WAYS & MEANS, REAL ESTATE TRANSACTIONS AND FINANCE COMMITTEE of the SUFFOLK COUNTY LEGISLATURE

Minutes

A special meeting of the Ways & Means, Real Estate Transactions and Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **March 11, 2003**.

MEMBERS PRESENT:
Legislator George O. Guldi - Chairman
Legislator Andrew A. Crecca - Vice Chairman
Legislator David Bishop
Legislator Michael J. Caracciolo
Legislator Ginny Fields
Legislator Vivian Viloria Fisher

MEMBERS ABSENT:
Legislator Martin W. Haley

ALSO IN ATTENDANCE:
Legislator William J. Lindsay
Paul Sabatino, II - Counsel to the Legislature
Tom Donovan - Aide to Legislator Guldi
Eben Bronfman - Aide to Legislator Guldi
Frank Tassone - Aide to Legislator Crecca
Ray Zaccaro - Aide to Legislator Bishop
Lisa Keys - Aide to Legislator Caracciolo
Ivan Young - Aide to Presiding Officer
Robert Bortzfield - County Executive's Office, Deputy Budget Director
Bill Faulk - County Executive's Office
Fred Pollert - Director, Budget Review Office
Lance Reinheimer - Budget Review Office
Robert Kearon - District Attorney's Office
Robert Barry - District Attorney's Office
Thomas Iacopelli - District Attorney's Office
Robert Cabble - Deputy County Attorney
Theodore Sklar - Deputy County Attorney
Jeffrey L. Tempera - Labor Relations
Tom Breeden - Guild, SCCC
Peter Smith - S.C. Detective's Association
Pete O'Leary - SDA
Paul Greenberg - Civil Service
Phyllis Garbarino - AME
Jeff Frayler - PBA
Cynthia Ahlgren

David Greene
Janet Ioli - Audit & Control
Artie Cliff - Suffolk SOA
J. Jioni Palmer - Newsday
All other interested parties

MINUTES TAKEN BY:
Ana Grande- Court Stenographer

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(THE MEETING CAME TO ORDER AT 11:10 A.M.)

CHAIRMAN GULDI:
Call the meeting of the special meeting of the Ways & Means Committee to order with the Pledge of Allegiance to be led by Legislator Caracciolo.

(SALUTATION)

CHAIRMAN GULDI:
I ask everyone to remain standing for a minute to take a moment of silence in memory of the two police officers who lost their lives in Staten Island.

(MOMENT OF SILENCE)

CHAIRMAN GULDI:
Thank you. Mr. Greene, is David Greene here? There you are. This is a -- thank you for coming. This is a special meeting of the Ways & Means Committee to discuss the Employee Medical Health Plan. Mr. Greene, thank you for coming.

MR. GREENE:
I had so many invites from your office, I figured that if I didn't come, the cost of sending more invites would probably unbalance your budget.

CHAIRMAN GULDI:
But at least you saved us the twenty dollars fee, witness fee that we would have had to include if we --

MR. GREENE:
The check probably would have bounced, but we'll let that one go.

CHAIRMAN GULDI:
-- if we sent you the subpoena. Mr. Greene, you joined the County in January of 1992 --

MR. GREENE:

February.

CHAIRMAN GULDI:
Oh, you didn't start in January?

MR. GREENE:
No, February.

CHAIRMAN GULDI:
They tried to find someone else for a month first, is that right?

MR. GREENE:
They couldn't find anyone's son-in-law who needed a job bad enough, I guess. I don't know, whatever the situation may be.

LEG. FISHER:
Touche.

CHAIRMAN GULDI:
But the self-insurance plan did --

MR. GREENE:
Not touche, we just stabbed him, Vivian.

CHAIRMAN GULDI:
The Employee Medical Health Plan self-insurance program commenced January 1 of 1992?

MR. GREENE:
That's correct.

CHAIRMAN GULDI:
So essentially you were here from the inception. Actually, before we -- instead of starting in dialogue, why don't I give you an opportunity to simply make a statement and fill us in with your recollection, knowledge, etcetera, to get us from the beginning to the issue that triggered this, and that is the budget for the current year or last year now, 2002, and the Segal estimates or comparisons. Why don't you just take it from the top and then we'll go to questions.

MR. GREENE:
First I'll take a step back. We keep throwing this term around, health insurance. We really don't have health insurance in the terms of real insurance, what we really have is Pay-As-You-Go Plan. The best way to think of it in a normal insurance program, for example, you insure your house and your house burns down, but your rates don't go up, unless everybody's house happens to burn down, in which case everyone's rates go up.

We don't insure our health insurance, we basically say we will pay all of the bills that the members of this plan incur in a given year. So if we start to think of it in that term, it gives everyone a better perspective of what we're really dealing with.

CHAIRMAN GULDI:
Well, to that extent, isn't the Empire Plan also an experienced rated Pay-As-You-Go Plan run on the statewide basis?

MR. GREENE:
Absolutely. It's a misnomer to say health insurance. And what happens with the Empire, just like what happened with our plan, to digress, at the end of the year going, you look at what your expenses were and you look forward, you put the two together and you say, what shall we have to put aside to pay all our bills in the upcoming year.

In the terms of Empire, it is a rate adjustment. In terms of a self-insured plan, how much money do we have to put aside to make sure we meet our obligations? But it's not insurance in the way most people think of insurance, like car insurance or house insurance, we're on a pay-as-you-go experience rated plan.

When I arrived in my job in Suffolk County in February of 1992, there was in place a Committee, which was composed of some Legislators and some unions, but not all of the unions, which had some oversight

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responsibility over the health insurance. This legislation came to be, I understand, in the waning hours of the administration that was leaving office in December 31st of 1991. After attending several meetings and watching some of the goings on, I reached a conclusion there had to be a better way to try to run health insurance, especially when you have several of the unions which were excluded from the legislation.

The Executive Branch took the position, quite frankly, that the Taylor Law prohibited that kind of legislation. We entered into an agreement at that point in time with all nine unions to create this EMHP. And I remember vividly, and God rest her soul, we had a hearing in front of Legislator Caracappa where we went over that issue in length where I argued on behalf of the Executive's position that this was a bargainable issue covered by the Taylor Law and Legislators should not be involved in that activity, which goes back to the very black letter law of the AME versus LoGrande decision, which basically said the County Exec. is the Chief Operating Officer, Chief Administrative Officer, and all the bargaining falls into his purview. At the end of that long, involved session, Legislator Caracappa said I guess there's nothing I can do about it and that was the end of that discussion.

Several years later we had another amendment or we renewed the agreement and it flowed from there. That, in a nutshell, is how we arrived here. And what happened after I left here or what prompted this problem from what I understand in the papers was when Risk Management was sent over to Civil Service, they did some kind of audit or somehow they uncovered that some of the numbers were incorrect.

And that's pretty much what I know, you know, currently, but I'd be glad to take questions going from the beginning and work our way through the whole process on how we arrived at our decisions, what the Committee did.

But I'd also like to make it very plain to everybody, I know Bob Gaffney very well. If he thought for a second, I thought for a second there was anything hanky-panky going on, there would have been hell to pay. And I'm going say something nice about the unions, even though it hurts me to say this.

CHAIRMAN GULDI:
I'm sure it does, but this I've got to see.

MR. GREENE:
I think they would have been shoulder to shoulder with us in the Executive Branch if they felt there was something going on that was remiss. There was a total commitment among all the people who served on the Committee, whether they were labor or management, to look at what was in the best interests of not only the taxpayers, but the employees.

Nobody in that Committee would have stood by for one second and tolerated any behavior that would have brought disrespect on the process or on the participants. I do not believe for one second anyone on that Committee would have turned a blind eye or a deaf ear, and for anyone to suggest otherwise, I think they're doing everybody

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who served on that Committee, and many people served on that Committee, a disservice.

We kept copious minutes, I don't know if you had an opportunity to read the minutes, copious records, copious reports. For a group of people to go through that much paperwork and generate that many reports and that many minutes and have that many meetings, it would stand to reason they had nothing to hide.

And I will tell you right now, Billy Maggio always said to me, the only thing I got out of this damn thing was a ham sandwich. And that was probably the sum and substance of what anyone got out of it. It was long, hard, involved work. People gave of themselves and spent countless hours on very boring and mundane issues, which had a great impact on the employees and the taxpayers.

And I think when you look at what that Committee did and some of the good things it did, I mean everyone overlooks things like we established a patient's bill of rights in the mid 90's before that term was really on anyone's list, but nobody wants to look at those kind of things. We established a good appeals process. Some of the Legislators here may have advantaged themselves of that, as many other members of the health insurance.

We did everything we could for due diligence, we had consultants, we had annual reports, we had quarterly reports, they were totally reviewed by the Comptroller's Office. I don't know what more anyone could have done, but I can't think of anyone on that Committee that would have tolerated if they had known that something was amiss. Having said that, I'm open to questions.

CHAIRMAN GULDI:
As you might suspect, we have a few, but thanks for your comments. I do want to say that in terms of the inference of your remarks that the -- there's been any criticism of the role that the unions in connection with the Employee Medical Benefits Plan, I have heard none. I think that, if anything, the fact that the union Presidents uniformly attended those meetings and engaged in the hard work and didn't delegate those responsibilities is probably a testament to the reasons that the Suffolk plan is in so many ways vastly superior to the Empire Plan for the benefits of the employees regardless of any attempts at cost comparison. But, let's go back --

MR. GREENE:
I hope you're not excluding the very hard work the management people put in.

CHAIRMAN GULDI:
Well, that's -- we're going to talk a little bit about that.

MR. GREENE:
I hope we do.

CHAIRMAN GULDI:
Because one of the things, I have been reviewing those minutes that you talked about, Dave, and one of the things that I did notice from

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looking at the, the extremely detailed minutes of the laborious work of those Committee meetings and the detail that went into them as reflected in the minutes, is that you were frequently absent and that other members the Committee were there, and I wondered if --

MR. GREENE:
Absent from Committee meetings?

CHAIRMAN GULDI:
Yeah. The ones I saw.

MR. GREENE:
I think in all the years, I may have missed one meeting in all the years.

CHAIRMAN GULDI:
Okay.

MR. GREENE:
I would ask, does anyone ever remember me missing a meeting?

CHAIRMAN GULDI:
You have to use the microphone, the stenographer --

MR. GREENE:
Does anyone remember me missing a meeting, more than one -- maybe sub-committees, I was not at all the sub-committees, but as far as the regular membership meetings, I think I may have missed one in ten years perhaps, I don't recall, but it may have been one.

CHAIRMAN GULDI:
Okay. So of the -- you're distinguishing the various sub-committees.

MR. GREENE:
There were a host of sub-committees, I was on I don't know how many, I attended as many as I could. But as far as the general meeting and after all the sub-committees all reported back to the general committee, I do not remember, perhaps missing one in all those years. And I must say the same is true for almost all the participants. They were very diligent.

CHAIRMAN GULDI:
Okay. Let's take the questions from your remarks first and then I'll get to the outline.

MR. GREENE:
Please do.

CHAIRMAN GULDI:
Back in the early 90's, the discussions you had with the Committee, then Committee under Rose Caracappa regarding the Taylor Law and mandatory bargaining --

MR. GREENE:
Right.

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CHAIRMAN GULDI:
Benefits administration versus benefit, I'm confused by the parsing here. I mean, the -- because I've seen the opinion of the County Attorney's letter on the subject and I'm trying to figure out the difference between --

MR. GREENE:
1992, opinion from 1992?

CHAIRMAN GULDI:
Yes. That's the approximate date of it. The difference between a legislative role, if you will, in contract ratification, contract approvals, versus a role in budget allocations and financial administration of an agreed to plan. And I'm kind of lost in the distinctions.

MR. GREENE:
Perhaps I can help you.

CHAIRMAN GULDI:
You made a very parse -- a clear distinction in your remarks that it was the negotiation of benefit terms that was the mandatory subject.

MR. GREENE:
What the Legislature, we did in our opinion was insert ourself into bargaining when they struck an agreement, which included the unions. That was the position of the Executive Branch. As you pointed out, you've read an opinion of the County Attorney, which supported that, I'm sure.

I'm very curious, when we were before Legislator Caracappa, as I said, this issue was joined once before in AME versus LoGrande where the Executive Branch and the Legislative Branch had a fundamental disagreement of the roles of the two entities and it was settled in Court. I don't know what kind of opinion Legislative Counsel gave Legislator Rose Caracappa or the Legislature at that point in time.

But let's make an assumption, because I haven't seen that opinion. Let's say the opinion was contrary to that of the County Attorney's opinion, which is very possible.

CHAIRMAN GULDI:
I think that's automatic, isn't it?

MR. GREENE:

Well, as I said, I haven't seen Legislative Counsel's opinion. I was in the Committee and I gave testimony for hours, I never remember Legislative Counsel, you know, issuing an opinion, but I could be wrong. But let's assume the opinion was the Legislature is correct in their view of the world, the Executive Branch is not correct in their view of the world. How does one resolve those kind of disputes?

As I pointed out, they're resolved in Court. The Legislature could have gone to Court and said the Executive Branch has overstepped its authority, we have a legal opinion that says they have overstepped it and we're willing to back it up with a lawsuit against the Executive

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Branch to preserve our Legislative rights. I don't remember any such action.

So in essence, the Legislature voted with their feet. They basically walked away from the issue, which clearly signalled to the Executive Branch that you had accepted our argument and accepted our opinion. We would be left with no other conclusion. So, we clearly believed that you supported our position, begrudgingly, if not supporting it, you accepted it.

CHAIRMAN GULDI:
Well, at this point I'd like to you explain the position, because I wasn't here in 1992.

MR. GREENE:
Our position was that a bargainable issue such as health insurance, the only time it would involve Legislative oversight is when a contract was brought before the Legislature that included as an item, and since at that point in time having the fiscal responsibility and oversight of a contract, the Legislature can vote yea or nay. Other than that, they were not to have direct negotiations or input into the process. And that was the position we basically outlined.

As I said, that is our arguable position, we believe at that point in time it is correct. We still -- I still believe it is correct. But as we well know, lawyers can have disagreements. It's not uncommon to have a single issue looked at by a gaggle of lawyers and have a plethora of opinions. But when there is legitimate dispute between the Executive Branch and the Legislative Branch, that is resolved, if it can't be resolved through dialogue, it's resolved through Court.

Legislature took no action other than the Legislator Caracappa saying, well, I guess there's nothing we can do about it. And that was in '92. There was a subsequent-- series of subsequent agreements. No reasonable person can possibly have concluded that the Legislative position was not one of acquiescence and acceptance, begrudgingly perhaps, but it was acquiescence and acceptance of the Executive position.

CHAIRMAN GULDI:
Well, the Committee -- let's go to what Committee does. I mean your position is the Legislature should be excluded from the Committee because it engages in bargaining. How does the Committee engage in bargaining?

MR. GREENE:
We created the Committee through bargaining, health insurance is a mandatory subject of negotiations.

CHAIRMAN GULDI:
Granted. But what does the Committee do that involves bargaining?

MR. GREENE:
The Committee, because every year, quite frankly, the Empire sends out a series of changes, and what we do when we accept or reject some of these, because not all the changes the Empire proposes, we enter into

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memoranda of agreements between the parties. To have the Legislature sit in that room and be party to that strikes me as a violation of the Taylor Law. But, George, you and I can quibble on these issues.

CHAIRMAN GULDI:
I'm not trying to quibble, Dave, I'm just trying to understand. Okay?

MR. GREENE:
Let me finish. We are of the opinion what we did was absolutely correct. We are of the opinion that's what the law provides for. If the Legislature and their Counsel is of the opinion it is not what the law provides for, you have a remedy. Since 1992, the Legislature has not availed themselves of the remedy. To have a debate in the year 2003 over an action that started in the year 1992 seems somewhat belated, in all due respect.

So, I am not the attorney, I didn't write the opinion, but that's the position we took and that's the position I currently believe is true. So, if there is a legitimate dispute between the opinion of the Legislature and the opinion of the Executive Branch, there are a whole host of opportunities to resolve it.

CHAIRMAN GULDI:
I understand that, Dave, but I haven't said that there's a dispute. What I'm asking you to explain to me is what the -- not that you believed that you were right in your opinion, in fact, I've known you a lot of years and I don't think you ever had an opinion you didn't

believe you were right in, nor would I expect you to.

MR. GREENE:
Reminds me of a lot of people I'm facing here, George.

CHAIRMAN GULDI:
This happens.

MR. GREENE:
With regularity. That's why they're called our opinions.

CHAIRMAN GULDI:
I think they just killed my microphone.

MR. GREENE:
And that should be a lesson to you.

CHAIRMAN GULDI:
But I have more of them.

MR. GREENE:
Today the microphone.

CHAIRMAN GULDI:
All I'm trying to get to, Dave, is tell me, you know, give me the history about how it occurred, but tell me what the issue is and what the procedure is. Other than the negotiation of an annual memorandum of understanding with respect to changes in the plan, what did the Committee do --

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MR. GREENE:
The Committee was the product of negotiations.

CHAIRMAN GULDI:
Well, so is -- isn't every -- every employee in the County engages in services to the County under a contract, does that mean the Legislature has no oversight review over any County employee?

MR. GREENE:
I didn't say that, there's a difference.

CHAIRMAN GULDI:
So explain the difference to me, because I don't see it.

MR. GREENE:
For example, there have been decisions the last several years that says a contract, when it's crafted, only those portions that have financial impact really require the imprimatur of the Legislature.

Working rules, those kinds of terms and conditions don't even require imprimatur of the Legislature. We, in Suffolk County, always as a rule of thumb sent the whole contract.

(Legislator Bishop entered the meeting at 11:30 A.M.)

CHAIRMAN GULDI:
Right. Okay.

MR. GREENE:
Second of all, the Committee was a creature of collective bargaining, it was bargained between the County and all the unions. Both parties recognized health insurance as a mandatory subject of negotiations and we bargained over creation of a Committee. And in that memorandum of understanding, it outlined the responsibilities of the parties.

To all of a sudden -- and quite frankly, the County Executive under that agreement had the right to place nine people as his representatives. At one point in time, we had a representative of the Comptroller's Office sitting in all these meetings as a formal voting member. I'm not aware of the Legislature ever asking the County Executive to give to one of their members a seat. It may have occurred, but I was not aware of it. But it did not say, thou shalt not include Legislators as members, it just -- I took the position the Legislature should not be negotiating or passing policy that impacts on a collective bargained issue, which is health insurance.

It could very well be the County Executive may have asked George Guldi to sit on the Committee as one of his representatives, and George Guldi could have said yea or nay. The Committee probably would have said nay, but that's another story, George.

CHAIRMAN GULDI:
That's really not the issue, Dave. The question I have for you, though, is other than -- there's -- the administration of the Employee Benefit Plan, as you accurately stated, isn't insurance, it's the administration of -- it's the payment by County dollars of benefits under the collective bargaining agreements.

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MR. GREENE:
Right.

CHAIRMAN GULDI:
That side of the operation, if you will, the cost containment side, the disbursement of funds side of that equation is, is that somehow -- arrest me, my cell phone is on. This thing gets me in more trouble.

MR. GREENE:

There's a sign out there, George, that gives directions.

CHAIRMAN GULDI:
The question I have, though, Dave, is how is that side of the administration of the benefits plan a subject of collective bargaining? I don't see that. I'm not --

MR. GREENE:
I'm not disagreeing with you.

CHAIRMAN GULDI:
There's no one here, I have heard no one suggest ever that employee benefits are not a subject, a mandatory subject for collective bargaining.

MR. GREENE:
Every year, to the best of my recollection, there's a budget.

CHAIRMAN GULDI:
Sure.

MR. GREENE:
Every year there's a proposed budget and then the Legislature disposes of the budget. And one of the largest line items in the budget happens to be health insurance. And as part of that process is ample opportunity for the Legislature to involve themselves in where the money is going, how it's being spent, etcetera, etcetera. That is an annual process. I'm sure 2002, 2003, 2004, we'll see the process play itself out again.

I cannot recall ever being requested to come to the Legislature during the budget process to discuss health insurance dollars. I don't recall, maybe someone up there can recall, but in '92, '93, '94, '95, '96, '97, '98, '99, 2000 and 2001, there was an ample opportunity for the Legislature as part of the budget process to say, look, it's a huge portion of the budget, how is this money being spent, why is this being spent or how much is that being spent, what are your projections going forward, how much is your IBNR, what's the trending. There was ample opportunity for that kind of discussion.

And, quite frankly, you would have every right to call myself or other members of the Committee up here, my Co-Chairman and say, please explain to us why it's costing what it's costing, what are you doing to control costs, what are your anticipated costs going forward, etcetera. There was ample opportunity for eleven years. I don't remember being asked those questions, I'm sorry.

(LEGISLATOR CRECCA ENTERED THE MEETING AT 11:35 A.M.)

CHAIRMAN GULDI:
I'm asking you a different question now. My question is, and I'll go back to it, what part of the administration of the agreed upon benefits and the allocation of doctors and cost containment and those sorts of management practices, if you will, constitutes collective bargaining under the Taylor Law?

MR. GREENE:
It was our opinion that that agreement covered all those issues just raised and, therefore, they're all subject to collective bargaining and the Legislature has no direct input into it. As far as the financial impact --

CHAIRMAN GULDI:
Well, hold on a minute.

MR. GREENE:
You have no direct --

CHAIRMAN GULDI:
I don't understand what you're saying. Okay? The payment of the bills, under the collective bargaining agreement, benefits are set, employee goes out gets benefits, the doctor submits the voucher.

MR. GREENE:
We pay.

CHAIRMAN GULDI:
We pay.

MR. GREENE:
We paid in 1991. Even before the self-insurance plan was crafted, we --

CHAIRMAN GULDI:
How is that payment and the administration of that payment and verification that the doctor is not overcharging for the alleged services rendered, collective bargaining? That's the question, in a nutshell.

MR. GREENE:
As far as the auditing to assure proper payment, it is the responsibility of the Comptroller's Office to audit all outstanding vendors. And VYTRA is a vendor, Lab Corp. is a vendor, NPA is a vendor. I think the Comptroller's Office said every five years they audit all the vendors. We also, every year the Comptroller's Office had a County-wide audit. And I know they use various --

CHAIRMAN GULDI:

I understand the County Comptroller's job is to audit the vendors.

MR. GREENE:
To audit all those --

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CHAIRMAN GULDI:
My question isn't what the County Comptroller's job is, my question is how is the payment of benefits and the supervision of vendors who are providing those benefits and the verification of a propriety of charges a subject for collective bargaining?

MR. GREENE:
Because in the agreement it gives the right to the Committee to establish a lot of the things you're talking about, as to make recommendations to the County Exec., who the vendor shall be. It gives us the right to do audits. We have tremendous amount of authority within the agreement that was bargained.

I'm trying to get what you're getting -- you seem to have a disagreement with our legal position.

CHAIRMAN GULDI:
No, I don't disagree with anything, Dave, I'm just trying to understand what your position is. Okay? I'm asking to you explain it to me.

MR. GREENE:
Our position, I'll do it for the fourth or fifth time, that collectively bargained agreement covering many of these issues did not require Legislative approval. If there's an arguable case against it, there were eleven years for the Legislature to make an arguable case against it. I'm not aware they ever raised an arguable case.

Now, as you pointed out, you've seen legal opinions in the County Attorney, I've seen legal opinions on the last agreement that I struck with the unions, there was a legal opinion from the County Attorney. I have not seen a legal opinion from Legislative Counsel to the contrary. And if there was a legal opinion to the contrary, it would behoove the Legislature upon looking at the two opinions to make some kind of informed decision as to how do we resolve this issue.

It could very well have been through dialogue with the Executive Branch. And if dialogue failed, as I told you many times, George, when you and I have a disagreement on policies, there's a place called the Courts. It's not uncommon for one branch or the other defending their prerogative to take advantage of the Judicial Branch to resolve these kind of disputes.

I mean, the health insurance plan in Suffolk County since 1992, was the worse kept secret. Everybody knew we had a plan, everybody knew there was eighteen members, everyone knew who served on it, everyone saw the budget line every year, there were no secrets. And, in fact, I think it was 1999, we sent over a resolution proposing a new configuration of the health insurance, if I remember correctly. I think it was '99, George, I don't have any of the papers, but is that a fair assessment, was it '99?

CHAIRMAN GULDI:
I don't know, let me check. I have something that will tell me.

MR. GREENE:
When I left, I didn't bother to take the truckload of documents from the health insurance, all the minutes, so I have none of the minutes. I think it was '99.

CHAIRMAN GULDI:
So where did you leave those? No, never mind.

MR. GREENE:
I left them in the office, quite frankly. I think it was '99.

CHAIRMAN GULDI:
It was --

MR. GREENE:
It was a health trust with a four percent cap.

CHAIRMAN GULDI:
Yeah, that was actually, Dave --

MR. GREENE:
'98, '99, somewhere in there.

CHAIRMAN GULDI:
Actually the health trust with the four percent cap was submitted by the County Executive's Office as Resolution 1854 of 1997.

MR. GREENE:
Okay. So '97.

CHAIRMAN GULDI:
And that resolution was withdrawn by the County Executive after Budget Review sent a memo pointing out some of the fiscal problems with it.

MR. GREENE:
And --

CHAIRMAN GULDI:
And it was never resubmitted.

MR. GREENE:
I understand. I don't remember what the report from Budget Review is, quite frankly, I don't have it in front of me. I would just think a four percent cap against a twelve to fifteen percent annual increase, that's about ten or eleven percent savings a year over five or six years, we're talking ten million a year savings, we're talking fifty or sixty millions dollars to the good the County would have been, so I don't -- I don't remember what Budget Review said.

But when you're looking at trending roughly at fifteen percent a year now in health insurance, a four percent cap would have been, I think four percent cap is better than fifteen percent increase, at least my math.

CHAIRMAN GULDI:
But why was the resolution withdrawn and never resubmitted then?

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MR. GREENE:
If Budget Review had problems with the numbers, and that's what you're suggesting to me, they had some problems with the numbers, is that what you're suggesting to me, because I don't have their report in front of me, what did they say?

CHAIRMAN GULDI:
Actually, why don't I -- do you have a copy?

MR. GREENE:
I don't have a copy of it, all I have is my RSVP.

MR. GREENE:
That's right. You sent an RSVP, nobody on my staff ever bothered to give that to me. I didn't see that.

LEG. FISHER:
I have a question on the responsibilities.

CHAIRMAN GULDI:
The responsibilities on the Taylor Law issue?

LEG. FISHER:
No. The responsibilities of the Board. I just wanted to go back to that question.

MR. GREENE:

If you have a copy.

LEG. FISHER:
Mr. Greene, I just wanted to go back --

CHAIRMAN GULDI:
We're making you a copy.

MR. GREENE:
On your question, if you have a copy of the agreement, it spells out in the memorandum of understanding --

CHAIRMAN GULDI:
It's annexed to the legislation, we'll have it before us in a minute.

LEG. FISHER:
I wanted to just ask you something, Mr. Greene.

MR. GREENE:
David.

LEG. FISHER:
David.

MR. GREENE:
My father is Mister.

LEG. FISHER:
It came up at other meetings of the Ways & Means Committee. There was

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a question as to the responsibility vis-a-vis the decision making as to whether the plan as it exists would be continued or whether the Empire Plan would be -- we would re-enter into an agreement with the Empire Plan. And I believe that it was said here, and I'd like you to clarify that for me, that the decision was made by you, in fact, it wasn't said here, it was in a document that we had, that it was David Greene who had made that decision.

And it's -- my question is who is responsible for looking at the numbers that it would cost to have the Empire Plan as opposed to our self-insured plan, and then who makes, who is ultimately responsible for making the decision as to which plan we would continue with or adopt?

MR. GREENE:
That's a very good question, and let's see if I can give you a very good answer. When we first entered into the agreement with the union, the way we structured the Committee was we had a benefit consultant,

which at that point was Segal. We had an actuarial consultant, which was Mercer & Company, and we had legal counsel.

The reason we had independent actuarial consultant and independent benefit consultant, although Mercer & Company and Segal & Company do actuarial and benefit consulting work, was to make sure somebody was watching the watchdog, because you knew full well that Segal Company was watching Mercer, how they're handling the numbers, and you knew full well Mercer was watching how Segal was doing the benefits. So, in essence, because they're rivals and they're always looking for more business, they're always checking up on their rival to see how well they're doing, I'm sure with the eye to showing us they can do a better job, why do you have the other guy when I can do both of these things for you and save you some money.

Early on in the process, the Comptroller's Office, I believe Joe Caputo himself told Mercer & Company, if I don't like your numbers, I'm not going to pay you. And he didn't like his numbers, if you go back and you look at all the records, you find out that Mercer eventually sued us for payment. I think they got a hundred and forty-three thousand in settlement. They refused to work for us anymore, because the Comptroller's Office wouldn't pay them because they didn't like the number.

LEG. FISHER:
What year is that, David, about?

MR. GREENE:
'94, '95, somewhere like that, I don't remember. So then we had a single actuarial and consultant. Now -- may I finish?

CHAIRMAN GULDI:
Go ahead.

MR. GREENE:
We had a single actuarial and consultant. At the same time, you also had the Comptroller's people who had all the original numbers. Four or five of their members came to the Committee at one point in time,

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had a formal voting member. All of the numbers consultants get, you get from the Comptroller, we got every month on the Committee a monthly report from them which covered all kind of things from usage, cash flow, hospitalization, drugs, drug use, HMO use, complaints, all these kind of things.

So, the Comptroller's Office had the ability to check the numbers, run the numbers and document everything, as well as the consultant. I mean both of them had full access, both of them could tell us whether something was amiss. So, we received not only those reports, but every year we get this mammoth report from the consultant. They went over the trends and the ratings and expenses and what the plan rate would be and what the fund rate and all those kind of things, and that was done with the Comptroller's people in the room reviewing it and looking at the documents.

So, the Committee felt we had due diligence. We had not only an international consultant and actuary, we had the Comptroller's people and all of their expertise available to make sure that these reports were what they said they were. That was the guiding principle that we followed. We had two groups watching the numbers. We had an internal group, the Comptroller's Office, and an external group, a consultant. And we figured if both of them didn't raise a red flag, that everything was copacetic.

Now, it turned out later that was not true, but I guess it will be subject to debate in some other forum over who did or didn't do their job, but that's not for me to decide. But we were guided by those numbers.

Now as to what decision I made on what particular issue, I'm somewhat unclear on that question.

LEG. FISHER:
Well, that's the question I asked.

CHAIRMAN GULDI:
The question I asked, Dave, was not what the guiding principles were, but who was in charge and who made the decisions?

MR. GREENE:
To do what?

CHAIRMAN GULDI:
To continue the self-insurance plan versus --

MR. GREENE:
That was made by the Executive Branch on my recommendation.

CHAIRMAN GULDI:
By the Executive Branch, not by this Committee.

MR. GREENE:
The decision to enter into a new agreement has to be made by the Executive Branch, because we could have -- if you looked at the agreement, we could have gotten out of the agreement. '96, '97, I was

on record saying the numbers are going south, we should get the hell out. I had great concerns. And there was no secret I had great concerns. And yet we talked to the consultants and they're talking to us, what our trend rate was compared to regional trend rate.

And also we had in the back of our mind, the Empire used to hit us with what you call sticker shock. If you remember in the 80's, it would go along like this and then it would jump up sixty percent.

LEG. FISHER:
Dave, you're moving far away from my question. And the question was, you answered it, the decision was made on your recommendation by the Executive Branch, so you're saying that wasn't bargainable.

MR. GREENE:
The decision?

LEG. FISHER:
The decision to self insure, because you're saying it didn't go before all of the unions --

MR. GREENE:
We had the right under the contracts to go back to the Empire.

LEG. FISHER:
Okay.

MR. GREENE:
We had that right.

CHAIRMAN GULDI:
Let me take the line of questioning back, please, because I got a couple of things that we'll get to, we'll all have an opportunity, we're not going to run out of time, Dave. But the -- I had taken your remarks and I touched on those, but one of the things you have before you is this 1997 memorandum from Budget Review Office, which points out that the '97 and '98 estimates for future years, adopted versus estimated, the trends, read the document, I'll give you a minute to read it.

This was distributed to all of the Committee members at the last meeting, it's Budget Review's 1997 memorandum. If anybody needs more copies of them, I have can have Eben make more.

MR. GREENE:
My quick read of this is that the Budget Review's main argument was that the Segal Company overstated the health cost projections?

CHAIRMAN GULDI:
By 15.2 million, at the top of the second full page in the memo.

MR. GREENE:
That's what it says here.

CHAIRMAN GULDI:
Right. Now, this memo was sent to the administration, you went

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through the resolution.

MR. GREENE:
I don't know why the resolution was withdrawn.

CHAIRMAN GULDI:
Let me back up. You're the Director of Labor Relations, what role did you have in sending this resolution over in the first place?

MR. GREENE:
I signed the agreement with the unions, and the way it's worked, like any contract that we agreed to, you know, there was an agreement struck with the unions, it then is, just like any contract we sign, is reduced to a resolution which is sent over here. Now, if you notice, that's remarkably different than we did with the other agreements.

CHAIRMAN GULDI:
Yes. You didn't send any others, you didn't send 2001 over. You were still here then right?

MR. GREENE:
That's right. We didn't send, and we didn't send I think the one in '97. There was a couple --

CHAIRMAN GULDI:
'93.

MR. GREENE:
Yeah, we didn't send those over either, did we, correct?

CHAIRMAN GULDI:
Yeah. But why did you send this one over?

MR. GREENE:
Because our read of the law and our understanding of the law was such that we felt by committing the Legislature to a fixed percentage of money arguably would require the imprimatur of the Legislature, because it has certain kind of fiscal impacts never envisioned by previous agreements. The previous agreements envision a hundred percent self-insured, paid for totally by the County, no out-of-pocket, no payroll deduction. That's what the agreement with

the unions stood at that point in time. The County was totally liable for every dollar regardless whether it be a two percent increase or twenty-two percent increase.

This agreement capped it. It changed the whole funding stream and the whole concept. We believed that required Legislative approval and we sent it to the Legislature.

CHAIRMAN GULDI:
Okay. And then you didn't send it to the Legislature.

MR. GREENE:
It was withdrawn.

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CHAIRMAN GULDI:
Why?

MR. GREENE:
I did not make that decision, I don't know why it was withdrawn.

CHAIRMAN GULDI:
Well, wait a minute. Who makes -- all right. You didn't make that decision, Dave Greene, who did?

MR. GREENE:
I really don't know, you'd have to ask the person who was handling the Legislature at that time, whoever the Legislative liaison was at that point in time.

CHAIRMAN GULDI:
Did you ever have a conversation with them on the subject?

MR. GREENE:
I remember hearing or being told it was being withdrawn.

CHAIRMAN GULDI:
Okay. What did you say what you were told that it was being withdrawn?

MR. GREENE:
I'm a good soldier, if the decision was made to withdraw it, it's withdrawn.

CHAIRMAN GULDI:
And you had nothing -- you had no -- you didn't volunteer --

MR. GREENE:
I was puzzled why the Legislature, quite frankly, in my own mind would

turn down a capitated program with being so resistant --

CHAIRMAN GULDI:
How did the Legislature turn it down? The resolution was withdrawn.

MR. GREENE:
Legislation doesn't get withdrawn, as we well know, unless there's a clear indication from the Legislature there's a problem.

CHAIRMAN GULDI:
That's not true.

MR. GREENE:
Let me finish, let me finish.

CHAIRMAN GULDI:
Okay.

MR. GREENE:
Second of all, and now reading this report, it's really interesting to note that Budget Review indicated they had problems with Segal's numbers in 1997.

CHAIRMAN GULDI:
Right. And we distributed a memo to that effect to the administration.

MR. GREENE:
Now, we still --

CHAIRMAN GULDI:
Did you ever see this memo before today?

MR. GREENE:
This one? I may have, I don't remember. I get so much, I probably saw it. Probably read it back then and there. As I said, we were still being guided by Segal's numbers.

CHAIRMAN GULDI:
I want to direct your attention to --

MR. GREENE:
We believed their numbers were correct at that point in time.

CHAIRMAN GULDI:
Dave, let me direct your attention to the fifth page of the document, which is in front of you. There appears to be a faxed cover page from a gentleman named Fred Pollert to a gentleman name Dave Greene.

MR. GREENE:
I see.

CHAIRMAN GULDI:
And ask you if that refreshes your recollection as to whether or not you've ever seen this document before?

MR. GREENE:
As I said, I probably have read it, but it was many years ago. And, quite frankly, we believed that Segal's numbers were correct. And we had no counter-argument from the Comptroller's Office that Segal's numbers weren't correct. And it's not uncommon, quite frankly, and I don't know how many budgetary hearings you've been to George, to hear Budget Review and the County Budget Office have a disagreement as to numbers.

CHAIRMAN GULDI:
What I can't remember --

MR. GREENE:
Let me finish.

CHAIRMAN GULDI:
-- is there ever being an agreement as to numbers.

MR. GREENE:
So it is not uncommon to have a disagreement on budget numbers. It is not unusual or not to be expected. So to have Budget Review say their numbers are different than the County Exec's Budget Office numbers or Segal's numbers is not shocking on its face. We still believed that

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Segal's numbers were correct, we had nothing from the Comptroller's Office, who was the auditor, to say it's incorrect, what we saw was a dispute between Budget Review and Segal's numbers, which it's not shocking to hear there's a dispute.

CHAIRMAN GULDI:
Well, what numbers did you have from the Budget Office?

MR. GREENE:
Somewhere in here they said eighty-six million or something. Segal projected costs, well --

CHAIRMAN GULDI:
They talk about Segal's numbers, they don't talk about the Budget office's numbers.

MR. GREENE:
Well, our current estimate is 86.3 million.

CHAIRMAN GULDI:
Right.

MR. GREENE:
Note on, blah, blah, blah, the Budget Review Office believes that the '97 projections are overstated by 15.2, the projection health insurance at a 101.5, while our current estimate is 86.3, so I don't know how Budget Review came up with their estimate. I really don't. You have to ask Budget Review how they arrived at their estimate.

But the consultants came up with one estimate, and that's what consultants do, they give you their best estimate, Budget Review had a different estimate. So it's no different when doing sales tax, everyone comes up with a different estimate, what costs or revenue will be. It was a legitimate dispute.

CHAIRMAN GULDI:
We're talking here about the estimated costs, we're not talking about any hypothetical comparison with Empire Plan costs, we're talking about actual costs.

MR. GREENE:
No. We're talking about estimating going into -- going forward.

CHAIRMAN GULDI:
But we're estimating our costs under our plan, we're not estimating against a hypothetical model.

MR. GREENE:
And that's what the consultants did for us.

CHAIRMAN GULDI:
Okay. In 1997?

MR. GREENE:
Every year. Every year they come out with an annual report, which is like yea thick, and every year we drive -- out of that comes a fund

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rate and a plan rate. And what you're saying here is that Budget Review said it was one number, Segal said it was another number.

CHAIRMAN GULDI:
Okay. Now --

MR. GREENE:

I don't know how Budget Review arrived at their estimate.

CHAIRMAN GULDI:
Yeah, okay. So, you remember being told that they were withdrawing the legislation, you had no comment that you can remember making on that?

MR. GREENE:
I just was perplexed, because I thought it was such a phenomenal deal for the County. I mean when you think about it, a four percent cap, a four percent cap, how much has health insurance gone up since 1997?

CHAIRMAN GULDI:
A lot more than four percent.

MR. GREENE:
Give me a number. It's gone up maybe fifty percent.

CHAIRMAN GULDI:
Let me direct your attention --

MR. GREENE:
And it could have been twenty percent versus fifty percent, that's thirty percent. I'm saying to myself, looking at the way of the world, this is a phenomenal deal. So, I was perplexed why the Legislature didn't climb all over it and say can we pass this tomorrow for God sakes.

LEG. FISHER:
Too bad we didn't get to vote on it.

MR. GREENE:
Somebody in the Legislature much have said pull it back, you go to talk to them, because --

CHAIRMAN GULDI:
No. Actually, Dave, nobody in the Legislature had the authority to do that, the only person who had the authority to pull this bill back was the County Executive.

LEG. FIELDS:
On your recommendation.

MR. GREENE:
We're adults here, George. You know very well if there's a problem with the Legislature, someone from the Legislature, Presiding Officer or a designee, would have said to someone in the administration, we have a problem with this piece of legislation, we'd like you to withdraw it.

LEG. FISHER:
That's an inference on your part.

MR. GREENE:
Not an inference. It could be an inference, but let me ask you from a purely economic point of you --

CHAIRMAN GULDI:
From a purely economic point of view --

MR. GREENE:
Let me finish.

CHAIRMAN GULDI:
Yeah.

MR. GREENE:
Look at your budget now for health insurance, back it back six years, calculate four percent a year going forward from 1997, and what you're paying now, and I would ask you a simple question, in which way is the County better off?

CHAIRMAN GULDI:
Dave, before I answer your question, I want you to take a look at the document you have before you, I want you to look at the second to last page and the impact on the budget page, that analysis. It starts, it says, "impact on the budget," at the top of the page. Read that section, giving a special emphasis to the underlined portions where they talk about, "if this policy is adopted after the adoption of the 1998 budget, it may require a 36.5 million dollar increase in the interfund transfers for 1999."

That forty-two percent increase in that one year, was that not a factor in the County Exec's decision to pull this resolution?

MR. GREENE:
I don't know, I have no idea. But let us look how health insurance -- the term health insurance, what drives the numbers? Numbers are driven by lives times rates. It's a very simple equation. How many people and what does it cost you. That's what drives the rates. And every year approximately twenty percent of what you spend shows up in the following year in an IBNR, incurred but not reported. It's very similar to the Medicare, but that's what drives the rates and that's how the numbers crunch out.

But when we look from my vantage point at a four percent cap going forward, in hindsight I think you would all agree with me from a financial point of view, it was phenomenal. And I don't think anyone looking forward to, what's next year's rates increase, fifteen percent estimated in the Empire, something like that, versus four percent on a hundred million and change? That's nine, ten million dollars. The numbers were very beneficial, we thought, to the County. Why it didn't go through, I'm sorry to see it didn't.

CHAIRMAN GULDI:
Mike, I wanted to go to Fred next on this narrow point.

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LEG. CARACCIOLO:
On the narrow point.

CHAIRMAN GULDI:
Fred, what I want you to do is give us an interpretation of your memo, but, Mike, go ahead.

LEG. CARACCIOLO:
I just want to back up a couple of sentences here or remarks by Mr. Greene, because to insult the intelligence of this Legislator or the members that sit around this horseshoe with the response like you gave, Dave, that you have no idea why that resolution was withdrawn is nothing but poppycock.

MR. GREENE:
Excuse me.
LEG. CARACCIOLO:
I mean that's nonsense. That's nonsense, Dave.

MR. GREENE:
Wait a second.

LEG. CARACCIOLO:
You sat as a member or the Director of Labor Relations in meetings time and time again with this administration and discussed the very issue we're talking about. To say you don't know who is responsible or why this resolution was withdrawn, you're just trying to hide something.

MR. GREENE:
I would suggest that's not true.

LEG. CARACCIOLO:
Well, I believe it is, I believe it is.

MR. GREENE:
I have testified --

LEG. CARACCIOLO:

Why would the County Executive --

MR. GREENE:
Let me finish.

LEG. CARACCIOLO:
Let me finish.

MR. GREENE:
If we're going to do character assassinations --

LEG. CARACCIOLO:
I have the floor. Mr. Chairman, do I have the floor?

MR. GREENE:
George, may I please?

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CHAIRMAN GULDI:
One at a time.

MR. GREENE:
May I, please?

CHAIRMAN GULDI:
Dave, I'll give you a chance.

MR. GREENE:
George --

CHAIRMAN GULDI:
Let the Legislators speak and then you'll get all the time you want to reply, but the stenographer can only get one voice at a time.

MR. GREENE:
Then she'll hear my voice first. I have testified in front of these Legislators for ten, eleven years.

LEG. CARACCIOLO:
That's his style, that's why he doesn't get along with anybody, but go ahead.

MR. GREENE:
Has ever heard me mince my words. George, you and I, we have gone toe to toe, have you ever known me to mince my words?

CHAIRMAN GULDI:
I never also, Dave, until today, I never known you to not have an opinion on a piece of legislation that you --

MR. GREENE:
I had a very strong opinion.

CHAIRMAN GULDI:
That you're telling me here you didn't articulate to anyone, and that I'm having trouble with.

MR. GREENE:
No. I had a great internal desire to see it passed, but I'm a good soldier, a decision was made at some level not to, I follow orders, I do as I'm told, I'm a good soldier. In retrospect, this was a, and I still believe it to this day, it was a great agreement for the County, I am sorry it didn't get passed. I think it would have saved the County tons of money. And the union members here probably right now are saying, thank God it got withdrawn.

LEG. CARACCIOLO:
Now may I continue?

CHAIRMAN GULDI:
Yes. Legislator Caracciolo has the floor.

MR. GREENE:
Thank you. Appreciate it, George.

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CHAIRMAN GULDI:
Let him finish before you talk again and then you'll get an opportunity to speak again.

MR. GREENE:
Thank you.

CHAIRMAN GULDI:
Go ahead, Legislator Caracciolo.

LEG. CARACCIOLO:
Having been on the other side of the table from people like Mr. Greene, I can assure you that if they saw an opportunity to save the County and the very people that appointed them to their positions millions of dollars of County funds, they would have done everything within their power to make certain that a proposal like that went forward. And if it didn't, they would have argued vociferously with those that would have attempted to withdraw that resolution. To insult our intelligence and say that he doesn't know who made that decision, I just, you know, don't accept at all.

But what would have happened had you been successful and that resolution had been successful and you had a cap, what would have happened in subsequent years when health insurance costs would have exceeded budgeted funds? What would have happened, what kind of adjustments would have been necessary?

MR. GREENE:
And that is why I just said the union leaders behind me are very thankful it didn't get passed, because it would have been up to the health trust. They would have had a capitated amount of dollars, they would have had to cut benefits, restructure benefits, deny benefits. Basically, they would have to live --

LEG. CARACCIOLO:
Renegotiate benefits?

MR. GREENE:
No. We give them four percent a year. It's here's the money, spend it for as many benefits as you can buy for that sum of money. If the costs go up ten percent, you have to find the way to make ends meet. If the costs go down by ten percent, so be it, you're ahead of the game. But, with the costs rising at ten to fifteen percent a year with a four percent cap, it would have taken tremendous, tremendous expertise and political daring to live within that money. As I said before, that's why you don't see anyone crying over this now.

LEG. CARACCIOLO:
But that presumes that once you got into that situation where your cost exceeded your benefits and your fund benefits, that there would have been a status quo, that there wouldn't have been attempts to renegotiate?

MR. GREENE:
Oh, look, would there be attempts to renegotiate? I expect there would be more than attempts, I think you would have seen major acting

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out saying, my God, we can't live on this money, we never anticipated health insurance to be growing at double digit, we never anticipated that prescription drugs to run a twenty-five percent a year and growing, our members will have no health insurance by the time this is done. Would that have required some renegotiation? I would imagine there would be tremendous pressure, not only from --

LEG. CARACCIOLO:
Okay. So there was no guarantee that you would be able to live with the caps or the County would have been able to live within budgetary limits?

CHAIRMAN GULDI:

Mike, can I take it back?

MR. GREENE:
We could have enforced the agreement. If your question was could we have enforced the agreement? Absolutely. Would the unions and the employees and even Legislators say, wait a second, times are not what we thought they were, should we talk about these issues? Of course we would talk about the issues. We may not have been able to find the money to make it any better, but when you're looking at a four percent cap in this day and age, God bless us.

CHAIRMAN GULDI:
Thank you, Dave. Fred Pollert, the memo that we've been discussing with Mr. Greene, could you please give us your recollection of, a synopsis of it and your recollection of how it came to be and to whom you communicated it, other than Mr. Greene, per your fax?

MR. POLLERT:
The resolution came before the Legislature in late August. When we priced it out, we realized that Segal had used the incorrect base number to project from. When the budget came out, we felt that there would be a shortfall. We spoke with the County Executive's Budget Director, who agreed with our numbers, because the Segal Company had used the wrong numbers.

There was an agreement in principle at least with the Budget Review Office Steering Committee, the Budget Review Office and the County Executive's Office that it would be advantageous to the County to cap the costs, but that the numbers would have to be fine tuned, because Segal had used the wrong starting number. The resolution was withdrawn and it was never reintroduced again.

CHAIRMAN GULDI:
Okay. So the problem with the resolution is that the four percent cap was starting on the wrong base?

MR. POLLERT:
That's correct.

CHAIRMAN GULDI:
And that if we used that base, there would have been a forty million dollar or thirty-seven million dollar shot in the budget in '98?

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MR. POLLERT:
That's correct. And I believe that Segal did acknowledge that they had made a mistake in the base.

CHAIRMAN GULDI:

Okay. Dave -- did you ever have a conversation with Mr. Greene on the subject of this memo?

MR. POLLERT:
Yes, I did.

CHAIRMAN GULDI:
Do you remember what was said in that conversation? Do you, Dave, do you remember?

MR. GREENE:
Not after all these years, I don't recall, not at all.

CHAIRMAN GULDI:
Mr. Pollert, give us the benefit of your recollection.

MR. POLLERT:
When I first sent the memo to Mr. Greene, he contacted me and said that we were taking on the actuaries, that was beyond our area of expertise, but he would forward it to the actuaries. And then he called me back two days later when the actuaries acknowledged that they had used the wrong numbers and said that they were going to have to rethink the program as it was originally laid out.

CHAIRMAN GULDI:
All right. Now, Dave, you said a number of times with respect to the decision to not resubmit this, to withdraw this resolution and not resubmit it, that you were just following orders and that you were a good soldier. Whose orders were you following?

MR. GREENE:
I worked for the Executive Branch.

CHAIRMAN GULDI:
I know where you worked, my question is whose orders were you following? Do you remember whose orders?

MR. GREENE:
This was withdrawn, and once it was withdrawn, it was not my concern anymore.

CHAIRMAN GULDI:
All right. So you don't know who withdrew it, but you were following orders once it was withdrawn and you don't remember who gave you the orders?

MR. GREENE:
Once it was withdrawn, I shook my head and I said I don't know why they did this, but that's not in my area of expertise or purview, that's the Legislative Directors and they deal with the Legislature.

I don't stick my nose where it's not wanted. And they didn't ask my

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input on that, so it wasn't my business.

CHAIRMAN GULDI:
Okay.

MR. GREENE:
I still liked this agreement, I think it would have done the County a lot of good.

CHAIRMAN GULDI:
All right. You referred to, a moment ago in your remarks you referred to the health trust would have to live within it, what do you mean by the use of the words health trust? I don't believe we have such an entity.

MR. GREENE:
No, we don't now, but in the agreement that we had proposed, it was basically a health trust.

CHAIRMAN GULDI:
It was a health trust?

MR. GREENE:
That was my recollection of it.

CHAIRMAN GULDI:
The copy is annexed, I've read it, I don't see that. Could you look at it and show me how I'm misinterpreting?

MR. GREENE:
I may be using the wrong terminology, but what it basically does it fixes the amount of the first year shall be four percent and going forward, so in essence, we've capped the costs at four percent.

LEG. CRECCA:
What happens when the bills come in over four percent?

CHAIRMAN GULDI:
Yeah, what happens, precisely?

MR. GREENE:
You have to cut the benefits.

LEG. CRECCA:
Where is it in this agreement --

CHAIRMAN GULDI:
Where does it say that?

LEG. CRECCA:
Where is it in this agreement does it authorize the County to withdraw benefits from its employees? Because you keeping saying -- I've been listening --

MR. GREENE:
Andrew --

LEG. CRECCA:
I don't -- just let me finish out, Dave. All right?

MR. GREENE:
Go to the last page.

LEG. CRECCA:
Let me finish my question. Maybe it's there. I'm asking you simply, I see in this agreement that it says it caps it at four percent, the money that's going into the fund that pays the benefits, but the bills are still going to be incurred, so how does the County not pay its bills?

MR. GREENE:
It's agreed shall continue to oversee the application of the monies allocated.

LEG. CRECCA:
Right.

MR. GREENE:
It's right in the agreement. It's signed by --

LEG. CRECCA:
I see who it's signed by.

MR. GREENE:
By all the parties.

LEG. CRECCA:
Right. It's signed by the unions.

MR. GREENE:
Yes.

LEG. CRECCA:

And by yourself on behalf of the County Executive.

MR. GREENE:
And the full intent of the parties and the full thrust of that agreement was we were going to live with a four percent increase in revenue per anum regardless of trend.

LEG. CRECCA:
Okay. But you're missing my point. There's no -- there's nothing in here where the unions decide, agreed to --

MR. GREENE:
I'm sorry, you're misreading it. The unions fully agreed to live within the four percent, which means if the trend exceeded four percent --

LEG. CRECCA:
Yes

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MR. GREENE:
We'd had to find cost savings, modification, change.

LEG. CRECCA:
Again, I'm going to ask you --

MR. GREENE:
Let me finish.

LEG. CRECCA:
No, Dave. You don't even let me finish my questions, just let me finish my questions. I'll give you all the time you need in the world to answer the questions.

MR. GREENE:
Okay.

LEG. CRECCA:
Okay. But you're making it sound like the unions were agreeing at that point to lower their benefits, to reduce benefits if it exceeded four percent. And there's no place in this agreement, nor do I think that the unions would have signed an agreement which would have taken benefits away from their members. So again, I just ask you to point out to me, you keep saying what a benefit this agreement would have been to the County.

MR. GREENE:
First of all, when we entered into this agreement, the unions, as well as the County, had extensive conversations with the consultants which assured us based on their then projections --

LEG. CRECCA:
Right.

MR. GREENE:
And our plan design and the numbers as they understood it as explained to all the parties in the room, that the four percent was a reasonable cap. That is what we all believed at that point in time. The unions believed that, management believed that.

LEG. CRECCA:
Let me stop you there, because in other words, just so we're clear, everyone was -- the estimates were that it would be about a four percent increase per year?

MR. GREENE:
That is what the consultants indicated, that with our plan design and where we were in health insurance, a four percent cap would be manageable at that point in time.

LEG. CRECCA:
Okay.

MR. GREENE:
As a Monday morning quarterback looking at 1997 in the year 2003, it would have been, as far as providing benefits, an absolute full-blown

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disaster, I agree with you.

LEG. CRECCA:
We wouldn't have been able to keep the agreement.

MR. GREENE:
It would have caused benefits to be at such risk that it would probably result in some kind of renegotiation, I don't disagree with you.

LEG. CRECCA:
But the agreement says, it says, party A and party B agree that there will be a four percent increase each year in Fund 85.

MR. GREENE:
Right.

LEG. CRECCA:
But it doesn't say what happens if the benefits exceed that.

MR. GREENE:

It was clearly the intent --

LEG. CRECCA:
Who drew this agreement up, the County Attorney?

MR. GREENE:
This was drawn up between, several lawyers drew this up, their lawyers and our lawyers, both sides had legal opinion look it over. It was clearly the intent of the parties, and you certainly can talk to the unions if you'd like to, that we were all going to live within the cap, the theory being that if we were prudent and we didn't spend up to four percent, you could expand benefits. If we weren't prudent or things happened that we had no control, we went over four percent, you'd have to somehow modify your benefits. And that was the design plan and that's what we negotiated.

Now, we all dealt with the same actuary and the same benefit consultants, Segal, they assured -- and the I know the unions had lengthy conversations with them, as did I, and we were all assured by them that those numbers were reasonable and prudent at that point in time. We had no reason not to believe or to trust the numbers, after all they're an internationally renowned company, we had no reason to doubt it.

Looking at what happened to health insurance since 1997, who foresaw prescriptions going up twenty-five percent a year, who foresaw this kind of disaster in health insurance? At four percent a year, the County would have been very rich, very little benefits would have been provided. You're absolutely correct, I won't even argue that point, you're absolutely correct.

LEG. CRECCA:
Whose function was it to manage the EMHP, the health insurance plan, was it Executive's function or was it the EMHP Board?

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MR. GREENE:
As far as the day-to-day operations in terms of the plan design, appeals, the ongoing business of health insurance, it was the Committee that did the day-to-day operational.

LEG. CRECCA:
So it would be the Committee that would make decisions regarding the management of the plan, like a Board of Directors, correct?

MR. GREENE:
That's one way of looking at it, yes.

LEG. CRECCA:

Okay.
MR. GREENE:
It required, of course, if we made substantive changes, we would have to have a separate memoranda of agreement we made changes. Empire always sends down these changes. Some of their recommended changes are not, how would you say, beneficial to the County. I remember the classic one being a second opinion before you get an MRI. We looked at it and had the consultants look at it and said, yes, that means you're going to pay two doctors before you go to get your MRI. That didn't work for us.

There was some other proposals on how to handle chiropractic. And when they looked at the way VYTRA was handling the chiropractic portion, what the Empire proposed was going to cost us more money, not save us money. Some of their plan designs worked, some didn't. So, we basically cherry picked. Those that worked for our plan, we accepted, those that were more costly or counterproductive, we rejected. And that's one of the beauties of being, quote, unquote, self-insured, you can manage your plan design to be current and not be held captive by an entity in Albany or in Kingston.

LEG. CRECCA:
I don't disagree with you that self insurance is a much better idea.

MR. GREENE:
It's also good for -- the budget people love it as a rule, because you can manage your budget as opposed to one day Empire like in the mid 80's sent us a bill I think for a sixty percent increase.

LEG. CRECCA:
But my question, I'm going to get back to this idea, because you've made it very clear that both the Executive Branch, the County Attorney and I think you even said through acquiescence the Legislature agreed that, and I would say it now, that labor relations, you know, negotiations between, it's not a function of the Legislature, it's a function of the Executive Branch.

MR. GREENE:
Correct.

LEG. CRECCA:
Was the idea behind the EMHP, the Board I'm talking about when this was put into effect by the Executive Branch, was the idea that that

was supposed to be a labor relations tool or was it supposed to be a management board? In other words, do they overlap each other, the idea of contract negotiations and the EMHP Board or were they two independent things?

MR. GREENE:
Let's step back. The theory behind this was we have nine contracts, some unions have better benefits than others. The police, for example, had dependent survivors, so there was a disparity in the benefits. Second of all, there had to be some way going forward absent just negotiating with some unions and have other unions go to arbitration and get different benefits, to put everyone together, to find some way to control costs going forward and to manage health insurance in a reasonable manner. We were self insured, we were in it already.

LEG. CRECCA:
Right.

MR. GREENE:
The only way to make this work going forward is to have all the unions involved and everyone be equally at risk in terms of the positives and the negatives. And the theory was, by getting everyone to work together and recognize the fact that if we don't control costs, if we don't manage the plan, the County was going to be left with no other alternative but to make as its number one bargaining issue payroll deduction, which the unions naturally were adamantly opposed to.

LEG. CRECCA:
Right.

MR. GREENE:
This was a methodology by which they could share and help control the costs. That was the driving force.

LEG. CRECCA:
Behind the idea of the EMHP Board?

MR. GREENE:
Right. Now, if you go through all the minutes, and you can see how the debates went on how best to manage it, how to control the costs, when we got a report from the Segal Company that said we were fifty million to the good, I can not tell you how many people were waving that around saying, look we really did what we accomplished, what we set to accomplish, we controlled it.

LEG. CRECCA:
Is it fair to say then that because of Segal's comparison numbers, I'm talking about EMHP versus Empire --

MR. GREENE:
Correct.

LEG. CRECCA:

That, you know, you were under the impression that we were, although health costs were going up across the Board, not just Empire, not just

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the self insurance.

MR. GREENE:
Nationwide.

LEG. CRECCA:
Nationwide. And especially here in the New York metropolitan area, that you still felt you guys were ahead of the game because we were keeping our costs lower than the Empire Plan?

MR. GREENE:
Look at the yearly reports.

LEG. CRECCA:
Okay.

MR. GREENE:
In fact, think of it this way, we entered into an agreement with the unions in 2001 where it had to be eight and a half percent below Empire, do you really believe, quite frankly, that if the unions knew we were more expensive than Empire and that eventually would come out they would agree to a below number? Everyone had what they thought was the best numbers possible from the consultants. We had the Comptroller's Office, who sat in on all these Committee meetings, had all their expertise, had all their auditors, had all the raw numbers.

LEG. CRECCA:
But the Comptroller's Office, and I'm not trying to defend the Comptroller's Office, but were they auditing the comparison numbers? Because what happens all of a sudden the comparison numbers start to have no back up, it's just that one little page report.

MR. GREENE:
But the comparison numbers are the result of plan rates from year to year to year. I mean the Empire sends you a number, says your cost next year is seven thousand dollars as a fixed number.

LEG. CRECCA:
Right.

MR. GREENE:
We develop a plan rate. A plan rate is our experience in the previous year, the trending going forward. An experience from the previous year, the numbers that were generated by the Comptroller's Office, how

much lives, how many bills, etcetera, etcetera, etcetera, and you're putting those two together, you get your plan rate, which is different than the fund rate, which is what we put in the budget. There's a deference. But in the plan rate, that's the number.

So comparing plan rate to plan rate after all, it's hard to look at a budget number, because it's lives times rates. As we increase the number of employees or number of retirees, the actual total cost goes up. Now, your total cost can go up by say ten percent, while your plan rates are only going up by six percent, because you're adding more employees to the mix.

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So we have to look at plan rate, lives times rate. So you compare the Empire rate to our rate, and that's what the consultants did for us. And they gave us those rates and they ran the numbers that if you were in Plan A with these number of lives, this is what it would cost you. Self-insured Plan B, same number of lives, this is what it would cost you. You do the math, you do the subtraction, there's a number. It could be -- in fact, for the first four or five years, we were more expensive and then we became less expensive. It was simply a function of math.

LEG. CRECCA:
So there was a good amount of reliance, if not complete reliance on Segal, for example, when it came, by the Board, on looking to see what the Empire Plan costs were versus what our self-insurance costs were, correct?

MR. GREENE:
Let me take if one step, the union members will tell you the same thing, I always said, listen, if we have no faith in our consultant, you fire them and get another consultant. You have to have faith in the people you hire. This is an internationally renowned company, they gave us I don't know how many reports, these reports were available to a host of people. We relied on them in total as to the accuracy and the veracity not only of the rates, but in terms of appeals, in terms of plan rates, fund rates, in terms of benefit changes, in terms of comparison to the Empire, in terms of what portion of the Empire we should accept, what we should reject. They were our actuary and benefit consultant, they were the ones that we relied upon to study and make a report to us.

LEG. CRECCA:
There's no question, and there's no question from their own admission back in October of last year that they screwed up the numbers royally, Segal that is. My question for you is now with the added insight or the 20/20, you know, sight that you have now looking back, can you think of any reasonable explanation for the numbers just suddenly were

miscounted, and it continued on year after year after year, for how or why the Segal Company could screw this up?

MR. GREENE:
First of all, I don't know whether they did or didn't or screw up, if they said they screwed up, they screwed up, but I have no firsthand knowledge, but --

LEG. CRECCA:
Dave, we all, I mean we know --

MR. GREENE:
I don't know what they said, I wasn't here.

LEG. CRECCA:
They didn't say anything, they won't come and talk here.

MR. GREENE:
Oh, I thought they testified to the fact they screwed up the numbers.

LEG. CRECCA:
What happened was in October they revamped all their numbers and gave us new numbers based on their prior mistake.

MR. GREENE:
I imagine the lawsuits that are going back and forth will finally ascertain who did or did not screw up what numbers and who did not provide the correct numbers. In hindsight, my original thought back in 1992 was like what the hell are we doing getting out of Empire, this is a disaster, was correct, I was correct.

CHAIRMAN GULDI:
Actually --
LEG. CRECCA:
Yes, go ahead, George.

CHAIRMAN GULDI:
Actually didn't you before --

MR. GREENE:
Unfortunately I was correct.

CHAIRMAN GULDI:
Before you came in in 1992, didn't you actually visit Mr.McAteer and declare this was a disaster and we should go back to Empire?

MR. GREENE:
Absolutely. I thought this whole thing was fraught with risk and I

thought it was going to be an unmitigated disaster, and the people in the State told me that. And as the numbers went forward, it looked like I was right, then all of a sudden we're fifty million to the good, I looked like a God damn fool, I was wrong.

CHAIRMAN GULDI:
Didn't that make you just a tad suspicious, Mr. Greene?

MR. GREENE:
I was suspicious every step of the way. And that's why we got these yearly reports and that's why we looked at it and I'm going, I guess I was wrong.

CHAIRMAN GULDI:
Well, didn't the 1997 -- we have here the 1997 report from Segal Company, actually we passed copies of it out at our prior meeting, the July draft has a note from Phil Baucchio to Mr. Ortiz stating, you know, this comparison doesn't make any sense anymore. And in the final report for 1997 year, that comparison is eliminated from Segal's report and doesn't appear thereafter. Did you notice that in 1997 or '98 or '99 or 2000 or 2001?

MR. GREENE:
I don't remember what was in all the reports, all I know we got a separate piece of paper which outlined, it said, Empire self-insured, and it ran the number I think from '92 forward. And if I remember correctly, the first four or five years we were in the hole, correct? Roughly, maybe ten, twelve million in the hole, something like that.

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LEG. CRECCA:
Combined.

MR. GREENE:
And then all of a sudden we start to creep up to the good and we wound up with a rather large surplus, vis-a-vis the Empire Plan, am I correct?

CHAIRMAN GULDI:
Yeah, unless, of course, the State next year decides to give us another forty percent rate increase in Empire in order to balance the budget, in which case we're to the good again, aren't we?

MR. GREENE:
I mean one of the concerns we had going forward when we entered into the agreement around '97, although it looked like the numbers weren't so good, all the discussions with the consultants and how our plan was maturing and how we were trending and with the constant fear of the sticker shock coming out of Empire, that it was a prudent bet, a prudent risk to go forward with self insured and then all of a sudden

the numbers start to come into the good.

So, we felt very good, except I felt like, boy, I miscalculated, because I thought it was going to go bad. And at the end of the day we said, God, we're fifty million to the good. The unions were very proud to tell us, you see, we told you this plan is a great idea, it's working wonderful, and we felt very good about it. And then one day someone calls us up and says, by the way, those numbers aren't good anymore.

So, George, it does make me feel good that I was right. Of course, I feel bad about being right in this case. I mean a lot of us spent ten, eleven years trying to make this work, we wanted it to be right.

CHAIRMAN GULDI:
Dave, though, didn't the 1997 criticism that the Empire Plan and the Suffolk's plan being substantially different at that point have some merit?

MR. GREENE:
I don't think they were substantially different. I think there was some differences, but not substantially. You know, you have to define substantial. When you look at the basic benefits, the basic benefits were identical. There were a lot of ancillary benefits, chiropractic, durable medical, a whole host of these we spun off.

We spun off things like into Lab Corp. when we had per member, per month capitated program for drugs. We spun off into the mental health, we spun off our own piece. We spun off our own third-party provider for prescription, which was National Health Card, eventually they lost the bid, it went to NPA. We spun off these separate entities and all these entities were designed to do the same thing, to save us money by capitating programs and controlling costs.

CHAIRMAN GULDI:
Didn't we also spin in some costs, like Employees From Risk Benefit, like the Prostate and Breast Cancer Education Programs?

MR. GREENE:
Absolutely.

CHAIRMAN GULDI:
But those costs aren't in the Empire Plan, are they?

MR. GREENE:
Absolutely.

CHAIRMAN GULDI:

If we went back to Empire, we'd have to discontinue those programs or lay off those employees or find other funding sources.

MR. GREENE:
Absolutely.

CHAIRMAN GULDI:
So how can it make sense to compare a plan that's carrying other costs from one --

MR. GREENE:
George, what -- how many dollars are those ancillary pieces are compared to what the total cost of the program?

CHAIRMAN GULDI:
By the way I'm adding it up, we're getting to a couple of million a year.

MR. GREENE:
A couple of million in a program of how many million?

CHAIRMAN GULDI:
So it's a couple percentage points, but --

MR. GREENE:
Let me finish.

CHAIRMAN GULDI:
Frankly -- hold on.

MR. GREENE:
Yes.

CHAIRMAN GULDI:
We're getting to a substantial portion of the eight and a half percent differential that was plugged into the 2001 memorandum of understanding.

MR. GREENE:
Let me suggest to you, we made those decisions based totally on how our costs were moving forward vis-a-vis the Empire, that we had achieved certain modicums of savings and efficiencies and we took some of them and put them into some programs we thought were beneficial, prostate cancer --

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CHAIRMAN GULDI:
We decided to apply our savings to other programs, that's --

MR. GREENE:
And a lot of these were preventive programs.

CHAIRMAN GULDI:
Granted.

MR. GREENE:
Which is the wave of the future. So we thought we were ahead of the curve. We figured for every dollar you spend on preventive, if you can save one major hospital visit, it pays for itself in one shot.

CHAIRMAN GULDI:
Okay.

MR. GREENE:
So we thought we were doing something that was cutting edge. We thought we were doing something. In the newsletters and all of these other thing, web sites, preventive medicine, these are all the things you hear people talking about nowadays and we thought we were ahead of the curve.

CHAIRMAN GULDI:
None of which exist in the Empire.

MR. GREENE:
Correct.

CHAIRMAN GULDI:
And also, frankly, the network that we have is substantially superior to the Empire Plan's network in this community, in this region.

MR. GREENE:
I will take it one step further. When we entered into self-insured, roughly thirty-five percent of our members used the PPO, the Preferred Provider Network. Last I remember, we were at eighty percent.

CHAIRMAN GULDI:
Granted. Now how can it be --

MR. GREENE:
Which is a phenomenal increase.

CHAIRMAN GULDI:
Now how can it make sense to rely on hypothetical comparison of what's just admittedly to some two percent or three percent degree apples and oranges versus relying on our actual experience with our actual costs?

MR. GREENE:
Well, it's like everything else, how do you know how well you're doing? You have to --

CHAIRMAN GULDI:
You certainly know how much you're spending.

MR. GREENE:
No. But that doesn't tell me anything. If I'm spending ten thousand dollars a year for family health insurance, is that a good or a bad deal? I have to have something to compare it against. The benchmark in the State of New York --

CHAIRMAN GULDI:
If it's down from eleven thousand dollars the year before, it's good. If it's up from a thousand dollars the year before, it's bad.

MR. GREENE:
George, if our plan was growing at eight percent a year and all of the plans are growing at ten percent a year, that's good.

CHAIRMAN GULDI:
All right. Now let's go to the --

MR. GREENE:
But let me finish answering that question. The benchmark in the State of New York for State workers and all municipalities and participating agencies is the Empire. That is the number people look at. They say if I want to buy a plan for my employees, the Empire would cost me "X". Self-insurance costs me "Y". Budget people look at that and say, you know something, if you're more expensive being self insured, not a good deal. You're less expensive, it's a good deal. That's the driving force.

CHAIRMAN GULDI:
All right. I'm going to ask one question and then I'm going to subject you to something unpleasant, to be distinguished from the rest of the day's festivities.

MR. GREENE:
George, you're never unpleasant.

CHAIRMAN GULDI:
You brought the 1997 memorandum of understanding to the Legislature because it had a four percent cap financial feature in it.

MR. GREENE:
Correct.

CHAIRMAN GULDI:

The 2001 memorandum of understanding had an eight and a half percent differential financial cap feature in it.

MR. GREENE:
Correct.

CHAIRMAN GULDI:
But you didn't bring that to the Legislature. What's the difference?

MR. GREENE:
The difference is we asked the County Attorney and the legal experts gave us an opinion --

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CHAIRMAN GULDI:
Was that a written opinion?

MR. GREENE:
I believe there may have been a written opinion, you have to ask the County Attorney, I believe there may have been a written opinion, but it was opined that it didn't require Legislative approval. So based on that, it wasn't submitted to the Legislature.

CHAIRMAN GULDI:
Did you have in 2000 -- in 1997, did you have an opinion that Legislative approval was required? Did you have an opinion of Counsel that Legislative approval was required?

MR. GREENE:
In '97?

CHAIRMAN GULDI:
In '97, yes or no?

MR. GREENE:
If I --

CHAIRMAN GULDI:
Or I don't remember.

MR. GREENE:
No. If I remember in '97, I was firmly of the belief it required it, but in 2001, we were not talking about, quote, unquote, additional monies as opposed to a four percent guaranteed increase. After all, the contract with all the unions required us to be fully funded, a hundred percent, no payroll deduction, and with that ten year agreement said we had to stay below a number. So, it was not quite the same as saying you're guaranteeing an increase.

So, we asked the attorneys for an opinion, I think legal Counsel gave an opinion, I think the County Attorney had an opinion, I think they're in writing, you'd have to ask the County Attorney, but we were of the opinion it did not require Legislative approval, and so we didn't submit it as a resolution. Contrary, you know, to what we did in '97, which we firmly believe required Legislative approval and we did send it to the Legislature.

CHAIRMAN GULDI:
Okay. Now, I'm going to suffer an interruption at this point because Legislator Caracciolo has promised that if he has ten minutes to ask you questions that he'll leave. And based on that representation, I'm going to give him the ten minutes.

MR. GREENE:
Is that supposed to benefit you or I, George?

CHAIRMAN GULDI:
I think it will benefit everybody in the room, but only after the ten minutes is up.

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LEG. CARACCIOLO:
Well, unfortunately I have another commitment to make and I won't have time to hear the rest of your --

MR. GREENE:
I'm sorry I snapped at you, you just caught me on a bad day.

CHAIRMAN GULDI:
When do you have a good day?
MR. GREENE:
That's the second question.

LEG. CARACCIOLO:
Dave, I want to go back to the beginning of '92.

MR. GREENE:
Yes.

LEG. CARACCIOLO:
Whose idea was it to pursue and ultimately adopt a self-insurance medical plan?

MR. GREENE:
Well, we inherited that from the previous administration. We inherited a self-insured plan that was entered into, I think the contract with VYTRA was entered into effective January 1st, 2002. We

had a self-insurance plan on January 1st, 2000 -- in 1992, we had one, it was a given. The question was how to manage it, not whether to enter into it. We had one. We had a contract I think with Blue Cross/Blue Shield, we had a contract with VYTRA.

CHAIRMAN GULDI:
Choice Care then.

MR. GREENE:
It was Choice Care then. We had a self-insurance plan, period.

LEG. CARACCIOLO:
In your opinion, whose responsibilities is it in County government to manage the health insurance plan?

MR. GREENE:
As it's currently crafted right now, it's the responsibility of the Committee to manage the plan, that's what the agreement calls for.

LEG. CARACCIOLO:
In 1992?

MR. GREENE:
In 1992, there was a piece of legislation passed by the Legislature, which excluded some of the unions and created a Committee, which had oversight.

LEG. CARACCIOLO:
And as you testified or you commented earlier, you did not believe that that was a framework that would best serve all of the members of

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County government, all of the employees, and that Committee was, makeup was changed, benefits were evenly provided to all County employees as a result of subsequent changes to the medical insurance plan.

MR. GREENE:
In 1992, we felt it violated the Taylor Law to exclude some unions from serving on a committee where their collectively bargained health insurance was being managed. So we created this eighteen member committee. All the benefits then were managed fairly and evenly for all the bargaining units. As George has pointed out, all nine union presidents were in the room, and let me assure you, they jealously guarded all their benefits.

LEG. CARACCIOLO:
As they should.

MR. GREENE:
I'm not faulting them.

LEG. CARACCIOLO:
Now, why are you here today and what went wrong with this plan, specifically the numbers as we refer to them, by the plan actuary and plan benefit manager?

MR. GREENE:
Two-part question. Why am I here? I think maybe I miss the abuse. And it's always a pleasure to take abuse from the Legislature, although the difference this time is now that I don't work for the County Exec.,who had always admonished me to be on my best behavior, I have a little more latitude this time. I wish the hell I knew what went wrong, somebody screwed up the numbers.

LEG. CARACCIOLO:
In your recollection, when did it come to your attention that something was awry with the plan benefits?

MR. GREENE:
When I heard through the grapevine something went rotten.

LEG. CARACCIOLO:
I mean recently or several years ago?

MR. GREENE:
No. After I had left my position here, Risk Management then went over to Civil Service, I understand that Civil Service somehow uncovered this, it was reported out and then the word started to trickle out and I had a call from, I forget who, saying it to me, "did you hear that," I go, "no, really," that's the first I heard of it.

LEG. CARACCIOLO:
The earlier document that was referenced, let me pull it out again, this is the September 23rd, 1997, BRO self-insurance memo, and on the first page it indicates that, "at the last Budget Review Office Steering Committee, we had expressed," this memo by the way was to the Presiding Officer, Paul Tonna; the Chairman of the Finance

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Committee; Maxine Postal, the minority leader; and members of the BRO Steering Committee, which at that time would have been, Fred, correct me if I'm wrong, I don't know who the individuals were, but they would have been the Chairs of Finance, Budget Committee.

MR. POLLERT:
It was those three individuals.

LEG. CARACCIOLO:
It was those three individuals, okay. So, it says here, and this is from Fred Pollert, "at the last BRO Steering Committee, we had expressed concern that the proposed revision to health insurance fund included in I.R. 1854 would have a significant budgetary impact on the 1998 Operating Budget. That resolution was withdrawn by the County Executive's Office, and according to David Greene, the agreement was based on inaccurate information from the actuaries."

So at least as of 1997, you had knowledge that something was not right with the numbers the Committee that you were a member of was receiving.

MR. GREENE:
We went back with the numbers and the consultants assured us the numbers as they crafted it were accurate and we lived by their numbers. I could ask the same question here, if Budget Review is firmly convinced those numbers were inaccurate, there were plenty of opportunities for the Legislature to call the Committee up, to call Segal up, to call the Comptroller's Office up and say, hey, we have a basic dispute over numbers.

As I said before, every part of a budgetary process always results in one side or the other side having a disagreement on numbers. That is a legitimate discussion. And perhaps in 1997 there should have been a legitimate discussion, Segal should have come up here perhaps and said, here's how we calculated these numbers, and Budget Review could have said, here's how we calculated it, maybe the County Exec's Budget Office could say here's how we calculated it. Because, quite frankly, when you sit on these committee meetings, we've had discussions between the Comptroller's people and the Segal's people on these arcane arguments on how you do some of these calculations and how you do the trending and how you do the funding, it is not uncommon to have disagreements on these numbers. Why this debate didn't occur in '97, maybe I'm at fault, maybe we're all at fault.

LEG. CARACCIOLO:
Let me ask you, because we heard Budget Review Office Director, Fred Pollert, indicate earlier that he did bring this matter to the attention of the Budget Office and, Fred, I will ask you now, who in the Budget Office did you bring this discrepancy to, whose attention?

MR. POLLERT:
Basically it was a Budget Director, Reid Vail, who had done the numbers on --

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LEG. CARACCIOLO:

Who was the Budget Director in '97?

MR. POLLERT:
I think it was Bob Maimone.

LEG. CARACCIOLO:
Bob Maimone. This brings me back to the resolution, Mr. Greene, and that's I.R. 1854, which was, let me look at the copy, it was laid on the table I think in August, let me just double-check that date.
MR. GREENE:
The agreement was entered into in August of '97.

LEG. CARACCIOLO:
So it was August.

MR. GREENE:
Yes, it's August.

LEG. CARACCIOLO:
August 26, 1997.

MR. GREENE:
Right.

LEG. CARACCIOLO:
That resolution was laid on the table, subsequently it was withdrawn. I will ask the question again, who did you report to directly in the chain of command, if you will, of the administration you were a member of?

MR. GREENE:
On the day-to-day operation?

LEG. CARACCIOLO:
Yes.

MR. GREENE:
I report to Eric Kopp on a day-to-day operation.

LEG. CARACCIOLO:
Okay. Did he at any time and you discuss this matter?

MR. GREENE:
I have no recollection of discussion with him on this issue, no.

LEG. CARACCIOLO:
Okay. So who then informed you that this resolution was withdrawn or would be withdrawn?

MR. GREENE:

I remember hearing about it, I don't remember who, but I remember hearing that it's been withdrawn.

LEG. CARACCIOLO:
Did it come up at any staff meetings?

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MR. GREENE:
I don't remember it being discussed in staff meetings, no.

LEG. CARACCIOLO:
A topic of this weight did not come up at a staff meeting?

MR. GREENE:
I said I don't recall. There's a lot of staff meetings, I don't recall this discussion. I do remember a discussion in about '95 or '96 when I suggested very strongly we get the hell out of here and go back to the Empire and people looked at me and said, well, you better be damn sure before we pull out of a self-insured plan that's running and go to Empire, so you better, you know, step very gingerly before we go in that direction.

So I did raise my concern and the County Exec. was very concerned with the numbers and said you better look at this carefully, you better, you know, make sure that everything is copacetic. And that is one of the reasons before we entered into the agreement, the follow-up agreement, we had these long discussions with the consultant about trending, maturity of plan, our percentage of our employees in the PPO, etcetera, etcetera.

LEG. CARACCIOLO:
What was the basis of your concern in '95 that you should go back to the Empire Plan?

MR. GREENE:
Because if you look at the numbers we got from Segal, they show us in those couple of years we were losing money, quote, unquote, in comparison to the Empire. One of the ways it was explained to us, it takes several years, three or four or five years, for a plan to mature, and you can't look at a plan in a single year, because single year can give you a false read, you have to look at it over a period of time for a plan to mature.

As I pointed out, Mike, when we started, thirty-five percent of our employees were going to the PPO, and that number was increasing. So when you look at the fact that the more membership you have attending a PPO, the less expensive it is for the plan, it only stood to reason if in the outgoing years, '97, '98, '99, 2000, as Segal showed us a savings, it correlated with the increase in use of the PPO.

In fact, we had many discussions in the Committee where I said, well, the only thing I can think of that's giving us this great a savings is this tremendous surge in use of the PPO. I mean, after all, hospital costs -- Blue Cross negotiates discount rates, VYTRA negotiates, all these companies negotiate discount rates with the hospitals, but the one glaring difference was the percentage of our members, an extraordinarily high percentage of our members using the PPO.

LEG. CARACCIOLO:
Let me ask you, because I want to really sum this up. At the end of the day, even though you had these concerns and you expressed them earlier, you had great concerns in '96, '97, so there's a period of three years where you have great concerns about the numbers, but at

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the end of the day, would it be fair to say that you and others on the Committee were provided a comfort level --

MR. GREENE:
Comfort level, we were ecstatic.

LEG. CARACCIOLO:
-- based on your actuary reports?
MR. GREENE:
Mike, we were beyond comfort, he were ecstatic. When you get a report that shows you that you spent ten years working on a plan to save money and you saved thirty some odd million dollars compared to the Empire, everyone said it was a job well done and that we discharged our obligations.

LEG. CARACCIOLO:
Okay. Fred, fast forward, I'm glad you're sitting there and just a couple of questions for him. What went wrong between this time period we just discussed, '95 to the present, and when did the Budget Review Office become aware of that and what actions did you take?

MR. POLLERT:
Basically the Budget Review Office was not involved in the process at all, what we did is we reviewed the numbers that were included in the budget forecast of expenses and made sure that the interfund transferred to cover those expenses were adequate. About three years ago, the Budget Review estimates were substantial lower than those from the County Executive's Office. We highlighted that to the Legislature. Those were the years that the plan started to run cumulative deficits from one year to the next as a result of the under-budgeting in the budget.

With respect to the growth, the growth in the Employee Medical Health

Program was more or less comparable to what was going on at the national level with respect to the cost of prescriptions. Everything else in our reports highlighted that, even though we were having a growth of eight, nine percent per year, it was comparable to what was going on at the national level.

The findings with respect to the Segal Company making an error and saying that we were less expensive than the Empire Plan when, in fact, it would have been less expensive to be with the Empire Plan, was something that we only heard about in the press when it was disclosed that the County was bringing a lawsuit against the Segal Company due to the over counting of numbers.

LEG. CARACCIOLO:
Okay. So you only found out from news media accounts about that issue?

MR. POLLERT:
That's correct.

LEG. CARACCIOLO:
Okay. So at no time over the last ten years approximately did your office uncover this, the magnitude, (a) the discrepancy and the

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magnitude of the discrepancy?

MR. POLLERT:
That's correct. Nor did we get reports on a regular basis that looked at a comparison between the Empire Plan and the County plan. What we received on an annual basis is the forecast of both the Segal Company as well as the Department that was making a request of the County Executive's Office. At the beginning we were invited to attend meetings with the actuaries, at the end we were not included, but what we received were the third-hand reports from the Segal Company. And we also did get regular reports from the Employee Benefits Unit that we could tie out to the Segal numbers.

LEG. CARACCIOLO:
In your opinion, who has the responsibility to uncover a discrepancy of this nature?

MR. POLLERT:
Just to follow-up on what Ernst & Young had said at the last audit, it was really an obligation of the Segal Company to check their numbers every year and not cascade the problem through from one year to the next or the next. That's the first line of defense that they should have had a review of their numbers, and if they had done things properly, they would have been touching base with the County to make

sure that they understood the numbers that were being provided to them.

The second line of defense should have been the County reviewing the internal consistency of the numbers.

LEG. CARACCIOLO:
Who within the County?

MR. POLLERT:
I would imagine the Committee that actually got the numbers.

LEG. CARACCIOLO:
What role did the Comptroller's Office have with respect to reviewing these numbers?

MR. POLLERT:
That I can't tell you, because we were not on the Committee. I don't know who actually received the report, who accepted the report and who did the review of the report.

CHAIRMAN GULDI:
Mike, you're well over your time.

LEG. CARACCIOLO:
I know.

CHAIRMAN GULDI:
But I'll follow it up with Dave, when did the Comptroller's Committee, Comptroller's representative come off of the Committee?

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MR. GREENE:
A year or two ago, I guess.

CHAIRMAN GULDI:
1998?

MR. GREENE:
Something like that, it could be, but we always had members of the Comptroller's Office there from jump street. I mean it was four or five members of the staff always sitting in on the meetings, Shirley {DiMateo}, Oscar Ortiz, Margaret DeMarzo, there were always people available there. Phil Baucchio sat in on many of them, I remember Joe Poerio sitting on some of them.

And all the numbers that the consultants got, to our understanding came from the Comptroller. And every month we got this, as I said, large report, which compared other years, our medical costs, our hospitalization costs, our HMO costs, our prescription costs, and we had a monthly report on that.

CHAIRMAN GULDI:
Did there ever come a time when you told Segal & Company not to talk to Phil Baucchio?

MR. GREENE:
No.

CHAIRMAN GULDI:
Is there any comment you ever made to them about consulting fees or other activities that could reasonably have been construed to --

MR. GREENE:
The only thing they said to me, they said, "what do you want out of us," I said, "I want God damn good numbers and I want them right every God damn time," except I used some other words which were a little stronger.

CHAIRMAN GULDI:
Dave, I was sure you had. In fact, when Mr. Pollert gave us his recollection of his conversation with you, I was confident he wasn't quoting.

MR. GREENE:
Yeah. But we made it very plain to Segal we can deal with anything if we have accurate numbers, whether we like them or not.

CHAIRMAN GULDI:
But was there ever any point where you told Segal who they should and shouldn't be talking to within County government?

MR. GREENE:
I didn't even know who they talked to in County government, for God sakes, and it wasn't our concern. Our concern is that they generated the very best numbers they could possibly generate, because we counted on their numbers to the end degree.

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CHAIRMAN GULDI:
Okay. You just in your response to Legislator Caracciolo's questions you talked again, repeatedly you said the -- you said repeatedly that if the County was -- Legislature, Budget Review or the Comptroller was concerned about the numbers, you could -- we could have reached out to the Committee, brought them in, made them tell us what's going on.

MR. GREENE:
George, I would have let you sit on my lap during the Committee

meetings, if it would have made you feel better.

(LEGISLATOR CARACCIOLO EXITED THE MEETING AT 12:50 P.M.)

CHAIRMAN GULDI:
It wouldn't have.

MR. GREENE:
And I don't know if I could have taken the pressure.

CHAIRMAN GULDI:
I'm sure you couldn't have.

MR. GREENE:
I'll sit on your lap.

CHAIRMAN GULDI:
No, thank you.

MR. GREENE:
You're welcome.

CHAIRMAN GULDI:
The question I have for you, though, Dave, is that I'm confused in that if it's -- if it is in your opinion or the -- and the opinions you relied on from various County Attorney's a violation of the Taylor Law for the Legislature to be in and on the Committee because it's, it is somehow collective bargaining, how would that kind of inquiry, examination, investigation not also violate the Taylor Law to the same scope and extent?

MR. GREENE:
George --

CHAIRMAN GULDI:
I just don't understand your position.

MR. GREENE:
Perhaps I can explain it to you. In the budget process there's a line item for health insurance, and there was nothing inappropriate -- it would be no different than calling the Director of Labor Relations up and say, listen, you have an agreement with the police for two tour rotating and steady midnights, it's come to our attention they're not doing steady midnights, what's going on. Like any other Legislative inquiry about anything that's bargained, we would have been here, we would have answered all your questions.

Second of all, it's part of the budgetary inquiry, you have the absolute right to know I'm spending a hundred and twenty, hundred and thirty million perhaps of taxpayer dollars, you have every right to know is that money being spent appropriately. Is it being handled as it should be. Are we getting our bang for our buck.

CHAIRMAN GULDI:
Yeah, but why can't -- isn't that the role -- isn't that what the Committee does on a monthly, daily basis, isn't that the guts of their work?

MR. GREENE:
We -- we control in terms of the day-to-day operations, but I'm talking to you if you want an overview of the money being spent, you had every right as a Legislature to call people in front and say we want all your minutes, we want all your records, we want your consultants sitting here, we want Segal sitting here, when Mercer was here --

CHAIRMAN GULDI:
Yeah, but isn't that just the sum total of --

MR. GREENE:
No. Because you then would have an opportunity to grill all the participants, to grill the consultants, to have discussions between the County Exec's budget people, Budget Review, any discrepancies in how you ascertain numbers or how you analyze numbers, this could all have been discussed in a very open forum.

And, quite frankly, there was nothing to hide. I would have -- I could not foresee any objection to anyone having that kind of public debate, because as we got into the later years of this program, the numbers were looking so good to the Committee, I think we would have rushed down here for that discussion.

But, George, the whole process was so transparent. We went through the bidding process for the consultants, we went through the County bidding process, everything was transparent. There are minutes, there are records, there are reports, we certainly would have come down. And, quite frankly, if that would have uncovered a discrepancy early on, we all would have been better off, you would grant me that.

CHAIRMAN GULDI:
Isn't there a -- when Mercer was retained and they had the dispute on billing, was that selection made through the bidding process by the County?

MR. GREENE:
That was done I think -- the Committee I think selected Mercer way back when, I'm pretty sure, I don't recall. I think Mercer was selected, I don't remember the process at that point in time.

CHAIRMAN GULDI:
Weren't they continued to do substantial work beyond the scope of their initial engagement at your direction without going through the bidding process?

MR. GREENE:
They may have, I don't recall.

CHAIRMAN GULDI:
Okay.

MR. GREENE:
I also recall that when we inherited this program, we inherited non-contracts. What I mean by that, we had a contract with Blue Cross/Blue Shield that wasn't a contract, never signed.

CHAIRMAN GULDI:
Right.

MR. GREENE:
We had a stop loss policy with a carrier in California, never signed. We inherited as a Committee --

CHAIRMAN GULDI:
Hold on, hold on.

MR. GREENE:
Let me finish.

CHAIRMAN GULDI:
The plan was started in January of '92, you joined it in February of '92, when were these documents --

MR. GREENE:
These agreements were struck before I got here. And we were told by the Comptroller's Office, that's how you do it in the insurance world, you don't have signed contracts. When we changed hospital vendors more or less, when we ended our relationship with Blue Cross, our legal people in the committee went through the tortures of the damned trying to have the exit strategy, because there was no signed contract. There was no signed contract with the stop loss carrier when it came time to see if we can get any money out of that. There was no tight controls.

If you would look at what we as a Committee has done with the legal people on the Committee, with the consultants, everything was firmed up. There are umpteen millions letters between us, vendors, when we did appeals, look at the correspondence on appeals. Some of these appeals had to go out to peer reviews. There was copious documentation to follow.

Steve Gordon can be a royal pain in the tushy, because he always requires a belt and suspenders and documentation, and as he would say, you need a missive, you need a writing, so everything was in writing. All these things were available to the Legislature. I can't think of anyone having an objection to you reviewing it all.

CHAIRMAN GULDI:
But I still don't see the distinction. And my question is what is the difference between that and sitting on the Committee?

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MR. GREENE:
As I said earlier, I said the dispute was not on sitting on the Committee, I said the County Exec. had the right to appoint nine people to the Committee.

CHAIRMAN GULDI:
Well, why doesn't the Legislature have the right to allocate those nine appointees?
MR. GREENE:
Because the agreement is a collectively bargained agreement and that's, George --

CHAIRMAN GULDI:
Could you collectively bargain and without Legislative ratification a tripling of salaries?

MR. GREENE:
The unions would like to believe that, but I don't think so.

CHAIRMAN GULDI:
Well, you're subject to Legislative approval as the policy maker --

MR. GREENE:
Because there's a financial impact and that would definitely require --

CHAIRMAN GULDI:
Right.

MR. GREENE:
-- Legislative approval.

CHAIRMAN GULDI:
So you're spending a hundred and thirty million dollars a year under

this program and there's no financial impact, is that your argument?

MR. GREENE:
If you remember, you were spending that amount of money with or without a Committee. The County had obligated itself --

CHAIRMAN GULDI:
So, hold on. Since you're going to spend the money anyway, it's not a financial impact?

MR. GREENE:
The County had obligated itself to that kind of expenditure, which is trending yearly naturally, by agreeing to contracts with the unions that said a hundred percent fully funding, no payroll deduction, uncapped going forward, that's what's in all the collective bargaining agreements. It also gave the County the right to go self-insured or return to the Empire.

The County in late 1991, from what I understand, through legislation, exercised its rights to go to self-insured and formed the Committee which excluded several unions. We're going circuitous back to where we started. We had an argument, we have an arguable case and we

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firmly believe that the Executive Branch did not require the approval of the Legislature. You disagree with us.

CHAIRMAN GULDI:
No, I didn't say that. I'm trying to get you to tell me the difference between you're saying on the one hand that we can't do A, B and C here, but on the other hand we can do exactly A, B and C there --

MR. GREENE:
No, George, you're mischaracterizing --

CHAIRMAN GULDI:
-- because of the law. Your argument seems self contradictory and you tell me how it's not.

MR. GREENE:
I'm saying that to bargain over a mandatory subject such as health insurance, let me finish, the Legislature has no role.

CHAIRMAN GULDI:
Yes. But does this Committee bargain over the benefits of health insurance?

MR. GREENE:
Yes.

CHAIRMAN GULDI:
The Committee bargains with who?

MR. GREENE:
We discuss it there, we bargain there and we sign agreements between the County and the union Presidents to modify benefits, whether it be up or down.

CHAIRMAN GULDI:
And you do that at every meeting?

MR. GREENE:
No, not every meeting.

CHAIRMAN GULDI:
How often? I've seen three or four since --

MR. GREENE:
Sporadically, depending upon --

CHAIRMAN GULDI:
I've seen four memorandums of understanding in ten years. How many bargaining sessions did you have?

MR. GREENE:
Sporadically, you know, those changes are made. We have renewals. But, George, we're getting back to the same basic argument, if the Legislature had an opinion of Counsel that the Executive Branch overstepped its authority and it violated the Taylor Law, then you had a remedy and you've had ten or eleven years to exercise that remedy.

I would encourage you if you believe that you have a remedy, to exercise it.

LEG. CRECCA:
May I interrupt, Mr. Chairman?

CHAIRMAN GULDI:
Go ahead.
LEG. CRECCA:
My question is really to the Chairman and to the Committee, but, you know, I feel like we're all over the map and we're losing focus here.

MR. GREENE:
I agree with you.

LEG. CRECCA:

And I'm not -- I don't know, is this a session to decide or a hearing to decide whether or not the EMHP Board should have been the way it was or wasn't the way it was? I thought the focus here was on these bad numbers, the self-insurance numbers with the Empire Plan, I thought the focus here was supposed to be on getting to the bottom. I'm not saying it in an accusatory way, please don't take it that way, but, you know, we really need to rein this back in as to figuring out how we got to these bad numbers, why we got to these bad numbers, which, you know, I don't think Mr. Greene can shed any more light on that topic. You know, the reality is that we need to hear from Segal and we need to --

CHAIRMAN GULDI:
Yeah, actually --

LEG. CRECCA:
I think that's what's happening is if I'm sitting out there and, you know, I'm going to be thinking that, you know, hey, we were just trying to do the right thing, I'm talking about if I'm one of the union President's right now, I'm not trying to be defensive of them, but it's almost like we're accusing them of misdoing and that they mismanaged this plan, how the hell did they not see this and stuff. I think that the testimony has been --

LEG. FISHER:
If I may, Mr. Chair?

LEG. CRECCA:
That's the tone that's being projected.

LEG. FISHER:
Okay. But if I may to that particular comment, I think it was clear in my question to Mr. Greene, and he answered it, that the decision whether or not to stay in the self-insured plan or to revert to the Empire Plan was a decision made by the Executive, County Executive.

MR. GREENE:
The Executive Branch made that decision.

LEG. FISHER:
Okay. On his -- well, he's part of the Executive Branch.

MR. GREENE:
And, quite frankly, just like any other agreements that we strike, the Executive Branch makes the decision to enter into an agreement.

LEG. FISHER:
Okay. And if I may finish my point. So what we had said was that it

wasn't the Board, it wasn't the Union Presidents who made that decision.

LEG. CRECCA:
You're right, and I don't mean --

LEG. FISHER:
Can I follow up with another question?

MR. GREENE:
Vivian, before you go any further on that --

LEG. CRECCA:
I just want to say one other thing and then I'll turn it over to you.

LEG. FISHER:
All right. I interrupted Legislator Crecca, so you can give him the floor.

MR. GREENE:
Let me say one thing, the Union President and the management people on the Committee and the Executive Branch all relied on Segal's numbers, the consultant's numbers.

LEG. FISHER:
Yes, we know that.

MR. GREENE:
We made these decisions in the Committee collectively based on the very best information available. As I said, a lot us spent a lot of years and a lot of meetings and we all felt we had gone above and beyond. And I don't think there's anyone you can talk to who served on that Committee who is feeling very good about finding out at this late date that we got snookered.

LEG. CRECCA:
Right. And that's my point is I just want to bring the focus back on the fact that it's not -- I'm not -- is that, you know, we're not saying that bad management decisions were made, maybe they were, maybe they weren't, but that they -- the question which I asked earlier which I think is where we need to get back to is you heavily, they heavily relied on these --

LEG. FISHER:
But I have a question about that very specifically.

LEG. CRECCA:
Go ahead.

LEG. FISHER:
Mr. Greene --

LEG. CRECCA:
It's up to the Chairman, I shouldn't say go ahead.

LEG. FISHER:
I'm sorry. Mr. Chair, could I just ask a very specific question about the numbers?

CHAIRMAN GULDI:
Well I still don't -- he said, he's answered they relied on the numbers, but he hasn't answered how in 1997 they knew the numbers were wrong and how they were relying on projections on a hypothetical that doesn't match instead of actuals.

MR. GREENE:
George, what I said to you there's always a dispute among numbers. You sat on how many budget hearings in your career here?

CHAIRMAN GULDI:
Yeah, well --

MR. GREENE:
Have you ever seen both parties walk in the room in a budget process and say our numbers are right and their numbers are right when both numbers are different?

LEG. FISHER:
If I may, I have a question about that.

MR. GREENE:
A legitimate debate could have been had about the numbers. Why it wasn't it energized at that point in time, I don't know, but after '97, we had numbers in '98, '99, 2000 --

LEG. FISHER:
Okay. Mr. Greene, if we may ask the questions. I just have a question about the time line. When did Mercer leave? You said that there was a disagreement with Mr. Caputo on the payments.

MR. GREENE:
'94, '95, somewhere in there, I don't remember.

LEG. FISHER:
'94 or '95.

MR. GREENE:

Somewhere in there I think.

LEG. FISHER:
Subsequent to that then, Segal was basically on its own as an outside

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contractor?

MR. GREENE:
We went through a bidding process. We went through, I think twice we went through the bidding process and there were -- we sent out RFP's.

LEG. FISHER:
Okay. But subsequent to that, there was not an auditor?

MR. GREENE:
There was a successful bidder, yes.

LEG. FISHER:
There was? At what point did another bidder come on board then?

MR. GREENE:
Oh, no. There were a bunch of bidders, they were the successful one in the bidding process both times. I think there were two rounds of bidding, twice they were renewed.

LEG. FISHER:
No, no, no. My question was this, earlier today you said that at the outset of the plan, the benefit consultant was Segal.

MR. GREENE:
Correct.

LEG. FISHER:
And the actuary was Mercer.

MR. GREENE:
Correct.

LEG. FISHER:
Because of a refusal by Mr. Caputo to pay Mercer, Mercer left.

MR. GREENE:
Correct.

LEG. FISHER:
And now you're saying that Mercer left in '94 or '95.

MR. GREENE:
Somewhere around there.

LEG. FISHER:
Was the role of actuary replaced by somebody else?

MR. GREENE:
Yes. That role was taken over by Segal & Company, because --

LEG. FISHER:
But Segal & Company was the --

MR. GREENE:
Benefit consultant as well.

LEG. FISHER:
So then what I'm saying is that there was not a second, a second eye looking at this --

MR. GREENE:
Not true.

LEG. FISHER:
-- after '95?

MR. GREENE:
No, you had the Comptroller's Office.

LEG. FISHER:
But the Comptroller's Office was there before. There were not two independent entities anymore?

MR. GREENE:
Two independent entities, you're absolutely correct.

LEG. FISHER:
Okay. After '95, okay. That's just what I wanted to note with regards to that question. The second question I had was that there might have been a flag that went up to you or the Comptroller's Office when the Empire Plan moved from a single-tier system to a two-tier system, which is what I understand or multi-tiered system.

MR. GREENE:
{Core} and {Core Plus}.

LEG. FISHER:
Which is what led to counting the lives more than once.

MR. GREENE:
Yes.

LEG. FISHER:
Okay. At that point -- when did that happen?

MR. GREENE:
Oh God, I don't know when they went to Medicare, late 70's -- late 90's.

LEG. FISHER:
Late '90's. Okay. Around '96 '97?

MR. GREENE:
They broke out the Medicaid eligible into a separate class of people.

LEG. FISHER:
Okay. At that point was where the more serious mistakes began to occur, because lives were being counted twice.

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MR. GREENE:
In retrospect, from what I understand, they double counted those lives.

LEG. FISHER:
Okay. But you as a person who has been dealing with insurance plans, didn't that raise a red flag for you that we had to count Empire Plan and do comparisons, we had to use a different formula because they were now working on a multi-tier system as opposed to our single-tier system and that it could lead to that kind of arithmetic error where the lives would be --

MR. GREENE:
There was no -- there's no one in that room that could have believed that a consultant of the internationally renowned of Segal would have made, as you suggest, a very simple mathematical error.

LEG. FISHER:
But didn't you see a great discrepancy in the numbers that occurred that year and the numbers that had occurred the year before? There was quite a large difference.

MR. GREENE:
When we -- whether the numbers were looking too large or too small --

LEG. FISHER:
Well, you were thrilled by your own admission.

MR. GREENE:
We were raising the questions, how did this occur, and we were assured as the plan was maturing and that by virtue of our increased PPO and usage, that is why we were achieving these savings.

LEG. FISHER:
Did you have discussions with the Comptroller's Office with regards to this multi-tier system that Empire had now instituted?

MR. GREENE:
Separate and distinct moving on the Committee, no, but they were in the Committee.

LEG. FISHER:
Okay. Was the Board apprised of the difference in the structure of the Empire plan now and how that might impact the formulas that you had previously been using?

MR. GREENE:
I believe at some point in time Segal pointed out there was a change in the plan, I think even the Comptroller's Office may have indicated the change in the plan and how it would change things going forward.

LEG. FISHER:
Okay. Dave, this is where I get a little confused, because I know that it is bargainable when you're looking at the plan and what the plan provides for the members of the different unions and I agree with you that that is the purview of the bargaining units to work with the

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Executive Branch. However, when we get to a structural change that impacts on fiscal policy, and there was an enormous change in the way Empire was working its plans, wouldn't that have been a good time to alert the Legislature as well as the policy making body? That's not bargainable, that would be something that in the purview of looking at the whole picture, the fiscal picture and policy picture. Wouldn't that have been -- wouldn't it have behooved all of us to have been made aware?

(CHANGE IN STENOGRAPHER - DONNA CATALANO)

MR. GREENE:
In retrospect, that may have been a good idea at that point in time. But we were looking at the numbers coming from the consultants. It looked like life was good.

LEG. FISHER:

And it's surprising that the Comptroller wouldn't have taken a better look at that.

MR. GREENE:
Well, as I said, we thought we had -- you point, instead of having two independent, we had one independent. And we had -- we still had the County oversight because ultimately the Comptroller has the right to audit, you know, all the vendors.

LEG. FISHER:
But Segal was watching Segal.

MR. GREENE:
Well, true. And the Comptroller was watching the Comptroller. In fact, I think at one point in time maybe the union presidents -- refresh my memory -- I think we authorized Segal Company to do an audit of Vytra to make sure the bills were being paid correctly, because one of the --

LEG. FISHER:
Okay. But you went from saying, let's get the hell out of here to, wow, look, look, this is a home run. That's certainly would have raised --

MR. GREENE:
I looked like a real horse's ass because I was wrong.

LEG. FISHER:
Thank you, Mr. Chairman. Those are my questions.

CHAIRMAN GULDI:
Dave, back to the 1993, 4 rebid, when -- when Blue Cross ultimately lost the hospitalization, you remember that process, you were involved with that?

MR. GREENE:
Yeah. We floated all these RFPs. I don't remember how many vendors. I remember --

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CHAIRMAN GULDI:
Do you remember how many finalists?

MR. GREENE:
Two or three, I think.

CHAIRMAN GULDI:
Do you remember who they were?

MR. GREENE:
I think Blue Cross and Vytra were the finalists in the hospitalization piece. I think we had -- the original -- the final meeting I think may have be some where in the Legislative building. But I know we through this whole involved RFP process at the point time in time. And the recommendation to the County Exec I think was -- I don't know if the changed the name to Vytra at that point in time or not, but to give the hospitalization business to Blue Cross -- from Blue Cross to Blue Shield to Vytra. We thought we'd get some economy of scale, I think was one the arguments and some synergy there using the same carrier.

CHAIRMAN GULDI:
Don't you think -- do you remember the BPA being a finalist at that point?

MR. GREENE:
No, they were not a finalist that I was aware of. I had met with them one time, I walked out of the room, they scared me half to death.

CHAIRMAN GULDI:
Do you remember --

MR. GREENE:
They didn't know anything about health insurance, but, buy, they knew about lunch menus.

CHAIRMAN GULDI:
Did there ever come a time when they had made a bid on County business?

MR. GREENE:
They were interested in making a bid. They were interested.

CHAIRMAN GULDI:
Do you remember them being disqualified for submitting a late bid?

MR. GREENE:
Could very well be. All I know I was -- I met with them one time, I came out of the room, and you know when the hairs, like, on the back of your neck start to curl a little bit? You know, they're running down the back of my neck by then. I didn't -- I got the sneaking feeling health insurance wasn't their main line of business. Let's leave it at that.

CHAIRMAN GULDI:
What gave you that feeling?

MR. GREENE:
You've been in this business long enough, you go in there, and you just see the trails. It looks like slugs. You knew right away I was in the wrong room.

CHAIRMAN GULDI:
No. I don't understand what you mean by that, do you mind.

MR. GREENE:
George, you've been around, you know. You get the feeling. You talk to people in the health insurance business, and you get the feeling they know, and you talk to other people and you go, they're trying to sell me ice in the winter.

CHAIRMAN GULDI:
Do you remember what was said?

MR. GREENE:
Well, basically, in a nutshell, they can do everything for everybody at any price, at any time, without fail. Any anyone who tells me they can do anything for anybody, at any price, without fail, scares the hell out of me.

CHAIRMAN GULDI:
Do you remember where that meeting was held?

MR. GREENE:
Somewhere in Huntington, I think.

CHAIRMAN GULDI:
Was it in the '93-'94 period?

MR. GREENE:
Somewhere then.

CHAIRMAN GULDI:
Or was it at the subsequent rebid?

MR. GREENE:
I forget exactly, but I know I met with them, and I reported back saying, no way, Jose, we're not getting near these people.

CHAIRMAN GULDI:
Who did you report to?

MR. GREENE:
I remember talking to, I think, Tony Apallaro at that time. I said, Tony, these are bad people. And I think I told committee members they scared the hell out of me these people. I remember telling Freddy Parrola the same thing.

CHAIRMAN GULDI:
Okay. Did you have --

MR. GREENE:
Don't be bashful, George. It's kind of late in the game to be

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bashful.

CHAIRMAN GULDI:
No. I'm actually -- I'm actually carefully considering my words. It's hard for me.

MR. GREENE:
You need a recess for that, George, or can we plow forward?
CHAIRMAN GULDI:
We'll plow forward.

MR. GREENE:
We'll plow forward.

CHAIRMAN GULDI:
Have you ever suggested that Vytra does business the same way BPA did?

MR. GREENE:
No.

CHAIRMAN GULDI:
Not to anyone by innuendo or otherwise?

MR. GREENE:
No.

CHAIRMAN GULDI:
Is there anything you ever said that could reasonably be interpreted --

MR. GREENE:
Well, they once tried -- they have a racquetball court, and I played racquetball there one day. And the tried to buy me a coke and I refused. So I guess you could carry that, that they tried to buy me for a coke. But in all my dealings in all the years in Vytra, I've never once been approached, suggested, intimated or even winked at there was anything in it for the County other than providing health insurance. And I don't know of anyone else on the committee who's ever indicated anything of that sort.

CHAIRMAN GULDI:

Okay.

MR. GREENE:
They weren't very good racquetball players either, George.

CHAIRMAN GULDI:
I wouldn't -- I'll take your work for that.

MR. GREENE:
Nice courts, though.

CHAIRMAN GULDI:
In 1996 and 7 when the Comptroller's Office came off of the membership of the committee, at that time, did you ever have a conversation with Segal about talking to the Comptroller's Office?

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MR. GREENE:
I don't remember any conversation. As I said, my conversations with Larry Singer were basically around program and make sure you get it right.

CHAIRMAN GULDI:
Okay. So you did -- was Larry Singer the person you dealt with?
MR. GREENE:
He was like the management -- he's not the actuary, but he's like the management rep who came to I would say 99.5% of the meetings.

CHAIRMAN GULDI:
Okay. Did you ever ask for the comparison figures between Empire and Suffolk --

MR. GREENE:
I was always interested in those.

CHAIRMAN GULDI:
Did you ever ask for them?

MR. GREENE:
I think I did on many occasions.

CHAIRMAN GULDI:
Who did you ask?

MR. GREENE:
Probably Larry. I mean, although the unions and I, we always had a disagreement on whether or not we mirror Empire or not. And that was a philosophical debate we always had. I always knew for budget concerns that it was the benchmark where we have to look at to see

whether or not the County was to the good or to the bad on dollar expenditure for health insurance.

CHAIRMAN GULDI:
Do you remember a time in 1998 when the Budget Office proposed taking some of the reserves out of Suffolk EMPH and using them for other purposes?

MR. GREENE:
I think they did a couple of times, if I remember this, but I don't remember the particular years. I'll tell you the truth. My position on that in the committee was as follows: We have an agreement that says we're going to pay 100% of all the bills, everything else is budgetary shenanigans. You put $200 million in the budget for health insurance or you put zero in the budget for health insurance, when the bills come in, the County is obligated to pay them. So let's separate out our plan rates from our fund rates. And let's separate out the fact that we are obligated to make payment for 100% of the bill. How we budget for it is separate and distinct from what our obligations are.

CHAIRMAN GULDI:
Okay. While we're on the subject of budgetary shenanigans, is it true that the Empire Plan has never had a rate increase during a

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Gubernatorial reelection year?

MR. GREENE:
Are you suggesting to me there's politics in health insurance? George, I'm shocked. Is there gambling here? Is this gambling?

CHAIRMAN GULDI:
Are you aware -- can you answer the question though?

MR. GREENE:
Well, we always noticed there was an certain ebb an flow to the rates. Leave it at that.

CHAIRMAN GULDI:
Is that -- is that your best answer to the question.

MR. GREENE:
That's my best answer. But I am not shocked to hear that. I mean, I haven't checked the years, but I'm not shocked to hear that, George.

CHAIRMAN GULDI:
But isn't it true that you talked about incurred but not --

MR. GREENE:
IBNR.

CHAIRMAN GULDI:
IBNR, but not -- not recognized.

MR. GREENE:
No. Not reported.

CHAIRMAN GULDI:
Incurred but not reported.

MR. GREENE:
Yes. That's about 20% of our annual -- annualized costs, roughly, you know, pretty standard, 20%.

CHAIRMAN GULDI:
And what's that represent?

MR. GREENE:
What happens in the course of the year, January 1st through December 31st, people go to the doctors and hospitals, whatever. Not all the bills come in between January 1st and December 31st. It's what you call the tail, the incurred but not reported. The lion's share of that comes in the first 90 days. But it wasn't uncommon to get bills coming in two and three years later. Although 99.9% may be done by March 31st, but it's that 20% we call the IBNR, the tail that carries over.

CHAIRMAN GULDI:
And that's the -- that's an ordinary fluctuation of any insurance plan of the administration?

MR. GREENE:
Yeah, any of these kinds of plans carry about 20 --

CHAIRMAN GULDI:
That's not an example of budgetary shenanigans. Budgetary shenanigans would be for example, running a plan where you charge a member premium rate where you accrued substantial reserves or alternatively, accrued substantial deficits without changing your rate.

MR. GREENE:
Well, when you talk about -- you're talking about a fund rate --

CHAIRMAN GULDI:
Right.

MR. GREENE:
-- as opposed to a plan rate. The concerns of the committee and what we would charge was -- was the plan rate, more or less how much it costs to provide this coverage for a family or an individual. Out of that, was generated through the budgetary process a fund rate, what the county would charge back to its departments. That was part of the budgetary process. As I said George, let's say for argument sake in the Year 2000, the final budget put 200 million in their for health insurance. The bills come. Let's say the bill's 120 million. I guess you could announce you have $80 million surplus in the budget. If you put zero dollars in, I guess you could announce you had $120 million deficit in that account. The reality is the County was obligated to pay every single claim. So as far as the plan rate was concerned, the budgetary process was totally irrelevant, because what the plan rate just identified was, what was the anticipated cost per family, per year, per individual, per year? Then that gets translated into the budget in terms of surplus or deficit from the previous year, the fund balances and all the other things are going, but that has no relationship to us establishing a plan rate, they're two separate and distinct issues.

CHAIRMAN GULDI:
I understand that, but let's go -- let's focus on the budgetary issues. Did you ever share your experience -- your opinion that the budgetary process had no impact on the plan?

MR. GREENE:
In every committee meeting that we ever discussed health insurance.

LEG. GULDI:
Did you ever share it outside of the -- outside of the committee with the people in the Budget Office, for example, on those occasions where they were tapping reserves?

MR. GREENE:
No. They do budget. But I knew in my heart of hearts and just like all the people in the committee knew whatever bill incurred got paid.

CHAIRMAN GULDI:
Did anybody ever consult you with connection -- in connection with the preparation of the budget for the health plan?

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MR. GREENE:
There was some discussion from time to time on what they were doing with the budget. And basically, quite frankly, I'm not a budget expert. And they devised the budget, they present the budget. As I said, the County Exec proposes the Legislature disposes.

CHAIRMAN GULDI:
So you -- so you basically had no opinion on the preparation of the budget, is that what you're saying?

MR. GREENE:
I tell you the truth, as far as payment of the bills, I had absolutely no concern whatsoever.

CHAIRMAN GULDI:
Not payment of the bills, but preparation of annual budget to the extent that it make allocation or funding for --

MR. GREENE:
It had no real impact on what I did.

CHAIRMAN GULDI:
So then how can you say that the budgetary -- the gap that resulted between the -- in 2002 is a result or alliance by you and the committee on Segal's numbers that were wrong?

MR. GREENE:
I don't follow your question.

CHAIRMAN GULDI:
You are saying -- you're saying that you didn't have a opinion on the budget, and yet -- yet you are sitting here telling me that the -- that the fault -- the designated fall guy is Segal for prepping the wrong numbers.

MR. GREENE:
I haven't even said it's Segal's fault. You keep saying it. I'm saying we relied on Segal's numbers.

CHAIRMAN GULDI:
Relied on them for what then if it wasn't preparation of the budget?

MR. GREENE:
For example, when Segal gave us a comparison, as I said before, the way they arrived at a comparison is they weren't comparing what we budgeted all those years against what we spent. What they were doing is the lives times the rates in each of the years as if we were in the Empire in Column A or self insured Column B. And at the bottom there would be a plus or a minus, and you added up the pluses and the minuses, and they gave us accumulative savings or accumulative deficit. That's separate and apart from a budget process.

CHAIRMAN GULDI:
Right. But the problem we have here is this year's budget or last year's budget, excuse me, '02's budget didn't have enough money budgeted for employee medical benefits.

MR. GREENE:
I understand, so.

CHAIRMAN GULDI:
And if Segal's number -- if you weren't consulted in connection with preparation of the budget and had no opinion in it, how -- how could you possibly have relied on Segal's numbers in connection with the budget you had no opinion on?

MR. GREENE:
You're talking about apples and oranges. We gave the budget people Segal's reports. But let us say Segal's report says -- you have to -- let me finish.

CHAIRMAN GULDI:
Who is we, and who did you give them to?

MR. GREENE:
I always gave copies up to the Budget Office.

CHAIRMAN GULDI:
Okay. And you just send it.

MR. GREENE:
Bring it over, drop it off. But let's say Segal said, folks, next year you have to put $130 million in to be fully funded, for arguments sake, pick a number. No matter what number went in the budget, if Segal was right, we'd spend $130 million. If you budgeted 140, 130, 120, f they were right, you spent 130. If you look at I think one of the original agreements pretty much said that if the County was totally obligated to make the payments and we waived all our legal defenses if we didn't make our payments. One of the concerns the unions identified in the early '90s, is the County forfeiting or failure to pay claims. There was overarching concern. And what their concerns were quite frankly were what you're eluding to. We didn't budget enough money. But if we are self insured, we are self pay, we pay every bill. When the budget should accurately reflect is how much money is necessary on an ongoing basis to fully pay our claims. Now, we used to get reports from the Comptroller every month about cash flow, how much cash flow we had. But that's like thinking of health insurance as a checkbook. In reality you have to think of it as you pay each claim. At the end of the year if there's a sum of money, you have to spend. If the consultant's estimated plan rates are correct, you can budget 130 million and pay 130 million. But they are other factors that go in in the budgetary process, and I understand that.

CHAIRMAN GULDI:

All right. But the budget preparation should be based on the plan rates, not on theoretical projections of what it would -- what it would cost you to be in some other plan.

MR. GREENE:
No. We never -- to my knowledge, we never made budgetary plans based on what it would be to be in the Empire. It was always based --

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CHAIRMAN GULDI:
Budgetary plans on the plan rate. So how -- so what's the reliance on the Segal numbers that were wrong about the Empire plan since we weren't doing our budget based on that?

MR. GREENE:
George.

MR. GREENE:
You said you relied on them, but I don't get it.

MR. GREENE:
Time out, George. I think you're -- George. George.

CHAIRMAN GULDI:
Explain it.

MR. GREENE:
What we were relying on -- let us look at it like this. Let us say in the Year 1992 we decided to stay in the Empire, 1992, January 1st, decision, they would stay in the Empire. Segal would have looked at how much we spent lives times rates for '92, '93 for the Empire right to the Year 2002. And would have said --

CHAIRMAN GULDI:
You keep saying that, but I'm saying how do you -- yeah, but those aren't the numbers that you used for preparing the budget, right? You used the plan rate numbers. You didn't even look at the Empire numbers.

MR. GREENE:
Correct.

CHAIRMAN GULDI:
So how did you reply on the Segal number to prep the budget to explain the shortfall since you didn't use the Segal numbers for Empire plan?

MR. GREENE:
The plan rates with what was used towards the budgetary projection.

CHAIRMAN GULDI:
I understand that. What you're telling me though, Dave --

MR. GREENE:
The savings that we believed we had achieved were based on the difference between what Segal said it was cost us to be in the Empire against what we actually spent being self insured.

CHAIRMAN GULDI:
Granted, and we've talked about the difference of the elements, but that's not what I'm asking you. You said earlier today that you relied on the Segal numbers. The problem we have in 2002 is a budget problem. You are telling me now that the budget wasn't prepared with reference to the Segal numbers on the Empire Plan at all. How do you explain the reliance on numbers you didn't use?

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MR. GREENE:
To the best of my knowledge, and you'll have ask the Budget Director, the Empire numbers were never used as the basis for budgetary projections to the best of my knowledge. It was the Segal plan -- you know, plan rates which --

CHAIRMAN GULDI:
Segal plan rates. So what was the matter -- is there any error in the Segal plan rates for 2000 and --

MR. GREENE:
Well, that seems to be the bone of contention, like Andrew says, why we're here. How did Segal arrive at their blended plan rate, which from what I hear the number was depressed by virtue of double counting one class of peoples.

(CHANGE IN COURT STENOGRAPHER - ANA GRANDE)

CHAIRMAN GULDI:
Yeah, but that's not what the -- that's not what the --

LEG. CRECCA:
That's exactly what it is.

CHAIRMAN GULDI:
No, except that -- the problem is double counting, but not in the plan rate. The problem is double counting for purposes of calculating the cost under the Empire Plan, not for our plan rate.

MR. GREENE:
I don't know --

CHAIRMAN GULDI:
There was no double counting of our plan rate.

MR. GREENE:
I have no idea what Segal did or did not double count other than what you're telling me.

CHAIRMAN GULDI:
Yes.

MR. GREENE:
I have never seen a report from Segal saying, hi, by the way, we double counted.

CHAIRMAN GULDI:
We got better than a report, we've already had it audited. Fred Pollert reviewed the audit. Fred, could you tell us, please, clarify the error.

MR. POLLERT:
Right. Basically what we're talking about are two different sets of numbers. Segal Company came up with budget estimates on what the plan was going to cost in 2002, 2003 each and every year. Those numbers were fairly accurate. Those numbers tied out to the number of covered employees that the Budget Review Office got from Employee Benefits and

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included in our report every year.

There was a separate report done by the Segal Company for a comparison to the Empire Plan for internal management decisions of the Labor Management Committee. Those numbers were incorrect, because they included the double counting. The estimates of cost by the Segal Company were fairly accurate and, to the best of my knowledge, did not include any double counting.

The reason we had budgetary shortfalls was not a problem with the Segal numbers, the reason we had a budgetary shortfall was the budget included less money than Segal, the Department and Budget Review Office had recommended.

CHAIRMAN GULDI:
Okay.

MR. GREENE:
As I said, George, the unions historically raise that concern and, quite frankly, as a said, when you're self paying, whatever the budget number is, you still pay.

CHAIRMAN GULDI:
You still pay, but the question I have is --

MR. GREENE:
You can throw your budget askew if you don't put enough money in it naturally.

CHAIRMAN GULDI:
Yes. What do you know, we didn't put enough money in one category of the budget in one year, what a novel idea. You kept talking -- Dave, did you advocate the creation of a health trust in Suffolk County?

MR. GREENE:
Oh, yeah.

CHAIRMAN GULDI:
Tell us what a health trust was and why you advocated the creation of it.

MR. GREENE:
What I envisioned, quite frankly, was somewhat similar to a benefit trust or a health trust like they have in many other union structures where the union gets the right to run their own health insurance program, where the County makes a capitated contribution and the union and their fiduciaries are left at their own devices on how to provide the level of service and the benefits to the members within the dollars that the employer contributes.

CHAIRMAN GULDI:
So basically, instead of it being the Suffolk County Employee Benefit Plan, it would be the Unions' Employee Benefit Plan with contributions made on a fiscal basis from the County?

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MR. GREENE:
Or of a capitated basis or however you negotiate it.

CHAIRMAN GULDI:
On some basis.

MR. GREENE:
And I thought it the long run that was something that would be very beneficial to the County and had a lot of appeal to the union, I think.

CHAIRMAN GULDI:
Why did you think it would be beneficial to the County?

MR. GREENE:

Well, as I said before, we have unions with different benefits. This would cause everyone to have the same benefits and it would put the onus on the unions to be cost conscious. When you have a hundred percent fully funded and the likelihood through police arbitration of ever having an arbitrator impose payroll deduction on a police union being zero or nil, the long range approach I thought to getting control on overall costs was basically to say to the unions, here's your health insurance for your members, here's a capitated program with dollars, now you are fiduciaries, you have to manage this. I thought that in the long rung was the only way to totally control costs going out ten or fifteen years. And I still believe that.

CHAIRMAN GULDI:
Okay. I understand then. Did you try to bring that to the negotiating table or are you allowed to tell us?

MR. GREENE:
The '97 thing was the essence in the way we were going, we were going towards the health trust eventually. And that was always my thrust, because, quite frankly, I've always argued at length the concept of management serving on a benefit fund.

CHAIRMAN GULDI:
All right. I'm going to change --

MR. GREENE:
Same basic approach.

CHAIRMAN GULDI:
I'm going to change subjects on you at this point in fear of losing the rest of my Committee, and that's to drugs, as they say.

MR. GREENE:
At twenty-five percent increase a year, I don't know if we can afford it, George.

LEG. FIELDS:
Can I just ask one question?

CHAIRMAN GULDI:
Ginny Fields wants to ask one question. She's the only Committee

member who's behaved. Well, Legislator Bishop's behaved, so I will yield.

LEG. FIELDS:
I just have one question, because most of my other questions are being answered eventually.

CHAIRMAN GULDI:
Sort of answered or not answered, as the case may be.

LEG. FIELDS:
When we originally had the two different groups of which one of them, we had Segal and we had Mercer.

MR. GREENE:
Correct.

LEG. FIELDS:
And Mercer, for the story that you've told eventually --

MR. GREENE:
Not story, the facts.

LEG. FIELDS:
You told the story. They eventually backed out of it. Why did you not replace them?

MR. GREENE:
Well, quite frankly, in retrospect, maybe we should have taken the Comptroller on.

LEG. FIELDS:
Not, quite frankly, in retrospect, I want to know why at that time you did not replace Mercer? That's just the only answer, I don't want to know retrospect.

MR. GREENE:
Economy of sale, economy of scale. Basically having -- Segal Company had the capability of doing both.

LEG. FIELDS:
But you knew that early on, you said that.

MR. GREENE:
I said that.

LEG. FIELDS:
I already heard you say that.

MR. GREENE:
And I also said the reason we had designed it having a separate actuary from a separate benefit consultant was to have the best of both worlds.

LEG. FIELDS:
I'm asking you why you didn't think that you should replace Mercer having the best of both worlds, and you said something to the effect

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of it being a check and a balance.

MR. GREENE:
I agree.

LEG. FIELDS:
Why did you not replace Mercer?

MR. GREENE:
As I said, as I tried to say before, at that point in time we should have taken on the Comptroller and gone public and duked it out with him on what went on. And we didn't do that, we were more focused on trying to run health insurance then roll in the mud with the Comptroller.

LEG. FIELDS:
Okay. Why didn't you replace Mercer?

MR. GREENE:
I'll go back to it again. Because we run into the trouble with the Comptroller.

LEG. FIELDS:
What does that mean?

MR. GREENE:
When he refuses to make payments, people don't want to work for you.

LEG. FIELDS:
But maybe he refused to pay Mercer.

MR. GREENE:
Yes, he refused to pay Mercer, because he didn't like Mercer's numbers.

LEG. FIELDS:
Now I'm asking you why you didn't replace Mercer?

MR. GREENE:
At that point --

LEG. FIELDS:
For now the fourth time.

MR. GREENE:
And at that point in time, we figured since Segal can provide actuarial --

LEG. FIELDS:
Wait a minute.

MR. GREENE:
May I finish?

LEG. FIELDS:
No, no, because you already said that Segal was being watched by

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Mercer.

MR. GREENE:
Correct.

LEG. FIELDS:
My question is, if you know you have two opposite who are both doing the same thing, who are keeping an eye on each other, one leaves, the Comptroller decides they don't like them, for whatever reason they leave, why did you not replace Mercer?

MR. GREENE:
Your characterization is incorrect.

LEG. FIELDS:
Not characterization, it's a question.

MR. GREENE:
Excuse me, they didn't choose to leave.

LEG. FIELDS:
Mercer chose --

MR. GREENE:
No.

LEG. FIELDS:
You told me they chose to leave.

MR. GREENE:
No. The Comptroller refused to pay them, they eventually sued to get their money. And when all this was going on, we were more focused on making sure health insurance ran correctly than rolling around in the mud with the Comptroller. And since Segal was both an internationally renowned actuary and a consultant, and we had the Comptroller's people sitting in the room who also had total auditing capacity, we felt we had enough --

LEG. FIELDS:
But you had that in the beginning.

MR. GREENE:
We felt we had enough protection at that point in time.

LEG. FIELDS:
You had that in the beginning when you had Mercer.

MR. GREENE:
No, we did not.

LEG. FIELDS:
Now you don't have Mercer. Why did you not replace Mercer?

MR. GREENE:
Because we made a decision on the Committee to vest both of those

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responsibilities with Segal & Company.

LEG. FIELDS:
So the Committee made that decision?

MR. GREENE:
We made that decision. And when we renewed the bid -- when we renewed the RFP's, they were folded into one, an actuarial consultant as a single carrier.

LEG. FIELDS:
So in the beginning then you were paying more than you should have been paying?

MR. GREENE:
No. No. If you go back in time and look at what this mess has cost the County, whatever extra money we would have spent for an actuary was well spent, I would suggest.

LEG. FIELDS:
And if you would have chosen to replace Mercer, it would have been well spent.

MR. GREENE:
And if the Comptroller had not refused to pay, we wouldn't be in this problem today, correct. And I'd also like to point out as long as we're on this same line, that I think it was '93 in front of Legislator Caracappa, the County Executive's Office tried to move Risk

Management to the Executive Branch.

If that had occurred at that point in time, we would not be having this conversation today. Because when Risk Management was finally turned over to Civil Service, it was Civil Service that was really in the forefront of discovering these errors. So if this decision was made in 1993, we may be having a pleasant conversation of should the Jets lose all their linemen to Washington.

LEG. FIELDS:
Why did the Comptroller not pay only Mercer?

MR. GREENE:
Because he told Mercer flat out, if I don't like your numbers, I'm not paying you, and Mercer's numbers were very negative.

LEG. FISHER:
What does that mean?

MR. GREENE:
They were showing a loss, they were showing we're not doing as well as we had anticipated in the early years.

LEG. FIELDS:
So maybe the Comptroller was right?

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MR. GREENE:
No. What the Comptroller wanted, quite frankly, was he was ballyhooing self-insurance as his little baby, which was going to save tons of money. To have a consultant come along and say it's not working, I don't think was in the Comptroller's best interests. But in reality, when you talk to the actuaries and the benefit consultant, they tell you it takes three to five years for a plan to mature to see what your actual costs are going to be on an ongoing, long-term basis. People were just a little antsy in the first years. As I said to you earlier, I didn't think it would work.

LEG. FIELDS:
So it's only the first year that the Comptroller didn't want to pay them? How many years did the Comptroller question them?

MR. GREENE:
I think they were there about two years or so and then they were out the door. They were out the door very quickly.

LEG. FIELDS:
So Mercer worked --

MR. GREENE:

A couple of years.

LEG. FIELDS:
Two years and then they were not paid.

MR. GREENE:
They were out the door.

LEG. FIELDS:
And so you didn't think that it would be fruitful to have a second company replace them that could watch what Segal did?

MR. GREENE:
As I said before, having a company of the stature of Segal and having the Comptroller's people sitting on every committee meeting with all their auditing committees, we felt we had two safety valves.

CHAIRMAN GULDI:
Back to 1994, Dave, while we're on Mercer. Isn't it true that Mercer predicted that the float, if you will, from the administration of self-insurance was going to be only in the order of twelve million dollars?

MR. GREENE:
I don't really remember. They were very, very, very conservative on their numbers. If I remember their numbers --

CHAIRMAN GULDI:
Did the numbers come in closer to twenty-eight or thirty million dollars when they predicted twelve?

MR. GREENE:
They were very conservative. I don't remember any of those float

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numbers. And, quite frankly -- you're talking about the cash flow numbers?

CHAIRMAN GULDI:
Yeah, the cash flow numbers.

MR. GREENE:
You got me, you have the report, I don't really remember all of those cash flow numbers. I know we get a monthly report from the Comptroller's Office, which the cash flow used to bounce from like twelve to twenty million. It used to bounce somewhere in that line, but as I said, when you're on a self, you know, a self pay, the cash flow was not the real issue, the real issue is plan rates, what is it

costing you per member per year. That was the real driving force.

CHAIRMAN GULDI:
Although the lag on payments in a self-insured or self-administered insurance plan is a substantial economic reason for doing the plan because of the benefit of being able to invest that money for the three-month average period.

CHAIRMAN GULDI:
More than that, George. One of the reasons you go into it is you don't have to fund the IBNR, maybe you can carry over a lot of those numbers because you have control in those budgetary aspects. And that's one of the intriguing things that budget people find with self-insurance plans, rather than paying an indemnity premium.

CHAIRMAN GULDI:
Yeah, but --

MR. GREENE:
Absolutely correct.

CHAIRMAN GULDI:
What would the fiscal consequences be of cancelling the self-insurance plan and going back to an indemnity premium?

MR. GREENE:
I don't know.

CHAIRMAN GULDI:
How many months would you expect to see bills come in and how much would they be after the conversion back?

MR. GREENE:
Well, the line share would probably come in the first ninety days, I imagine you would have bills coming in for the next two or three years.

CHAIRMAN GULDI:
Which would only be -- yeah, yeah. Frankly, our experience now is eight to nine million dollars a month, right?

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MR. GREENE:
Well, figure twenty percent of your plan is IBNR. The line you share with that is in the first ninety days, but some of those bills, as we found, sometimes it's two and three years before they actually saw light. We had some bills pop up, you know, four and five years down the road.

CHAIRMAN GULDI:
Isn't it true, however, that Mercer & Company's termination by the Comptroller was a result of the Comptroller's stated opinion that their contract had expired and that the work that they had done and were billing for was not an authorized appropriation?

MR. GREENE:
I don't know what the Comptroller told you. All I can do is tell you they were told flat out, if we don't like your numbers, we're not going to pay you.

CHAIRMAN GULDI:
Who told them?

MR. GREENE:
My understanding was Joe Caputo himself.

CHAIRMAN GULDI:
Who did he tell it to?

MR. GREENE:
I think he told Bob Mandel, who was the representative of Mercer.

CHAIRMAN GULDI:
Do you know when that occurred?

MR. GREENE:
First couple of years, you know, it was early on, you know, it was way back.

CHAIRMAN GULDI:
'94, '95 or '92?

MR. GREENE:
Shortly before they stopped getting paid, it started to unravel, their payments. Mercer was not a cheap operation, don't get me wrong. They always had two people at the meeting, they were not an inexpensive actuary. They were very conservative, belt and suspenders kind of operation. And if I remember their early numbers, they did show losses in the first couple of years, if I remember correctly. They were showing a negative. You may have the numbers in front of you, but I think they --

CHAIRMAN GULDI:
No, I don't. I'm just looking at my notes.

MR. GREENE:
Maybe Fred will remember, they showed losses the first couple of

years.

MR. POLLERT:
I really don't recall.

MR. GREENE:
I'm pretty sure they showed losses for the first two or three years.

CHAIRMAN GULDI:
All right. But that's frankly not particularly part of our inquiry today anyway. Let's talk about drugs, because, frankly, the drug component of the plan is substantial, it's very substantial.

MR. GREENE:
Absolutely.

CHAIRMAN GULDI:
And, in fact, it's one of the areas that over the last several years has been the growing unfortunately even more rapidly in costs than healthcare in general has.

MR. GREENE:
Absolutely. Nationwide trend.

CHAIRMAN GULDI:
Okay. So let's focus on who and how our Employees Benefits Plan administers drugs.

MR. GREENE:
We use a third-party provider, NPA.

CHAIRMAN GULDI:
NPA is our current third-party provider?

MR. GREENE:
Yes, it is.

CHAIRMAN GULDI:
Now NPA, however, is owned by, you don't know, you're not aware?

MR. GREENE:
Not off the top of my head, no.

CHAIRMAN GULDI:
When did NPA become our healthcare, our --

MR. GREENE:
The last go around on the RFP, was it two or three years ago, two

years ago, something like that.

CHAIRMAN GULDI:
'97, '98?

MR. GREENE:
Somewhere in there, the last go around of RFP's.

CHAIRMAN GULDI:
And they won, NPA won the bid?

MR. GREENE:
Yes. They won the bid.

CHAIRMAN GULDI:
And they provide administration of --
MR. GREENE:
Third-party prescriptions.

CHAIRMAN GULDI:
Of prescriptions.

MR. GREENE:
Absolutely. And also mail order.

CHAIRMAN GULDI:
Yeah. They directly provide the mail order?

MR. GREENE:
Yeah. Through a subsidiary they have the mail order business. Before that it was Care Mark. And National Health Card did the third-party providing and Care Mark did the mail order business. I think the mail order business was like six or seven hundred thousand, it never grew because we allowed some of the pharmacies up here to basically do maintenance drugs.

CHAIRMAN GULDI:
Let's talk about maintenance drugs, because I know we converted the system some years ago from -- to prohibit most of the local pharmacies from doing maintenance prescriptions and limiting them to a twenty-one day supply.

MR. GREENE:
That's correct. The acute medication, correct.

CHAIRMAN GULDI:
The question I have for that is how -- it seems counterintuitive to me to do that, because the --

MR. GREENE:
Counterintuitive to do what, sir?

CHAIRMAN GULDI:
To instead of requiring -- instead of permitting local pharmacies to do maintenance prescriptions, they now restrict the members to twenty-one day supply, so that instead of having one prescription for ninety days or a hundred and twenty days supply paid for through a local pharmacy, you now have that same employee or going to their local pharmacy every twenty-one days for a sixty dollar prescription with a ten dollar co-pay that the benefit fund is reimbursing versus buying those same, that same medication in bulk from the same pharmacy.

My concern is that the elimination of the local pharmacies from doing maintenance prescriptions has, in fact, increased our costs instead of decreased them, because the same -- because it has not resulted in individuals shifting to the limited pool of approved maintenance prescribers or the mail order.

MR. GREENE:
If I remember correctly, there are a rather extensive network of large pharmacies that accept the maintenance portion. CVS -- no, Genovese, I know King Kullen.

CHAIRMAN GULDI:
King Kullen and K-Mart.

MR. GREENE:
Genovese.

CHAIRMAN GULDI:
The biggest --

MR. GREENE:
Genovese, Eckerts. If you look --

CHAIRMAN GULDI:
-- the biggest in the country is Rite-Aid, they're not a maintenance pharmacy.

MR. GREENE:
Some do and some don't. If you look at a lot of plans, a lot of plans for maintenance drugs, you're solely restricted to mail order. The original concept --

CHAIRMAN GULDI:

Yeah, but this plan isn't.

MR. GREENE:
From the inception a decision was made, although we required the local pharmacies to match the AWP.

CHAIRMAN GULDI:
Yeah. My understanding is that unfortunately the AWP is below their costs.

MR. GREENE:
And what happens is the large mail order providers and the large chains can offer by virtue of their buying power, to make a buck, selling below what a lot of the local pharmacies can purchase, and that's a given. And part of our concern when we were renegotiating and we did an RFP was to contain costs. We were looking at twenty and twenty-five percent increases in the cost of prescriptions. We had to get some kind of handle.

I think we went to a three-tier, we went to -- we changed our maintenance drugs in terms you had to agree to the AWP. We put in more cost controls and, quite frankly, we cost shifted some of this to the employees. Both of those things were done to try to get some

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control over the costs.

CHAIRMAN GULDI:
The co-pays is the mechanism by which it's --

MR. GREENE:
Yeah, we went to a three-tier -- some drugs used to be a ten dollar co-pay, we became at twenty-five dollar co-pay. And we limited to those pharmacies that didn't have maintenance drugs to the acute, which is a twenty-one day supply, but everyone always had the option on maintenance to do mail order. Instead of using Care Mark, now we use the subsidiary of NPA, but that was always available.

CHAIRMAN GULDI:
How has the membership been informed of that?

MR. GREENE:
There were all kind of mailings, all kind of notices, all kind of disclosures. As I said, it was a change that we had to engage in in order to start to achieve some kind of cost containment. The costs were just running out of sight.

CHAIRMAN GULDI:
Has it worked?

MR. GREENE:
To the best of my knowledge, it has, but I haven't been on the Committee for over a year, so I don't know what the latest numbers are. We were assured during the bidding process by all, you know, the bidders that this was the wave of the future on how you get cost containment on a plan design that we have, short of starting to really truncate a lot of prescription benefits.

And we also had the problem with the retirees, we wanted to make sure you have to keep a mail order component as well as trying to get some of the large providers available to them in those zip codes in Florida and some other places, we have a large number of retirees. That's where Genovese, Eckerts, K-Mart, these were very important to us.

It was a cost containment program to try to address what we knew to be a very pressing need. And this was collaborative, it was the unions and the management representatives sat through endless presentations and power point presentations on how this was going to work.

CHAIRMAN GULDI:
When Health Card was the provider, did there come a time when they changed the rates they were reimbursing pharmacies?

MR. GREENE:
Absolutely correct.

CHAIRMAN GULDI:
And when and how did it come to our attention that they were paying the pharmacies one rate and charging us back another?

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MR. GREENE:
Oh, they did a no/no. Let me explain what happened. And the way it's been characterized is totally incorrect. Let's think of it this way, our contract calls, let's say the pharmacy gets paid per script, say three dollars for a dispensing fee, there came a point in time when we had a meeting with National Health Card and they said, you know something, that's too high, industry standard is two dollars and fifty cents, for arguments sake, you should only be paying two-fifty.

We propose that we're going to charge two-fifty and we'll split the difference, we'll split the savings. And we said, that's a nice concept, but we would rather include that in our next round of bidding, our next RFP proposal. We didn't want to make that shift to the pharmacies all of a sudden.

Unbeknownst to us, they engaged in that practice. So more or less, although the County was obligated to pay three dollars, and so we're still spending three dollars, fifty cents was winding up in a strong box in National Health Card. There came a point in time they said to us, I'll tell you what, we'll give you back fifty percent of the money. So we wound up saving about a million and a half dollars that we would not have normally saved, because they had violated our contract and we were the unwitting beneficiaries of their violating the contract. And that's what happened. So they saved us about a million and a half.

CHAIRMAN GULDI:
And they made about 2.1 for themselves doing it.

MR. GREENE:
Well, I don't know what the final settlement was, I thought we got half the money, I know there was a settlement.

CHAIRMAN GULDI:
Well, there was some debate about whether it was the full million, three million six was --

MR. GREENE:
Whatever it was, we saved more money that we would have saved if we would have said no and they honored our no. If they had honored our position, we would not have saved that million and change, that's a given.

CHAIRMAN GULDI:
After we caught them at that, were they barred from future bidding?

MR. GREENE:
I think they were allowed to bid, but most interesting in that bidding process, the Comptroller's Office, Joe Poerio kept leaking draft audits of National Health Card. Now, I've never been involved in a bidding process where people are leaking draft audits.

CHAIRMAN GULDI:
Did you ever say anything to him about it?

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MR. GREENE:
Oh, yeah.

CHAIRMAN GULDI:
What did you have to say?

MR. GREENE:
I said I couldn't understand why the hell are we doing it, among other words, doing draft audits. I thought it was rather strange. And it was said in front of the Committee to be a draft audit, there was a

draft order left at a Committee meeting somewhere, but I've never seen, perhaps you have, George, draft audits being floated all over the place. But, quite frankly, National Health Card by virtue of their failure to honor the Committee's wishes and engaging in that practice, I think they knew from the onset they were not going to be a successful bidder.

CHAIRMAN GULDI:
How do you -- how did it come to your attention that Mr. Poerio was doing this?

MR. GREENE:
We were there, I saw it.

CHAIRMAN GULDI:
What do you mean?

MR. GREENE:
He was at one of meetings I remember up in his office there and they were handing out draft copies, yeah, he was involved in it.

CHAIRMAN GULDI:
Handing it out to whom?

MR. GREENE:
It was left there for the Committee, we were doing RFP's.

CHAIRMAN GULDI:
To the RFP Committee?

MR. GREENE:
Yeah, these are the Committee going over it. And it was said in one of the Committee meetings, I don't know if it was by Joe or one of his representatives, that there was a draft audit on National Health Card, and normally you never see draft audits, you only see a final product.

CHAIRMAN GULDI:
Back up. Who did he provide the draft audits to, the members of the RFP Committee or the bidder?

MR. GREENE:
The Committee.

CHAIRMAN GULDI:
So he wasn't -- he was not providing the draft audit to some bidders in the bidding process --

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MR. GREENE:

I don't know --

CHAIRMAN GULDI:
-- but to the RFP Committee.

MR. GREENE:
Yes. And it was a draft audit and I found it very strange.

CHAIRMAN GULDI:
So he was sharing a draft audit prepared for the County with other County employees?

MR. GREENE:
I wouldn't characterize it that way. I'd say he was sharing a draft audit about one of the potential vendors with a Committee that was making a determination, that's the way I would characterize it. I just found it very strange that a draft audit would be, how would you say, bandied about so cavalierly, in such a cavalier manner, because, quite frankly, an audit has a lot of impact, as you well know.

CHAIRMAN GULDI:
Only when it needs to. The question I have, another line of questioning is the drug companies customarily, in fact, have gotten a lot of attention for reimbursing doctors for writing scripts of their product line, but they also have traditionally reimbursed and users, hospitals and health organizations of substantial amounts.

MR. GREENE:
It's called a formulary.

CHAIRMAN GULDI:
What does that mean?

MR. GREENE:
Basically if you use the right mix of their drugs, there's a large rebate that comes back to the third-party provider and the County shares in it.

CHAIRMAN GULDI:
The County shares in it?

MR. GREENE:
My understanding is yes.

CHAIRMAN GULDI:
How does the County share in it?

MR. GREENE:
We get a reimbursement from the carrier, that's my recollection.

CHAIRMAN GULDI:
From the --

MR. GREENE:
Third-party provider.

CHAIRMAN GULDI:
Who is the third-party provider?

MR. GREENE:
It's NPA right now, it used to National Health Card.

CHAIRMAN GULDI:
NPA is administering this?
MR. GREENE:
Yes. Before then National Health Card. It's called a formulary.

CHAIRMAN GULDI:
So the formulary is now being shared with third-party health provider and that's why it's no longer directly shown on our books?

MR. GREENE:
I don't know what's shown on our books right now, but if I remember correctly, we used to share in the formulary.

CHAIRMAN GULDI:
We used to, yes.

MR. GREENE:
I believe we did, to the best of my recollection.

CHAIRMAN GULDI:
Do you recall at any time negotiating away the ability to receive that?

MR. GREENE:
I don't recall that.

CHAIRMAN GULDI:
Or any part of it?

MR. GREENE:
I remember that we used to receive, I forget how much, a couple of hundred thousand dollars a year in formulary rebates, some number like that sticks in my head going back way back when.

CHAIRMAN GULDI:

My recollection or my informations have fluctuated between two hundred and fifty and five hundred thousand a year.

MR. GREENE:
I just remember a number of two hundred and thousand and change off the top of my head, but I remember that being a number from the formulary.

CHAIRMAN GULDI:
Okay. But as far as you know, we're still entitled to receive that and in some manner we are?

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MR. GREENE:
I don't know right now, I don't recall, I don't know what we're receiving right now. As I said, I haven't served on the Committee for well over a year.

CHAIRMAN GULDI:
Okay. But in the time you were on the Committee there was --

MR. GREENE:
To the best of my recollection I think we had entitlement. We also had -- there were other penalty clauses, for example, from VYTRA, if they didn't, you know, there were other disincentives to various carriers if they didn't meet certain built in standards within contracts and that we got rebates built it if they didn't meet those built in standards, which is not uncommon in this business.

CHAIRMAN GULDI:
Do you know, we talked earlier about the education programs that we folded into the costs, has there ever been a report on the effectiveness of those programs or any evaluation of how effective they are?

MR. GREENE:
Not that I'm aware of. I mean it stood at face value that educating people about breast cancer and prostate cancer and these other health cares would be beneficial in and of its own self.

CHAIRMAN GULDI:
We never did an management impact analysis or study?

MR. GREENE:
As far as I know, we didn't do that.

CHAIRMAN GULDI:
When was the cost containment committee dissolved?

MR. GREENE:
Oh, God, I don't remember, I don't recall.

CHAIRMAN GULDI:
Okay. When did -- when was the last time you attended a VYTRA cost containment presentation?

MR. GREENE:
God, you're talking about their annual reports, George?

CHAIRMAN GULDI:
Yeah, their annual reports.

MR. GREENE:
God, they usually came out towards June or July or something like that.

CHAIRMAN GULDI:
Did you customarily attend those presentations or did you not?

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MR. GREENE:
I've attended I think most, if not all. Most of them I think I did, but I don't remember every single one of them. They usually serve oatmeal cookies, so I tried to attend when they had oatmeal cookies. They were very boring presentations, but we went through the whole --

CHAIRMAN GULDI:
If I had known that, I would have provided oatmeal cookies today.

MR. GREENE:
They had their whole, you know, they had their whole glossy presentation and they -- and sometimes in some of these meetings they made suggestions for going forward for cutting edge these approaches to changing benefits and structures that we may achieve a savings, it was always that kind of add on to whatever the current program was, they're always pointing out things to us.

CHAIRMAN GULDI:
When you testified earlier the one point against Segal doing an audit of VYTRA --

MR. GREENE:
I believe so, I think we instruct the Segal and we paid them not to get --

CHAIRMAN GULDI:
Was that a management audit or financial audit?

MR. GREENE:
I think it was of the billing, to make sure that the bills are being paid appropriately, that VYTRA was paying the bills appropriately and that everything was running smoothly.

CHAIRMAN GULDI:
All right. Mr. Greene, thank you. I'm done with my questions, now it's Mr. Crecca's turn, he has another book to go through.

LEG. CRECCA:
I'm done. Thanks, Dave.

MR. GREENE:
George, you wore him out.

CHAIRMAN GULDI:
Mr. Bishop, you had a couple of items you wanted to inquire about?

LEG. BISHOP:
I think you got them. I also learned that Dave Greene is a Jet fan who likes oatmeal cookies and racquetball.

MR. GREENE:
Well, three for three is not bad.

CHAIRMAN GULDI:
I have one I have to follow up with you. Is it true, Mr. Greene, that

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you're training at Cornell University was as a zoologist?

MR. GREENE:
The truth of the matter is I spent four years at Cornell University in invertebrate zoology untouched by education.

CHAIRMAN GULDI:
Invertebrate zoology.

MR. GREENE:
Invertebrate zoology, untouched by education.

CHAIRMAN GULDI:
I thought it was that you were trained as a herbtologist. Is there any truth to that?

MR. GREENE:
No. I did not major in political science.

LEG. BISHOP:
You may have -- I have just two that I want to ask.

MR. GREENE:
See now you refreshed his memory, look what you did.

CHAIRMAN GULDI:
All right. While he's stumbling, so you couldn't -- you testified earlier that they couldn't find a son-in-law who needed work, isn't it true that you are Mr. Gaffney's next door neighbor?

MR. GREENE:
No.

CHAIRMAN GULDI:
Not next door?

MR. GREENE:
I don't live upscale. I'm a Rocky Point resident, proud of it.

LEG. FIELDS:
George?

CHAIRMAN GULDI:
Yes?

LEG. BISHOP:
The Segal reports, which contain the errors in the comparison between the two plans, they were used to justify after the fact or prior to the decision the levels of benefits that were provided?

MR. GREENE:
Well, it was part of the ongoing, I mean as you looked at these numbers coming in, you know, you had a comfort level that you could start to look at modifying and adjusting, because, basically you were achieving, you know, a substantial savings over the Empire. It was an

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ongoing, it didn't just evolve, it was a long, slow process.

LEG. BISHOP:
So, decisions were made, I don't know what the timing of when that report comes in and when decisions are made, but I assume that the number comes in and it's thirty million dollars to the good, as you would say.

MR. GREENE:
Well, we didn't run off and give away twenty-five million in benefits,

no.

LEG. BISHOP:
That's what I'm asking.

MR. GREENE:
But what we would do is every year, as I said, the Empire makes these adjustments and we'd look at these adjustments, some were good, some were bad, some benefitted people and some benefitted the plan and some harmed the plan. And we would say to our consultants, say, okay, go back, cost out these various items. Those that we're obligated to do, naturally we did. Those that we felt served the plan well, we would do. Those that we thought would cost the plan more than we would save, we didn't do. So we were constantly evolving the plan.

LEG. BISHOP:
So what was the impact of the bad numbers if it was constantly evolving and it was only retrospectively used to justify decisions that were made?

MR. GREENE:
The bad numbers? The bad numbers is why we're here. Because perhaps if we had had better numbers early on, we would have had as a Committee and as an Executive Branch made different decisions. We would not have been saying, boy, life is good, we'd be going, oh my God, we're up to our tushies in alligators, what do we do now. We would have looked at the world a lot differently. We may not have been self insured today if we had seen different numbers early on.

LEG. BISHOP:
If decisions were not made based on the Segal numbers and nor were they made based on the budget numbers, that's correct, right, it wasn't -- decisions weren't made based on the number that was arrived at through the Executive and Legislature?

MR. GREENE:
Well, the wait, quite frankly, the budget is something the Committee had no control over. That's something --

LEG. BISHOP:
I think it was earlier, you stated that they were essentially irrelevant.

MR. GREENE:
To me. Now the unions were very concerned about was there enough money, was Fund 85 funded, and I kept saying, quite frankly, look,

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we're self pay, we're going to pay every penny regardless of how the budget process works itself out. It's nice to know you don't have to worry about fund transfers and all those machinations that go on in the budget process, but it was irrelevant in terms of the operation of the fund.

LEG. BISHOP:
So the numbers were only relevant to the union in deciding the unions, in deciding the levels of benefits that were to be provided?

MR. GREENE:
No, it was more than that. It was not only whether or not we should increase or decrease benefits --

LEG. BISHOP:
But not to you is what I want to know.

MR. GREENE:
No, it was relevant to me. Segal's numbers were relative to us as to how well we're doing, is there something going wrong with the plan, should we look to getting back to Empire, is there something we have to cut? As I said, when the prescription numbers got out of sight, the new agreement called for a whole host of cost saving approaches that the unions concurred with in order to try to get control of costs. So people are always looking to live within their means.

LEG. BISHOP:
Excuse me. When --

MR. GREENE:
We weren't like college kids when mommy and daddy sent you a check, you went out and spent it, we didn't do that, Dave.

LEG. BISHOP:
When Mr. Tempera spoke before this Committee last time, he tried to draw a distinction between the EMHP Committee and the parties to the labor -- to the agreements, to the MOA, to any agreement. In essence, he was saying that the EMHP Committee merely carried out what was agreed to by the parties to the agreement, they were like the Executive Branch to this other Legislative Branch.

MR. GREENE:
That's one way to look at it.

LEG. BISHOP:
Okay. Do you agree with that?

MR. GREENE:
As I said, that's one way to look it.

LEG. BISHOP:

Because, well --

MR. GREENE:
I tend to look at it it's all part and parcel of one thing. I think it's very difficult in my own mind's eye to segregate out the

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Committee from the collectively bargained agreement, because the Committee flows from that agreement, it's part and parcel to it and it's the intent of the parties in striking that agreement that drives the process going forward.

LEG. BISHOP:
Well, his point was that the EMHP Committee merely did what it was told through the bargaining process and, therefore, that the nine representatives from the County Executive who were on the EMHP Committee really didn't have any power but to carry out what you negotiated.

MR. GREENE:
I wouldn't characterize it that way at all.

LEG. BISHOP:
Why not?

MR. GREENE:
The Committee had a lot of latitude. I mean we heard appeals. By virtue on how we handled appeals, we could have expanded or contracted benefits. We didn't want to be, for example, if a series of appeals came through on the same or similar issue, and by voting in the affirmative and concurring with your consultant, you may have expanded a benefit by virtue of if you didn't for the next class of people in the same or similar situation, you'd have disparate treatment. So that was one thing.

We always were looking at modifying and adjusting the plan and we'd sign agreements, you know, that would do that. We had tremendous amount of operational control. We always had the consultant. Besides the consultant, VYTRA would come in, we'd talk to them about the problems, they'd make suggestions how we make the plan run better.

NPA or National Health Card would come in, we were always looking to adjust and tweak the plan and make it more effective and more efficient. It was an ongoing process. I find it very hard to segregate out the two. I don't think it was as cut and dry, I wouldn't portray it as cut and try as nine management people sat there and did nothing and the union people ran around enforcing an agreement. I didn't see that at all.

LEG. BISHOP:
More than that, I think what the substance or what the conclusions that Mr. Tempera's statements led me to draw were that it was only you, Mr. Greene, who represented the taxpayers' interests, whereas if you looked at it as, you know, unions want to make sure that their membership are receiving the level of benefits that unions traditionally want, which is --

MR. GREENE:
More.

LEG. BISHOP:
Right. And that the management was on the other side of the table --

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MR. GREENE:
Less.

LEG. BISHOP:
-- trying to taper that.

MR. GREENE:
Yes. That's why I had a co-Chairman who was from the union. He said more, I said less all the time.

LEG. BISHOP:
And that's the traditional way it works.

MR. GREENE:
That's the way it should be.

LEG. BISHOP:
Right. He's saying you're the only one who had that ability and that the --

MR. GREENE:
If I only had known that.

LEG. BISHOP:
Well, I mean can you count on that, can you give me something?

MR. GREENE:
I'm trying to understand.

LEG. BISHOP:
He's saying, look, you know, I didn't decide on the level of benefits, you can't ask Jeff Tempera what the level of benefits or any of those other eight people on the Committee, it was between Greene and the unions. That's what he was saying.

MR. GREENE:
I was responsible if we were going to negotiate a change to do the negotiating, but the way I would characterize that Committee, that Committee and Steve Gordon always used this term, that we acted to a large degree as fiduciaries. A lot of us, I think an overwhelming majority of us viewed ourselves as fiduciaries charged with a responsibility to monitor and run this fund as economically and as well as we possibly could.

Now, legally and technically, we were not fiduciaries, because this was not a benefit fund, but that term was thrown about by our attorneys on a regular basis and almost an admonition that we should consider ourselves fiduciaries and that we had an obligation to the fund, which means to those people that put the money in the fund.

And that is one of the driving reasons we came out with this agreement in 2001, which changed the way we did prescriptions to a three-tier, that put other cost savings in place and put us at a cap below Empire, because it was that kind of drive.

LEG. BISHOP:
Is we the nine members from the Executive Branch or you?

MR. GREENE:
I negotiated that new agreement with the unions. I represented the County Exec. on that negotiations.

LEG. BISHOP:
Okay. So that Mr. Tempera's description of the powers of the Board are essentially correct, if Greene and the unions agree to something, then the Board, all eighteen, had to just implement it.

MR. GREENE:
In terms of collectively bargained, yes. In terms of the day-to-day or the month-to-month operation, the votes on appeals, the votes on a whole host of issues, no.

LEG. BISHOP:
What's more significant, the collectively bargained agreements or the appeals process on the bottom line?

MR. GREENE:
The collectively bargained agreement is the driving force. The appeals can cost the County a small fortune if we were not diligent on how we handle them. Plus the Committee, through the RFP process, choosing the vendors. Now, there can be nothing more important, quite frankly, in operating a healthcare system or any system than the selection of a vendor and there were eighteen people who were voting

on selection of a vendor.

Now, that strikes me as above and beyond I was calling the shots with nine of the union, and we did not always vote unanimously on a vendor. There was a lost disagreements on which vendor should or should not be selected. It was not as much of a knee jerk reaction of we're management, we vote one way, and your union, you vote the other. You can look at the minutes on appeals. Many times you'll find management people splitting on appeals and sometimes -- although the union president never came back after the beating they got, they would split.

But there was a lot of self thinking, because of the admonition from our Counsel that although we are not fiduciaries, it would be in our best interest to act and think like fiduciaries. We took our roles very seriously, in case you hadn't noticed.

LEG. BISHOP:
Okay.

CHAIRMAN GULDI:
You're done?

LEG. BISHOP:
Yes. I understand the structure somewhat better.

CHAIRMAN GULDI:
Legislator Fields.

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LEG. FIELDS:
How often did the eighteen member panel meet?

MR. GREENE:
Well, in the beginning it was once a month, and I think at the end it was like ten times a year or eleven times, ten times a year.

LEG. FIELDS:
And out of the nine County Executive members, what was their attendance?

MR. GREENE:
Well, over the years we've had different members from the management side, you know, the union presidents tend to have greater longevity than management representatives. I would say we had very good attendance on the average.

LEG. FIELDS:
That's how it should be.

MR. GREENE:
On the average we had very good attendance.

LEG. FIELDS:
What does very good mean?

MR. GREENE:
I would say --

LEG. FIELDS:
You have nine members on the average --

MR. GREENE:
I would say seventy or eighty percent as a rule. I'm just going off the top of my head. But that's why we built in a quorum in the bylaws. We had a constitution of bylaws, we had a full bylaws. I believe it required five, someone correct me, five and three, five management -- five union, three management. We couldn't get any business done without a quorum, so we built in a protection to make sure that we had to have adequate number of people in the room to conduct our business.

LEG. FIELDS:
And I guess, George, could you just ask about these stickies on this 1998?

CHAIRMAN GULDI:
Yes. Can I borrow your copy? Mine is not convenient. Actually, I have one open in front of me. Can someone hand that.

MR. GREENE:
More stickies?

CHAIRMAN GULDI:
I want to show you a draft of the 1998 -- a 1998 draft of the Segal 1997 report. I show you -- just give it to him, I have one here. I

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want to show you, direct your attention to page two on that document.

LEG. FIELDS:
Can I just ask a question?

CHAIRMAN GULDI:
Yes.

LEG. FIELDS:
Who decided that five plus three was a quorum?

MR. GREENE:
We drafted a --

LEG. FIELDS:
Five union and three management?

MR. GREENE:
Yeah.

LEG. FIELDS:
Why not five management and five union?

MR. GREENE:
If I remember, that's how we drafted this, because there had to be some recognition, for example Reid Vail was on it and sometimes in the budget years you just couldn't tear him away from the budget process to drag him down there. The union officials, with all due respect, without insulting them, had a little more free time than a lot of the management people, so after a lot of consternation and debate we figured we needed a responsible number of people, but we had to recognize a lot of the management people had other responsibilities and may not be available for every meeting, and that was the genesis of the numbers.

LEG. FIELDS:
But isn't management responsible for going to a meeting, isn't management's responsibility attending a meeting where when you look at the amount of money that was put into this, that this would part of your duties?

MR. GREENE:
I'm not disagreeing with you, but since on those kind of votes the three management would carry, if there was only three, carries the full weight of the nine. It was a recognition of --

LEG. FIELDS:
I would ask the Chairman if we can get -- for the Stenographer's purposes, two people shouldn't speak at the same time, but I would ask the Chairman if we can get a copy of all of the meetings attendance.

MR. GREENE:
Shouldn't that be in the minutes?

CHAIRMAN GULDI:
In the front page of the minutes in the book that we distributed, the

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large volume we distributed earlier, reflects the attendees at each of the meeting. I don't know if there was any other attendance record kept.

MR. GREENE:
No, no. In fact, sometimes if they made a mistake and somebody came a little late, they would just add, you know, at the next meeting they would point they came a little late or something, but it's right in front of every minutes. All the minutes have attendance sheets.

CHAIRMAN GULDI:
The document you have in front of you is a draft of the 1998, excuse me, 1997 year end report, annual report memorandum for -- by Segal on the plan. I direct your attention to the Post-its on page two. This draft is -- these notes have been identified to be Phil Baucchio's. I want you to look at the comments on the two handwritten notes.

MR. GREENE:
Okay. "I think it's time to stop comparing us to Empire, it's been long enough," and something or other are significant.

CHAIRMAN GULDI:
"There are significant benefit changes," is the way I read it.

MR. GREENE:
Okay. And the question is?

CHAIRMAN GULDI:
The second page, "I think the Empire plans numbers are not correct, please review them and let us know what you think."

MR. GREENE:
Well, I imagine this was to --

CHAIRMAN GULDI:
This was from Phil Baucchio to Oscar Ortiz.

MR. GREENE:
Yeah, okay. I don't know if this then went to Segal and Larry Singer.

CHAIRMAN GULDI:
Apparently it did, because if you look at the August 1998 draft of the same annual report, the numbers --

MR. GREENE:
They were corrected?

CHAIRMAN GULDI:
The numbers on page two, they're not corrected, but the comparison is deleted entirely. And from then on the '98, '99, 2000, 2001 or, I

don't know --

MR. GREENE:
Were adjusted, are you saying they were adjusted?

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CHAIRMAN GULDI:
No, they no longer include the comparison, apparently in response to this draft comment.

MR. GREENE:
I imagine then there was some discussion between the Comptroller's Office and with Segal, that's what you're telling me.

CHAIRMAN GULDI:
I'm asking you if you're aware of the change in 1997 and the deletion, have you ever seen this draft?
MR. GREENE:
I never saw this draft. I disagree with that it's time to stop comparing us to Empire. As I said before, we need some kind of benchmark. Now --

CHAIRMAN GULDI:
Well why use Empire instead of say Blue Cross?

MR. GREENE:
Well, Blue Cross has many plans. Empire is the benchmark. You go to most municipalities, State government, participating authorities, what is the number one plan, a million members in the Empire Plan, it's a very good benchmark to compare yourself against. It was merely the benchmark. And that gives us a reason to believe, yes, we're spending our money wisely, or no, we're not spending our money wisely. We have to have something to compare against and Empire was the benchmark. After all --

CHAIRMAN GULDI:
Weren't you a State employee at the time the Empire Plan was created?

MR. GREENE:
I was the on the bargaining team when we created the Empire Plan.

CHAIRMAN GULDI:
Didn't you have a role in the creation of the Empire Plan?

MR. GREENE:
Absolutely.

CHAIRMAN GULDI:
What was that, what was your role in the creation of the Empire Plan?

MR. GREENE:
When they changed the plan, we bargained with the State to create this new plan, which was the Empire, which we placed some of the other options we had at that point in time.

CHAIRMAN GULDI:
You were at the bargaining table representing whom?

MR. GREENE:
Public Employees Federation, we had sixty thousand members at that time.

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CHAIRMAN GULDI:
You were representing PERF, PEF.

MR. GREENE:
That just cost you a check, George, trust me.

CHAIRMAN GULDI:
Oh, well.

MR. GREENE:
Oh, well. East Enders, you guys got it, what are you worried about?
CHAIRMAN GULDI:
That's right. Haven't you heard, some of us don't use money for our elections.

MR. GREENE:
But if you remember in the 80's, late 80's, we had sticker shock with Empire. The State had projected this was going to be the cats meow. It was like whatever you said HMO's were going to be, you were going to save a fortune, the rates were going to be capped, everything is great and one year I think it went up sixty percent.

CHAIRMAN GULDI:
Sixty percent in 1989 just before we went to the --

MR. GREENE:
And everyone grabbed their hearts and fell over. So even the best laid plans of mice and men. When we negotiated with the State, just so you know, we told them this is going -- things are going to happen and their experts said no and our experts said it's not going to be as inexpensive as you think, there is going to be problems and they poo-poo'd. Us and we went forward and we were paying, twenty-five percent of the premiums were paid by the person with the family rate, family plan, and ten percent if you had an individual plan. So we had payroll deduction in the State system, unlike some other the counties.

But if you don't compare yourself against the Empire, what would anyone propose to compare yourself against? And obviously, the concern that I had somehow stifled discussion between Segal and the Comptroller's Office based on what you're showing me, I gather it's just not so.

CHAIRMAN GULDI:
Okay. No other questions by Legislators, Dave, I want to thank you for coming down.

MR. GREENE:
I appreciate the invite, it's always a pleasure.

CHAIRMAN GULDI:
You've made us all glad, as I'm sure you are yourself, that you're working in Nassau County today.

MR. GREENE:
George, let me tell you something, you can send me the twenty dollar check just to make amends.

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CHAIRMAN GULDI:
Dave Bishop, did you want to say something?

LEG. BISHOP:
No.

MR. GREENE:
Thank you very much for having me, it was a pleasure.

CHAIRMAN GULDI:
I have distributed to members a further printout of the check rundown to the, let me see, I can't find my copy of it at the moment, VYTRA's provided us with the disbursements by vendor down to the fifteen thousand dollar level. I do want to point out that there's still more than ten million dollars beneath that level, so I'm going to have to ask them to bring this rundown, ten million dollars out of seventy is still too big a vagary, but I've asked them to run it two ways.

MR. GREENE:
Is that like Magellan below the line and Lab Corp., those kind of vendors?

CHAIRMAN GULDI:
I don't know what's below the line, and that's why we need to do a bigger run on this.

MR. GREENE:
I know Lab Corp. is, you know, per member, per month, it's the capitated program, I don't know what the total sum is.

CHAIRMAN GULDI:
This is just the VYTRA portion of it.

MR. GREENE:
Well, VYTRA subcontracts to Lab Corp.

CHAIRMAN GULDI:
Okay. But we'll have to get a further detail on this.

LEG. BISHOP:
You don't want to leave?

MR. GREENE:
I'm just trying to help him. George always needs help, as we well know.

CHAIRMAN GULDI:
Thank you. Thanks for your help, Dave. The other thing I wanted to announce is that Segal & Company will be here on April 3rd at ten o'clock in the morning. We'll have another special meeting of Ways & Means. We'll hear what Segal has to say about the numbers, the issues and the documents we've been discussing.

That being said, is there anybody else who wants to -- who has anything they'd like to bring to the attention of the Committee

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regarding the Employees Benefits Plan? Mr. Tempera, are you still here?

MR. TEMPERA:
No, thanks.

CHAIRMAN GULDI:
You don't have anything you want to add today?

MR. TEMPERA:
No, thanks.

CHAIRMAN GULDI:

I just wanted to make sure that nobody else wanted to do a Jeff Tempera here. There being no volunteers, we stand adjourned.

(THE MEETING ADJOURNED AT 2:15 P.M.)

{ } DENOTES BEING SPELLED PHONETICALLY