According to statements allegedly made by Dr. Taylor to Mr. Hawa and Dr. Powell following this meeting, Mr. Como allegedly admitted to sending the racist, sexist and bigoted text messages and apologized profusely.³³ Instead of suspending Mr. Como pending further investigation, however, the Board Finance Committee and Mr. Ellison permitted Mr. Como to remain in his position. According to statements allegedly made by Dr. Taylor to Mr. Hawa, Mr. Como would be staying on as Superintendent, but he would be a "lame duck." The plan allegedly was to have Mr. Como stay on as Superintendent until the end of the year and then retire, without the text messages being made public. The belief was that Dr. Romaniello would transition into the Superintendent position at the end of the year as Mr. Como's hand-picked replacement.

*According to Dr. Powell, Dr. Taylor informed Dr. Powell that the Board was going to name her "Special Assistant to the Superintendent." Dr. Powell viewed this as a brazen attempt to "buy her silence."*³⁴ Both Dr. Powell and Mr. Hawa were concerned that the Board Finance Committee was now planning to "cover up" the text messages and not disclose them to the full Board.

Over the next few days, Mr. Hawa claims that Mr. Como harassed him daily about how the text messages got into the hands of the Board Finance Committee, knowing full well that Mr. Hawa was at least partly responsible. Further, Mr. Como allegedly asked Mr. Hawa for Mr. Donato's phone with the text messages on it. Instead of giving him that phone, however, Mr. Hawa allegedly gave Mr. Como a different phone that had been previously wiped. According to Mr. Hawa, he had given Mr. Donato's phone to Dr. Taylor, but not before he had saved and backed up the phone and text messages on an external drive.

4. Full Board Apprised of Text Messages

On Thursday, August 22, 2013, three days after the Board Finance Committee first confronted Mr. Como with the text messages, Dr. Powell asked Dr. Taylor if the full Board had been informed about the messages. Dr. Taylor allegedly responded that only the Board Finance Committee had been informed. In response, Dr. Powell decided to write an anonymous letter to the full Board to bring the text messages to the entire Board's attention. *See* R&S001173. Dr.

³³ According to the Solicitor, an issue allegedly arose concerning the authenticity of the text message transcript emailed to Dr. Taylor. *See* R&S000039-53. It is unclear why this was even an issue at all if Mr. Como had expressly admitted sending and receiving racist, sexist and bigoted text messages to and from Mr. Donato when confronted on at least two occasions following the production of the transcript. *See id.* Therefore, no further forensic authentication was required.

³⁴ Mr. Hawa was not offered a similar deal to remain quiet about the text messages. However, Mr. Hawa did state that Mr. Como approached him a few months earlier and offered to give him a \$10,000 raise if he supported Mr. Como in having Dr. Romaniello become the next Superintendent at CASD because Mr. Como allegedly was contemplating retirement.

Powell's concern was that Mr. Como's perceived allies on the Board (i.e. Mr. Campbell, Mr. Ritter, Dr. Taylor and Mr. Ellison), were trying to keep the text messages from the rest of the Board and save Mr. Como from being fired.

The anonymous letter stated, among other things, that: "Como, your superintendent, Romaniello, your assistant superintendent, Donato, athletic director, and some teachers are racist pigs and should not be educating teachers." R&S001173. The letter went on to state: "Because [Mr. C]omo totally controls each of you[,] you will probably try to cover this up. I won[']t let you. If [Mr. C]omo is not terminated by Saturday the public will be made aware and show up to your board meeting Tuesday." *Id.* The letter also singled out Dr. Taylor as being a Board member who "works for the naacp." *Id.*

The next day, Friday, August 23, 2013, Dr. Taylor allegedly called Dr. Powell and told her that the full Board now knew about the text messages because someone had sent an anonymous letter to all of the Board members. Dr. Taylor allegedly believed that the person who sent the anonymous letter was Mr. Hawa (and not Dr. Powell) because the letter contained numerous grammatical and typographic errors and Mr. Hawa is a "foreigner." Dr. Taylor allegedly referred to Mr. Hawa as a "turncoat," and stated that he had "messed up" by informing the entire Board about the text messages. Dr. Powell then informed Mr. Hawa about her conversation with Dr. Taylor. In response, Mr. Hawa emailed the full text message transcript to the DA's Office. Prior to the discovery of the text messages, both Dr. Powell and Mr. Hawa had met with the DA's Office (during the Summer of 2013) because the DA's Office already had been investigating allegations of cash skimming, nepotism and unfair hiring practices at CASD.

That same day, Friday, August 23, 2013, the Board held an emergency executive session meeting to brief the full Board, for the first time, on the text messages. *See* R&S000039-53. At this executive session, Mr. Ellison reported on the text message transcript and acknowledged that Mr. Como had admitted to sending racist, sexist and bigoted text messages to Mr. Donato. *See id.* Mr. Ellison also disclosed for the first time to the full Board that he had been contacted by the DA's Office, who demanded that Mr. Donato's cellular phone be immediately turned over or a search warrant would be issued. *See id.* Mr. Ellison then misleadingly informed the Board that the DA's Office's investigation was allegedly "regarding potential kickbacks involving high school football camps *which were unrelated to the district[,]*" when, in fact, the text messages between Mr. Como and Mr. Donato specifically referenced a football camp being run by CASD's head football coach. *See* R&S000039-53; 001111-16 (emphasis added).

Mr. Ellison was then tasked with carefully reviewing the text message transcript and making recommendations to the Board at its next regularly scheduled executive session four days later on Tuesday, August 27, 2013. *See* R&S000039-53. At the conclusion of the executive session, the Board decided to not "alter Mr. Como's employment status" pending the results of Mr. Ellison's investigation. *Id.*

Following this executive session meeting, Mr. Ellison and Board President Neil Campbell (not the entire Board) allegedly met with Dr. Romaniello and asked if he had any issue with being named Acting Superintendent. According to Dr. Romaniello, Mr. Ellison told him that he was "coming to him as a friend" and not as the school district's Solicitor. Mr. Ellison then told Dr. Romaniello that they had "an issue" with Mr. Como and that Mr. Como was

probably going “to be out for a while.” *Dr. Romaniello claims that Mr. Ellison told him to lie if anyone asked where Mr. Como was and to tell them that Mr. Como was “home sick.”* According to Dr. Romaniello, he did lie and tell a few teachers that Mr. Como was “home sick” when they asked where Mr. Como was.

In response to the text messages, Mr. Ellison also retained a public relations firm, Shelly Communications, to provide an “assessment of the potential communications and community relations implications arising from [the] offensive text messages circulated among two senior School District officials.” R&S002344-46; 001095-97. On or about Friday, August 23, 2013, Shelly Communications provided a memo to Mr. Ellison advising that the “Board must take decisive and immediate action against officials participating in these exchanges.” *Id.* Shelly Communications offered this advice without having yet read the content of entire text message transcript. *See id.*

The next day, Saturday, August 24, 2013, Dr. Taylor allegedly met with Dr. Powell to discuss the previous day’s executive session Board meeting. According to Dr. Powell, Dr. Taylor stated that she “knew” Mr. Hawa had sent the anonymous letters to all of the Board members and that she had a copy of the email that Mr. Hawa had sent to the DA’s Office the previous day. Dr. Taylor also allegedly told Dr. Powell that “someone” from the DA’s Office showed up at the executive session to retrieve Mr. Donato’s cellular phone as part of its criminal investigation.

According to the DA’s Office, when Mr. Donato’s cellular phone was provided to the DA’s Office all of the text messages on the phone may have been erased and wiped clean. It is unclear who may have wiped the phone prior to being turned over to the DA’s Office. Fortunately, however, Mr. Hawa had imaged and saved a forensic copy of the text messages on Mr. Donato’s phone, which was subsequently provided to the DA’s Office.

5. Board Provided With Condensed Version of Text Message Transcript

On Monday, August 26, 2013, Dr. Taylor informed Dr. Powell that the Board allegedly was going to meet to discuss an “exit plan” for Mr. Como because of all of the “leaks” related to the text messages. According to Dr. Taylor, Mr. Como was going to resign instead of being terminated because the school allegedly was “worried” about issues of “liability”.

That same day, on Monday, August 26, 2013, Shelly Communications wrote a follow-up memorandum to Mr. Ellison after having reviewed the content of the entire text message transcript. *See* R&S002344-46. In that memo, Shelly Communications advised:

[T]he revelations of the officials’ repeated, graphic, extremely offensive language contained in these texts will generate community outrage and significant local, statewide and even national media scrutiny. Failure by the Board to immediately terminate the employment of the officials who were party to those exchanges will intensify the reactions of the community and the media. It will broaden the target of this outrage from the school district officials involved to the Board itself.

There is simply no justification for retaining these individuals. *Without immediate terminations, combined with the announcement of specific steps to prevent similar behavior by Coatesville School District officials and employees and ensure that this behavior was isolated to these individuals and not a systematic problem of racism and cultural insensitivity within the district,* there is no community or public relations steps that can be taken to forestall the resulting firestorm.

There is simply no way to escape the fact that this story will be a disaster for CASD—even if the Board takes strong, decisive action at Tuesday night’s meeting. It will be even more devastating if it does not. The Board has already lost the opportunity to take swift action. Now is the time to take strong action.

R&S002344-46 (emphasis added). It is not clear if this memorandum was shared with the entire Board.

On Tuesday, August 27, 2013, Mr. Como called a directors’ meeting at the school and allegedly informed everyone present that he was contemplating retirement. According to those present at the meeting, Mr. Como stated that it was a “good time” for him to retire, even though the new school year was about to begin. Mr. Como allegedly told the group that he would get back to them about his retirement decision, but he never did. There allegedly was no mention of the text messages during this meeting.

That same day, the Board met in executive session to discuss the text messages and the findings of Mr. Ellison’s investigation. See R&S000039-53. At this executive session meeting, Mr. Ellison provided each Board member with “a condensed version of the transcript which contained only those pages where racially and sexually insensitive comments were allegedly exchanged between Mr. Donato and Mr. Como[.]” See R&S000039-53; 001111-16. This five page transcript included some of the more offensive text messages. See R&S001111-16. According to Dr. Romaniello (who was present during the executive session), at least one Board member allegedly stated that the Board had discussions about “keeping Mr. Como on,” to which another Board member allegedly stated that it was “too big” now and that they couldn’t “just pretend it didn’t happen.”

After reviewing the condensed transcript provided by Mr. Ellison, the Board allegedly concluded that both Mr. Como and Mr. Donato “should be informed that they were being suspended without pay pending termination unless they elected to resign.” R&S000039-53. Mr. Ellison allegedly informed both Mr. Como and Mr. Donato of the Board’s decision following the meeting. Both men agreed to resign in lieu of termination. Dr. Taylor allegedly informed Dr. Powell that Mr. Como was going to retire because that “is what’s best for the district” and that it would “minimize lawsuits” going forward. The plan was to have both administrators resign without having to publicly disclose the content of the text messages.

6. Mr. Como and Mr. Donato Permitted to Retire/Resign Without Public Disclosure of Text Messages

On Thursday, August 29, 2013, two days after the Board's meeting, Mr. Como and Mr. Donato both submitted formal resignation letters to the Board. *See* R&S001447; 000272. Instead of resigning, Mr. Como was given the option to retire. *See* R&S001447. *It appears that Mr. Ellison drafted Mr. Como's retirement letter* for him and forwarded it to counsel for Mr. Como, choosing to highlight Mr. Como's alleged accomplishments over the years instead of the more recent text messages that led to his demise. *See* R&S000016; 000267.

In addition to his retirement letter, Mr. Como negotiated and executed a Resolution Agreement and Release, whereby he agreed to retire and release CASD from any future litigation regarding his employment status. *See* R&S001426-29; 000199. Mr. Ellison also drafted and negotiated this Resolution Agreement and Release in coordination with counsel for Mr. Como, and the Agreement was signed only by Board President Neil Campbell. *See id.* Pursuant to the Agreement, Mr. Como was paid a severance payment of \$102,345.48, which accounted for his years of service, unused sick days, unused personal days and unused vacation days. *See id.* By comparison, Mr. Donato, who was forced to resign, did not enter into an agreement and release, was not paid for his sick days and was paid \$628.50 for unused vacation days. *See* CASD003541. Mr. Donato also sent his resignation letter to Mr. Ellison's firm instead of to CASD or the Board. *See* R&S000273-74.

According to several witnesses, Mr. Como met with approximately twenty to twenty-five administrators, teachers and employees in his "inner circle" on Thursday, August 29, 2013 to advise them that he was retiring. Later that same day, a press release announcing Mr. Como's retirement was placed on the school's website per the request of Mr. Ellison. *See* CASD014622-24. The press release simply stated that Mr. Como "decided to retire and has resigned from the district," without any mention or reference of why or under what circumstances. *Id.* The press release also made no mention whatsoever of Mr. Donato's resignation. Mr. Ellison forwarded the press release to reporters from the Times of Chester County and the Daily Local News. *See* R&S001281.

Important here, neither Mr. Como's retirement letter nor his Resolution Agreement and Release reference or mention the racist, sexist and bigoted text messages that formed the basis of his retirement. *See* R&S001447; 000205-08. Indeed, Mr. Como's letter creates the impression that he is voluntarily retiring and that the "timing is right" for him to retire now because the "budget has been set and curriculum changes have been implemented." R&S001447. Likewise, Mr. Donato's resignation letter simply states that he is resigning in lieu of potential termination. *See* R&S000272. Notably, an entire sentence in Mr. Donato's resignation letter has been blocked out and redacted. *See id.* Clearly, the intention was to create the appearance that Mr. Como and Mr. Donato were retiring and resigning, without the existence of the offensive text messages being documented or made public.

During the weekend following Mr. Como's retirement and Mr. Donato's resignation, members of the Board and Mr. Ellison closely monitored the press and media to see if the existence of the text messages would be publicly disclosed. Several media outlets, including the Times of Chester County and the Daily Local News, had written articles about Mr. Como's

retirement, and several commenters to those articles began referencing or referring to the racist, sexist and bigoted text messages. Indeed, on Saturday, August 31, 2013, Board Vice President Rick Ritter emailed article links to Mr. Ellison and Board President Neil Campbell (not the entire Board) noting that there are “[n]ow 23 comments under times piece” and “a growing number under a DLN piece.” CASD014630. Mr. Ellison then responded: “*I’m not seeing much focus on the text messages. That is a good sign.*” *Id.* (emphasis added). Mr. Ellison then emailed Dr. Romaniello, stating:

Hey Angelo. Just wanted to check in to see if there were any updates on your end. I’m in my office right now, and have been checking the web for any additional information, and *can’t find much other than increased chatter about the text messages. I have been in contact with [Board members] Neil [Campbell] and Rick [Ritter] today, as well as Tonya [Taylor]. All agree that we should sit tight and see how the rest of the weekend plays out.*

CASD014632 (emphasis added). Dr. Romaniello then responded:

I have no updates other than what we spoke about this morning regarding the abc report and the channel 3 news report from last night and this morning. *I understand and support the board members decisions to stay put through the weekend.*

When you spoke with Neil [Campbell], Rick [Ritter] and Tonya [Taylor], did you speak to them about, (if a press release is needed on Monday) a statement that can include[] something about the CASD being in hands of the Acting Sup and his full TEAM consisting of the Act Assistant Sup, Directors, Principals, teachers, ect?

If so what did they and/or the PR firm think?

Id. (emphasis added). Mr. Ellison then explained: “We were only in contact via text but *the board fully empowered me to structure the press conference and release as I see fit*, and I did discuss it with the PR guys and they will incorporate your instruction in our press plans.” CASD014634-35 (emphasis added).

On or about September 5, 2013, Shelly Communications emailed Mr. Ellison a detailed a draft press release and talking points for the Board regarding the text messages. See R&S000243-47. The draft release announced that the resignations of Mr. Como and Mr. Donato “occurred after the two were informed that the board was commencing the legal process to terminate their employment because of highly offensive text messages exchanged by the two men on their district phones.” *Id.* The release also announced that CASD would be launching “sensitivity training for all faculty and staff” in light of the “unconscionable” behavior of Mr. Como and Mr. Donato. *Id.* Likewise, the draft talking points for the Board emphasized the “sickening” and “disgraceful” exchanges between Mr. Como and Mr. Donato and how the Board “took quick and decisive action” to address the text messages. *Id.* The draft press release and

talking points identifying and explaining the text messages drafted by Shelly Communications went ignored and on September 10, 2013, Mr. Ellison drafted and issued his own press release in which he refused to acknowledge the existence of the text messages. *See* R&S001273. It does not appear that the draft press release and talking points were shown or presented to the Board.

7. Succession Plan Put in Place Following Retirement of Mr. Como

On Thursday, August 29, 2013, the same day that Mr. Como officially announced his retirement, Dr. Taylor informed Dr. Powell that Dr. Powell would be promoted to Acting Assistant Superintendent and that Dr. Romaniello would be named Acting Superintendent. Following her discussion with Dr. Taylor, Dr. Powell met with Mr. Ellison and Board President Neil Campbell (not the entire Board) in the Superintendent's conference room to discuss her new position as Acting Assistant Superintendent. According to Dr. Powell, Mr. Ellison did the majority of the talking and explaining. Mr. Ellison informed Dr. Powell that the full text message transcript contained the following offensive comment about her from Dr. Romaniello to Mr. Donato: "Checking out how fn large TP is getting!" R&S002412. According to Dr. Powell, Mr. Ellison directed her to not discuss the text messages with Dr. Romaniello.³⁵

That same day, Thursday, August 29, 2013, Mr. Ellison and Board President Neil Campbell (not the entire Board) also met with Dr. Romaniello to discuss his new role as Acting Superintendent. Dr. Romaniello accepted the position and vowed to work together with the new Acting Assistant Superintendent, with whom he admittedly did not have a good working relationship. According to Dr. Powell, her new position as Acting Assistant Superintendent was nothing more than a title, because Dr. Romaniello and Mr. Ellison allegedly "excluded her from everything" and did not provide her with new job responsibilities.

Dr. Romaniello transitioned immediately into the position of Acting Superintendent. On Friday, August 30, 2013, Dr. Romaniello emailed Mr. Hawa, with a copy to Mr. Ellison, stating:

Per Mr. Ellison[,] all of Rich's emails should be forwarded to me without any disruption. I will filter through his emails regarding business and personal and keep the business and forward the personal onto him once I verify a personal email address for him His office computer [] should not be handled by anyone per Mr. Ellison.

CASD014626 (emphasis added). The email also noted that Dr. Romaniello would be immediately moving "into the Superintendent's office space" and that Mr. Hawa should "order me a [new] cell phone if I am due an upgrade and let me know when it can be transferred." *Id.*

³⁵ On or about October 11, 2013, an attorney from Mr. Ellison's firm drafted a memorandum addressing the "allegations lodged against Dr. Romaniello" that he was allegedly the "third 'mystery texter' in the transcript." R&S001641. The memorandum specifically cited the message related to the Director of Middle School Education, and concluded: "Although Dr. Romaniello's comment was insensitive and personally offensive to Dr. Powell, it was neither racist nor sexist. There are absolutely no grounds, based upon this isolated comment, to terminate Dr. Romaniello or seek his resignation." *Id.*

A few weeks after being named Acting Assistant Superintendent, Dr. Powell met with Dr. Romaniello and Mr. Ellison to discuss her salary. According to Dr. Powell, she had previously met with Mr. Como when he was Superintendent on at least two occasions about an increase in her salary because allegedly one of her subordinates, a white assistant principal with less experience, had a higher salary than her. Dr. Powell allegedly demanded that she be compensated for what her salary should have been over the prior three years compared to this other subordinate, which amounted to approximately \$10,000.00. *Mr. Ellison allegedly responded that he would recommend to the Board that they make this lump sum payment to Dr. Powell if she agreed to not move forward with any "future litigation" against the school and sign an affidavit acknowledging the same.* Dr. Powell, however, refused this request because she wanted to preserve her right to pursue "future litigation" against the school district if necessary.³⁶

It is not clear if this "future litigation" referred or related to the text messages, or whether this was a thinly-veiled attempt to buy the silence of Dr. Powell. However, according to Dr. Romaniello, Mr. Ellison suggested that Dr. Powell was attempting to use the texts to obtain a financial benefit. Indeed, notes from an attorney at Mr. Ellison's firm specifically state that Dr. Powell allegedly *"leaked [the text messages] to newspaper after raised refused."* See R&S000833-34 (emphasis added).

8. Solicitor Seeks to Implement "Litigation Hold" Related to Mr. Como and Mr. Donato

Realizing that there could be potential litigation as a result of the text messages between Mr. Como and Mr. Donato, the Solicitor sought to implement a "litigation hold" to preserve all paper and electronic records related to Mr. Como and Mr. Donato. According to Ms. Zeigler, Mr. Ellison asked her to gather lists of: (1) every employee that was terminated, disciplined or furloughed as far back as she could go; (2) all athletic personnel and coaches; and (3) all friends/family of Board members employed at CASD. According to Ms. Zeigler, Mr. Ellison allegedly had "litigation concerns" regarding these three areas.

On Friday, September 6, 2013, Mr. Ellison sent a letter to Dr. Romaniello, titled "Litigation Hold—Preservation of Records," advising that:

In light of the recent events surrounding the employment of Mr. Richard Como and Mr. James Donato, the School District may reasonably anticipate litigation. Therefore, the School District must ensure that all potentially relevant documents are preserved. Accordingly, please take all necessary steps to ensure the preservation of all documents (whether paper or electronic, including specifically emails and text messages) that relate in any fashion to all District Administrators, including but not limited to Richard Como and James Donato.

R&S000193-95 (emphasis added).

³⁶ According to Dr. Powell, she received an increase in salary when she was named Acting Assistant Superintendent. She has remained at that increased salary, even though she is no longer Acting Assistant Superintendent.

By its express terms, this “litigation hold” letter directed administrators, employees and staff to preserve all potentially relevant documents related to Mr. Como and Mr. Donato. According to Dr. Romaniello, however, this “litigation hold” letter was never circulated to all administrators, employees or staff with potentially responsive documents, nor did Mr. Ellison direct him to do so. *See id.* Under normal circumstances, a “litigation hold” is circulated to anyone who could have potentially relevant documents or information in their possession. It is unclear if the Board was made aware of this “litigation hold” or received copies of it.

Four days later, on or about Tuesday, September 10, 2013, Mr. Ellison and Dr. Romaniello simply handed the “litigation hold” letter to Mr. Hawa and told him to implement what was set forth in the letter. According to Mr. Hawa, other than being handed the letter, he was not provided any further explanation or guidance on the issue. Mr. Hawa did not circulate the “litigation hold” letter to anyone else, nor was he instructed by Mr. Ellison or Dr. Romaniello to do so.

The next day, on Wednesday, September 11, 2013, Mr. Ellison emailed Mr. Hawa stating: “I’m not sure if [Mr.] Donato had a computer at the high school campus or not. If so, I need you to pull the hard drive as soon as possible and replace it. Maintain the original hard drive for me.” CASD014642. The next day, Thursday, September 12, 2013, Mr. Hawa responded to Mr. Ellison, advising that: “Angelo [Romaniello] has both drives.” CASD014644.

A few days later, Mr. Ellison contacted DMS Computer Forensics Investigations, LLC (“DMS”) about imaging Mr. Como’s and Mr. Donato’s computer hard drives which had been collected by Mr. Hawa. On or about Monday, September 16, 2013, a representative from DMS met Mr. Ellison at the Benner Administration Building, where Mr. Ellison gave the DMS representative the hard drives from Mr. Como’s and Mr. Donato’s computers to be imaged and returned at a later date. *See* CASD014764. Both drives had been removed prior to the arrival of the DMS representative. *See id.* Further, upon arriving at CASD, Mr. Ellison requested that DMS remove and image Dr. Romaniello’s computer hard drives. *See id.* Dr. Romaniello’s computer contained two hard drives, both of which were imaged and returned to the computer. *See id.*

According to the DMS representative, the original hard drives of Mr. Como and Mr. Donato were returned to Mr. Ellison after they were imaged. *See* CASD014764. Mr. Ellison allegedly told DMS that he would get back to them with search terms to run through the images; however, Mr. Ellison apparently never did. According to the DMS representative, Mr. Ellison called him a few weeks later inquiring about spyware software, and particularly the types available and how it could be installed. Mr. Ellison, however, mentioned nothing at that time about the imaged hard drives still in the possession of DMS.

On or about Friday, September 27, 2013, DMS submitted an invoice to Mr. Ellison for the computer imaging services it performed. *See* CASD014763. Specifically, the invoice states that DMS “image[d] 2 hard drives at Coatesville Area School District office” from Dr. Romaniello’s computer and took the hard drives of Mr. Como and Mr. Donato “back to the office for imaging.” *Id.* The invoice also states that DMS “returned the Como and Donato hard drives to J. Ellison at the Coatesville Area School District Office.” *Id.*

After DMS's invoice went unpaid for more than five months, DMS contacted CASD directly seeking payment. Prior to this contact from DMS, we were unaware of the existence of DMS or that DMS had been retained by Mr. Ellison to image the hard drives of Mr. Como, Mr. Donato and Dr. Romaniello. No DMS documentation was contained in the client file provided to us by Mr. Ellison, nor were copies of these hard drives provided to us by Mr. Ellison. Upon request, DMS provided us with the images that it made. These images were then turned over to our computer forensic experts, Stout Risius Ross, Inc. ("SRR"), for review and storage.

It is unclear if the Board approved of, or was even aware of, the computer imaging work performed by DMS in addition to the similar services provided by Reclamere, Inc. (discussed *infra*).

9. Solicitor Turns Over Wiped Phones and iPad to DA's Office

On Tuesday, September 3, 2013, Mr. Donato emailed the Director of Secondary Education, stating: "I went yesterday and removed by personal belongings from my office. I also left my keys, school cell phone and iPad in the second hand drawer.... Also, I have the combination to the safe if you need that—I can send it through email or you can call my cell[.]" CASD018401.

Two days later, on or about Thursday, September 5, 2013, Mr. Ellison directed an attorney from his law firm, Rhoads & Sinon, to review the contents of Mr. Donato's athletic department office, and particularly the contents of a safe in that office. *See* R&S000320-21. A total of \$3,540.00 in cash was discovered in the safe and deposited into the school district's bank account. *See* R&S000322-23.

A few days later, on or about Monday, September 9, 2013, the DA's Office contacted Mr. Ellison about the contents of the safe in Mr. Donato's office and to request that Mr. Ellison turn over the CASD-issued cellular phones of Mr. Como and Mr. Donato and the CASD-issued iPad of Mr. Donato. *See* R&S000284-85. Mr. Ellison had met with the District Attorney himself that morning and pledged his cooperation with their "criminal investigation pertaining to Mr. Donato and Mr. Como." *See* R&S000417-18.

The next day, on Tuesday, September 10, 2013, attorneys from Mr. Ellison's firm met with a detective from the DA's Office and produced to the detective: (1) Mr. Como's cellular phone; (2) Mr. Donato's cellular phone; and (3) Mr. Donato's iPad. *See* R&S000284-85. All three of these items had been provided to the attorneys by Mr. Ellison for production. *See id.* One of the attorneys then executed a consent form for the DA's Office to search each of these items. *See* R&S000287-89. At that same time, the DA's Office also returned to the attorneys from Mr. Ellison's firm the cellular phone belonging to Mr. Donato that had been previously seized at the Saturday, August 24, 2013 executive session Board meeting. *See* R&S000284-86.

At this Tuesday, September 10, 2013 meeting, the attorneys from Mr. Ellison's firm also discussed with the DA's Office the contents of the safe in Mr. Donato's athletic department office and the significant amount of cash discovered inside. *See* R&S000284-85. The DA's Office informed the attorneys that they believed the cash was from an Archdiocese track and field event held at the school. *See id.* The DA's Office informed the attorneys that their "office

had been receiving various complaints regarding ‘skimming’ of monies by Mr. Donato and/or Mr. Como from events held at the School District.” *Id.* The DA’s Office suggested that the attorneys look into these allegations. *See id.*

Despite allegedly circulating a “litigation hold” letter a few days prior to this meeting with the DA’s Office, there apparently was no discussion by the attorneys from Mr. Ellison’s firm of the “litigation hold” being implemented or followed. Under normal circumstances, a prosecutor would like to be informed and satisfied that a “litigation hold” has been implemented and that all potentially relevant documents and data have been “locked down.”

Two days later, on Thursday, September 12, 2013, an attorney from Mr. Ellison’s firm called the DA’s Office to follow-up on the production of the cellular phones and iPad. *See* R&S000283. *The DA’s Office informed the attorney that all three items had been “wiped clean” and contained no user-specific information or data. See id.* (emphasis added). The DA’s Office also noted that one of the cellular phones had the subscriber identification module (SIM card) missing, which stores all of the personal account information of the user. *See id.*

Upon learning this information, Mr. Ellison contacted the DA’s Office himself. *See* R&S000283. *Mr. Ellison asked if the DA’s Office could recover the “wiped” information, and the DA’s Office informed him that they could not. See id.* Mr. Ellison also informed the DA’s Office at this time that he had “possession of the hard drives of both Como’s and Donato’s computers at the District.” *Id.* Mr. Ellison allegedly told the DA’s Office that he would “provide the hard drives to both Donato’s and Como’s computers to the Assistant District Attorney tomorrow, Friday, September 13, 2013.” *Id.* It is unclear, however, when this happened because the drives were apparently never imaged by DMS until a few days later on Monday, September 16, 2013. *See* CASD014764.

It is unclear if the entire Board was aware or informed that the phones and iPads turned over to the DA’s Office by Mr. Ellison had been “wiped clean.”

10. Media and Public Learn of Text Messages

Following the abrupt and unexpected retirement of Mr. Como and the resignation of Mr. Donato, many members of the media and public began to question the timing and circumstances of their departures. Rumors began to swirl of racist, sexist and bigoted text messages between Mr. Como and Mr. Donato. As a result, several Right to Know Law (“RTKL”) requests were submitted to CASD by the media and the public relating to the cellular phone records of Mr. Como and Mr. Donato. *See* R&S000005-13. In response to these RTKL requests, attorneys at Mr. Ellison’s firm were tasked with researching reasons why the text messages should be not be disclosed. *See* R&S000005-13; 001638. In an email to one of those attorneys on Friday, September 6, 2013 (the date of the purported “litigation hold”), Mr. Ellison stated: “*The board does NOT want to turn over the [text message] transcript. Let’s find an exception [to disclosure].* They understand that it’ll end up in litigation and we could ultimately lose somewhere down the line, but they prefer that option to releasing the info.” *See* R&S001637 (emphasis added).

Further, members of the media and public began trying to contact administrators and Board members for answers to their questions. According to several individuals, the belief was that Mr. Como was “still running” the school district because “his people” were still in positions of authority at the school.

On Tuesday, September 10, 2013, the Board issued a statement on the “resignations” of Mr. Como and Mr. Donato. *See* CASD014640. The statement was drafted by Mr. Ellison and apparently shared only with Board President Neil Campbell and Board Vice President Rick Ritter (not the entire Board) prior to being released. *See* R&S001270-72; 001182. The statement confirmed that Mr. Como and Mr. Donato had “submitted letters of resignation,” but refused to “substantively comment on this matter because it is the subject of an on-going investigation by the Chester County District Attorney[.]” *Id.* The statement also claimed that: “The Board is also unable to substantively comment on this matter because it involves personnel issues, and by practice, policy and custom, neither CASD nor the Board publicly comments on matters involving personnel.” *Id.* No specific policy was referenced. The notice also referenced an “internal noncriminal investigation” being conducted by Mr. Ellison. *Id.* The focus of that “internal noncriminal investigation” was not disclosed. The statement mentioned nothing about the text messages, or the circumstances surrounding the resignations of Mr. Como or Mr. Donato.

On or about Wednesday, September 18, 2013, Dr. Powell and Mr. Hawa met with a reporter from the Daily Local News to discuss the racist, sexist and bigoted text messages between Mr. Como and Mr. Donato. The pair allegedly provided the reporter with the entire text message transcript and let the reporter decide what excerpts he wanted to print. The pair believed that the Board was trying to hide the text messages from public disclosure and that the public had the right to know about them.

Two days later, on or about Friday, September 20, 2013, the Daily Local News first printed an article about the text messages. The article quoted many of the most offensive text messages. The article also contained a link to a five page transcript of the text messages (believed to be the same transcript that Mr. Ellison provided to the full Board on Tuesday, August 27, 2013). *See* R&S001111-16. The transcript included redactions of phone numbers and the redaction of the name of at least one teacher (who has since filed a complaint against CASD alleging sexual harassment). *See* R&S001111-16. Several other teachers’ and staff names, however, were not redacted. It is unclear who made, requested or approved the redactions to the transcript.

In response to the Daily Local News article, Mr. Ellison and the Board began frantically trying to address the text messages now that they had been made public against their wishes. In the early morning hours of Sunday, September 22, 2013, Mr. Ellison emailed Dr. Romaniello: “They have the text but half the story is wrong.” CASD014646. Dr. Romaniello responded: “Not good!” *Id.* Then Mr. Ellison responded: “*No it isn’t[.] Working on [Board President] Neil [Campbell]’s statement tonight.*” *Id.* (emphasis added).

On Monday, September 23, 2013, Dr. Romaniello sent home a letter to all parents and guardians of CASD students stating: “Today is a sad day for all of us in the Coatesville Area School District. Just yesterday our community was made aware of inappropriate and racial

comments that may have been made by people we trusted. Although this has temporarily deflated our spirits it will never defeat us.” CASD018402. According to Dr. Powell, she drafted this letter and Dr. Romaniello allegedly signed his name to it and circulated it, per the directive of Mr. Ellison.

In the early morning hours of Tuesday, September 24, 2013, Mr. Ellison emailed Board President Neil Campbell, Board Vice President Rick Ritter and Dr. Romaniello (not the entire Board) “part I” of a draft statement for Mr. Campbell to read at that night’s regularly scheduled Board meeting. *See* CASD014650-52. Mr. Ellison’s email stated:

Its 2am and I need sleep. I will work on part II at 5am and endeavor to get it to you all by 9/10am. I must insist that this shared with NO ONE prior to our meeting tomorrow. Not even board members. Neil, I know your county chairman wants to review it first, but I would recommend that he not. Everyone is just going to have to trust us on this one.

CASD014650-52 (emphasis added). It does not appear that Mr. Ellison’s draft statement was shared with the entire Board prior to being read at the Board meeting.

11. Whistleblowers Reveal Their Identities at Board Meeting

On Tuesday, September 24, 2013, the Board voted at its regularly scheduled public meeting to accept the resignations of Mr. Como and Mr. Donato. At this meeting, Dr. Powell and Mr. Hawa publicly disclosed themselves as the two whistleblowers who discovered the offensive text messages between Mr. Como and Mr. Donato and brought them to the attention of the Board. Dr. Powell and Mr. Hawa alleged that they came forward to prevent a perceived “cover up” by the Board which sought to prevent public disclosure of the text messages.

According to Dr. Powell, she came forward at that meeting because she could not believe how Dr. Taylor had acted at the meeting, and specifically that Dr. Taylor acted as if she knew nothing about the text messages in response to questions from the public. Dr. Powell stated that she was “angry” at the way Dr. Taylor acted, so she told everyone at the meeting that she and Mr. Hawa had gone to a “Board member” a month ago with the text messages.

At this same meeting, Mr. Campbell then read the official statement from the Board on the text messages drafted by Mr. Ellison, which denied any alleged “cover-up” by members of the Board and sought to move the school district forward from the messages. *See* R&S000039-52.

A few days later, at the Board committee meetings on Tuesday, October 8, 2013, Dr. Powell read a lengthy, prepared statement outlining how the text messages were discovered and referencing an alleged “cover-up” by the Board. *See* CASD017823-27. Her statement was broken into three parts.

First, Dr. Powell accused Mr. Ellison, Dr. Taylor, Mr. Campbell, Mr. Ritter and Mr. Dunn of seeking to “cover up the text message scandal” and ensure that the content of the text messages was never disclosed to the rest of the Board, let alone the general public. *See*

CASD017823-27. While speaking, Dr. Powell showed everyone present at the meeting the “anonymous letter” that she had sent to all of the Board members and a video still shot from the CASD video surveillance system that showed her, Mr. Hawa, Dr. Taylor and Mr. Ellison at Scott Middle School on Saturday, August 17, 2013, the date on which they had met to review and discuss the text messages. *See id.* According to Dr. Powell, Mr. Ellison and Dr. Taylor denied that they ever met with Dr. Powell and Mr. Hawa about the text messages.

Second, Dr. Powell accused Dr. Romaniello of being the “third texter” in conversations with Mr. Como and Mr. Donato, and specifically referenced Dr. Romaniello’s text message to Mr. Donato referencing her weight. *See* CASD017823-27. According to Dr. Powell: “His comment was mean, demeaning, vi[cious and inappropriate. But he’s given the opportunity to lead the District and continue to further harass me.” *Id.*

Third, and finally, Dr. Powell raised this issue of the Jostens championship rings that were purchased for the football with school funds. *See* CASD017823-27. Specifically, Dr. Powell stated that she confronted Dr. Romaniello about the rings and he claimed that the rings were paid for with money raised by student council selling t-shirts. *See id.* Dr. Powell openly questioned the accuracy of Dr. Romaniello’s claim and stated that the school district would have had to sell 10,000-15,000 t-shirts to cover the cost of the Jostens rings, which did not happen. *See id.*

12. Solicitor Commences Internal Investigation Into Allegations of Skimming in the Athletic Department

After being informed by the DA’s Office of its ongoing criminal investigation into allegations of skimming and kickbacks at CASD, Mr. Ellison began conducting his own internal, noncriminal investigation into the allegations.

In a memorandum dated Friday, September 27, 2013, Mr. Ellison’s firm outlines the investigation it intended “to conduct relative to recent allegations that there has been improper use of monies from the District’s Athletic Office.” R&S000313-14. The memorandum states that: “To begin with, we need to determine every dollar (1) received by and (2) disbursed by or on behalf of the Athletic Office going back four years.” *Id.* The memorandum then provides that they will “look into” football camps at the school, “rings” that the football team received the previous year, “events held at District facilities,” and “concessions at District games and event.” *Id.* This proposed internal investigation appears consistent with the “litigation hold” letter sent to Dr. Romaniello three weeks earlier by Mr. Ellison’s firm on Friday, September 6, 2013. *See* R&S000193-95.

That same day, Friday, September 27, 2013, Dr. Romaniello sends a memo to the Director of Secondary Education, the High School Principal and the Principal of the 9/10 Center with the subject “Athletic Department,” stating: “For your information, if you are contacted by the District Attorney’s office please contact me so that I can contact our solicitor’s office.” CASD018403.

A few days later, on Wednesday, October 2, 2013, Mr. Ellison and another attorney from his firm interviewed the Principal of the 9/10 Center, who was also a former Athletic Director at

CASD, “in connection with our ongoing investigation of the Athletic Department.” *See* R&S000318-19. During this interview, Mr. Ellison and the attorney accompanied the witness to Mr. Donato’s former office, where Mr. Ellison and the attorney collected and retained several records from inside the office “for safeguarding.” *Id.* The records collected and retained included ticket reports, deposit slips and various receipts. *See id.* These materials were subsequently provided to us from Mr. Ellison’s firm and we turned them over to our forensics accountants for review and analysis.

The next day, on Thursday, October 3, 2013, Mr. Ellison and another attorney from his firm interviewed the Secretary to the Athletic Director as part of the internal investigation. *See* R&S000315-17.

These are the only two witnesses that are known to have been interviewed by Mr. Ellison and his firm as part of his noncriminal internal investigation. After interviewing these two Athletic Department witnesses, Mr. Ellison apparently refocused his internal investigation to the two whistleblowers—Dr. Powell and Mr. Hawa.

What is most troubling about Mr. Ellison’s purported internal investigation is that Mr. Ellison and the Board missed a golden opportunity to closely examine the content of the text messages and realize that the messages themselves referenced illicit and potentially illegal activities, including allegations of skimming by the Athletic Department. Indeed, the text messages specifically referenced an alleged “TAX OFFICE of ComoNato”, through which money for the school would have to allegedly “pass”. *See* R&S001111-16. Yet, it does not appear that Mr. Ellison or the Board looked past the racist, sexist and bigoted text messages to the actual content of the messages and skimming allegations overtly referenced therein.

13. Solicitor Refocuses Internal Investigation to Whistleblowers

Although the initial reason for the Solicitor’s internal investigation was to investigate allegations of skimming related to the Athletic Department, by October 2013, Mr. Ellison refocused his internal investigation to the two whistleblowers who publicly disclosed the text messages.

Indeed, just days after the whistleblowers publicly disclosed themselves, Mr. Ellison directed that Dr. Romaniello and Ms. Zeigler begin documenting all of their interactions with the two whistleblowers and to specifically note when, and if, they deviated from school policies or procedures. *See* R&S000330; 000336-38; 000341-43; 000347-52; 000361-62; 001229-33. Likewise, Mr. Ellison also directed that Dr. Romaniello and Ms. Zeigler begin having other administrators and staff, including the Child Accounting Supervisor, the Health and Safety Specialist, the Secretaries in the Accounting Department and Dr. Romaniello’s Secretary, document their interactions with the two whistleblowers, and in particular their interactions with Dr. Powell. *See* R&S001234-41; 001247-52.

Mr. Ellison’s justification for this heightened scrutiny allegedly was that the whistleblowers had put CASD on notice that they retained counsel and were contemplating litigation against the school district. There is no evidence, however, that the whistleblowers threatened legal action against CASD upon disclosing the text messages, nor did counsel for the

whistleblowers contact CASD threatening such legal action. Rather, the evidence suggests that the whistleblowers merely retained counsel to advise them on how to proceed after they discovered and publicly disclosed the text messages. Most importantly, the whistleblowers were afraid that they would be punished and lose their jobs for coming forward and disclosing the text messages.

Moreover, at no time did Mr. Ellison draft or circulate a new, updated or revised “litigation hold” requiring that all potentially relevant documents be preserved related to potential litigation involving Dr. Powell or Mr. Hawa. To the contrary, the only purported “litigation hold” in effect was the September 6, 2013 letter from Mr. Ellison advising that potentially relevant documents related to Mr. Como and Mr. Donato should be preserved. *See* R&S000193-95. But even this “litigation hold” letter was not circulated beyond Mr. Ellison, Dr. Romaniello and Mr. Hawa.

It appears that Mr. Ellison’s primary objective was to discipline and potentially terminate the two whistleblowers (and primarily Dr. Powell), if possible, for what he perceived as their alleged violation of school policies and procedures and “disruptive conduct” in the workplace. *See* R&S001253-65. According to Dr. Romaniello, he and Mr. Ellison had conversations on how best to “paper the record” and justify the terminations of Dr. Powell and Mr. Hawa.

It appears that Mr. Ellison believed that, instead of performing their employment duties and moving CASD forward from the text messages, the two whistleblowers allegedly negated their duties and caused further disruption to the point that “*now they are cancers.*” *See* R&S000833-34 (emphasis added). Specifically, Mr. Ellison believed that Mr. Hawa failed to appropriately implement and comply with his “litigation hold” directives and that Mr. Hawa was improperly monitoring and accessing school district computer files and surveillance video, even to the point of electronically monitoring individuals with spyware or listening devices. *See* R&S000818; 000833-34.

Likewise, Mr. Ellison believed that Dr. Powell was engaging in “unprofessional conduct” and “not doing her job.” *See* R&S000812; 000833-34. For instance, Mr. Ellison noted that Dr. Powell had allegedly organized a march during school hours, and that she “acknowledged she took documentation from CASD” and that she “will disseminate” it. *See id.*

In a memorandum dated Wednesday, October 2, 2013 (a week after the whistleblowers publicly identified themselves), Mr. Ellison had an attorney at his firm research: “What limitations, if any, exist on Coatesville Area School District’s ability to discipline an employee for his or her speech following a report of wrongdoing by the employee?” R&S000363-67. The attorney responded that CASD “may discipline an employee for his or her speech following a report of wrongdoing by the employee, so as long as the employer does not run afoul of Pennsylvania’s Whistleblower Law” or constitutional free speech protections. *Id.*

A few weeks later, in a memorandum dated Tuesday, October 15, 2013, Mr. Ellison had an attorney at his firm research “the balancing of the right of a State employer to terminate an employee with the employee’s right to free speech under the First Amendment.” R&S001880-87. The attorney responded that: (1) “First Amendment free speech will not always prevent a State employer from discharging an employee”; (2) “Pennsylvania’s Whistleblower Law would

not prevent a State employer from firing a former whistleblower, as long as the employer has 'separate and legitimate' reasons for the termination"; and (3) "Pennsylvania's Whistleblower Law would prevent a State employer from terminating or taking other adverse action against an employee for cooperating with a district attorney's investigation. However it would not prevent termination on other grounds." *Id.*

The next day, in a memorandum dated Wednesday, October 16, 2013, Mr. Ellison asked another attorney at his firm to specifically research: "*How should the District structure the discipline and/or termination of Dr. Powell for the various violations of policy she has committed in the past few weeks?*" R&S001826-33; 001836 (emphasis added). In response, the attorney identified two purported grounds for termination: (1) persistent and willful violation of school policies, and (2) persistent negligence in the performance of her duties. *See id.* The alleged conduct forming these grounds for termination included "criticizing and accusing Dr. Romaniello at public board meetings," "accessing certain databases or school security cameras," "open disregard for Dr. Romaniello's authority" and "repeated acts of insubordination." *Id.* The attorney also noted:

As a practical matter, the Board must carefully consider whether other similarly situated District employees have traditionally been disciplined in a progressive fashion prior to termination. If this is the case and the District does not treat Dr. Powell in a comparable manner, then there is a guarantee of a disparate treatment or retaliation claim against the District, particularly in light of the aggravating circumstances surrounding Dr. Powell's recent actions and her protected status, both as a whistleblower and as a minority.

R&S001826-33; 001837 (emphasis added). This was apparently an issue because Dr. Powell admittedly had "*NO discipline in file.*" R&S000833-34 (emphasis added). Nonetheless, "in James [Ellison]'s opinion," this did not matter because he viewed the "conduct as so persuasive that [the employer] has no choice" given the alleged "quantity of events." *Id.*

After reviewing the memorandum, an attorney working for Mr. Ellison inquired:

Did you see any cases under the Pa School Code where an Act 93 professional employee (administrator) bad mouths superintendent or board in a very dramatic public fashion about a matter to which constitutional (1st amendment protection) does not attach and the District fires the employee for that reason. That's our facts regarding Dr. Powell. *We want to be able to say that her public allegations about the acting Superintendent (to which first amendment does not attach because it fails the balancing test) permits her dismissal under the Pa School Code for this conduct alone.*

R&S001838-39 (emphasis added). The attorney who authored the memorandum then responded: "*I think we may run into trouble under the School Code for terminating her for*

something that may be looked at as an isolated incident. If she speaks out at another board meeting or continues to openly criticize and undermine Dr. Romaniello's authority, it will be easier to show a pattern of behavior that warrants dismissal." *Id.* (emphasis added).

It is not clear if any of these memoranda drafted by attorneys at Mr. Ellison's firm targeting the whistleblowers for discipline and/or termination were shared with the full Board.

14. Solicitor Retains Reclamere to Image Hard Drives and Servers in IT Department

On Friday, September 27, 2013, three days after the public meeting during which Mr. Hawa identified himself as one of the whistleblowers related to the text messages, an attorney from Mr. Ellison's firm contacted Reclamere, Inc., a computer forensics company, about preserving data related to an "emergency project."³⁷ According to Reclamere, they were told by Mr. Ellison that an "emergency" arose because Mr. Hawa had allegedly "shared information outside of the school district" and had allegedly "retained outside counsel" to represent him. According to Mr. Hawa, CASD had never before retained an outside company during his tenure to image the servers and assist in an alleged "litigation hold." Mr. Hawa stated that Reclamere was retained because Mr. Ellison did not trust him. It does not appear that the entire Board was aware of Reclamere's retention at this time.

Specifically, Reclamere was retained by Mr. Ellison to image the hard drives and servers in the IT Department. The scope of work for Reclamere pertained only to the IT Department, and did not involve either Mr. Como or Mr. Donato, the subjects of Mr. Ellison's prior "litigation hold" letter dated September 6, 2013. *See* R&S000193-95. According to the representatives from Reclamere, it was clear to them that the "target" of their investigation, preservation and surveillance efforts was Mr. Hawa. Dr. Romaniello confirmed that Reclamere's efforts were meant to target Mr. Hawa and Dr. Powell, because they were allegedly "leaking" confidential school district documents and information to the media. According to Dr. Romaniello, the names of Mr. Como or Mr. Donato were never even mentioned during discussions with Reclamere. According to Dr. Romaniello, Reclamere's scope was focused on "existing employees." Again, despite Reclamere's retention, no new, updated or revised "litigation hold" letter was circulated by Mr. Ellison, nor was any "litigation hold" ever provided to Reclamere as part of its retention.

In order to obtain access to the servers in the IT Department, on or about Friday, September 27, 2013, Mr. Ellison instructed Dr. Romaniello to call the IT Network Manager to obtain the passwords for the school district's network servers. According to the Network Manager, he informed Dr. Romaniello that there was no "list" of network passwords readily available and that Dr. Romaniello should contact Mr. Hawa directly to obtain those sensitive passwords. Dr. Romaniello kept insisting that the Network Manager provide him with the user

³⁷ Notably, Reclamere, Inc. was a client of Mr. Ellison's firm, Rhoads & Sinon. Because it would be a conflict for Rhoads & Sinon to represent both CASD and Reclamere in negotiating a contract for the work to be performed at CASD, Mr. Ellison recommended that outside counsel be retained by CASD to review and approve Reclamere's Master Professional Services Agreement. *See* R&S001461-70; 001485-86. It does not appear, however, that the Master Professional Services Agreement was ever executed by CASD. Reclamere claims that it returned a copy of the signed agreement to outside counsel. R&S001458.

passwords, so the Network Manager asked that Dr. Romaniello put his demand in writing. Dr. Romaniello then told the Network Manager that he would call him back. Dr. Romaniello then called Mr. Ellison, who told Dr. Romaniello to threaten the Network Manager with insubordination and discipline if he did not comply with his demand.

Approximately fifteen minutes later, Dr. Romaniello called the Network Manager back and allegedly stated that he was not requesting that the Network Manager provide him with the user passwords, but ordering the Network Manager to do so. The Network Manager again asked that Dr. Romaniello put his demand in writing because he found his sudden request “highly irregular” under the circumstances. Dr. Romaniello directed the Network Manager to call him the next day with the user passwords and, before the Network Manager hung up, Dr. Romaniello allegedly threatened to take disciplinary action against the Network Manager for insubordination if he did not comply.

After talking with Dr. Romaniello, the Network Manager called Mr. Hawa and informed him of Dr. Romaniello’s demand for the school district network user passwords. Mr. Hawa then contacted his attorney, who advised that the Network Manager should *not* give Dr. Romaniello the user passwords or even call him back the next day. Mr. Hawa’s attorney advised that the Network Manager obtain a letter from the Board approving the release of the passwords before providing them to Dr. Romaniello or Mr. Ellison.

Mr. Hawa then contacted the DA’s Office about Dr. Romaniello’s and Mr. Ellison’s “highly irregular” request for user passwords, because Mr. Hawa had been previously informed by the DA’s Office to make sure that all servers were secured and “locked down” to protect the integrity of the DA’s Office’s ongoing criminal investigation. Mr. Hawa and the Network Manager believed that Dr. Romaniello and Mr. Ellison were attempting to “bypass” and “go around” Mr. Hawa in order to obtain the passwords because Mr. Hawa was one of the whistleblowers with regard to the text messages.

It does not appear that the full Board was aware of Dr. Romaniello’s and Mr. Ellison’s aggressive requests for the network passwords and, in particular, their threats of insubordination and discipline to school district employees for failing to comply with their unusual requests.

15. DA’s Office Advises Solicitor to Preserve All Electronic Data After Learning of Requests for Network Passwords

Upon learning of Dr. Romaniello’s and Mr. Ellison’s repeated requests for passwords to the school district’s network servers, on Friday, September 27, 2013, the DA’s Office sought to contact Mr. Ellison for an explanation. After Mr. Ellison failed to respond to the DA’s Office’s inquiries, the DA’s Office faxed and emailed a letter to Mr. Ellison, advising that he “preserve” the “cell phone and iPad that were given to [him] by the Coatesville Area School District” in “an ‘as is’ condition from this date forward.” R&S000292-93. The correspondence advised that: “We will consider and treat the deletion of any text messages, emails, pictures, videos or other user data—including any resetting to factory defaults—as a deliberate attempt to impede and obstruct our investigation.” *Id.* It does not appear that Mr. Ellison shared this correspondence from the DA’s Office with the entire Board.

Later that same day, on Friday, September 27, 2013, the DA's Office also emailed Mr. Ellison requiring the immediate preservation of all "CASD computers." Specifically, the email stated:

By this email I am formally requesting preservation of all files, emails, documents, and other user data presently stored on any Coatesville Area School District computer or computer network system. Again, we will treat and consider the deletion of any emails, documents or files prior to the conclusion of our investigation as a deliberate attempt to impede and obstruct this investigation.

I would request that you instruct district employees, including the acting superintendent, accordingly.

CASD014653-54 (emphasis added). Upon receiving the email from the DA's Office, Mr. Ellison forwarded the email to Board President Neil Campbell, Board Vice President Rick Ritter and Dr. Romaniello (not the entire Board), stating:

This is becoming a witch hunt. And I firmly believe that this came as a direct result of [the Network Manager's] insubordination. Clearly, he called [Mr. Hawa] regarding Angelo [Romaniello]'s directive, and [Mr. Hawa] contacted the ADA. There is simply no other explanation for her sending me this type of an email at 10 o'clock on a Friday evening. Angelo, we need to get [the Network Manager] on the phone and insist that he have his behind at the administration building 9AM Sunday. If he does not, he should be subject to additional discipline.

CASD014653-54 (emphasis added). Again, it does not appear that Mr. Ellison shared this correspondence from the DA's Office with the entire Board.

The next morning, on Saturday, September 28, 2013, Mr. Ellison emailed another attorney from his firm the two emails he received from the DA's Office and asked her to research "what force and effect these emails have under the law." R&S000966. Specifically, Mr. Ellison inquired whether "absent a court order, are we required to comply with the requests simply because the District attorney's office makes them[.]" *Id.* The attorney from Mr. Ellison's firm subsequently responded the he needed to comply with the DA's Office requests or face the threat of "criminal prosecution against you and presumably others" for hindering the prosecution or tampering with evidence "if you and/or CASD fails to preserve certain evidence." *Id.*

The next day, on Saturday, September 28, 2013, Mr. Ellison also emailed the entire Board and Dr. Romaniello, seeking "to schedule an emergency executive session of the board tomorrow." CASD014656. Mr. Ellison had already "arranged" for the Board "to have lunch at the Duling-Kutz house in a private room at noon tomorrow." *Id.* Mr. Ellison explained that he was "asking that [the Board] meet at a non-district facility location" for "reasons that [he did] not wish to discuss via email." *Id.* Those purported "reasons" were the paranoid beliefs of Mr.

Ellison that Mr. Hawa was monitoring his and other administrators' emails, as well as monitoring their movements on video surveillance, and even listening to their conversations with audio devices.

Later that day, on Saturday, September 28, 2013, Dr. Romaniello called Mr. Hawa and demanded that Mr. Hawa provide Dr. Romaniello with all of the passwords to the network servers. Mr. Hawa allegedly informed Dr. Romaniello that he was told by the DA's Office to not provide him with the passwords for the computer network and to "lock down the systems" in order to "protect the integrity of the District Attorney's investigation." See CASD014658-59. Dr. Romaniello, however, allegedly told Mr. Hawa to "ignore the District Attorney" and "to provide the information [] under threat of insubordination." *Id.* Specifically, Dr. Romaniello emailed Mr. Hawa, stating:

The directive that I have given to release the access information for the servers of the District which I have been appointed by the Board of School Directors is not subject to approval by you or the District attorney. As I am not aware of any court order which has been issued giving managerial authority of this District to [DA] Mr. Hogan or giving any employee the legal right to engage in insubordination by ignoring or interfering with an official directive of my office, I am directing you [and the Network Manager] to forward me the passwords to access our systems within the hour. Failure to do so will be considered insubordination for failure to comply with a directive of the Office of Superintendent regarding the management and operation of this District.

R&S000339-40 (emphasis added). According to Dr. Romaniello, Mr. Ellison drafted this email for him to send to Mr. Hawa. As a result of this threatening email, Mr. Hawa "reluctantly complied" with Dr. Romaniello's request and provided him with a list of passwords for the network servers. See CASD014658-59. It is unclear if the entire Board was aware that this threatening email drafted by Mr. Ellison had been sent to Mr. Hawa prior to it being sent.

16. DA's Office First Identifies Solicitor as Potential Target For Obstructing Its Criminal Investigation

Later that night, on Saturday, September 28, 2013, the DA's Office sent another email to Mr. Ellison stating that the DA's Office "has received reports that CASD is attempting to obstruct and impede our investigation. Despite the public statements of CASD that the District and the Board would cooperate fully with this investigation, it is increasingly clear that CASD is attempting to hide information." R&S000054-57. The DA's Office went on to state:

As I intended to inform you Friday, if you had responded to my attempts to contact you, *the criminal investigation now directly includes you and your actions.* As a result, you and your firm are not longer in a position to represent either the Board or any of the district employees.

In the interim, I reiterate that any efforts to delete, destroy, or alter any user data presently stored on a Coatesville Area School District computer or computer network system will be considered a deliberate attempt to obstruct our investigation.

Your efforts to date fall dramatically short of the “full cooperation” you promised both the DAO and the public.

R&S000054-57 (emphasis added). Again, it does not appear that Mr. Ellison shared this correspondence from the DA’s Office with the entire Board.

The next morning, on Sunday, September 29, 2013, Mr. Ellison responded to the DA’s Office, copying only Board President Neil Campbell and Board Vice President Rick Ritter (not the entire Board), claiming that “[n]o one is tampering with records or obstructing your investigation in any way.” R&S000054-57. Mr. Ellison stated that “[a]ny reports you have received that CASD is attempting to obstruct or impede your investigation is flat out false.” *Id.* Mr. Ellison explained that:

We are taking extraordinary steps at our cost to secure our computer systems and preserve all information in its present state, not only for your investigation but in anticipation of litigation as clearly required by the Rules of Civil Procedure given the fact that *both Dr. Powell and Mr. Hawa put us on notice that they have secured counsel in connection with their employment with CASD. Additionally, much of the information on CASD’s system is confidential.* The District is responsible for preserving and protecting this information from being disclosed for inappropriate reasons. *It is apparent that some of this information has already been disclosed to the media.*

The first time we have found ourselves on the opposite side of any issue involved in this matter is when Mr. Hawa forwarded an email to my client indicating that [DA] Mr. Hogan gave him a directive involving the management and operation of our District which could in no way be construed as tampering with records or obstructing your investigation. Instead of accepting or ignoring Mr. Hawa’s word, I sent an email inquiry to [DA] Mr. Hogan, and was met with your response accusing me and my clients of nefarious and criminal actions which are untrue and unsubstantiated.

R&S000054-57 (emphasis added). It is unclear if the entire Board reviewed and approved this email before it was sent by Mr. Ellison.

17. Reclamere Conducts Clandestine Imaging of Only IT Department Hard Drives

That same morning, on Sunday, September 29, 2013, representatives from Reclamere arrived at CASD to image hard drives and the network servers located in the IT Department. Dr. Romaniello and Mr. Ellison were present and directed the representatives from Reclamere as to which hard drives were to be imaged. Specifically, Dr. Romaniello and Mr. Ellison directed that Reclamere image only four hard drives of select IT Department staff, namely two hard drives belonging to Mr. Hawa (one of the whistleblowers related to the text messages),³⁸ a hard drive belonging to the Network Manager (who had refused to disclose the network passwords to Dr. Romaniello and Mr. Ellison the previous day) and a hard drive belonging to the Assistant Network Manager. *See* R&S001454-57. No other hard drives were imaged this day, nor were any hard drives imaged from outside the IT Department. Reclamere's efforts were focused solely on the IT Department, and not the two individuals (Mr. Como and Mr. Donato) identified in Mr. Ellison's "litigation hold" letter of September 6, 2013, or anyone in the Athletic Department. *See* R&S000193-95. It is unclear if the entire Board was aware of this collection effort prior to it being conducted.

All three of the IT Department staff whose hard drives were imaged complained that Reclamere had "torn" their computers apart and left screws lying around. One individual, who had nothing to do with the text messages, stated that she felt "violated" by Reclamere's imaging of her computer. The IT Department staff we interviewed felt like they were being unfairly "targeted" because of Mr. Hawa's public disclosure of the text messages.

During the Sunday, September 29, 2013 collection effort, Reclamere also sought to image the network servers located in the IT Department. Dr. Romaniello provided Reclamere with the list of passwords that he obtained from Mr. Hawa to access the servers. The passwords, however, allegedly "did not work," so Reclamere was unable to image the servers at this time.

Finally, representatives from Reclamere claimed that, while imaging Mr. Hawa's hard drives in his office, they noticed a small security camera allegedly "hidden" inside a Philadelphia Eagles football helmet. The representatives from Reclamere stated that the camera was unplugged and not hooked up or configured. They also stated that the camera did not appear to feed into the general video surveillance system. The Reclamere representatives left the camera in Mr. Hawa's office after they completed their imaging.

In response to discovering this "hidden" camera, Mr. Ellison directed an attorney from his firm to research whether Mr. Hawa's "hidden" camera could be a violation of Pennsylvania's Wiretapping Act. *See* R&S000026-29; 000814-15. The attorney responded to Mr. Ellison's question with the brief answer of: "The IT employee will both be criminally and civilly liable under the Wiretapping Act if the camera recorded sound, and if those recorded had a reasonable expectation of privacy in their conversations, such that they did not anticipate that their conversations would be intercepted." *See id.* It is unclear if this research memorandum was ever shared with the entire Board.

³⁸ According to Mr. Hawa, one of the hard drives was actually from a new computer that the IT Department had purchased for Mr. Como.

On Monday, September 30, 2013, the day after Reclamere's collection effort, several administrators complained about being locked out of the Benner Administration Building. *See* CASD018404. This was allegedly because Mr. Ellison had directed that employee access cards be turned off over the weekend so that no one would uncover or interrupt Reclamere's collection efforts the previous day. Further, Mr. Hawa also complained to Dr. Romaniello that his "project notebook [was] missing out of [his] office." CASD014688.

Following this clandestine data collection effort by Reclamere, Mr. Hawa allegedly provided video surveillance footage of Mr. Ellison's and Reclamere's presence at CASD over the weekend to the media. *See* CASD014700.

18. Solicitor and Acting Superintendent Publicly Accused of Harassing Whistleblowers

On Sunday, September 29, 2013, counsel for the two whistleblowers who discovered and publicly disclosed the text messages emailed the Board, the DA's Office and members of the media, alleging that Mr. Ellison and Dr. Romaniello were allegedly harassing his clients. *See* CASD014658-59.

First, Mr. Ellison and Dr. Romaniello were accused of harassing Mr. Hawa into involuntarily providing them with the network server passwords "under threat of insubordination." CASD014658-59. Counsel for Mr. Hawa claimed that: "Never before has th[is] information been given to a superintendent or anyone outside the Technology Department." *Id.* According to counsel: "Clearly the reason is to get information to target other employees and/or potentially corrupt the data." *Id.*

Second, Mr. Ellison and Dr. Romaniello were accused of harassing Dr. Powell "when she answered the request of two local ministers about the percentage composition of black teachers" at CASD. CASD014658-59. Specifically, Dr. Powell requested that Ms. Zeigler and Dr. Romaniello provide her with "the percentage break down by race of professional staff" at CASD. R&S000334. Instead of identifying the percentage of black teachers at CASD, Ms. Zeigler broadly responded that "the minority percentage of our teaching staff is approximately 10%." *Id.* According to counsel for Dr. Powell, she was subjected to lengthy meetings and "unnecessary questioning" in answering this simple request. *Id.*

Counsel for the two whistleblowers stated: "This is not acceptable conduct in targeting courageous employees who did what they were supposed to do. I want this conduct immediately stopped and I want the Board to direct the superintendent and the solicitor to cease this activity." CASD014658-59.

In response, Mr. Ellison drafted a statement on behalf of the Board, refuting the harassment allegations related to the whistleblowers. According to the statement, the two whistleblowers had allegedly retained counsel to explore legal action against the school district. CASD018406. Therefore, the retention of Reclamere, a computer forensic company, was necessary "to retain all records that could be relevant to any litigation, including electronic records housed on the district's servers." *Id.* According to the statement, accessing the servers

required obtaining the passwords from Mr. Hawa. This statement also was emailed by Dr. Romaniello, per Mr. Ellison's directive, to all CASD employees on October 1, 2013. *See* CASD018405. It is not clear if the entire Board reviewed or approved this statement before it was publicly disseminated.

Again, the concern with this statement is that there is no evidence that the whistleblowers retained counsel to explore legal action against CASD. Neither whistleblower threatened to sue CASD at any time prior to the retention of Reclamere, nor did counsel for the whistleblowers ever contact Mr. Ellison or CASD threatening such a lawsuit when Reclamere was retained. Further, no new "litigation hold" was issued with regard to the whistleblowers, as the prior litigation hold from September 6, 2013 was related to Mr. Como and Mr. Donato (not the whistleblowers). Rather, the whistleblowers retained counsel to advise them on how to proceed after they discovered and publicly disclosed the text messages. Most important here, the whistleblowers retained counsel because "they feared they might be the target of retaliation from district officials," which fears apparently came to fruition after they publicly disclosed their identities as the whistleblowers.

19. Reclamere Returns to Image Servers and Install Spyware on Only IT Department Computers

On Wednesday, October 2, 2013, representatives from Reclamere again returned to CASD for additional onsite data collection. After arriving at the Benner Administration Building, the representatives from Reclamere met with Mr. Ellison and Dr. Romaniello, who instructed them to image the network servers and to also archive all school video camera surveillance footage.

Following this initial meeting with Mr. Ellison and Dr. Romaniello, the representatives from Reclamere then met with all of the IT Department staff with Dr. Romaniello and Ms. Zeigler present. According to Ms. Zeigler, Mr. Ellison directed her to attend the meeting and take notes, which she then copied after the meeting and provided to Mr. Ellison. *See* R&S000345-46. According to representatives from Reclamere, they were introduced at this meeting and the IT Department staff was directed to cooperate with their data collection efforts. The representatives from Reclamere stated that the IT Department staff was not given specific information regarding Reclamere's role. The Reclamere representatives also stated that they noted "tension" between Dr. Romaniello and the IT Department staff.

At this meeting with the IT Department staff, Dr. Romaniello, per the direction of Mr. Ellison, circulated a memorandum to the staff, which stated:

Today, representatives from Reclamere will be working in the technology department to undertake continuing efforts to assist the District with steps it must take to implement and maintain a litigation hold....*Unfortunately, it is not sufficient for the District to simply notify its employees of a litigation hold with the expectation that they will retain and produce all relevant information. The District is required to take affirmative steps to ensure that all sources of discoverable information, including*

active files and backup media, are identified, preserved and retained, as well as monitor compliance. To that end, please give the Reclamere technicians your complete, 100% cooperation.

R&S000344. Copies of the purported "litigation hold" were not provided to the staff at this time, nor was the staff informed of what exactly the "litigation hold" required. Further, the memorandum discusses the need to take "affirmative steps" to implement a "litigation hold." *See id.* However, the memorandum and *Reclamere's collections efforts were not occurring until nearly a month after Mr. Ellison's purported "litigation hold" letter had been sent to Dr. Romaniello on September 6, 2013.* *See* R&S000193-95 (emphasis added).

Following this meeting, representatives from Reclamere then met separately with the video camera surveillance manager in the IT Department to discuss how best to preserve the school district's video camera surveillance footage. According to the representatives from Reclamere, Mr. Ellison wanted them to collect and preserve all of the footage from the video surveillance cameras at the Benner Administration Building. Reclamere, however, explained that merely preserving six (6) months of surveillance camera footage would require 200 days of constant work by Reclamere. Therefore, the collection and preservation of the video surveillance camera footage was abandoned by Mr. Ellison as "too costly." It is not clear if Mr. Ellison ran this "cost" analysis or conclusion by the Board, particularly in light of the fact that neglecting to retain the video surveillance footage could be considered a violation of his own purported "litigation hold" letter of September 6, 2013. *See* R&S000193-95 (emphasis added).

The representatives from Reclamere then spent the remainder of the day, on Wednesday, October 2, 2013, setting up and commencing the imaging of the file servers, email servers, backup servers and email archives of CASD. Correct passwords to access the servers were provided by the Network Manager. Because of the size and extent of the imaging occurring, the imaging was set up on Wednesday, October 2, 2013 and expected to last two days, until Friday, October 4, 2013.

According to representatives from Reclamere, they discovered during this imaging process that the IT Department allegedly had a sixty day auto deletion policy for emails. This was allegedly brought to the attention of Mr. Ellison, who claimed that such a sixty day auto deletion policy was in violation of the "litigation hold" that was supposed to have been implemented and put in place by Mr. Hawa on or about September 6, 2013. *See* R&S000193-95.

As a result, that same day, on Wednesday, October 2, 2013, Dr. Romaniello, at the direction of Mr. Ellison, emailed Mr. Hawa and the Network Manager, stating that "we have been advised by Reclamere...that there is an automatic 60 day deletion setting on our servers which is currently enabled.... You are hereby instructed to immediately disable the automatic deletion protocols and fully comply with the litigation hold directives set forth" in Mr. Ellison's September 6, 2013 letter. CASD014660; R&S000308-09. It is unclear why Reclamere did not simply "disable the automatic deletion protocols" upon discovering the issue.

Further, according to Mr. Hawa, this really was not an issue because the emails were being backed up and saved on the backup server even if being deleted from the active file server within sixty days. Indeed, Mr. Hawa responded to Dr. Romaniello's October 2, 2013 email,

explaining: "We are in compliance. The sixty days has nothing to do with backups. It is simply so the live system does not run out of space and crash." R&S000308-09.

Before leaving CASD on Wednesday, October 2, 2013, representatives from Reclamere also installed a spyware software program called *ObserveIT* on several of the servers and all of the IT Department's computers in order to monitor, capture and record computer user actions. Specifically, Mr. Ellison had contacted Reclamere about installing a software that would "videotape" individuals' actions on the computer system and determine who was accessing the system. See R&S000814-15. In response, Reclamere suggested *ObserveIT*, which allegedly would monitor and capture an individual's actions in "real-time" as if "someone was watching from behind the keyboard." According to Dr. Romaniello, *ObserveIT* was installed on the servers and computers in the IT Department in order to track certain users because certain school district documents and information allegedly were being "leaked" to the media and only certain individuals had access to those documents or information. Simply put, Dr. Romaniello and Mr. Ellison believed Mr. Hawa was "leaking" documents and information to the media.

According to representatives from Reclamere, *ObserveIT* was installed in front of all of the members of the IT Department and not done in secret. This claim, however, has been disputed by several individuals from the IT Department, who instead allege that they were not aware of *ObserveIT* being installed on their individual computers until they noticed icons for the spyware on their computers.³⁹ In addition to the servers, *ObserveIT* was placed on the personal computers of the five members of the IT Department: Mr. Hawa, the Network Manager, the Assistant Network Manager, the Software Support Specialist and the Help Desk Support Specialist.

According to Reclamere, they attempted to install *ObserveIT* on Mr. Hawa's Linux-based computer. However, Reclamere explained that *ObserveIT* cannot monitor and capture all of the information from Linux-based computers. Therefore, Reclamere recommended to Mr. Ellison and Dr. Romaniello that Mr. Hawa be instructed to switch to a Windows-based computer so that all of his information would be captured and collected by the *ObserveIT* spyware on his computer. A few days later, on October 11, 2013, Reclamere emailed a formal memorandum to Mr. Ellison recommending that Mr. Hawa make this changeover and that his Linux-based computer be turned over to Mr. Ellison "to be turned over to Reclamere for forensic imaging and preservation." R&S001459-60.

Nevertheless, after Reclamere installed the *ObserveIT* software, all of the IT Department staff merely uninstalled the spyware themselves from their personal computers with little or no effort. All of the IT Department staff viewed the installation of the *ObserveIT* spyware on their personal computers as "harassment" and "bullying" by Mr. Ellison and Dr. Romaniello. It is unclear if the entire Board was made aware that spyware was being placed on the school district's servers and employees' personal computers to monitor their actions.

Once Reclamere completed its data collection efforts on Wednesday, October 2, 2013, Mr. Ellison and Dr. Romaniello had the lock changed to the room where the servers are housed.

³⁹ Reclamere personnel reportedly told investigators from the DA's Office that they *did* secretly install the *ObserveIT* spyware.

See R&S000308-09. After changing the lock on the server room, Dr. Romaniello, at the direction of Mr. Ellison, emailed the entire IT Department, stating:

Due to Reclamere's ongoing preservation of the District's electronic information, please be advised that the lock on the server room door at Benner was changed to ensure no interruption or interference in the process. To the extent any IT department employee needs access to the server room to perform their job duties, please contact Dr. Angelo Romaniello Jr. for access. Otherwise, we will notify you when the lock has been restored to its previous key.

CASD014662. This became an issue when just a few days later, on Monday, October 7, 2013, the "admin server crashed" and Dr. Romaniello was not on site to provide the IT Department immediate "physical access to the server room." CASD014686. It is not clear if the entire Board was made aware, or approved, of the lock being changed on the server room prior to it occurring.

According to Reclamere representatives, this change in the lock to the server room was done based upon their recommendation, because the imaging and collection of server data continued for two days after they left. It is unclear, however, why the lock was not changed back once Reclamere's server data collection efforts had been completed on or about Friday, October 4, 2013. It is our understanding that, as of the date of this report, the lock on the server room still has not been changed back.

20. Solicitor Convinces Board Vice President Not to Resign

On Thursday, October 3, 2013, Board Vice President Rick Ritter emailed Board President Neil Campbell, Mr. Ellison and Dr. Romaniello (and not the entire Board), stating that he is considering resigning and that he has "come to the conclusion it's time for [him] to go." CASD014666-67. Specifically, Mr. Ritter stated: "I will miss working with each of you but I need to focus more of my time on my career and with my family." *Id.* Mr. Ritter stated: "I will make it effective whenever Neil [Campbell] thinks is best. I was thinking perhaps October 14 which would make 30 days the night of the November committee meetings and avoid the need to call a special meeting." *Id.* Mr. Ritter concluded: "I will send a formal letter later. I'm sorry if I'm letting you down." *Id.*

Mr. Ellison responded that same day to Mr. Ritter, copying Mr. Campbell and Dr. Romaniello (and not the entire Board), stating:

I understand your position and completely understand. All I would ask is we all have the chance to sit and speak with you before you make a formal decision and announcement. And we will do so at your convenience. *We have all worked together a long time, so I would appreciate it if we could speak with you beforehand.*

CASD014666-67 (emphasis added). It appears that Mr. Ellison, Mr. Campbell and Dr. Romaniello successfully convinced Mr. Ritter not to resign and remain a Board member. Mr. Ritter never announced his resignation on October 14, 2013 (as suggested in his email), and he still remains a Board member as of the date of this report.

21. Reclamere Meets With IT Department Staff About Alleged Server Auto Deletion Function

On Friday, October 4, 2013, representatives from Reclamere returned to CASD to complete the imaging of the servers that had been started on Wednesday, October 2, 2013. After completing their collection efforts, the Reclamere representatives met with IT Department staff to discuss turning off the alleged sixty day auto deletion policy on the email server. *See* CASD014670. Dr. Romaniello and Ms. Zeigler also were present for this meeting. According to Ms. Zeigler, Mr. Ellison again directed her to attend the meeting and take notes, which she then copied after the meeting and provided to Mr. Ellison. *See* R&S000353-60.

At this meeting, IT Department staff explained that the emails were being saved on the backup server and that keeping emails on the active server beyond sixty days would cause the system to overload and crash. *See* R&S000308-09. According to the representatives from Reclamere, the auto deletion function needed to be turned off and they would work with the IT Department on obtaining more capacity for the email server. In order to accomplish this, the group discussed the possibility of purchasing another server. Mr. Hawa provided the group with a quote for a new server that he obtained in September 2013. According to Reclamere, the IT Department agreed to turn off the auto deletion function at the end of the meeting. *See id.* According to the IT Department staff, they never agreed to that.

Representatives from Reclamere then followed up with Mr. Ellison in their belief that CASD was not in compliance with the prior “litigation hold” that Mr. Ellison allegedly implemented because of the auto deletion function. According to Reclamere, Mr. Ellison seemed “surprised” and “angry” that this was the case. It is unclear if Reclamere was ever provided or given a copy of Mr. Ellison’s purported “litigation hold” letter. *See* R&S000193-95

Mr. Ellison also allegedly seemed “skeptical” of Mr. Hawa’s new server estimate. Representatives from Reclamere stated that they believed this was “simply because Mr. Hawa” obtained the estimate, and not for any other reason. Mr. Ellison then asked Reclamere to “spearhead” an effort to recommend and implement a new email retention policy, and look into the potential purchase of another server. It does not appear that the entire Board was ever made aware of or informed about the alleged issues involving this auto deletion function on the server.

22. Solicitor Delays Production of Documents to DA’s Office and Seeks to Intervene in Grand Jury Proceedings and Quash Subpoenas

After being named a potential target of the DA’s Office’s investigation, Mr. Ellison appointed another attorney from his firm as the lead contact for CASD going forward. On Monday, September 30, 2013, this attorney contacted the DA’s Office. In response, the DA’s Office renewed its request for financial documents from the school district, and also requested personnel files and a list of “any CASD employee that is related to a past or present CASD

Board member.” R&S000967-72. The DA’s Office also requested to interview several administrators and staff at CASD. *See id.* At this time, Mr. Ellison’s firm pledged its renewed commitment to cooperating with the DA’s Office’s investigation. *See id.*

On Tuesday, October 1, 2013, an attorney from Mr. Ellison’s firm emailed the DA’s Office and stated that most of the financial documents requested would “be available by week’s end.” R&S000967-68. Two days later, on Thursday, October 3, 2013, the CASD Business Office emailed Mr. Ellison copies of the financial documents requested by the DA’s Office. *See* R&S000058. Mr. Ellison’s firm, however, did not produce the requested financial documents to the DA’s Office until almost two weeks later, on Wednesday, October 16, 2013. R&S001223.

On Wednesday, October 9, 2013, Dr. Powell and Mr. Hawa informed Dr. Romaniello that they had received subpoenas to appear and testify before the investigating grand jury on Thursday, October 17, 2013, and had been directed to bring documents with them to their grand jury appearance. In response, Dr. Romaniello emailed, per the direction of Mr. Ellison (who was copied on the email), Dr. Powell and Mr. Hawa, stating: “Please provide a copy of the subpoena and a list of the documents that you are require[d] to provide.” CASD014692. This email was sent because Mr. Ellison allegedly was concerned that Dr. Powell and Mr. Hawa would potentially turn privileged documents over to the DA’s Office.

That same day, Wednesday, October 9, 2013, an attorney from Mr. Ellison’s firm also contacted the DA’s Office requesting that they “forward the subpoena to [his] attention so I can process the request through the proper channels” because the “individuals themselves cannot simply remove documents from the system without going through the proper process.” R&S000965. Mr. Ellison then directed Dr. Romaniello to email Mr. Hawa and Dr. Powell, stating: “Please be advised that you are not authorized to remove or release any school district documents or records unless you clear the same through my office.” CASD014694. Again, Mr. Ellison allegedly was concerned that they would turn over potentially privileged documents.

According to Mr. Hawa, when detectives from the DA’s Office met with him at the Benner Administration Building around this time period, Mr. Ellison allegedly instructed Dr. Romaniello to threaten Mr. Hawa with discipline for not doing his job and disrupting the workplace. Mr. Hawa claimed that Dr. Romaniello asked him what he talked about with the DA’s Office, and specifically asked if the DA’s Office asked him anything about Dr. Romaniello.

On Wednesday, October 9, 2013, Dr. Romaniello and Dr. Taylor also received subpoenas to appear and testify before the investigating grand jury on Thursday, October 17, 2013, and they also were directed to bring documents with them to their grand jury appearance. *See* R&S000279-80; R&S000769-72. Mr. Ellison allegedly again expressed concern about Dr. Romaniello and Dr. Taylor producing documents that are potentially privileged without him first reviewing them prior to production.

On Tuesday, October 15, 2013, two days before the scheduled grand jury appearances, counsel for Dr. Romaniello emailed Mr. Ellison stating:

To the extent that any Subpoena that may have been issued to Dr. Romaniello may contain a request for testimony and/or documents that you believe the Coatesville Area School District (or Board) hold a privilege, it is incumbent upon you and/or someone on behalf of your client to intervene by way of a Motion to Quash or some similar mechanism. *I simply cannot ignore a lawfully issued Subpoena nor will I allow Dr. Romaniello to be exposed to contempt of Court for failing to fully comply with a lawful Subpoena.*

R&S000964 (emphasis added).

That same day, Tuesday, October 15, 2013, Mr. Ellison had an attorney from his firm research “whether a single school district board member, officer, or employee can waive the attorney-client privilege on behalf of the entire school district.” R&S000368-69. The attorney “concluded that the attorney-client privilege can only be waived on behalf of a school district by a majority vote of the Board.” *Id.* Another attorney at Mr. Ellison’s firm also researched whether they could file “an emergency petition to intervene and emergency motion to quash and ask to be heard prior to the start of testimony tomorrow morning.” R&S000830. Mr. Ellison stated he wanted “to be able to walk into court around noon” the next day. R&S000829. It is unclear why Mr. Ellison waited until the last few hours to contemplate quashing subpoenas issues almost one week prior.

The next day, on Wednesday, October 16, 2013, the day before the scheduled grand jury appearances, attorneys from Mr. Ellison’s firm filed a Petition to Intervene and a Motion to Quash on behalf of CASD with the grand jury supervising judge. *See* R&S000758. The Petition to Intervene sought to intervene in the grand jury proceedings for the purpose of asserting the attorney-client privilege and/or the attorney work product doctrine related to Dr. Romaniello and Dr. Taylor. *See* R&S000762-77. The Motion to Quash sought to quash the grand jury subpoenas directed to Dr. Romaniello and Dr. Taylor to the extent they requested the production of information or documents protected by the attorney-client privilege and/or the attorney work product doctrine. *See* R&S000795-811. It is unclear if the entire Board was aware of or approved the filing of these pleadings before the grand jury supervising judge.

That same day, Wednesday, October 16, 2013, the grand jury supervising judge held a hearing on the Petition to Intervene and Motion to Quash. Mr. Ellison allegedly claimed that the Saturday, August 17, 2013 meeting between him, Dr. Taylor, Mr. Hawa and Dr. Powell regarding the text messages, as well as other discussions Mr. Ellison had with Board members regarding the text messages, were privileged and could not be discussed before the investigating grand jury. *See id.* Issues of waiver of the privilege were raised by the DA’s Office, because Board President Neil Campbell had read a public statement at the Tuesday, September 24, 2013 Board meeting detailing many of these allegedly privileged conversations and Mr. Ellison had met with the DA’s Office on Thursday, October 3, 2013 and voluntarily disclosed the substance of many of these conversations. *See* R&S000039-52; 10/3/13 Video Interview of J. Ellison by DA’s Office.

At the conclusion of the hearing, the DA's Office and counsel for CASD agreed to a stipulated order, pursuant to which the DA's Office agreed to "not ask questions that relate to privileged/confidential communications between CASD representatives including employees and Board directors and its counsel." R&S001219-22. In exchange, CASD agreed to produce all non-privileged, responsive documents requested in the subpoenas and to provide a privilege log of those documents withheld based on privilege.

A few days later, on Monday, October 21, 2013, an attorney from Mr. Ellison's firm sent a letter to the DA's Office, advising that it would produce the documents requested of Dr. Romaniello and Dr. Taylor, as well as a privilege log of documents withheld, by close of business on Wednesday, October 30, 2013. *See* R&S000955. The letter stated that Mr. Ellison's firm would be seeking to review those documents requested of Mr. Hawa and Dr. Powell in order to conduct a privilege review of them prior to production to the DA's Office. *See id.*

The next day, on Tuesday, October 22, 2013, the DA's Office sent a letter and emailed attorneys from Mr. Ellison's firm renewing requests for documents that still had not been produced. *See* R&S000949-54. As stated by the DA's Office, except for a few new requests, "all of these items were originally requested close to three weeks ago." *Id.* It does not appear that the Board was aware of the delay tactics being used by Mr. Ellison's firm in producing documents to the DA's Office.

23. Solicitor Seeks to Interview Whistleblower One Day After She Was Scheduled to Appear Before Investigating Grand Jury

On Friday, October 18, 2013, Dr. Romaniello, per the directive of Mr. Ellison, directed Dr. Powell to meet with Ms. Zeigler. According to Dr. Romaniello, Mr. Ellison requested that Dr. Romaniello also be a part of the interview, but Dr. Romaniello's attorney advised against him participating. Dr. Romaniello stated that he asked Mr. Ellison what the purpose of the interview was and Mr. Ellison responded it was related to "personnel issues." According to notes from attorneys at Mr. Ellison's firm, they wanted to interview the two whistleblowers "by surprise" as part of their internal investigation. *See* R&S000832. It does not appear that the entire Board was aware of this scheduled interview of Dr. Powell.

According to Ms. Zeigler, the meeting was "to answer questions pertaining to our internal investigation which was publicly announced last month." R&S000294. No other interviews were conducted this day as part of Mr. Ellison's internal investigation. And the last known interview related to Mr. Ellison's internal investigation had occurred more than two weeks prior and had related to alleged skimming in the Athletic Department. The interview was conducted two days after an attorney at Mr. Ellison's firm drafted a memorandum dated, Wednesday, October 16, 2013, which specifically researched, per Mr. Ellison's request: "How should the District structure the discipline and/or termination of Dr. Powell for the various violations of policy she has committed in the past few weeks?" R&S01826-33; 001836. Moreover, the previous day, on Thursday, October 17, 2013, Dr. Powell had been scheduled to appear and testify before the investigating grand jury.

According to Ms. Zeigler, Mr. Ellison met with and prepped her in anticipation of this meeting with Dr. Powell. Ms. Zeigler claimed that Mr. Ellison told her that he could not meet

with Dr. Powell because she is represented and, therefore, if Mr. Ellison was present then Dr. Powell would be permitted to have her attorney present too. Ms. Zeigler claimed that she was “uncomfortable” with having to meet with Dr. Powell and her role in that meeting, especially since Ms. Zeigler told Mr. Ellison that Dr. Powell did not really like her professionally or personally. Ms. Zeigler claimed that she then contacted the Board President Neil Campbell about her discomfort with the meeting, and he allegedly confirmed that he knew about the meeting and her role in that meeting.

The script provided by Mr. Ellison’s firm provided that Ms. Zeigler should ask questions about: (1) “whether other administrators are implicated in the [texting] scandal, including Dr. Romaniello”; and (2) the allegations by Ms. Zeigler that “Dr. Romaniello was ‘the third texter’ and was involved in the texting between Mr. Como and Mr. Donato.” R&S000828. Yet, a week earlier, on or about Friday, October 11, 2013, an attorney from Mr. Ellison’s firm drafted a memorandum addressing the “allegations lodged against Dr. Romaniello” that he was allegedly the “third ‘mystery texter’ in the transcript,” and concluded that there are “absolutely no grounds . . . to terminate Dr. Romaniello or seek his resignation.” R&S001641. Further, Mr. Ellison was in possession of the text message transcript and could have (and did) review the texts to other individuals, including Dr. Romaniello and other employees of CASD.

The script also stated:

Because I do not want to interfere, or appear to be interfering with an ongoing criminal investigation of the District Attorney of Chester County, *I am not going to ask you questions about the allegations made at the Board committee meetings on Tuesday October 8, 2013, that the Solicitor and the Board (or a group of persons on the Board) were engaged in a cover up of the texting scandal.* I am also not going to ask you questions about your communications, with the District Attorney’s office.

R&S000828 (emphasis added). Finally, the script concluded that: “Under Pennsylvania law you are not entitled to speak to anyone before you are interviewed. You are also not entitled to be represented by anyone, including an attorney, during my interview.” *Id.* It is not clear on what “Pennsylvania law” this statement was based. According to Ms. Zeigler, she was prepared to stop Dr. Powell’s attorney from sitting in on the meeting if he had showed up to the meeting with her. Ms. Zeigler stated that Mr. Ellison never told her or explained why they did not want Dr. Powell’s attorney in the room with her during the interview.

According to Dr. Powell, Ms. Zeigler specifically asked her about the text messages, including who knew about them and who first discovered them. In other words, Mr. Zeigler specifically asked Dr. Powell about the alleged “cover up of the texting scandal,” despite the disclaimer in the written script that she would not ask any questions about those allegations. *See* R&S000828. When Dr. Powell stated that she did not have to answer Ms. Zeigler’s questions, Ms. Zeigler allegedly stated that she did not have the right to an attorney and that she would be terminated if she did not cooperate. Dr. Powell then left the meeting.

Following their brief meeting, Ms. Zeigler emailed Dr. Powell, stating: "Please gather and bring any information you need to review and be prepared to meet on Tuesday, October 22, 2013 at 9:00AM to revisit my questions." R&S000294. Dr. Powell did not respond and immediately contacted her attorney, who told her to contact the DA's Office. Dr. Powell then informed the DA's Office about Ms. Zeigler's attempts to interview her.

After speaking with the DA's Office, Dr. Powell then emailed Ms. Zeigler to document what had happened and to seek answers to several questions that went unanswered during the interview. *See* R&S000295. Dr. Powell noted that Ms. Zeigler told her that she was required "by law" to meet with her and that Dr. Powell was not permitted to have anyone else present or contact her attorney during their interview. *See id.* Specifically, Dr. Powell stated:

Please let me know where I can find this lawful document that states that I am required to meet with you, when the meeting is clearly occurring during duress, without an impartial third party. As I informed you, *you were harassing me in the questioning. I informed you on several occasions that I am represented by coun[sel] and requested to contact him. You informed me that I do not have the right to do that.*

R&S000295 (emphasis added). Dr. Powell then concluded:

There are several questions that I have, in retrospect, about the meeting. Who[s] decision was it for you to interview me? Why now, *particularly after I was subpoenaed to appear before the grand jury yesterday in connection with the text messages of which you questioned me today? Why would I be denied the right to speak with my attorney* when the District is fully aware that I am represented by coun[sel]?

Later that same day, Friday, October 18, 2013, the DA's Office sent a letter to Mr. Ellison's firm stating:

I find the timing of this interview incredibly suspect, as the[] August meetings [that Ms. Zeigler sought to discuss] and, more particularly, your firm's efforts to prevent Ms. Powell from offering information regarding these meetings [to the investigating grand jury]—including information regarding possible misconduct by [Mr. Ellison] during one of these meetings, was the precise topic of legal argument, with you, yesterday.

To be clear, given the timing, this "interview" appears to be a deliberate attempt to tamper with and/or intimidate this witness and a deliberate attempt to interfere with our investigation.

R&S000961-63 (emphasis added). It is unclear if this correspondence from the DA's Office as shared with or provided to the entire Board.

24. Reclamere Conducts Clandestine Overnight Imaging of Select Hard Drives and Sweeps for Hidden Cameras and Listening Devices

On the evening of Friday, October 18, 2013 (the same day Mr. Ellison attempted to have Ms. Zeigler interview Dr. Powell and the day after the scheduled grand jury appearances of several individuals), a representative from Reclamere again appeared at CASD for onsite collection. The representative from Reclamere arrived at the Benner Administration Building around 10:45pm and was escorted into the building by a CASD Police Officer. According to the Police Officer, Dr. Romaniello and Mr. Ellison had met with him earlier in the day and told him that “a firm would be working with computers in [Dr. Romaniello’s] office, Human Resources, Business office and in the computer rooms” and that he should “let them in the offices with keys that Angelo provided.” CASD018397-98.

Shortly after the Reclamere representative arrived, a “physical security team” arrived from Special Services International (“SSI”) to sweep the building for any hidden cameras or listening devices. *See* R&S001225-28. SSI had been hired by Mr. Ellison’s firm.⁴⁰ *See id.* Prior to conducting any sweeps, SSI first disabled the video surveillance camera system so that no one would see which rooms SSI and Reclamere were entering and exiting. According to Dr. Romaniello, Mr. Ellison requested that the video surveillance cameras be disabled because Mr. Ellison believed that Mr. Hawa was viewing the camera footage remotely from his house. Reclamere personnel were asked to disable the cameras, but allegedly refused because they were uncomfortable with this request. Instead, the Reclamere personnel apparently instructed the SSI personnel on how the cameras could be deactivated.

After the video cameras were disabled, the representative from Reclamere called Mr. Ellison, who gave him a list of seventeen individuals whose hard drives were to be imaged. *See* CASD018508. According to Dr. Romaniello, Mr. Ellison had asked him earlier in the day to prepare a list of all administrators and directors so that Reclamere could image their hard drives. Dr. Romaniello stated that he walked Mr. Ellison around the building that day to show him where all of the offices were located. Dr. Romaniello stated that Mr. Ellison decided whose computers were to be imaged.

According to Reclamere, the list provided to them consisted primarily of school directors and their secretaries, and where names were not identified the computer location was listed. *See* CASD018508. The list did not include the computers of Mr. Como or Mr. Donato, nor were any computers in the Athletic Department identified to be imaged as would have been consistent with Mr. Ellison’s purported “litigation hold” letter of September 6, 2013. *See* R&S000193-95. The list, however, did include the computers of Dr. Powell and her secretary. If, as Mr. Ellison repeatedly claimed, Dr. Powell had retained an attorney and was contemplating legal action against the school district, her computer hard drive should have been one of the first hard drives imaged. Instead, Dr. Powell’s hard drive was finally being imaged almost a month and a half after Mr. Ellison’s purported “litigation hold” letter had been circulated. *See id.*

⁴⁰ The contract for SSI services was with a company identified as Pinkerton. *See* R&S001225-28. The contract lists Board President Neil Campbell as the client, who executed the agreement on behalf of the Board. *See id.* It is unclear if the entire Board was aware of or approved Pinkerton’s retention.

Reclamere then proceeded to image fourteen of the seventeen identified hard drives at CASD from approximately 11:00pm on Friday, October 18, 2013 through approximately 6:30am on Saturday, October 19, 2013. According to the representative from Reclamere, they had a “strict cut-off time” of 6:30am on Saturday, October 19, 2013 to be out of the building per the orders of Mr. Ellison. Because of this “strict cut-off time,” Reclamere was only able to image fourteen of the seventeen identified hard drives, leaving three (3) hard drives behind as un-imaged.

While Reclamere was imaging the hard drives, two forensic examiners from SSI searched the Benner Administration Building for hidden cameras and/or listening devices. SSI found two hidden surveillance cameras during their inspection, one of which was “hidden” (allegedly not well) in a plant in the corner of the IT Department office and the other was in a Philadelphia Eagles football helmet in the office of Mr. Hawa. The cameras were removed from the IT Department and left on Dr. Romaniello’s desk when SSI left the building the next morning. According to Mr. Hawa and others in the IT Department, these cameras were simply motion cameras that are only activated at night to notify the IT Department via email of potential intruders. *See* CASD014620.

When SSI left, they failed to reactivate the video camera surveillance system that they had disabled earlier. This omission was not noticed until four days later when a principal sought to review an incident that had occurred at the building and the video surveillance camera footage was unavailable. *See* CASD018409. At that time, the video surveillance system was reactivated by the IT Department. *See id.*

Two days later, on Monday, October 21, 2013, Dr. Romaniello summoned to his office the CASD Police Officer present during SSI’s sweep of the Benner Administration Building. *See* CASD018397-98. Dr. Romaniello then handed the Police Officer a manila envelope that contained the two small surveillance cameras that SSI uncovered from the IT Department during its sweep. *See id.* Dr. Romaniello directed the Police Officer to secure the cameras until Mr. Ellison requested them. *See id.* The Police Officer secured the cameras in his padlocked locker at the District Police Station, where they remained until he turned them over to us. Because he thought this request was unusual, the Police Officer drafted up a statement that he signed detailing his interactions with Dr. Romaniello. *See* CASD018397-98.

Later that day, Monday, October 21, 2013, the IT Help Desk Support person filed a police report with CASD Police, alleging:

Technology would like to report that over this past weekend of October-19 & 20th, we had 2 cameras stolen out of the Technology Department Office area. We also have at least 2 offices broken into and their computers tampered with—having the CPUs left open.

CASD018395-96. CASD Police allegedly reported the cameras as stolen to the Chester County Detectives. *See id.* According to the Police Officer who was given the two cameras by Dr. Romaniello, he did not inform the reporting officer that he was in possession of the cameras, nor

has he done so to date. Mr. Hawa claims that he asked Dr. Romaniello about the two missing cameras and Dr. Romaniello simply stated that he would “look into it” and never got back to Mr. Hawa. It does not appear that the Board was ever informed of or made aware of the cameras being taken from the IT Department and subsequently being reported stolen.

25. Administrators and Staff Complain About Computers Clearly Being Tampered With Over Weekend

On October 21, 2013, the Monday following Reclamere’s clandestine weekend collection effort, several administrators and staff complained to Dr. Romaniello that their computers clearly had been tampered with over the weekend. *See* CASD018407. When Reclamere imaged some of the hard drives, they apparently had left some computers open and exposed and failed to put everything back in place in individuals’ offices. *See id.* When the individuals contacted the IT Department about what had happened, IT Department staff were unaware of anything happening over the weekend. *See id.*

Upon initially being confronted with these complaints, Dr. Romaniello, per the directive of Mr. Ellison, denied knowing anything about why the computers looked tampered with, despite being involved with, and helping to coordinate, Reclamere’s efforts over the weekend. Dr. Romaniello admitted that he initially lied about the computers being imaged over the weekend because Mr. Ellison allegedly told him “to keep it internal.”

Mr. Ellison, however, changed his mind later in the day on Monday, October 21, 2013, and told Dr. Romaniello to inform the administrators and staff about the computer imaging over the weekend by Reclamere. Dr. Romaniello then, per the directive of Mr. Ellison, sent an email to the administrators and staff, stating:

As promised, I made some inquiries regarding the computer issues raised by some staff members yesterday morning and was advised that *Reclamere completed its litigation hold this weekend*. As you will recall, Reclamere began its work on our servers and some desktop computers a few weeks ago per Board directive. With the exception of some minor follow up, that process has now been completed.

CASD018408 (emphasis added).

According to numerous administrators and staff, they were not informed ahead of time about Reclamere’s imaging of individual hard drives. According to the administrators and staff, they believed that just the servers were being preserved and not individual hard drives, especially not hard drives of individuals who had nothing to do with the text messages or the DA’s Office criminal investigation.

A few days after Reclamere’s collection effort, an attorney from Mr. Ellison’s firm asked that Reclamere perform searches in five identified email accounts. Two of the email accounts belonged to Dr. Powell (personal and work accounts), another of the email accounts was Mr. Hawa’s, and the other two email accounts were principals at CASD who are personal friends

with Dr. Powell. These five email accounts chosen by Mr. Ellison to be searched included the two whistleblowers and two individuals they may have confided in. According to Reclamere, these searches have not been performed. It is not clear if the Board was made aware of or approved the searching of the whistleblowers' email accounts.

Reclamere claims that it has not performed any services for CASD since the Friday, October 18, 2013 overnight collection effort, and has not heard from Mr. Ellison or his firm since being provided with the five email accounts to be searched. The last known contact between Reclamere and Mr. Ellison occurred on Thursday, October 24, 2013, when Reclamere emailed him with a list of outstanding items, including issues related to the "spyware/malware analysis," "which drives are to be searched for the keywords", installing "surveillance software" on Mr. Hawa's "new Windows machine" and imaging the "final 3 lowest priority" hard drives that were missed during their last onsite visit. R&S001458. According to Reclamere, however, Mr. Ellison never responded, presumably because of our retention.

Reclamere was paid by CASD in excess of \$85,000.00 for its computer forensic services, including the payment of a \$10,000.00 retainer. *See* CASD014454-63; R&S001472-73. All of the invoices identify the services as being "requested by" or "authorized by" Mr. Ellison. *See id.* SSL/Pinkerton was paid \$2,800.00 for its "electronic sweep and physical inspection of offices and multiple cubicles" on Saturday, October 19, 2013. *See* CASD018574. According to Mr. Hawa, Reclamere's invoices were paid out of the IT Department's budget instead of the professional services or legal budget. It is not clear if the Board ever approved of these substantial payments to Reclamere, or from what budget the payments should be made.

Following our retention, we engaged our own computer forensic experts, Stout Risius Ross, Inc. ("SRR"), to, among other things, review and assess the collection efforts of Reclamere from September 29, 2013 through October 18, 2013. After reviewing documentation and speaking with representatives from Reclamere, SSR concluded that Reclamere's collection efforts were incomplete, unverifiable and far below industry standards. *See* CASD019075-76. According to SRR, the data and information that was forwarded to them by Reclamere contained: (1) missing documentation; (2) data collected in non-forensically verifiable form; and (3) potentially incomplete data. *See id.* According to SRR, Reclamere allegedly informed them that the "tight time schedules" they were given limited their ability to properly collect the data and that, when this issue was presented to Mr. Ellison, he instructed them to continue without regard to best practices or industry standards in order to complete their collection efforts. *See id.* As a result, SSR recommended that CASD recollect all data that Reclamere collected to ensure complete and verifiable copies of all data and information. *See id.*

Moreover, according to Mr. Hawa, Reclamere may have damaged or corrupted the school district's email system, causing archived emails to be deleted and lost. Therefore, SSR also recommended that it conduct an onsite review to verify the state of the damaged drives and assess if the data on them can be recovered. *See* CASD019075-76.

26. DA's Office Calls for Cooperation and Expands The Scope of Its Criminal Investigation Into the Solicitor

On Monday, October 21, 2013, after learning of Reclamere's clandestine overnight collection efforts at CASD (only one day after Ms. Zeigler's attempted interview of Dr. Powell), the DA's Office issued a press release calling for the Board and Mr. Ellison to cooperate with its criminal investigation. See R&S000958-59. Instead of cooperating, however, the DA's Office accused the Board and, in particular, Mr. Ellison of "attempting to obstruct, evade, and delay [its] criminal investigation." *Id.*

Specifically, the DA's Office accused the Board and Mr. Ellison of "refu[sing] to produce basic documents", "attempt[ing] to block CASD employees and representatives from providing information to the Commonwealth" and "tak[ing] steps to harass, intimidate, and bully the whistleblowers who initially reported wrongdoing." R&S000958-59. The DA's Office explained that the investigation already "includes the issues of obstruction of justice[.]" *Id.* Now, however, the investigation was being expanded to include an investigation into "whether CASD and Coatesville taxpayers were defrauded through the payment of improper legal fees and expenses. The Solicitor and his law firm have billed CASD millions of dollars of legal fees over the past few years." *Id.*

In concluding, the DA's Office stated that: "Because the Solicitor and his law firm now are being investigated for their own conduct, the Solicitor and his law firm have a legal conflict of interest, and may no longer represent CASD in this investigation." R&S000958-59. The DA's Office stated that "CASD must appoint independent counsel who can assist CASD and Coatesville taxpayers in uncovering any unlawful conduct that took place in the School District." *Id.*

That same day, on Monday, October 21, 2013, Mr. Ellison and Shelly Communications drafted their own response to the DA's Office's press release—which apparently was never publicly released—accusing the DA's Office of attempting to "politicize the situation" and issuing "sensationalistic news releases." R&S001135. CASD's draft press release claimed that the Board and Mr. Ellison were fully cooperating with the DA's Office's investigation. See *id.* The release stated: "We don't need the DA to try and tell us which lawyer or law firm to hire. We need him to focus on the facts and complete his investigation." *Id.* In concluding, the statement claimed that Mr. Ellison and his firm had saved CASD approximately \$4.7 million since 2008. See *id.* It does not appear that the entire Board was made aware of or approved this draft press release in response to the DA's Office.

It also is unclear where Mr. Ellison's alleged savings figure came from or how it was calculated. The only proof of this claim is a statement released by CASD that had been *drafted by Mr. Ellison* in response to complaints from the public about his high legal fees. See CASD014690-91. Indeed, on Tuesday, October 8, 2013, Mr. Ellison drafted a press release on his representation of CASD and shared it with only the Board President Neil Campbell and the Board Vice President Rick Ritter. See *id.* It does not appear that the statement was shared with the remainder of the Board or that they approved it. Mr. Ellison then emailed the statement to Dr. Romaniello, directing: "Cut and paste the release set forth below to a new document and forward it to [Mr. Hawa] to be placed on the district website." *Id.*

Mr. Ellison and Shelly Communications also drafted a statement for Mr. Ellison's firm to be issued in response to the DA's Office press release, but this statement was never issued either. R&S00986. That statement called the DA's Office's press release "baseless" and "urged the Chester County District Attorney to conduct the inquiry in a professional manner." *Id.* It is believed that Mr. Ellison's firm refused to approve the release of this statement.

Mr. Ellison apparently believed that the DA's Office's investigation and public statements were provoked by alleged "personal animus of [the] DA," because the District Attorney was formerly a partner at the law firm who represented Graystone Academy Charter School, which Mr. Ellison helped to shutter on behalf of CASD. *See* R&S000854-56. In this regard, Mr. Ellison had an attorney at his firm research the possibility of a petition to remove or transfer the DA's Office's criminal investigation to the Office of Attorney General. *See id.* Mr. Ellison also had an attorney at his firm research whether the disqualifying conflict of interest that the DA's Office alleged against Mr. Ellison could be waived through disclosure and consent of the Board. *See id.* It is believed that Mr. Ellison shared his "personal animus" beliefs with the Board regarding the DA's investigation.

27. Board Retains Outside Counsel For Matters Related to Text Messages

On or about Tuesday, October 22, 2013, the Board and Mr. Ellison followed the recommendation of the DA's Office and retained outside counsel to handle certain matters related to the text messages "going forward." R&S000420-21. Specifically, our firm was retained to conduct an internal investigation and to facilitate cooperation with the DA's criminal investigation. *See id.* Another attorney, Sharon Alexander, Esquire, was retained as "special labor counsel" to handle "[a]ll matters related to [the two whistleblowers]" and "inquiries as to whether Mr. Como took official personnel action which was in anyway racially motivated." *Id.*

According to Mr. Ellison, he "specifically advised that it is expected that each [law firm] will undertake their own independent analysis of the facts, circumstances and applicable law attendant to each matter in advising [] the school directors." R&S000420-21. Most important here, Mr. Ellison expressly stated that: "*Rhoads & Sinon LLP and I must be walled off and isolated from the District's further handling of these matters. Please do not share any information with me or my firm relating to these matters.*" *Id.* (emphasis in original and added).

The need for the employment-related retention of Ms. Alexander, who was recommended by Mr. Ellison, was logical and justifiable with regard to "inquiries as to whether Mr. Como took official personnel action which was in anyway racially motivated." R&S000420-21. On or about October 8, 2013, attorneys from Mr. Ellison's firm sent Ms. Zeigler a draft Affidavit for her to sign, which allegedly denied that Mr. Como had "manipulate[ed] the furlough process to cause the furloughs of employees (who would not have otherwise been furloughed but who ended up getting furloughed) because of the employees race, gender, national origin or other protected category under the law." R&S001086-94. According to Ms. Zeigler, she never completely read or signed the draft Affidavit, and she felt uncomfortable and pressured in the way it was presented to her by Mr. Ellison's firm. Therefore, it was appropriate to retain Ms. Alexander to investigate and report her findings back to the Board on this issue.

It is unclear and questionable, however, why “special labor counsel” would be necessary to investigate “[a]ll matters related to [the two whistleblowers.]” R&S000420-21. This is especially true, given the potential conflict of interest that Ms. Alexander has because she allegedly represented Dr. Taylor for purposes of her grand jury appearance on or about Thursday, October 17, 2013. *See* R&S000831.

Further, Ms. Alexander’s retention agreement states that she is being retained to “review, advise and prosecute employee termination action(s) as necessary[.]” CASD018580-83. According to Ms. Alexander, she was retained “to look into the actions of the texting scandal” from the “labor side.” Ms. Alexander stated that she is primarily “looking into policies.” Ms. Alexander has interviewed several administrators thus far as part of her employment investigation. However, she has not yet interviewed the whistleblowers, which she said she would not do until our investigation is completed.

According to Dr. Romaniello, Ms. Alexander was instructed to review the whistleblowers’ conduct, and particularly Dr. Powell, in order to justify their terminations. The obvious concern is that Ms. Alexander was retained to carry out and complete Mr. Ellison’s overt attempts since October 2013 to discipline and/or terminate the two whistleblowers.

28. Despite Recusing Himself, the Solicitor Continues to Interject Himself Into Texting-Related Matters

Despite informing the Board that he “must be walled off and isolated from the District’s further handling” of all matters referred to outside counsel related to the text messages, Mr. Ellison has continued to interject himself into texting-related issues. R&S000420-21. Indeed, it is our belief that Mr. Ellison has been, and continues to, advise the Board on these matters, with some of the more egregious examples being the following.

First, in January 2014, Mr. Ellison, unbeknownst to us, began conducting his own internal investigation into allegations of bullying and harassment made by an ESL teacher who was offensively referenced in the text message transcript as the “jew red haired esl teach[er.]” *See* R&S001111-16. This ESL teacher has been out on leave since the text messages were made public. The ESL teacher alleges that she was bullied, harassed and transferred by Dr. Romaniello because she allegedly rejected his romantic advances. According to individuals interviewed as part of Mr. Ellison’s investigation, the questions he has been asking are overwhelmingly focused on Dr. Powell and not Dr. Romaniello. Specifically, the individuals claim that Mr. Ellison has been repeatedly asking about instances of bullying or harassment involving Dr. Powell, even though many of the individuals never even worked with her. According to at least one individual, Mr. Ellison kept threatening her with “insubordination” when she refused to answer his questions and that he kept trying to goad her into saying negative things about Dr. Powell. This individual stated that it was obvious that Mr. Ellison was pursuing his own agenda. The individual also stated that she was concerned about how objective Mr. Ellison could be about Dr. Romaniello because she believes they are friends and not just business associates.

Second, when the DA’s Office requested that the Board and CASD waive any alleged privilege over Mr. Ellison’s legal bills for the limited purpose of their criminal investigation, it is

believed that Mr. Ellison actively lobbied the Board to not agree to such a waiver, even though it was in the best interest of CASD and even after Mr. Ellison arguably waived any privilege when he met with the DA's Office himself. *See* 10/3/13 Video Interview of J. Ellison by DA's Office. Similarly, when Dr. Romaniello was recently scheduled to meet with the DA's Office, it appears that Mr. Ellison again lobbied the Board to prevent Dr. Romaniello from disclosing any purportedly privileged information to help facilitate his cooperation with their investigation. Ultimately, the Board agreed to such a limited waiver, but it was only after several days of dispelling the Board of the misbelief, apparently entrenched by Mr. Ellison, that it was not in the best interest of CASD.

Third, in January 2014, Mr. Ellison met with Mr. Como's "close friend" and purported paramour, Rebecca Layfield, to discuss our investigation and specifically the type of questions we were asking. Ms. Layfield allegedly believed that some of the "personal" questions we were asking related to her and others were inappropriate and unjustified. Ms. Layfield also had been systematically approaching witnesses after we interviewed them to discuss the content of our interviews, and also had been allegedly approaching witnesses who met with the DA's Office about the questions they were asking. Nevertheless, after meeting with Ms. Layfield to listen to her complaints, Mr. Ellison arranged for Ms. Layfield to meet with the Board President Neil Campbell and the Board Vice President Jim Fox. Ms. Layfield stated that she went to Mr. Ellison first because she was comfortable with him. Mr. Ellison never referred or communicated Ms. Layfield's complaints about our investigation to anyone at our firm before referring her complaints directly to the Board.

Fourth, when our firm advised that each Board member should retain independent, individual counsel for purposes of meeting with the DA's Office, it appears that Mr. Ellison advised that Ms. Alexander should be appointed to represent all of the Board members. Based on Mr. Ellison's recommendation, Ms. Alexander was then hired as counsel for all of the Board members, without informing us or even other Board members, and despite the fact that she already had been retained by the Board as "special labor counsel" to investigate employment-related issues involving the text messages. *See* R&S000420-21. According to the DA's Office, Ms. Alexander has been advising Board members in meetings with the DA's Office not to answer questions about Mr. Ellison or issues related to the alleged "cover up" of the text messages—topics about which Mr. Ellison already had discussed with the DA's Office in a detailed, videotaped interview session. *See* 10/3/13 Video Interview of J. Ellison by DA's Office.

Fifth, and finally, part of our initial retention by the Board was to review and respond to "[a]ll pending and future Right to Know requests which are in any way related to the District Attorney's investigation." R&S000420-21. In March 2014, CASD received a Right to Know request for documents related to the approval of raises for Mr. Como's son, Matt Como. In responding to this request, Ms. Zeigler inadvertently sent the potentially responsive materials to Mr. Ellison for review, who then confronted the Open Records Officer as to why his firm was not handling this and other Right to Know requests as they were submitted. According to Mr. Ellison, he should be handling any Right to Know requests not specifically related to the subject matter of the DA's Office investigation. Clearly and indisputably, however, the approval of raises for Mr. Como's son, i.e., allegations of nepotism, is related to the subject matter of the DA's Office's investigation.

V. INVESTIGATIVE CONCLUSIONS

In light of the foregoing factual findings, we make the following investigative conclusions.

A. THERE WAS A CONCERTED EFFORT BY THE SOLICITOR AND THE BOARD TO INITIALLY CONCEAL THE TEXT MESSAGES FROM PUBLIC DISCLOSURE

From the time the text messages were first brought to the attention of the Solicitor, James Ellison, Esquire, and former Board member Dr. Tonya Taylor, on or about Saturday, August 17, 2013, until the time they were finally publicly disclosed by the Daily Local News approximately one month later, on or about Friday, September 20, 2013, there appears to have been a concerted effort to conceal the text messages from public disclosure. This effort was primarily driven by the legitimate fear amongst Mr. Ellison and the Board that, if the text messages were made public, it would “devastate the district.”

Given the distastefulness and offensiveness of the text messages, there appears to have been a consensus amongst the Board that the then-Superintendent, Richard Como, needed to go. However, there appears to have been disagreement amongst the Board about how that should be accomplished. The plan of Mr. Ellison and the Board Finance Committee, comprised at the time of Dr. Taylor, Board President Neil Campbell, Board Vice President Rick Ritter and Board member Joe Dunn, appears to have been to let Mr. Como stay on as Superintendent until the end of the year and then have him retire, without the text messages being made public. The belief was that Dr. Romaniello would transition into the Superintendent position at the end of the year and Mr. Como would “ride off into the sunset.”

It also appears that Mr. Ellison and the Board Finance Committee then hatched a plan to accomplish this without informing the rest of the Board and, most importantly, without having the existence of the messages being publicly disclosed. Part of this plan apparently was to offer Dr. Powell—one of the individuals who uncovered the text messages—a new position of Special Assistant to the Superintendent (who would still be Mr. Como). It wasn’t until Dr. Powell wrote an anonymous letter to the entire Board disclosing the text messages that the rest of the Board was made aware of their existence.

Once the full Board was made aware of the text messages, it was no longer an option for Mr. Como to stay on as Superintendent for the remainder of the year. Therefore, the full Board decided to allow Mr. Como to retire in lieu of being terminated. Mr. Como was given a sweetheart deal to retire, receiving a severance payment in excess of \$102,000.00. Most importantly, though, Mr. Como was permitted to retire without the embarrassment or public backlash of the text messages being publicly released. Indeed, none of Mr. Como’s retirement documents—from his retirement letter to his severance agreement to the press release issued by CASD announcing his retirement—referenced or even mentioned the offensive text messages as being the basis for his retirement. Notably, all of these documents were apparently drafted by Mr. Ellison. Clearly, the intention was to create the appearance that Mr. Como was voluntarily retiring without the existence of the offensive text messages being documented or made public.

In the days following the announcement of Mr. Como's retirement, Mr. Ellison and the Board closely monitored the media to see if the existence of the text messages would be publicly disclosed. Obviously, their hope was that the text messages would not be disclosed and Dr. Angelo Romaniello would seamlessly transition into his new role as Acting Superintendent. That hope, however, quickly faded when commenters to the media stories about Mr. Como's retirement started commenting about the existence of allegedly racist, sexist and bigoted text messages between Mr. Como and the Athletic Director, James Donato. These comments then snowballed into formal media inquires and Right to Know requests about the text messages.

In response to the Right to Know requests, attorneys at Mr. Ellison's firm were tasked with researching reasons why the text messages should remain private and not be publicly disclosed. Indeed, in an email to one of those attorneys on Friday, September 6, 2013, Mr. Ellison states: "*The board does NOT want to turn over the [text message] transcript. Let[']s find an exception [to disclosure].* They understand that it'll end up in litigation and we could ultimately lose somewhere down the line, but they prefer that option to releasing the info." R&S001637 (emphasis added).

In response to the increasing media scrutiny, the Board was finally forced to issue a public statement about Mr. Como's retirement, which it did on Tuesday, September 10, 2013. That statement, however, which was drafted by Mr. Ellison, again mentioned nothing about the text messages, and instead hid behind hollow claims of confidentiality and privilege.

A little more than a week later, on or about, Wednesday, September 18, 2013, Dr. Powell and Mr. Hawa met with a reporter from the Daily Local News and provided him with a copy of the entire text message transcript. The pair stated that they did so because they truly believed that the Board was trying to hide the text messages from public disclosure and that the public had the right to know about them. Mr. Ellison, however, apparently believed that Dr. Powell had a financial incentive and allegedly "*leaked [the text messages] to newspaper after [a] raise[] refused.*" R&S000833-34 (emphasis added). Two days later, the Daily Local News published an article about the text messages, and Mr. Ellison and the Board were left frantically trying to address the text messages now that they had been made public against their wishes.

B. THE SOLICITOR AND THE BOARD MISSED THE OPPORTUNITY TO INVESTIGATE AND UNCOVER THE ALLEGED THEFT OF SCHOOL FUNDS

Nobody disputes the despicable, disgraceful and reprehensible content of many of the text messages exchanged between Mr. Como and Mr. Donato. However, it appears that, in reviewing the text messages, Mr. Ellison and the Board missed a golden opportunity to closely examine the content of the text messages and realize that the messages themselves referenced illicit and potentially illegal activities, including what appear to be tacit admissions by Mr. Como and Mr. Donato that they were skimming and stealing CASD funds.

Indeed, the text message transcript specifically references an alleged "TAX OFFICE of ComoNato", through which money for the school would have to allegedly "pass". See R&S001111-16; 002347-2419; 018517-73. Similarly, the messages also specifically reference allegations of skimming and kickbacks by coaches and administrators at football camps. See *id.* Yet, it does not appear that Mr. Ellison or the Board wanted to, or even cared to, look past the

racist, sexist and bigoted text messages to the actual content of the messages and the overt skimming allegations referenced therein. Rather, it appears that Mr. Ellison and the Board, like the media, were fixated on the racist, sexist and bigoted text messages. Understandably, it appears that Mr. Ellison and the Board viewed the text messages as a public relations nightmare and were more concerned about the “devastation” that the racist, sexist and bigoted text messages would allegedly bring to the District.

For this reason, it appears that Mr. Ellison and the Board were more content with preventing the text messages from becoming public, and allowing Mr. Como to simply resign and walk away, than taking a harder look at the content of the messages beyond their offensive nature. In doing so, however, Mr. Ellison and the Board missed an opportunity to investigate and root out the potential theft of school funds that Mr. Como and Mr. Donato apparently boastfully referred to in the text message transcript.

**C. THE SOLICITOR TARGETED AND HARASSED THE WHISTLEBLOWERS WHO
PUBLICLY DISCLOSED THE TEXT MESSAGES**

Following the discovery of the offensive text messages and the allegations of skimming in the Athletic Department, Mr. Ellison began his own, non-criminal internal investigation. Although the initial reasons for this investigation were legitimate, at some point, the investigation transformed and morphed into an investigation not about the actions and conduct of the two texters—Mr. Como and Mr. Donato—but into an investigation about the conduct and actions of the two whistleblowers—Dr. Powell and Mr. Hawa. Indeed, by October 2013, it appears that Mr. Ellison’s primary objective was to discipline and, if possible, terminate the two whistleblowers.

Beginning literally the day after Dr. Powell and Mr. Hawa publicly disclosed themselves as the whistleblowers to the Board, Mr. Ellison directed that Dr. Romaniello, Ms. Zeigler and others in the Benner Administration Building begin taking detailed notes and “papering the record” of instances when Dr. Powell or Mr. Hawa were disruptive in the workplace or deviated from school policies or procedures. It appears that Mr. Ellison believed that, instead of performing their employment duties and moving CASD forward from the text messages, the two whistleblowers allegedly were negating their duties and causing further disruption to the point that “*now they are cancers.*” R&S000833-34 (emphasis added). The root cause of this appears to have been anger and betrayal that Dr. Powell and Mr. Hawa publicly aired the School District’s dirty laundry, when the matter could have been (and apparently was being) handled in-house by Mr. Ellison and the Board.

Moreover, the concern of Dr. Powell and Mr. Hawa being considered whistleblowers did not deter Mr. Ellison from apparently wanting to discipline or terminate Dr. Powell and Mr. Hawa. Indeed, Mr. Ellison had attorneys at his firm specifically research how and when an employer can discipline and/or terminate a whistleblower without violating Pennsylvania’s Whistleblower Law or First Amendment free speech protections. *See* R&S000363-67; 001880-87. Likewise, when an unplugged, unconnected video surveillance camera was found “hidden” in a football helmet in Mr. Hawa’s office, Mr. Ellison directed an attorney from his firm to research whether Mr. Hawa’s “hidden” camera could be a violation of Pennsylvania’s Wiretapping Act. *See* R&S000026-29; 000814-15. Mr. Ellison was so adamant about

disciplining or terminating Dr. Powell that he even had an attorney at this firm specifically research: *“How should the District structure the discipline and/or termination of Dr. Powell for the various violations of policy she has committed in the past few weeks?”* R&S001826-33; 001836 (emphasis added). And it apparently did not matter to Mr. Ellison that Dr. Powell admittedly had no prior issues of discipline in her personnel file.

In order to accomplish this purported goal of having the whistleblowers disciplined or terminated, Mr. Ellison apparently deployed several pawns and henchmen to “do his dirty work” and gather the information and evidence that he needed to justify the whistleblowers’ discipline and/or termination, and also to subtly harass and intimidate the whistleblowers into being less disruptive and more compliant. Mr. Ellison was very shrewd and careful to distance himself from any questionable actions or perceived harassment, instead using his pawns and henchmen to face the brunt of any potential backlash.

The first of these pawns was Reclamere, which Mr. Ellison apparently retained to closely monitor and track the computer activities of Mr. Hawa because Mr. Ellison believed that Mr. Hawa was “leaking” allegedly “confidential” school district documents and information to the media. Mr. Ellison also apparently believed that Mr. Hawa was monitoring his and other administrators’ and Board members’ emails, monitoring their movements on video surveillance and even possibly listening to their conversations with audio devices. Of the four hard drives initially imaged by Reclamere, two of the hard drives belonged to Mr. Hawa and the other two were subordinates of him. *See* R&S001454-57. Even more telling, Mr. Ellison had Reclamere install a spyware software program called ObserveIT on Mr. Hawa’s computer and several of his subordinates in order to monitor, capture and record their user actions. Lastly, Mr. Ellison had Reclamere perform a clandestine, overnight imaging of all of the administrators’ hard drives, including Dr. Powell, as well as perform a sweep of the Benner Administration Building for hidden cameras or listening devices purportedly placed in the building by Mr. Hawa. To perform this operation, Mr. Ellison even requested that the video surveillance cameras be disabled because Mr. Ellison believed that Mr. Hawa was viewing the camera footage remotely from his house. Following this collection effort, Mr. Ellison provided Reclamere with five email accounts to search, three of which belonged to Dr. Powell and Mr. Hawa and the other two of which were allegedly friends of Dr. Powell. No other email accounts were provided to be searched.

When Reclamere needed the network passwords to access the servers at the school district to, among other things, install the spyware ObserveIT on the servers, Mr. Ellison deployed his second pawn and henchman, Dr. Romaniello, who Mr. Ellison was able to easily control and direct. Mr. Ellison directed Dr. Romaniello to obtain the network passwords from the IT Department and Mr. Hawa, and told him to threaten the employees with discipline for “insubordination” if they refused to comply. Similarly, when an “issue” apparently arose about whether emails were being deleted every sixty days from the active server, Mr. Ellison directed Dr. Romaniello to harass and threaten Mr. Hawa and the IT Department about ceasing this activity, even though the emails were still allegedly being saved and preserved on the backup server. When Reclamere was imaging the servers at the school district, Mr. Ellison directed Dr. Romaniello to change the lock on the server room door so that Mr. Hawa and the IT Department could not gain access. Lastly, when Dr. Powell and Mr. Hawa received grand jury subpoenas,

Mr. Ellison directed Dr. Romaniello to make sure that Dr. Powell and Mr. Hawa did not turn over any potentially privileged documents or information to the DA's Office.

After researching and realizing that they needed more of a record in order to justify disciplining or terminating Dr. Powell, Mr. Ellison then deployed his third pawn, Ms. Zeigler, to attempt to interview Dr. Powell without her attorney being present. Not coincidentally, this interview was scheduled one day after Dr. Powell had been scheduled to testify before the grand jury and two days after an attorney at Mr. Ellison's firm drafted a memorandum titled: "How should the District structure the discipline and/or termination of Dr. Powell for the various violations of policy she has committed in the past few weeks?" R&S001826-33; 001836. Mr. Ellison met with and prepped Ms. Zeigler in anticipation of this interview and even provided her with a script, which claimed that, "under Pennsylvania law," Dr. Powell was "not entitled to speak to anyone" before being interviewed, including her attorney. See R&S000828. Not surprisingly, Dr. Powell refused to be interviewed by Ms. Zeigler and contacted the DA's Office about the questionable timing of the interview.

When confronted with this targeting and perceived harassment of the whistleblowers, Mr. Ellison always had alleged excuses and justifications for his actions and conduct, including claims that he was conducting an internal investigation and that he was protecting against the public disclosure of privileged information. These excuses, however, are disingenuous, as Mr. Ellison's investigation was constantly evolving into whatever he wanted it to be at the time and his claims of privilege were often unfounded and subject to waiver. Indeed, Mr. Ellison arguably waived any privilege issues for CASD when he voluntarily met with the DA's Office in an attempt to exonerate himself from any alleged wrongdoing. See 10/3/13 Video Interview of J. Ellison by DA's Office.

The most commonly used excuse by Mr. Ellison was that the whistleblowers had put CASD on notice that they retained counsel and that they were contemplating litigation against the School District. Therefore, the retention of Reclamere and its collection efforts was necessary for purposes of implementing a "litigation hold."

There is no evidence, however, that the whistleblowers threatened legal action against CASD upon disclosing the text messages, nor did counsel for the whistleblowers contact CASD threatening such legal action. Further, no "litigation hold" was ever issued with regard to Dr. Powell and Mr. Hawa. Rather, the only "litigation hold" in existence at the time Reclamere was retained related to Mr. Como and Mr. Donato (not the whistleblowers). See R&S000193-95. This "litigation hold" was only ever circulated to Dr. Romaniello and Mr. Hawa, and no other administrators, staff or employees at CASD with potentially responsive information (as a normal "litigation hold" should be). No new, updated or revised "litigation hold" letter was ever circulated by Mr. Ellison related to Dr. Powell or Mr. Hawa (as should have been done if they were truly threatening litigation against CASD).

Tellingly, Dr. Powell's computer was not imaged until more than a month and a half after Mr. Ellison's purported "litigation hold" letter was sent to Dr. Romaniello. If, as Mr. Ellison repeatedly claims, Dr. Powell had retained an attorney and was contemplating legal action against the school district, Dr. Powell's computer should have been one of the first hard drives imaged, not one of the last.

**D. MR. COMO MISUSED AND ABUSED HIS POWER AS SUPERINTENDENT TO
BENEFIT HIS AND THE BOARD'S FRIENDS AND FAMILY**

While Superintendent, Mr. Como regularly and systematically misused and abused his power and authority to benefit his friends and family, as well as the friends and family of the Board.

Beyond the blatant nepotism of hiring his own son for a custodial supervisor position (even though he had no custodial experience), Mr. Como routinely rewarded friends of his, friends of his sons and former athletes with jobs at CASD, often times in non-professional staff positions such as custodians or one-on-one aides, and despite the fact that prior criminal records may have prevented them from working for the School District. Some of the more questionable hires included, but were not limited to, Dominic Brown, Victor Ford, Glen Hines, Jerod Hines, Quincy Teel, Lawrence Austin and John Allen. In John Allen's case, Mr. Como made up the position of ESL Community Liaison for him, even though Mr. Allen could not even speak a second language. The common theme amongst these questionable hires is that most, if not all, were former star athletes at CASD during Mr. Como's tenure.

Similarly, Mr. Como often used his position to protect his friends and family once they were employed at CASD, and particularly those athletic coaches and physical education teachers in the Athletic Department that could, and often were, subject to furloughs or layoffs. According to several individuals we interviewed, including the former Business Manager at CASD, Mr. Como protected his friends, family and especially coaches when it came time to decide furloughs and layoffs.

Mr. Como also used his position to provide his friends and family with perks, the most blatant of which were CASD-funded cellular phones and iPads. As of October 2013, CASD was paying for more than 100 phone lines and data plans for CASD employees, at a cost of more than \$6,000.00 per month. *See* CASD003847-56. During his tenure, Mr. Como personally chose who received CASD-funded cellular phones and iPads, which led to numerous individuals who probably should not have CASD-funded cellular phones and iPads being provided with them. For instance, coaches, custodians and even teachers' aides were provided CASD-funded cell phones, simply because they were friendly with Mr. Como. As one witness stated, "The list kept growing." And Mr. Como distributed iPads to his friends, including Mr. Donato, which were supposed to be used by the ESL Department and were allegedly paid for with Title III funds.

Along the same lines, Mr. Como also used his position to obtain the newest athletic clothing and gear for him and his sons. For instance, if the football team was ordering shirts, warm-ups or shoes, it was expected that Mr. Como and his sons would be provided with those same new items on CASD's dime. In one extreme case of favoritism, Mr. Como had one of his football coaches paid his coaching stipend in advance of the football season (nearly three months early) because the coach was having financial difficulties at the time. And last summer, Mr. Como allegedly approved raises, without the Board's approval, for certain administrators and staff in his "inner circle." In this way, Mr. Como was able to create a virtual army of loyalists who were beholden to Mr. Como because he provided them with employment, protection and special perks.

In addition to his own friends and family, Mr. Como used his position as Superintendent to routinely hire friends and family of Board members, and even former Board members themselves, as a means of currying favor. For instance, Mr. Como hired family and friends of current and former Board members Dr. Tonya Taylor, Paul Johnson, Rick Ritter, Laurie Knecht and William Sweigert. Past Board members who were hired after leaving the Board include Donna Urban and Bob Knecht. Mr. Como would find, or even create, positions for these friends, family and former Board members, even if the departments where they were being assigned did not need any additional help. As Mr. Como stated to Dr. Taylor in an email regarding the hiring of her nephew: *"When we can't help each other['s] family out we don't deserve to be in this arena."* CASD023526 (emphasis added).

In addition, some Board members, such as Dr. Taylor, were provided with other perks by Mr. Como to curry favor. For instance, Mr. Como allegedly permitted Dr. Taylor to use CASD facilities for non-sanctioned CASD events, without having to pay the standard fees associated with renting the facilities.

In order to carry out his questionable hiring practices, Mr. Como employed four strategies, all of which proved successful during his tenure.

First, he typically hired friends and family of his and the Board during the summer months, when the Board does not meet. This way, the Board would simply "rubber stamp" all of his questionable hires as a group when they returned after the summer break, without taking a closer look at each individual hire. In a few instances, Mr. Como simply hired individuals unilaterally, like Adrienne Shaw and Talaer Taylor, without obtaining Board approval. In Talaer Taylor's case, Dr. Taylor specifically requested that it *"remain confidential."* CASD023527 (emphasis added).

Second, Mr. Como hand-picked someone he could easily control and manipulate to be his Director of Human Resources, Ms. Zeigler. Following Ms. Zeigler's hiring as Director of Human Resources, Mr. Como centralized the hiring process through Human Resources and excluded building principals and assistant principals. This way, Mr. Como had the ultimate authority and final say on hiring and firing at CASD. Indeed, as Ms. Zeigler acknowledged herself, applications often would go directly to Mr. Como and not her, and often Mr. Como would hand her files of individuals that he hired without even informing her. To ensure that other supervisors hired the individuals he wanted hired, Mr. Como even kept a manila folder file in the Human Resources Office filled with his preferred hires' resumes and applications. Supervisors were then instructed to look at the applicants in that file before considering any others.

Third, Mr. Como directed, demanded and bullied supervisors into hiring certain individuals, even against their wishes. Several supervisors we interviewed told of stories of Mr. Como handing them an application and directing that the individual be hired, regardless of the applicant's background or qualifications. The supervisors stated that they simply followed Mr. Como's directive because they feared retribution or being fired if they failed to comply.

Fourth, and finally, Mr. Como had Mr. Ellison provide legal justification for his questionable hires, particularly those individuals with prior criminal records. Mr. Como had Mr. Ellison review employee files (often after they were already hired) and, with regard to employees with criminal histories, provide opinion letters justifying their retention, even if their retention would be illegal under a strict reading of the law. This way, Mr. Como could raise an advice of counsel defense if ever questioned down the road.

E. MR. COMO INTENTIONALLY SURROUNDED HIMSELF WITH YOUNG, INEXPERIENCED AND IMPRESSIONABLE ADMINISTRATORS THAT HE COULD EASILY MANIPULATE AND CONTROL

Mr. Como's tyrannical reign as Superintendent was not an accident or happenstance. Rather, his ability to rule CASD as a dictator where employees and staff feared him and would not question his actions or authority was the direct result of Mr. Como's conscious effort to surround himself with young, inexperienced and impressionable people that he could easily manipulate and control. Many of these individuals also tended to have personal, mental or addiction issues and problems, arguably making them even more amenable to manipulation or control.

Consistent with his football coach mentality, Mr. Como generally tended to surround himself with white males, which raises obvious concerns of racism and sexism. This concern also is borne out by the fact that only 10% of the professional staff at CASD are minorities, while the minority population of the school district is nearly 50%.

Also consistent with his football coach mentality, Mr. Como tended to surround himself with young, unproven and inexperienced people that he would promote into leadership roles with the hope and expectation that they would succeed under his mentorship. This was the case with the majority of Mr. Como's administrators, nearly all of whom he hand-picked and promoted to positions that, many people believed, they were either too young or inexperienced to handle or were not qualified to fill. Most of these individuals would then be grateful and, therefore, blindly loyal to Mr. Como for giving them such an opportunity at such a young age despite their lack of experience or qualification. And Mr. Como would often try to befriend these individuals by acting not only as their mentor, but as their friend. As such, Mr. Como would invite his administrative staff and their families each year to the shore house he rented annually in Ocean City, New Jersey.

The most obvious example of a young, inexperienced and impressionable administrator that Mr. Como surrounded himself with that he was able to manipulate and control was Ms. Zeigler. Ms. Zeigler was a former physical education teacher who then obtained her principal certificate. Ms. Zeigler had no human resources experience and no background in human resources matters. Yet, in 2007, Mr. Como moved Ms. Zeigler from her assistant principal position to the Director of Human Resources, primarily because he was comfortable with her and had worked with her when he was a principal at the high school. Ms. Zeigler was hand-picked by Mr. Como and, according to individuals we interviewed, he even bragged to others about hand-picking her for the position. Ms. Zeigler clearly was not qualified for the position, but Mr. Como knew that he could control her and direct her to hire and fire whoever he wanted. And Ms. Zeigler did exactly that, often succumbing to demands from Mr. Como that individuals be

hired, even if Ms. Zeigler did not agree that they should be hired. According to Ms. Zeigler, she followed Mr. Como's demands, even if she disagreed with them, because she feared she would be fired if she did not.

Another example is the Assistant Superintendent, Dr. Romaniello. According to numerous individuals we interviewed, Dr. Romaniello did not have the requisite experience or qualifications to be promoted to Assistant Superintendent. Again, he was allegedly hand-picked by Mr. Como, primarily because he was comfortable with him and worked with him in the past. Most importantly, though, Mr. Como knew that he could control him and direct him to do whatever he wanted. Indeed, several individuals we interviewed referred to Dr. Romaniello as "Como's puppet." Dr. Romaniello was blindly loyal to Mr. Como, even though Mr. Como would often publicly chastise and embarrass him in front of other administrators.

Because many of these individuals lacked the requisite experience and qualification for their administrative positions, Mr. Como was forced to rely even more on the Solicitor to provide him with advice on basic day-to-day issues than would be expected if an experienced, qualified person had filled that position. Indeed, because of Ms. Zeigler's lack of human resources experience, Mr. Ellison was routinely contacted to give advice and intervene in even the most minor and trivial human resources matters. Thus, although Mr. Como's practice of surrounding himself with young, inexperienced and impressionable administrators may have helped him in the short term maintain his dictatorship over the school district, it ended up costing the district more money in the long run in additional legal fees and costs to compensate for their deficiencies and lack of hands-on experience.

F. MR. COMO VIEWED THE SCHOOL DISTRICT'S MONEY AS HIS OWN MONEY

Beyond the allegations of Mr. Como skimming cash for his own personal benefit from fundraisers and concessions (and through the "TAX OFFICE of ComoNato"), it appears that Mr. Como also viewed the school district's money as his own money, which he could use and, more importantly, move around and redirect however he see fit in order to buy influence or the admiration of others. The majority of this redirection of school money was allegedly done in some way to benefit the Athletic Department. For instance, according to the IT Department, a video camera was purchased to videotape football games, and the cost of the video camera was deducted from the IT Department's budget. Similarly, it has been alleged that the football coaches attended a conference and the cost of their travel and attendance was deducted from the high school education budget.

Perhaps the most egregious example of Mr. Como using and redirecting money to benefit the Athletic Department was the purchase of the football championships ring from Jostens. Mr. Como was allegedly the driving force and the biggest proponent for purchasing the rings and for having CASD pay for them. In order to help fund the rings, Mr. Como arranged for the Student Council to host a t-shirt fundraiser. This t-shirt fundraiser, however, was not advertised as a fundraiser to help purchase championship rings for the football team, but rather as a normal Student Council fundraiser to show support for the football team. Moreover, the fundraiser fell well short (more than \$15,000.00) of the cost of the championship rings.

In order to obtain a lower price for the rings, Mr. Como even negotiated a “back room” deal with the Jostens representative to send him more graduation-related business in the future, despite the fact that the graduation needs were already under contract to be provided by another vendor. This “back room” deal saved the school district nearly \$13,000.00 on the cost of rings; however, it put the school district in the precarious position of having two vendors now under contract to perform the same services.

Mr. Como also negotiated a three payment plan with Jostens to pay for the rings. The first payment was made with the t-shirt fundraiser money. Mr. Como, however, then had to get creative in order to make the second payment, which he did. Mr. Como started redirecting CASD money to a special agency account that he had created for purposes of paying for the rings. This redirected money came from cash from summer school, a transfer from the Student Council account and a transfer of money from the high school’s budget. Mr. Como allegedly told the Student Council advisor that the transferred money would be repaid (which it was in part), but she was not told from where. The Director of Secondary Education was never made aware of the transfer of money from his budget. And obviously the students and parents had no idea that their summer school money was being used to pay for football championship rings.

If Mr. Como had not resigned in lieu of termination, it is safe to assume that Mr. Como would have redirected enough money in order to ensure that the third ring payment was made with CASD funds. That payment has not yet been made and we suggest that the adults who received rings contribute to make this final outstanding payment.

G. CASD LACKED SUFFICIENT INTERNAL FINANCIAL CONTROLS TO PREVENT THE MISUSE, MISAPPROPRIATION AND THEFT OF SCHOOL FUNDS BY SCHOOL ADMINISTRATORS

As set forth in this report, CASD funds were misused, misappropriated and stolen by school administrators during the tenure of Mr. Como and Mr. Donato. The reason this was allowed to occur and continue for several years was twofold. First, administrators, staff and employees at CASD were fearful to report any suspicious activities or transactions involving Mr. Como or his close ally, Mr. Donato, for fear of retaliation. Second, and more important here, CASD lacked sufficient internal financial controls, particularly related to cash and the handling and depositing of cash, to adequately prevent the misuse, misappropriation and theft.

Under Mr. Como, the only known financial control related to the collection and depositing of cash was a policy that he implemented in November 2007, which required that any cash in excess of \$100.00 had to be couriered to the Benner Administration Building to be counted and deposited. *See* CASD014783. Instead of being a deterrent, however, this policy appears to have been an enabler and a catalyst for the skimming of cash. For instance, Mr. Como cited and relied on this policy for why large cash collections for Student Council fundraisers had to be collected, placed in an envelope uncounted and be ready in a moment’s notice for him to drive and pick up.

Typically, under Mr. Como’s policy, the cash collected would be delivered directly to Mr. Como. By the time it made its way to the Business Office for depositing, the money often would have been counted and organized already. Individuals in the Business Office stated that

they often wondered how the money given to them would be cash in such high denominations, e.g., \$20s, \$50s, and \$100s, if the fundraisers involved selling things for only a few dollars such as t-shirts. These same individuals stated that they often noticed that some of the sticky notes on the pre-counted bill would have numbers crossed out and changed—e.g., the note would say 55 \$20s and the 55 would be crossed out and replaced with a 50.

According to the former Business Manager, she tried to do away with Mr. Como's unusual and suspect policy and drafted her own cash control policy. Mr. Como, however, terminated her before she could finish drafting such a legitimate policy. She believes that her complaints about Como's failure to implement a legitimate cash control policy played a role in her termination.

With regard to the Athletic Department, no known financial controls existed for the collection, counting and depositing of cash receipts from athletic events. Indeed, Mr. Donato clearly used this lack of any financial controls whatsoever to his advantage. Mr. Donato was the only person who counted athletic event money and he was the only person who deposited the money after he counted it. He would deposit the money weeks or even months after the events happened and he would routinely intermingle money from events so that it was difficult to distinguish what money was from which event. He would then inform the Business Office of the deposit he made after-the-fact, without any explanation of what the money was for or from which event the money came. Incredibly, nobody from the Business Office or any other department ever double checked, reviewed or audited his collections or deposits.

Furthermore, Mr. Donato encouraged gate workers to not keep thorough records, and his own records were shoddy at best. He would not count the money in front of the gate workers, and he would often not stay until the end of the game before leaving with the money. Many of his records contain cross-outs and obvious erasures of amounts counted. And, in at least one instance, it appears that Mr. Donato reported four ticket sellers but only reported receipts for three gates.

Similar to the athletic events themselves, there are no known financial controls for the collection, counting and depositing of cash receipts from concession stands either. Again, Mr. Donato clearly used this lack of any financial controls whatsoever to his advantage, as concession stand workers often witnessed Mr. Donato remove larger bills from the cash register at regular intervals throughout the night and place the cash in his pocket. Sometimes Mr. Donato would remove the cash so frequently that the concession stand workers were unable to make change during the night. Again, only Mr. Donato counted the money at the end of the night, and only Mr. Donato was responsible for making sure the cash from the concession stand was deposited.

Finally, there are no known financial controls related to the rental of school facilities. The general school policy for facilities use provides the procedures to be followed in renting a school facility. Mr. Donato, however, often ignored any of these procedures and simply rented out facilities for cash or a cut on the portion of cash collected at the door for the event. Further, school employees were often paid for working these non-sanctioned CASD events with school funds, primarily because there are little, if any, financial controls related to employee duty pays. Indeed, Mr. Donato simply emailed the number of extra duty pays an employee should receive to

payroll and the payment was made, without any verification of what event was worked or whether the event was even a school-sanctioned event.

H. CASD IS OVERLY RELIANT AND DEPENDANT ON THE ADVICE AND COUNSEL OF MR. ELLISON

The primary reason for why Mr. Ellison's legal bills have been so high, and arguably excessive, is that CASD is overly reliant and dependant on his advice and counsel. Instead of Mr. Ellison being the last call in the progression of handling a matter, Mr. Ellison typically has been the first call made by the Board, the Superintendent and other administrators at CASD. The Solicitor should be the last resort, not the first.

As stated previously, Mr. Como hired unqualified and inexperienced administrators, like Ms. Zeigler and Dr. Romaniello, who required more direction and advice than more qualified and experienced administrators would have required. Therefore, Mr. Ellison was often called upon, and continues to be called upon, to advise on basic personnel and administrative issues that can, and should be, easily handled in-house without the need for counsel to intervene. As discussed in more detail below, this very issue was raised eight years ago in the Ballard Report, which specifically noted that "legal costs have reached record heights, because of lax controls over how the current solicitor is used and the administration's failure to properly manage the Districts affairs." CASD020916-72. As the Ballard Report concluded, the Solicitor was used, and continues to be used, as "adjunct administrative staff." *See id.*

Moreover, Mr. Como and the Board have been known to run nearly every issue by Mr. Ellison, even if the issue is not necessarily a legal one. This is particularly true with regard to public relations issues, which, as a general matter, do not need to be run by legal counsel. The text message issue is a prime example of this. Mr. Ellison's role in the text message scandal was more of a public relations role in trying to prevent the racist, sexist and bigoted text messages from being made public. In performing this role, however, Mr. Ellison glossed over the actual legal issues implicated by the text messages, e.g., the misuse, misappropriation and theft of school funds, which should have been investigated by him from the start as counsel for the school district. Instead, Mr. Ellison was writing press releases and being the face of the school district instead of performing his legal obligations as Solicitor. Mr. Ellison should not be performing, or, more importantly, billing for these public relations functions.

It also appears that the reason why the Board and Mr. Como often called upon Mr. Ellison for legal advice was that he told them what they wanted to hear as opposed to what they needed to hear. Attorneys often need to inform their clients of difficult issues and concerns that they do not want to hear and, as a result, the attorney may risk being fired by his or her client. Mr. Ellison, on the other hand, appears to have been so invested in maintaining his solicitorship with CASD that he often told the Board and school district administrators what they wanted to hear in order to continue in his position as Solicitor. In this way, Mr. Ellison has been able to survive as Solicitor despite repeated public outrage and comments from the DA's Office calling for his ouster.

Finally, certain Board members, who initially claimed to welcome our investigation, have for reasons unknown begun to privately and publicly disparage our efforts as too expensive and

unnecessary. While we commend the Board for questioning the cost and necessity of our legal services—that is their job—we note from these certain Board members a singular lack of concern about such matters a mere nine months ago, during a time period in which Mr. Ellison’s firm billed CASD *nearly \$557,000 in a 3-month period alone*. Perhaps if those same Board members had sounded the alarm in August, September and October of 2013, CASD would not have paid its Solicitor hundreds of thousands of dollars to, among other things, engage in a reckless effort to squelch the text message scandal and embark on a harassment campaign that laid the foundation for the ongoing criminal investigation.

I. THE ACTS AND OMISSIONS OF MR. COMO, MR. DONATO AND MR. ELLISON COULD BE CONSTRUED AS VIOLATIVE OF SEVERAL CRIMINAL LAWS

We believe that the DA’s Office is investigating allegations of criminal conduct related to three primary targets—Mr. Como, Mr. Donato and Mr. Ellison. The following are potential Pennsylvania criminal statutes under which all three of these identified targets could potentially be investigated, and, if the facts warrant, charged.

1. Public Official and Employee Ethics Act

The Pennsylvania Public Official and Employee Ethics Act (“Ethics Act”) makes certain conflicts of interest criminal violations. The Ethics Act provides that “[n]o public official or public employee shall engage in conduct that constitutes a conflict of interest.” 65 Pa.C.S. § 1103(a). A “conflict of interest” is defined by the Ethics Act as: “*Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated.*” 65 Pa.C.S. § 1102 (emphasis added). As administrators, Mr. Como, Mr. Donato would be subject to the Ethics Act, as would Mr. Ellison as CASD’s Solicitor.

Here, it appears clear that Mr. Como violated the Ethics Act. Mr. Como arguably used his authority as Superintendent for the private pecuniary benefit of himself and his son, Matt Como. Beyond the allegations of skimming from CASD funds, Mr. Como arguably used his authority to have the school district buy a generator from him that had been custom built for his own home but he could not use because it was too small. Likewise, Mr. Como allegedly had employees from CASD perform work at his home, often during work hours. Most egregious of all, Mr. Como hired his son for a custodial supervisor position that he arguably was not qualified for, and then proceeded to promote him and authorize raises for him without Board approval. This appears to be clear violation of the Ethics Act.

It also appears clear that Mr. Donato violated the Ethics Act. Mr. Donato arguably used his authority as Athletic Director for the private pecuniary benefit of himself. The evidence suggests that Mr. Donato was skimming from the gate receipts and concession stands at CASD athletic events. The evidence also suggests that Mr. Donato was using his authority to charge outside groups or organizations to use the facilities at CASD, and then pocketing that money instead of paying it over to CASD.

An argument could be made that Mr. Ellison violated the Ethics Act by using his authority as Solicitor for the private pecuniary benefit of himself and his law firm in the form of legal fees. An argument could be made that Mr. Ellison and his firm were overbilling matters for CASD. To the extent that this overbilling could be established, an Ethics Act violation could be made out against Mr. Ellison. An argument also could be made that Mr. Ellison's receipt and use of a CASD-funded cell phone and iPad was a violation of the Ethics Act.

2. Theft and Related Offenses

Pennsylvania has several theft statutes that could be applicable to the unlawful taking and/or stealing of CASD funds. These statutory provisions include theft by unlawful taking or disposition, 18 Pa.C.S. § 3921, theft by deception, 18 Pa.C.S. § 3922, theft of services, 18 Pa.C.S. § 3926, and theft by failure to make required disposition of funds received, 18 Pa.C.S. § 3927.

Here, it appears clear that Mr. Donato stole CASD funds. The evidence suggests that Mr. Donato was skimming and pocketing cash from the gate receipts and concession stands at CASD athletic events. The evidence also suggests that Mr. Donato was unlawfully taking and disposing of money that was supposed to be paid to CASD for the rental of school facilities, and instead pocketing the money for himself.

It also appears that Mr. Como may have stolen CASD funds. It appears that Mr. Como may arguably have skimmed and pocketed cash from fundraisers at CASD, as well as from the concession stands of track meets. It also appears that Mr. Como may have skimmed cash from summer school payments by students and parents. To the extent that Mr. Como did pocket this cash, it at least appears as though he improperly disposed of the summer school proceeds for purposes of paying Jostens for the football championship rings. An argument also could be made that Mr. Como's hiring of his son, Matt Como, for what some claim was a no-show job, could be deemed theft. As could Mr. Como's receipt of funds related to the generator he had CASD buy from him.

An argument could be made that Mr. Ellison may have stolen CASD funds by overbilling the school district. To the extent that this overbilling could be established, a theft charge could be brought against Mr. Ellison. An argument also could be made that Mr. Ellison's receipt and use of a CASD-funded cell phone and iPad, as well as the significant overseas overage charges for the phone and iPad, amounted to theft as well.

3. Obstructing Governmental Operations and Intimidation

Pennsylvania has several criminal statutes to deter individuals from obstructing ongoing criminal investigations and to prevent the targeting and harassment of witnesses who are cooperating with those investigations.

"A person commits a misdemeanor of the second degree if he intentionally obstructs, impairs or perverts the administration of law or other governmental function by force, violence, physical interference or obstacle, breach of official duty, or any other unlawful act." 18 Pa.C.S. § 5101. Similarly,

A person commits an offense if, with the intent to or with the knowledge that his conduct will obstruct, impede, impair, prevent or interfere with the administration of criminal justice, he intimidates or attempts to intimidate any witness or victim to:

- (1) Refrain from informing or reporting to any law enforcement officer, prosecuting official or judge concerning any information, document or thing relating to the commission of a crime.
- (2) Give any false or misleading information or testimony relating to the commission of any crime to any law enforcement officer, prosecuting official or judge.
- (3) Withhold any testimony, information, document or thing relating to the commission of a crime from any law enforcement officer, prosecuting official or judge....

18 Pa.C.S. § 4952(a). Finally,

A person commits a misdemeanor of the second degree if, believing that an official proceeding or investigation is pending or about to be instituted, he:

- (1) alters, destroys, conceals or removes any record, document or thing with intent to impair its verity or availability in such proceeding or investigation....

18 Pa.C.S. § 4910.

Here, an argument could be made that Mr. Ellison was obstructing justice and intimidating witnesses in the aftermath of the texting scandal. Primarily, an argument could be made that Mr. Ellison's targeting and harassment of Dr. Powell and Mr. Hawa following their public disclosure of the text messages was an attempt to intimidate these witnesses and deter them from cooperating with the DA's Office's criminal investigation. An argument also could be made that Mr. Ellison was attempting to harass Dr. Powell and find out what she told the government by having Ms. Zeigler interview Dr. Powell the day after she was scheduled to testify before the grand jury. Although it does not appear that Mr. Ellison was overtly obstructing justice or intimidating witnesses, the DA's Office appears convinced that he was, and that he continues to do it.

Most concerning are the DA's Office's allegations that the cellular phones and iPad of Mr. Como and Mr. Donato that Mr. Ellison produced to the DA's Office allegedly had been wiped clean. Of particular concern is the DA's Office allegation that, when Mr. Ellison gave them Mr. Donato's cellular phone that was supposed to have contained the original text messages, all of the text messages on the phone may have been erased and wiped clean. While we have no evidence that Mr. Ellison participated in such conduct, if it is established that Mr. Ellison had anything to do with wiping any phone or other electronic device prior to it being turned over to the DA's Office, Mr. Ellison could be charged with tampering with evidence.

J. FOR AT LEAST THE PAST FIFTEEN YEARS, CASD HAS BEEN PLAGUED BY A RECURRING PATTERN OF ABUSE OF POWER, INCOMPETENCE AND INTEMPERANCE BY HIGH LEVEL ADMINISTRATORS

Albert Einstein has been credited with stating: “The definition of insanity is doing the same thing over and over again, but expecting different results.” This quote aptly fits the circumstances at CASD. Since at least 2000, the Board has engaged in a pattern of retaining outside independent “special counsel” to investigate and review the conduct of high level administrators, primarily the Superintendent and the Business Manager, and report back to the Board with their findings, conclusions and recommendations. Each time, outside independent counsel has reported back to the Board with the same or similar findings, conclusions and recommendations—primarily that high level administrators at CASD are intemperate, abusing their power, neglecting their duties and intentionally withholding information from the Board.

The first such report was prepared for the Board in 2000 by an attorney from our firm, James J. Rohn, Esquire (the “Rohn Report”). See CASD020815-915. The “primary mission” of the Rohn Report was to investigate “the management of the District by the Administration[.]” *Id.* The Rohn Report concluded, among other things, that CASD had “a lack of leadership and control by the superintendent,” a lack of “accountability of senior members” of the Superintendent’s staff and “a breakdown of the District’s management system.” The Rohn Report also found that “[t]here are many significant questions regarding the District’s management of its bond funds, maintenance of its books and records, and use of its resources.” *Id.* To that end, “[t]he District’s management practices appear to have created an atmosphere of suspicion and mistrust in the District, spawning a number of costly lawsuits.” *Id.*

Five years later, in 2005, the Board retained Alice Ballard, Esquire, to again conduct “an inquiry to determine the extent of compliance by the administration with CASD policies and procedures” (the “Ballard Report”). See CASD020916-72. The Ballard Report examined three primary areas—“Employee Relations, Fiscal Operations, and Relations with Board and Community”—and “found evidence of serious failures on the part of the Superintendent and the CFOO to implement the District’s policies and procedures.” *Id.* Specifically, the Ballard Report found that the Superintendent and the Business Manager were incompetent and abusive leaders, that the Business Office was “in a state of disarray that is both serious and persistent over time” and that the Superintendent and the Business Manager have “been less than candid with the board on many fiscal matters[.]” *Id.* The Ballard Report concluded that the Superintendent and the Business Manager should be “terminated for cause” because the “CASD administration is in a leadership crisis, brought on, primarily by the failings of the Superintendent and the CFOO[.]” *Id.* It was the “failings” of this Superintendent that led to the eventual hiring of Mr. Como as Superintendent.

The Ballard Report also specifically highlighted the “high cost of legal services” that “has been a hotly contested issue in the District for many years.” CASD020916-72. The Ballard Report specifically noted that, during the tenure of the Business Manager, “legal costs have reached record heights, because of lax controls over how the current solicitor is used and the administration’s failure to properly manage the District’s affairs.” *Id.* The Ballard Report then went on to specifically identify areas of concern, including that Mr. Ellison was improperly charging for “attorney travel time,” that he was unnecessarily overstaffing matters, that he was

handling administrative matters and acting as “adjunct administrative staff” and that CASD was incurring unnecessary legal fees because of “bungled employee terminations and complaints, grievances, furloughs.” *Id.*

It is now approximately eight years since the Ballard Report and fourteen years since the Rohn Report and the very same issues and concerns are still lingering and being raised again at CASD. Indeed, CASD is still plagued by the same issues raised by Rohn Report, *i.e.*, “a lack of leadership and control by the superintendent,” a lack of “accountability of senior members” of the Superintendent’s staff and “a breakdown of the District’s management system.” CASD020815-915. Likewise, CASD is still plagued by the same issues raised by the Ballard Report, *i.e.*, incompetent and abusive administrators, a Business Office “in a state of disarray that is both serious and persistent over time” and administrators that have “been less than candid with the board on many fiscal matters[.]” CASD020916-72. CASD also is still plagued by high “legal costs” that “have reached record heights, because of lax controls over how the current solicitor is used and the administration’s failure to properly manage the Districts affairs.” *Id.*

Clearly, history keeps repeating itself at CASD, and the Board does not need to keep retaining outside independent “special counsel” to investigate and advise them on issues and concerns that have been endemic, and perhaps epidemic, for at least the past fifteen years. Superintendents, administrators and even Board members have come and gone over the last fifteen years. However, the one constant that has remained and survived through the majority of these tumultuous times is the Solicitor, Mr. Ellison.

VI. RECOMMENDATIONS

Based on our investigation, we offer the following recommendations to the CASD Board for immediate consideration and implementation:

1. **Personnel Audit.** Conduct a thorough audit and review of all current employees and positions at CASD. Draft clear job descriptions for all positions at CASD, and ensure that all employees meet the minimum job requirements for each position. Careful scrutiny should be given to those employees identified in this report who are considered friends, family or close acquaintances of the former Superintendent or Board members. Careful scrutiny also should be given to those employees who are coaches, trainers, physical education teachers or otherwise affiliated with the athletic department, who, under the regime of the prior Superintendent, were given preferential treatment and often lesser job responsibilities.

2. **Superintendent Hiring.** Cease allowing the Superintendent to hire or retain employees during the summer months without express Board approval. The Board should have direct knowledge and approval of each and every employee hire at CASD. The Board should refrain from delegating this role to the Superintendent during the summer months when the Board does not meet or convene. As detailed in this report, this prior practice was abused and misused by the former Superintendent to make questionable hires, and then have those hires rubber-stamped by the Board upon return from its summer hiatus.

3. **Hiring Process.** Decentralize the hiring process at CASD. Numerous administrators complained that, under the tenure of the former Superintendent, the hiring of

employees, teachers and administrators was done through central administration without sufficient (or at times, any) input from principals, assistant principals or direct supervisors. Going forward, principals and building supervisors should be included in interviews of personnel over whom they would have supervisory authority.

4. **Criminal Histories.** Require all employees to obtain and submit new clearances and criminal background checks. The Board needs to thoroughly and carefully review all clearances and criminal background checks for compliance with Act 24 of 2011. Obtain second opinions for all employees with known criminal records for whom the Solicitor deemed terminating, under Act 24 of 2011, would violate their constitutional rights. Also, going forward, the Board should be made aware of any new hires with criminal histories, regardless of the offense.

5. **Online Applications.** Allow employment opportunities at CASD to be posted online and provide for the submission of applications online. CASD is one of the few schools in the Commonwealth that still requires paper applications, presumably because the former Superintendent found paper applications easier to control. Online postings and applications are not only more cost-efficient, but they also will reach a wider audience and more diverse applicant pool.

6. **Nepotism Policy.** Redraft, revise and rework the CASD Nepotism/Cronyism Policy. The Board should consider an outright ban on the hiring of the family of Board members or high level administrators. At the very least, the current policy needs to be enforced better and more proactively.

7. **Whistleblower Policy.** Draft and implement a formal whistleblower policy for CASD. The Board should consider appointing and/or hiring a compliance officer/whistleblower contact at CASD whose sole responsibility is to conduct internal audits at the school and respond to and investigate complaints made by employees, teachers and administrators. We recommend that the current Director of Secondary Education be considered for this position.

8. **Cash Collection/Deposit Policy.** Draft clearly defined policies, procedures and protocols for the handling, counting and depositing of cash at CASD. Written policies should be drafted and memorialized and provided to any person responsible for receiving, counting or depositing cash. Each department should draft their own policies specific to their cash collections—e.g., the Athletic Department should have written, detailed policies on gate receipt collections and reconciliations at sporting events. Cash receipts from all school activities—whether athletic events, fundraisers, summer school or dress down days—should be immediately counted, verified and deposited without delay. Detailed documentation stating who counted the cash, the amount verified and the amount deposited should be kept for each and every transaction. Individuals counting the cash should sign and verify the amount counted and deposited. Cash should be sent directly to the bank and deposited from the source, without the need for any cash to be couriered to the Central Administration building. Copies of all documentation related to deposit should be immediately provided to the business office for reconciliation purposes.

9. **Cash Collection Limit.** Draft and implement a formal policy restricting the payment of cash in excess of \$25.00 for school events or activities, and begin accepting debit and credit cards as forms of payment. For the past two years, summer school students were required to pay the requisite \$300.00-\$400.00 for each class in cash or money order. The former Superintendent allegedly implemented this practice to prevent checks from bouncing. This unreasonable policy should be abrogated and checks should be accepted. In addition, CASD should consider accepting debit and credit cards as a form of payment in order to limit the amount of cash collected at the school. Simply put, teachers, employees and administrators at CASD should only be handling and counting cash on a limited basis and in finite amounts.

10. **Facility Rental Policy.** Draft clearly defined policies, procedures and protocols for the rental of school facilities at CASD. The general school policy for facility rentals provides that the Superintendent or his designee shall develop procedures governing the use of school facilities. Other than filling out an application, however, no known written procedures or protocols exist. Written and detailed procedures and protocols should be drafted outlining, among other things, who reviews the applications, who approves the application, who calculates the rental amount and who determines whether or not the fee is waived. Most importantly, a detailed master list of all rentals with group name, dates, times, employees working, amount paid, etc. should be maintained and shared with all buildings so that all CASD personnel are aware of who is renting a facility and when. Also, fees for facility rentals should be paid in check or money order. Cash should not be accepted.

11. **Document Retention Policy.** Draft clearly defined policies, procedures and protocols for documentation retention, and specifically the implementation and carrying out of a formal "litigation hold." Written and detailed procedures should be drafted, outlining who should be provided copies of the "litigation hold", the steps for implementing the "litigation hold" and who should be involved in the "litigation hold" process.

12. **Reimbursement for Rings/Pendants.** Request that all twenty-five adults who received rings or pendants for CASD's 2012 football championship reimburse CASD for the cost of those rings or pendants. Jostens has agreed to honor the lower negotiated prices of \$225.00 for each ring and \$195.00 for each pendant. If each adult reimburses CASD for his or her ring or pendant at these prices it will raise \$5,535.00 to be paid toward the outstanding balance of \$9,381.75. Several adults we interviewed stated that they would be willing to reimburse the school for their rings. At the very least, the adults should consider voluntarily returning the rings.

13. **Cellular Phones Plans.** Eliminate CASD-funded cell phones and plans. Under the prior Superintendent's tenure, individuals loyal or friendly with the Superintendent were rewarded with CASD-funded cell phones and plans. CASD is currently paying for more than 100 cell phone plans, the majority of which cannot be justified as necessary for the administration of the school district. It is our understanding that elimination of all cell phone plans could save CASD approximately \$70-\$80K each year, or enough for the hiring of at least one, if not two, additional teachers next year. At a minimum, CASD should drastically reduce the number of CASD employees with school-funded cell phone plans.

14. **ESL Department Audit.** Conduct a thorough review of CASD's ESL program and, in particular, how federal Title III funds are being used and spent at CASD. At least twelve iPads were purchased with Title III funds in October 2012 and these iPads were given to administrators instead of being used for their intended purpose to help ESL students. These iPads should be appropriately accounted for and placed in the hands of the students who need them the most. Further, a former CASD employee who could not speak Spanish was given the position of ESL liaison. It does not appear that CASD is taking its ESL program seriously.

15. **Travel Reimbursements.** Eliminate travel reimbursements for travel between school buildings. Currently, employees and administrators can be reimbursed for travel from one CASD building to another. Travel between schools should be viewed as a non-reimbursable job requirement. If necessary, school owned vehicles can be used for between school travel purposes instead of personal vehicles. Further, reimbursements for travel beyond CASD must be closely reviewed and monitored. Travel records should be detailed with specific information or else the reimbursement should be denied. Prior administrators, including the former Superintendent and former Athletic Director, appeared to have regularly abused this privilege.

16. **Extra Duty Pay Policy.** Draft clearly defined policies, procedures and protocols for individuals receiving extra duty pays at CASD athletic events. Written and detailed procedures should be drafted detailing, among other things, that comprehensive records be maintained identifying of all individuals working a game, date of the game, the position worked and all individuals working the game should sign in and out documenting their attendance. Copies of these detailed records should be provided to payroll prior to payment being made.

17. **Concession Stand Policy.** Draft clearly defined policies, procedures and protocols for the maintenance and staffing of concession stands at CASD athletic events, and particularly the collection and depositing of cash related to those concession stands. CASD should consider only allowing team booster clubs to run concession stands at athletic events. Currently, the band boosters operate the concession stand at football games and the track boosters operate the concession stand at track meets. In approximately 2012, the Athletic Department began running the concession stand at basketball games. This practice should cease, and all concession duties should be the responsibility of any basketball-related booster or, as previously was the case, the high school Student Council.

18. **Tax Liens.** Cease the sale of tax liens for the 2013-2014 school year and going forward. It appears clear that the only parties benefitting from the sale of tax liens are the attorneys and the consultants, and not CASD. It appears that the Board already has realized this and ceased the sale of tax liens this year and going forward.

19. **Reimbursement from Solicitor.** Require the Solicitor to reimburse CASD for the more than \$5,000 in cell phone and data roaming charges that he accrued in July 2012 while on vacation. The Solicitor allegedly told the former Superintendent that he would reimburse CASD for these additional charges accrued while the Solicitor was vacationing in Europe. Almost two years later, CASD has no record of the overage charges being reimbursed by the Solicitor.

20. **Solicitor's Phone and iPad.** Request that the Solicitor return his cell phones and iPad purchased with CASD funds, and immediately cancel his CASD-funded cell phone and data plans. The Solicitor is not an employee of CASD and, therefore, CASD should not be paying for his cell phone and data plans. The Solicitor's retention agreement does not provide for the payment of his cell phone and data plans, nor should it. The Solicitor admittedly uses his cell phone and iPad to conduct business with other clients. The Solicitor's firm should be paying for his cell phone and iPad, and CASD should not be bearing this business cost for the Solicitor.

21. **Solicitor RFP.** Immediately issue an RFP for a new CASD Solicitor. The Board should consider hiring a fulltime Solicitor/General Counsel in lieu of paying a Solicitor on an hourly basis. In light of the significant legal bills that have accrued the last few years, a fulltime CASD employee performing these functions would be more cost-effective. At the very least, the Board should consider other, cheaper alternatives to serve as CASD's Solicitor.

22. **Reimbursement from Former Superintendent.** Seek reimbursement from Mr. Como of any funds allegedly misused, misappropriated or stolen during his tenure, including, but not limited to, monies he may have skimmed and pocketed from fundraisers, concession stands, summer school payments or anywhere else as part of the alleged "TAX OFFICE of ComoNato." CASD also should seek reimbursement of the monies that CASD paid Mr. Como for the generator from his house. If Mr. Como refuses to voluntarily reimburse CASD, the Board should consider bringing a collection against him.

23. **Reimbursement from Former Athletic Director.** Seek reimbursement from Mr. Donato of any funds allegedly misused, misappropriated or stolen during his tenure, including, but not limited to, monies he may have skimmed and pocketed from athletic event gate receipts, concession stands, school facility rentals or anywhere else as part of the alleged "TAX OFFICE of ComoNato." If Mr. Donato refuses to voluntarily reimburse CASD, the Board should consider bringing a collection against him.

24. **Ethics Complaints.** File complaints against Mr. Como and Mr. Donato with the Pennsylvania State Ethics Commission alleging potential violations of the Ethics Act. Arguments could be made that both used their positions at CASD for the private pecuniary benefit of themselves and their families. The Ethics Commission will then investigate the complaints to determine whether formal charges should be filed. Also, request an advisory opinion from the Ethics Commission related to the provision of Mr. Ellison's CASD-funded cellular phone and iPad. An argument could be made that this is a violation of the Ethics Act.

25. **Unapproved Raises.** Request that all administrators and staff who received non-Board approved raises in the summer and fall of 2013 in excess of their annual cost of living increase return those raises to CASD. Several individuals allegedly received these raises that came in two waves—the first wave being approved by Mr. Como in Summer 2013 and the second wave being approved by Dr. Romaniello in the Fall 2013 after he was named Acting Superintendent. At least one individual already has offered to voluntarily return his raise.

26. **Server Room Lock.** Immediately change the lock on the server room back to its original key. Since September 2013, the IT Department has been locked out of the server room and denied regular access to that room. If the IT Department needs to access the server room, IT

staff must request permission and obtain the key from the Superintendent. There is no legitimate reason for the IT Department to be denied regular and routine access to the server room any longer.

27. **Board Training.** Require all Board members to attend mandatory, annual training on being a public board member and the duties and obligations associated with that position. The Board in its current state is entirely dysfunctional, with members not keeping other members informed and with secret meetings of Board members regularly occurring in violation of Pennsylvania's Sunshine Act. Our firm has offered to provide these Board trainings free of charge.

28. **Minority Hiring.** Make a concerted effort to hire and retain more minority teachers and administrators at CASD. The prior Superintendent, whether intentional or not, surrounded himself with a majority of administrators who were white males. Despite nearly 50% of the student population at CASD being comprised of minorities, only approximately 10% of the professional staff are identified as being minority. This percentage is even less at the administration level.

