

EXHIBIT 18

STATE OF ILLINOIS)
) SS:
 COUNTY OF C O O K)

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ILLINOIS
 EASTERN DIVISION

RETIRED CHICAGO POLICE ASSOCIATION,)
 an illinois not-for-profit corporation)
 individually and on behalf of its)
 members and other individuals who are)
 participants in the City of Chicago's)
 annuitant healthcare plan, and whose)
 participation begun after 1987, but)
 prior to August 23, 1987.)

Plaintiff,)

vs.)

) No. 90 C 0407

THE CITY OF CHICAGO, et al.,)

Defendants.)

Discovery deposition of JAMES MCDONOUGH,
 taken before JENNIFER ANNE SEASTROM, CSR., Notary
 Public, pursuant to the provision of the Illinois
 Code of Civil Procedure and the Rules of the Supreme
 Court thereof, pertaining to the taking of
 depositions for the purpose of discovery, at 333 West
 Wacker Drive, Suite 2600, in the City of Chicago,
 Illinois, commencing at 1:00 p.m., on the 20th day of
 November A.D., 1991.

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 PAGE 2 of 151

Baird
Pair court reporters p.c.

There were present during the
taking of this deposition the following counsel:

KRISLOV & ASSOCIATES, by
MR. CLINTON A. KRISLOV and
MS. LISA WAISBREN,
on behalf of the Plaintiff;

CORPORATION COUNSEL, by
MR. STUART FULLERTON
on behalf of the City of Chicago,

BOYLE & HEISS, LTD., by
MR. FREDERICK P. HEISS
on behalf of Municipal and Labor Fund;

JACOBS, BURNS, SUGARMAN & ORLOVE, by
MR. DAVID S. ALLEN
on behalf of Firemen's Fund;

KEVIN M. FORDE, LTD., by
MS. JANE FORDE
on behalf of the Policemen's Annuity Fund.

I N D E X

<u>WITNESSES</u>	<u>PAGE</u>
Direct Examination by Mr. Fullerton	3
Cross Examination by Ms. Forde	111
Cross Examination by Mr. Allen	114
Cross Examination by Mr. Krislov	126
Redirect Examination by Mr. Fullerton	137
Cross Examination by Mr. Heiss	141
Reecross Examination by Mr. Krislov	143

EXHIBITS

(None were marked by court reporter.)

1 JAMES C. MCDONOUGH,
2 after having been first duly sworn, deposeth and
3 saith as follows;

4 DIRECT EXAMINATION

5 BY MR. FULLERTON:

6 Q. : Could you please state your name.

7 A. James W. McDonough, M-c-D-o-n-o-u-g-h.

8 Q. How old are you, Mr. McDonough?

9 A. 57.

10 Q. And where do you live?

11 A. 750 Elkcarn, E-l-k-c-a-m, Circle, Unit 313,
12 Marco, M-a-r-c-o, Island, Florida 33937.

13 Q. Are you currently employed?

14 A. No.

15 Q. I understand that you're a retired Chicago
16 policeman?

17 A. That is correct, sir.

18 Q. How long were you a policeman?

19 A. 32 years, 7 months and 4 days.

20 Q. And when did you retire?

21 A. February 5th, 1990.

22 Q. What was the highest rank that you
23 achieved?

24 A. Sergeant.

1 Q. Was that your rank upon retirement?

2 A. That is correct.

3 Q. Why did you retire?

4 A. I had served my time, and I felt that it
5 was for personal reasons.

6 Q. : After 32 years what was your pension?

7 A. I got the maximum 75 percent.

8 Q. Mr. McDonough, do you have a claim in this
9 case?

10 A. Do I have a claim in this particular case?
11 Only if it covers people that retired after 1990. My
12 understanding of it is that it only goes up until May
13 of '89.

14 Q. And why do you have that understanding or
15 what do you base that understanding on?

16 A. From what I understand the lawsuit went
17 into effect at the that point and if I retired after
18 that I may not be covered by its decision.

19 Q. Do you have any type of separate claim
20 whether it's currently in a lawsuit or not concerning
21 retiree health care benefits?

22 A. None. Unless you would consider me a
23 participant in the Korshak case because I was a
24 trustee at that time, that would be my only other

1 involvement.

2 Q. Now I would like have this marked as City
3 Exhibit 23.

4 MR. KRISLOV: We should put in for the
5 record just an acknowledgment that Mr. McDonough is
6 here in response to the Notice of Deposition, he's
7 appearing pursuant to an agreement to reimburse him
8 for his costs to travel up here especially since that
9 would be much cheaper for one person to travel up
10 here than to have all of us -- though, it would be
11 more fun for us, to have all of us travel down to
12 Florida.

13 And as I understand it, the City and
14 the funds have agreed to reimburse Mr. McDonough's
15 reasonable travel expenditures. They have not agreed
16 to the -- they have not agreed to reimburse his
17 housing or car rental cost while he's here. We have
18 indicated that we'll advance those as part of the
19 cost of the litigation. But for the record, that's
20 my understanding. I presume that is everybody's
21 understanding that the funds will share his travel
22 cost.

23 We had talked, we didn't know exactly
24 what they were before. I indicated yesterday that my

1 calls to the airlines indicated that the regular
2 coach fare is \$799. Mr. McDonough advised me upon
3 arriving that based on when he had to make the
4 reservations the only thing was available was first
5 class which I believe is \$900.

6 THE WITNESS: My ticket was approximately
7 975.

8 MR. KRISLOV: So we would suggest that Mr.
9 McDonough submit his costs, he can send them to us or
10 he can send them to you directly and we'll expect you
11 to reimburse those.

12 MR. FULLERTON: Well, I see no reason for
13 this all to be on the record. We can take that up at
14 a later time.

15 THE WITNESS: It's important for me to
16 know, I know that my expenses are going to be
17 covered.

18 MR. FULLERTON: Yes, we can talk about it
19 after this deposition.

20 Could you mark this as City Exhibit
21 23?

22 (Deposition Exhibit No. 23 was
23 marked for Identification.)

24 BY MR. FULLERTON:

1 Q. Mr. McDonough, you did an affidavit, do you
2 remember that?

3 A. Yes, sir, I do.

4 Q. You did that in this case and also in the
5 Korshak case; is that right?

6 A. That is correct.

7 Q. Let me give you the one that's been marked
8 City Exhibit 23. Is that the same one?

9 A. That is correct.

10 Q. You signed that on May 5th, 1990; is that
11 right?

12 A. Yes, sir.

13 Q. That was down in Florida; is that right?

14 A. Yes, sir.

15 Q. You had moved to Florida by then?

16 A. Yes, I did. I have been living there. I
17 just changed addresses.

18 Q. Who wrote this affidavit?

19 A. Apparently it was done by Mr. -- by the
20 attorney's office here.

21 Q. Okay. Did you have any part in drafting
22 the affidavit?

23 A. No, I didn't. Other than I gave them the
24 information for it when he questioned me.

1 Q. When did you speak with Mr. Krislov about
2 the affidavit?

3 A. I don't know what date it was, but it was
4 prior to this we had a meeting in Sarasota, Florida.

5 Q. You met with Mr. Krislov down in Florida?

6 A. That is correct. That's when he took this.

7 Q. At whose request did you meet with Mr.
8 Krislov?

9 A. At his request.

10 Q. Did he tell you why he wanted to meet with
11 you?

12 A. He wanted whatever information that I had
13 relative to this particular case.

14 Q. Was this the first time that you had spoken
15 with him about this case?

16 A. Other than on the telephone when he told me
17 that he would like to talk to me.

18 Q. Okay.

19 A. Just prior to, you know, doing this.

20 Q. Now, sorry, did I ask you when you met with
21 him down in Florida?

22 A. Yes. I don't recall the date, but it was
23 just sometime prior to this.

24 Q. When did you move down to Florida?

1 A. Well, I was commuting back and forth. I
2 officially moved down there the 1st of October when I
3 gave up my residence here in Chicago.

4 Q. 1st of October of what year?

5 A. Of 1991, but I had lived there during the
6 seasons on and off for the past -- since my
7 retirement. I spent most of my time in Florida and
8 come back for the summer months.

9 Q. Did you meet with Mr. Krislov after the
10 date of your retirement?

11 A. Yes, it was when I gave him this
12 deposition.

13 MR. KRISLOV: You mean affidavit?

14 THE WITNESS: Affidavit, I am sorry.

15 BY MR. FULLERTON:

16 Q. And did you have one meeting in Florida?

17 A. That's all, one meeting.

18 Q. How long was the meeting?

19 A. Oh, we had lunch, maybe an hour, hour and a
20 half, something like that.

21 Q. Who else was there, if anyone?

22 A. Just the two of us.

23 Q. What did you talk about?

24 A. We talked about my duties, my

1 responsibilities as a trustee and my police
2 experience and what I had done over the years.

3 Q. Did you discuss the Korshak case?

4 A. I don't recall exactly what we discussed on
5 all, but I'm sure it was a key point that we
6 discussed.

7 Q. Did you discuss this lawsuit, the Retired
8 Chicago Police case?

9 A. I don't know for sure if that had really
10 entered into it or it was -- or not, to be honest
11 with you I don't recall.

12 Q. Did Mr. Krislov tell you that he wanted an
13 affidavit from you?

14 A. Well, he did say that, that is correct.

15 Q. Did he tell you why he wanted the
16 affidavit?

17 A. Yes, that there was going to be some legal
18 action transpiring.

19 Q. What did he tell you about that legal
20 action?

21 A. What did he tell me? I can't -- I don't
22 recall his exact words what he told me, but that I
23 would be a witness in the case and would I be glad to
24 cooperate. I said I'm here to tell the truth

1 whatever I know about it. I would be glad to put
2 anything forward that I could tell to clarify the
3 matter.

4 Q. Now, after you met with Mr. Krislov, when
5 did you first see what has been marked as City
6 Exhibit 23?

7 A. About 10:00 o'clock this morning when I --
8 actually when I had to sign it.

9 Q. And --

10 A. When it was sent to me, it was sent it me
11 in the mail.

12 Q. Through the mail?

13 A. Right.

14 Q. Was there a letter with the affidavit?

15 A. Well, it came Federal Express and I recall
16 I had to send something back. I really don't recall
17 what was with it other than I did sign it. I don't
18 even think I had time to make a notice of it. I
19 think it was on the weekend and I had to get to the
20 Federal Express office to get it back in the City.

21 Q. You don't recall if there was a cover
22 letter with the affidavit?

23 A. No, I don't.

24 Q. Did you discuss the affidavit over the

1 phone after your meeting with Mr. Krislov?

2 A. Not that I can recall, other than, you
3 know, I don't remember having talked about other
4 different people and I don't recall if I did or not.

5 Q. Now, after you received the affidavit, what
6 did you do?

7 A. After I received it I signed it and I sent
8 it back. I am sure I read it over and I signed it
9 and I sent it back. It was all done in haste.

10 Q. You had it notarized also?

11 A. Yes.

12 Q. Where did you have it notarized?

13 A. Apparently in Marco Island.

14 Q. Do you recall having this affidavit
15 notarized?

16 A. Do I recall doing it? Do I recall having
17 it done? Yes, I do because I think I had to take it
18 to a real estate office to have it done. It was a
19 Saturday, yes.

20 Q. Okay. Does that -- do you recall what day
21 you received the affidavit on?

22 A. No, I don't. Other than I know it was a
23 weekend because I had to move very fast to get it
24 done because most of the real estate close early and

1 I knew the post office in order -- in order have this
2 thing done I had to move rapidly on it.

3 Q. Did you say you sent it back through the
4 post office?

5 A. I don't know if I used the Federal Express
6 drop off or postal mail or what, but I do recall
7 having an expense, by the way that I never submitted,
8 so how I did it, I don't recall.

9 Q. Can you tell me why it was done in haste?

10 A. Because it was a matter of time that they
11 wanted this thing back. I was going to be leaving
12 Florida. I had a conference to attend, I was leaving
13 that following week I know that. That's the only
14 reason I can think of.

15 Q. You don't recall if Mr. Krislov told you
16 that it was a matter of haste?

17 A. Well, yes, you know, if you could read this
18 over and get it done and get it back to me, I would
19 appreciate it and that's what I did.

20 Q. What were your -- could you kind of take me
21 generally through your career as a police officer?

22 A. Sure. Where would you like me to start?

23 Q. At the beginning.

24 A. At the beginning. Well, I was sworn in on

1 July 1957.

Q. As a patrol officer?

A. As a patrol officer.

Q. How long were you a patrol officer?

A. Oh, approximately three years. During that time I was probably one of the first ones to become -- that became to be a field training officer in the Department, it was a new title which they came out with, which I did that. And I attended special classes at the academy and you were the officer who took all the new recruits out on the street and talked with the field work in the Department.

Q. Were you assigned to a particular area or district?

A. Yes, I was assigned to the 5th District.

Q. What area is that in?

A. Well, now the areas have all changed. At that time it would have been an Area 2.

Q. After you were a patrol officer, what was your next position?

A. My next position was a detective. I was detective in the burglary section from about 19 -- when did I make detective? Detective in 1964. I was a burglary detective in Area 2 burglary assigned

1 until 1967.

2 Q. So for another three years you were a
3 detective?

4 A. Right.

5 Q. After being a detective then what?

6 A: I made sergeant. I was assigned
7 immediately to the detective division. I went into
8 the robbery section as a robbery sergeant squad
9 leader and I was a -- stayed there for approximately
10 three years when I was then transferred to the Vice
11 Control Division.

12 Vice Control Division I went into
13 about 1970, and during that time I was a sergeant in
14 the Narcotics Division for approximately six years.

15 I was then transferred to the
16 Prostitution Unit where I was a sergeant there for a
17 couple of years.

18 The Gambling Unit where I worked for
19 about months.

20 And then I went to the License Unit
21 where I stayed until I was elected to the Secretary
22 of the Trustees in about 1984.

23 Q. When you were in the Vice division or unit,
24 what area were you assigned to?

1 A. The Vice -- the Vice Control Division
2 worked out of the downtown. There was no particular
3 area. You covered the whole city.

4 Q. You were headquartered at 11th and State?

5 A. That is correct, most of the time and then
6 you get transferred to Maxwell Street later.

7 Q. Then you took us up to about 1984.

8 A. 1984 was when I was a -- I had become a
9 Trustee, I was elected to be a Trustee of the Police
10 Pension Board in 1979, March of 1979. At that time I
11 was still assigned my regular police duties. But in
12 1984 I was elected to Secretary of the Trustees of
13 the Police Pension Fund, and I was assigned to duties
14 downtown. They have one officer assigned to the
15 Police Pension Board, and that was my duty from that
16 point on until I retired.

17 Q. From 1984 until 1990 you were full-time --

18 A. Employed.

19 Q. -- employed. You were still employed as a
20 police officer?

21 A. I was assigned to the Police Pension Board.

22 Q. Assigned full-time to pension matters?

23 A. Yes, sir.

24 Q. Fulfilled -- the Trustees job, took up your

1 full-time?

2 A. That is correct.

3 Q. As a police officer in your 30 year career,
4 30 plus years career, have you done affidavits
5 before?

6 A. Have I done them before? Sure.

7 Q. How often have you done affidavits?

8 A. Over the years years on different court
9 cases and stuff it's hard to say, maybe 40, 50, I
10 don't recall.

11 Q. So you understand that they're sworn
12 statements?

13 A. Yes, they are.

14 Q. Have you testified as a police officer
15 before?

16 A. Yes, I have.

17 Q. Testified under oath?

18 A. Yes, I have.

19 Q. In criminal case?

20 A. Yes, sir.

21 Q. Is it fair to say that that was a routine
22 occurrence as a police officer?

23 A. Yes. Yes, sir.

24 Q. You also understand that that's sworn

1 testimony?

2 A. Yes, sir.

3 Q. The same as you're giving here today?

4 A. Yes.

5 Q. The same as you gave in your affidavit City
6 Exhibit 23?

7 A. Apparently.

8 Q. Mr. McDonough, when you signed Exhibit 23
9 or prior to signing it, did you read it over?

10 A. Yes, I am sure I did.

11 Q. Did you have an opportunity to make any
12 corrections to it?

13 A. Well, I am sure I had the opportunity.

14 Q. Did you make any corrections to it?

15 A. No, not that I recall.

16 Q. When did you become a Trustee of the
17 Pension Fund?

18 A. March 1979.

19 Q. And that was an elected position?

20 A. That is correct.

21 Q. What was your role from '79 onward as a
22 Trustee?

23 A. Well, 1979 until about 1984 when I was
24 elected as the Secretary Trustee of the Fund. I did

1 my normal police duties along with my Trustee duties
2 as an elected Member of the Board.

3 Prior to that I was the President of
4 the Sergeants Association from 1976 until 1980. And
5 I gave up that position as President because it just
6 became too much work for me to do that and also be
7 the elected Sergeants representative as a Trustee in
8 the Pension Board. So in 1980 I gave up my title of
9 President of the Sergeants Association.

10 Q. We'll come back to the Sergeants
11 Association.

12 A. Sure.

13 Q. What were your duties as an elected Trustee
14 of the Pension Fund?

15 A. As elected Trustee of the Pension Fund I
16 was liaison between the trustees and the staff, the
17 director and the rest of the employees. And my
18 duties were to maintain records and to see that
19 the -- primarily to see that the trustee's
20 responsibilities were being met and that the staff
21 performed those duties adequately and that the police
22 and the annuitants and members of the fund got their
23 just due and the service that should be rendered
24 them.

1 Q. What do you see or can you tell me what you
2 saw the duties of the trustees were?

3 A. The duties of the trustees were varied. We
4 attended the meetings and kept notes of the monthly
5 meetings relative to the pensions that were given and
6 the duty disability cases that we heard and
7 responsibilities of the office, you know, talking to
8 people that had problems and people coming in. And
9 one of the other duties I had was I attended the
10 meeting of the various associations, and I explained
11 to them the Pension Board and just what they could
12 expect from us and what to expect when they call our
13 office in making sure that these requirements were
14 being happily handled by the staff.

15 Also I did the lobbying for the
16 pension fund. I did most of the lobbying, going to
17 Springfield to seek benefits and to seek improvements
18 of the pensions for the individuals and to attend
19 their meetings and see that, you know, these
20 obligations were being met and that what we could do
21 to improve their benefits. It was a very, very busy
22 and important position.

23 Q. Is it fair to say that as a trustee of the
24 Police Pension Fund you and the others had the duty

1 to retired policemen to safeguard their interests,
2 safeguard the assets which funded their pension
3 checks?

4 A. That's true. The fiduciary responsibility.

5 BY MR. FULLERTON:

6 Q. You were fiduciary to the members of the
7 Fund?

8 A. That is correct.

9 Q. And you were a Trustee -- now after 1984
10 you stated that you became also a Secretary of the
11 Fund?

12 A. That is correct.

13 Q. You remained as a Trustee of the Fund?

14 A. That is right.

15 Q. Added --

16 A. Additional responsibility.

17 Q. Took on the added office of Secretary?

18 A. That is correct.

19 Q. What were your responsibilities as
20 Secretary?

21 A. I just gave them as a Secretary. It was
22 additionally I was assigned to the office whereas as
23 a Trustee I was assigned my regular police duties in
24 addition to these, to the police duties.

1 Q. Okay. We have covered it already?

2 A. Right.

3 Q. Could you tell me how the Board of Trustees
4 Pension Fund works? That is, what types of decisions
5 or matters come before the Board and how it is that
6 the Board decide, what process does have?

7 A. We hold monthly, sometimes semi-monthly
8 meetings, it could be weekly depending on the
9 severity and the importance of the subject at hand.
10 We would make all of the major decisions. We would
11 be presented to us as to -- at the monthly meetings
12 at minimum we met at least once a month, usually
13 twice because we have a financial report date and a
14 regular monthly pension meeting where we decide all
15 of the pension that should be rendered and all of the
16 duty disability cases that should be heard.

17 We listen to them just like a panel or
18 a jury would listen to them, and we make the major
19 decisions as to who and what amount they should
20 receive. This is done monthly and like I say, other
21 decisions had come up, different lawsuits or
22 different things that are made we vote as a Body and
23 decide what action should be taken on it. Anything
24 relative to the Police Pension Fund and the

1 annuitants and decisions are basically made by the
2 Trustee.

3 Q. When you vote as a Body, is it majority
4 rule?

5 A. Yes, majority rule.

6 Q. There's no requirement of two-thirds vote
7 or unanimity on any matter, is there?

8 A. Not really, no.

9 Q. The Police Pension Fund has its own
10 attorneys; is that right?

11 A. That's correct, David Cooley.

12 Q. Of the Cooley, DeLeo, D'Arco firm?

13 A. That is right.

14 Q. Does it have other attorneys?

15 A. Yes, we hired several others from time to
16 time for different cases depending on the particular
17 case that might be involved we had expertise in this
18 field to represent us.

19 Q. Okay.

20 MR. HEISS: I am going to leave. If I get
21 a chance I will be back.

22 (Mr. Heiss left the room.)

23 BY MR. FULLERTON:

24 Q. Now, could you please turn to page 3 of

1 City Exhibit 23 -- strike that.

2 You don't have to look at this, but in
3 your affidavit, you state that -- I am now looking at
4 page 2 paragraph 5, City Exhibit 23, in the late 70's
5 or early 80's terms of police employment were set
6 annually, do you see that?

7 A. Yes, sir.

8 Q. Does that hold true today as well?

9 A. Yes, I would say so. I think from what I
10 read in the paper in the last year in fact
11 negotiations are under way at this point.

12 Q. And did that hold true throughout the
13 1980's.

14 A. Yes. The only thing is they went into more
15 in depth negotiations with the Fraternal Order of
16 Police, but prior to that, especially in the 70's,
17 the mayors, what they would do is they would call
18 individual police association heads in, and that's
19 the time when I was the President of the Association
20 from 1976 to 1980. They would give you approximately
21 a half hour to an hour to go over your requests and
22 what you thought was necessary for your membership.
23 And they would call you at a later date to see what
24 they had agreed with and what points that they would

1 consider as important for that year's budget and what
2 they would approve to give you for your benefits for
3 that year.

4 Q. Are you saying that in the 1970's the City
5 dealt with these police associations and not the
6 F.O.P.?

7 A. That is correct, more on that basis. I
8 don't know if F.O.P. was -- they were apparently on
9 that basis, F.O.P. would go in on it, but they didn't
10 take the serious negotiations as far as legal aspects
11 with the attorneys until later probably, I would say
12 somewhere in the 80's, beginning of the 80's,
13 somewhere in that period of time.

14 Q. In your affidavit you state you were
15 personally involved as President of the Sergeants
16 Association with some of these contract negotiations?

17 A. Yes, I would go in and represent the
18 sergeants, some approximately 1200 sergeants and tell
19 him, tell the mayor, whoever she or he may be, what
20 our requests were and what we thought were fair to
21 the City and fair to the membership.

22 Q. And then at some point your personal
23 involvement ceased; is that right?

24 A. It ceased when I gave up my position as a

1 President of the Association.

2 Q. And that was in 1980?

3 A. That is correct.

4 Q. Now, do you therefore have personal
5 knowledge of matters that took place in negotiations
6 after '80?

7 A. Yes, I do.

8 Q. How do you have that knowledge?

9 A. Because as liaison to the Sergeants
10 Association and former president, I was the Sergeants
11 Association pension representative and I attended the
12 monthly meetings and the meetings that we might have
13 with different association heads and listen to
14 their -- what their request and demands were going to
15 be as a member of that organization.

16 Q. So that you understood what the police
17 association's negotiating position was from what they
18 told you; is that right?

19 A. That is correct.

20 Q. Okay. Were you --

21 A. But I didn't attend them personally.

22 Q. You weren't personally present when those
23 demands were presented to the City?

24 A. No, sir, I wasn't.

1 Q. Okay. Or when other aspects of negotiation
2 took place between the associations in the City, is
3 that right?

4 A. Not after '80, that is correct.

5 Q. Okay. Were you ever present when the
6 F.O.P. was negotiating a contract with the City?

7 A. No. I was -- I talked to, you know, the
8 President of the F.O.P. because I knew him from my
9 experience, my past experience as the President of
10 the Sergeants Association. He knew me as a Trustee.
11 What we would do is we would have annual meetings
12 with the heads of all of the associations, the police
13 member trustees and we would discuss what they were
14 looking for relative to pension benefits and the
15 increases that they were going to be looking for for
16 the year.

17 Q. You're speaking about Mr. Daneen?

18 A. Mr. Daneen, that is correct and the
19 President of the Sergeant and President of Lieutenant
20 and Captain Association, along with required groups
21 we would have them represented and they would come in
22 and discuss our pending pension legislation relative
23 to benefits.

24 Q. Are you speaking about the Retired Chicago

1 Police Association?

2 A. That is correct.

3 Q. Is there any other association of retired
4 police?

5 A. Not my knowledge.

6 Q. Did you deal with any association of
7 retired City employees who weren't policemen?

8 A. No.

9 Q. Were you involved in any negotiations of
10 contracts with other -- with City employees other
11 than police?

12 A. No.

13 Q. Do you have personal knowledge of any of
14 those negotiations or contracts?

15 A. No, other than fire, you know, I was only
16 interested in police and fire because I knew many of
17 the officers of the fire pension union and we would
18 discuss different things and different goals and
19 benefits that they hoped to achieve.

20 Q. Now, were you present at any of those
21 negotiations between the fire --

22 A. No, no, I was not.

23 Q. -- and the city?

24 A. No, I was not, sir.

1 Q. Am I correct that Local 2, the Firefighters
2 Union was involved in those negotiations back in
3 early 1980's?

4 A. Oh, I am sure they were.

5 Q. Throughout the 1980's?

6 A: Sure.

7 MR. KRISLOV: You're asking for his belief
8 or his personal knowledge that they were?

9 MR. FULLERTON: The question and answer
10 stands.

11 MR. KRISLOV: Well, it's unclear to me
12 whether what you're asking him, I mean you're
13 flipping back and forth between things that he
14 believes he knows of and things that he --

15 MR. FULLERTON: Do you have an objection,
16 Clint?

17 MR. KRISLOV: I have an objection to
18 your --

19 MR. FULLERTON: State the objection, okay?

20 MR. KRISLOV: The objection is if you're
21 asking for what he knows, ask what he knows. If
22 you're asking for what he believes, ask what he
23 believes.

24 BY MR. FULLERTON:

1 Q. Mr. McDonough, do you know whether or not
2 prior to 1980 retired policemen were participants in
3 the City's health care plan?

4 A. Well, yes, I know for a fact that we were,
5 yes.

6 Q. And do you know how far back that goes?

7 A. Well, from the time that I came on in 1957,
8 I don't know if you call it the City health plan, but
9 it was the benefits we received. We paid for them at
10 that time. And during the course of that time later
11 in my career we, as time went on the Mayor at the
12 time was Mayor Daley, these were part of our benefits
13 that we received at that time were health benefits.

14 First we received the annuitant
15 getting half of his pay, the officer, and then it
16 went up to all of them being paid and later on we
17 became part of the family plan. These increases came
18 gradually over a period of six or seven years of my
19 early career, but they were always part of
20 negotiations that the City felt was important to as
21 benefits for membership.

22 Q. And throughout the course of your career
23 with the police force, the terms of that benefit
24 changed; is that right?

1 A. Not really changed. In what regard?

2 Q. Well, you just stated that there were
3 changes in the plan for retired officers?

4 A. There were changes in the plan?

5 Q. Yes.

6 A. Yes, yes.

7 Q. So that in 1980 or 1982, this was not the
8 first time that retirees were offered health care
9 coverage; is that right?

10 A. Retirees were being covered by the
11 insurance at that time.

12 Q. Prior to 1982?

13 A. Prior to 1982, but there was -- there was
14 talk of changes and the changes being that at that
15 time we felt that, and I say "we" because I was, as I
16 told you earlier, I was active with the Sergeants
17 Association being a Board member and knowing what
18 their negotiations were about '81 we found out
19 that -- Jane Byrne was the Mayor then and the City
20 was short of funds available for benefit increases.

21 So it was my suggestion at that time
22 and I talked to the the leaders of all of the
23 associations, I told them, I says, "Listen, I don't
24 think we're going to get a raise monetarily this

1 year." I said, "The best thing I think we could do
2 to benefit us from the City," so it was my suggestion
3 that we have them go in and suggest that the City
4 pick up the cost of the hospitalization increase for
5 the member which was about \$55 a month. I said, at
6 that point I said it will benefit the membership, the
7 active fellow, the retirees and we all hope to be
8 retired one day, we want this to be one of a part of
9 our major benefits that we hope to receive.

10 Q. This was your idea?

11 A. It definitely was my idea.

12 Q. Who did you propose it to?

13 A. John Daneen, I proposed it to the President
14 of the Sergeant Associations and officers at that
15 time.

16 Q. Who was that?

17 A. John Thulis, T-h-u-l-i-s, I believe. And
18 different Board members, and I said, "Hey, I think
19 this is something that we can all live with it. It
20 would be very beneficial for all of our futures and
21 hopefully we'll have something solid for the rest of
22 our lives."

23 Q. When you say "the different Board members,"
24 do you mean members of the Police Fund Board?

1 A. Well, the active, I am sure I mentioned it
2 to the active officers, particularly because we were
3 the ones that were going to benefit from this.
4 Because we have three other elected trustees that are
5 police officers and it was a very important issue.

6 Q. Three other trustees who were active police
7 officers?

8 A. Right. And they all agreed. They all
9 said, "Well, you might have a good proposal here.
10 Let's go and see if it will fly with the Mayor's
11 Office."

12 Q. Then what happened?

13 A. That's what they agreed to do because the
14 trustee, I did not go over there with them, but they
15 went over there, about four of them because they
16 didn't want 15 people causing a lot of confusion, so
17 they went over there with this proposal and it was
18 thought to be a great idea by the Mayor staff.

19 Q. When was this?

20 A. The year '81 or beginning of '82, whenever
21 it was going to be passed.

22 Q. Do you know who they spoke with?

23 A. They spoke with, I think the comptroller's
24 name at that time might have been Fratta (phonetic),

1 big heavy set man who was the comptroller handling
2 things and I am sure Jane Byrne who was Mayor at that
3 time.

4 Q. Anyone else?

5 A. Anyone else? I don't know. I wouldn't
6 recall who else might have been present on her staff.

7 Q. Do you know what the names of the people
8 who represented the policemen were?

9 A. Who represented the policemen? I think at
10 that time Dick Jones was our executive director and
11 he might have gone over there with them with the
12 heads of the associations --

13 Q. Dick Jones --

14 A. To discuss this --

15 Q. -- is that the same Dick Jones who was a
16 member of the --

17 A. He's currently a Trustee on the Board
18 representing retired members.

19 Q. He's also involved with the Retired Chicago
20 Police Association?

21 A. That is correct. He was the Executive
22 Director of the Police Pension Fund at that time.

23 Q. Can you think of anyone else who was
24 representing the police back in '81, '82?

1 A. I am sure that they might have brought over
2 a couple of other, you know, other members, but
3 exactly who they are I can't recall. I just know
4 that the response was very favorable from the Mayor
5 and her staff.

6 Q. How do you know that?

7 A. Because they approved it and made it part
8 of the law and it went into effect in 1982.

9 Q. Are you speaking about a change in the
10 statute?

11 A. That is correct.

12 Q. Do you know if this was ever written into a
13 contract with the police?

14 A. I am sorry to say what I have heard it
15 hasn't been, but the Fire Fund apparently did go and
16 have it written into their contract because now I
17 understand the City is trying to reopen those
18 negotiations and see if they can renege from that
19 contract because this is the understanding that I
20 have gotten, but to my knowledge the Fire Department
21 was the only one that actually got it in written
22 contract form.

23 Q. What about municipal employees?

24 A. I have no idea.

1 Q. Laborers?

2 A. No idea. To my knowledge they never went
3 forward with this. It was strictly for the uniform
4 services, I believe. See they do not get many of the
5 benefits that we have gotten over the years because
6 of a lot of various reasons with the City
7 administration, so they usually speak of parity as
8 far as the police and fire are concerned. That's why
9 it's hard for me to understand why we have parity in
10 all of the other aspects of this that they didn't put
11 that in the police contract and we were all shocked
12 to find out that it wasn't in there, to my knowledge
13 that was never done.

14 Q. Now so far we have been speaking generally
15 about what was proposed, what the idea that you came
16 up with which was proposed by the police
17 representatives and accepted by the City, can you
18 tell me specifically what that proposal was?

19 A. About the increase, what was it?

20 Q. Yes.

21 A. That the pension funds would be -- would
22 receive the \$55 payment for the officers and the \$21
23 for the annuitants over 65 on Medicare.

24 Q. Who would the pension funds receive that

1 money from?

2 A. The City through tax revenue.

3 It was always my understanding that
4 the Pension Board was strictly a conduit to receive
5 these tax monies. Tax monies never per se came out
6 of pension monies, these tax monies were provided by
7 the City on a tax basis and that's where these monies
8 were generated from.

9 Q. Okay. The City was to give the pension
10 fund either \$55, \$21?

11 A. Right, per individual.

12 Q. To cover the cost of that individual's
13 participation?

14 A. That is correct.

15 Q. In some health care plan?

16 A. That is correct.

17 Q. Was there anything else involved with this
18 proposal?

19 A. No, to my knowledge that was the key thing
20 at that point.

21 Q. As you sit here today you can't recall any
22 other terms of the proposal?

23 A. No, I can't.

24 Q. Did you propose that it be not written?

1 A. No, I didn't.

2 Q. Did you propose that it be written?

3 A. No, I didn't propose either way. I just
4 assumed once the City picked up that obligation that
5 they would continue to and there wouldn't be any
6 question or need to at that point. So I really
7 didn't consider it one way or the other. To be
8 honest with you, I didn't have no idea.

9 Q. Why did you assume that?

10 A. Because not everything was written. We
11 went in to see the mayors and did everything. We
12 didn't sign a contract or a formal agreement at that
13 time. We would make our proposals. They would tell
14 us what they were going to accept and what they were
15 going to do and we never sat down and signed an
16 agreement with one another, it was always by word of
17 mouth and trust.

18 Q. Now, are you telling me that prior to 1981,
19 '82, the police never had a written contract with the
20 City?

21 A. No, the police have still not considered
22 the Sergeants Association or Officers Association are
23 still not considered a union, so what they do they do
24 by agreement. So technically I guess the City if

1 they were to want to null and void a lot of these
2 things, a lot of the benefits they have given the
3 officers, they could do that what I see them trying
4 do in the pension field they certainly could do that
5 with the active superiors.

6 Q: Let me sort out what you just said because
7 I am trying understand it.

8 The officers don't have a union?

9 A. That is correct.

10 Q. And they didn't have a union at that time?

11 A. No.

12 Q. Was your proposal advanced on behalf of the
13 officers only?

14 A. No, it was all of the policemen because we
15 have always found over the years that the City has
16 given us at least what they give the officers that
17 are represented by the union. They have always told
18 us that they will not given us any less and that if
19 we should get additional benefits they will
20 correspondence to the minimal at least of theirs.

21 Q. Back at that time '81, '82, the officer is
22 not represented by union, correct?

23 A. That is correct.

24 Q. The patrolmen and other police officers,

1 not ranking officers, were represented by union?

2 A. Yes.

3 Q. They execute a written contract with the
4 City; is that right?

5 A. I don't know at that point. See there were
6 several different unions, Fraternal Order of Police,
7 represented policemen they had the F.O.P., they had
8 another police organization, there were about three.
9 So there were various ones and I don't know how
10 active or what year they actually did come up with
11 just the Fraternal Order of Police representing all
12 officers, what year that was, I am unclear of.

13 Q. Now, you stated that you assumed that once
14 the City took on the obligation it would continue it?

15 A. Yes.

16 Q. And I would like to get back to why you
17 assumed that?

18 A. Because every other obligation that the
19 City agreed to over those years they kept and we
20 never had any disagreement over this in any way,
21 shape or form and they were always carried through
22 and carried on.

23 Q. Now, is there any other reason why you made
24 that assumption?

1 A. Yes, there's one other reason I found out
2 now since that time, it started in 1983 when all of a
3 sudden a lady Mrs. Malloy from the City's Benefit
4 Office came over from the Pension Board and told us
5 that they were thinking of changing some of the
6 benefits that we have received and everybody was
7 totally shocked when that happened.

8 Q. I am trying to find out if there's any
9 other reason why you have assumed that once the City
10 took on the obligation that it would continue?

11 A. It was part of our relationship that we had
12 had seeing nothing was ever in writing as to the
13 benefits that we received that why wouldn't we assume
14 that this was another benefit that was given to us?
15 The law was changed in Springfield, everything was
16 done, everything was done that should have been done
17 at that point that we had no written agreement with
18 the City, and that they would continue to give us
19 these benefits like they had done over the past
20 years, there was no reason not assume that until
21 later when I found out that we had every reason to
22 doubt.

23 Q. And you found that out when?

24 A. belatedly when we started getting sued

1 maybe in '84 or '83 is when I first found out when we
2 had a woman from the Benefits Office, Mrs. Malloy was
3 going to come over and send a Notice out to the
4 people that the City was going to was thinking of
5 changing all of the benefits structures and we
6 thought that we -- she can't possibly do that. So we
7 called a meeting of all of the association heads,
8 everybody in the City that would be affected by it.
9 We had them come over to the Pension Office and this
10 just shocked everybody to the roots and foundation.
11 We said, "What is the City attempting to do now? Are
12 they going back on the promises that were made to the
13 individual?" And fortunately for us the
14 administration got wind of the undercurrent and what
15 was happening and they decided to withdraw it.

16 And they said, "Wait a minute."
17 Common sense prevailed, I might say, within the
18 administration and they called it off and decided to
19 go, which the goal was to save millions of dollars by
20 having a re-enrollment.

21 Q. We'll get to that.

22 A. Sure.

23 Q. You spoke of promise to individuals?

24 A. Yes.

1 Q. What promises were those?

2 A. The members that these were actual benefits
3 that they were to receive.

4 Q. What members?

5 A. Of the various pension funds, my Police
6 Pension Fund for one and people who belonged to it
7 that were affected by the decisions.

8 Q. Okay. Now who made those promises?

9 A. The City administration. That concluded
10 all of the working agreements that had been reached
11 over the years prior to that.

12 Q. Okay. That is I'm just trying to
13 understand the mechanism of conveying this promise,
14 okay?

15 A. Through hand shake agreements, whatever you
16 want to call them. That's all we had with the Mayor
17 prior to that.

18 Q. So that the Police Association, for
19 example, Sergeants Association speaks with the Mayor,
20 speaks with --

21 A. Staff.

22 Q. -- the Comptroller, the Mayor's staff, they
23 reach an agreement?

24 A. Right.

1 Q. And then the sergeant's representatives
2 come back and tell their members what they have
3 agreed to?

4 A. Right, that is correct.

5 Q. Are you telling me that the City officials
6 such as the Mayor or his or her staff made these
7 promises to individual members themselves?

8 A. That is correct.

9 Q. Aside from the process that I have just
10 spoken about?

11 A. Yes, right.

12 Q. Okay. When did that take place?

13 A. What process, I mean the one you just spoke
14 about?

15 MR. KRISLOV: You mean different, what he
16 means is --

17 BY MR. FULLERTON:

18 Q. Aside from this process that we just spoke
19 about of having the negotiation concluded between a
20 representative of the sergeant and the Mayor where
21 you --

22 A. When the unions forceably came into act,
23 that's when the written agreement started being made
24 when they all started hiring legal firms to

1 represent, you know, the City in negotiations and the
2 fire and police and their negotiations, then from
3 what I understand written agreements were made, that
4 was after that point.

5 Q. Do you know if in any of those written
6 contracts: --

7 A. I have no knowledge about any written
8 contracts. I was not a part of them.

9 Q. You don't know whether the proposal that
10 you came up with is part of any of those written
11 contracts?

12 A. No, not my knowledge, I don't.

13 Q. Would any union of City employees?

14 A. Yes, from what I understand the Fire has
15 one.

16 Q. But --

17 A. But that's the only one to my knowledge.

18 Q. Other than that, you don't know?

19 A. I don't know.

20 Q. Did the Mayor ever promise to individual
21 members on his or her own anything about retiree
22 health care?

23 MR. KRISLOV: You mean separate from those
24 meetings or in those meetings?

1 THE WITNESS: None separate from those
2 meetings with me.

3 BY MR. FULLERTON:

4 Q. Not separate from those meetings?

5 A. No, not to my knowledge. I didn't attend
6 any of those other meetings.

7 Q. Do you know if the City Council ever
8 promised anything to the retirees?

9 A. To my knowledge nothing gets done without
10 City council approval. I found that out later when
11 they were saying they wanted to take some of those
12 benefits away from retirees and I attended several
13 counsel meetings.

14 Q. Aside from that --

15 MR. KRISLOV: Let him answer the question.

16 MR. FULLERTON: He's not being responsive,
17 Clint.

18 MR. KRISLOV: He's answering your question.

19 MR. FULLERTON: No, he's not. I am asking
20 you do you know if City Council ever promised.

21 MR. KRISLOV: He was answering your
22 question as to how he understood the City Council
23 approved these things.

24 THE WITNESS: When they approved these

1 benefits that are sent down each money line has to be
2 approved in the budget and they have to approve it.

3 BY MR. FULLERTON:

4 Q. Aside from that are you aware of any
5 promises made by the City Council about retirees?

6 A. Am I aware? No, no.

7 Q. Are you aware of any promises made by the
8 Comptroller's Office about retiree health care?

9 A. No, as a Body I was not doing -- different
10 individual aldermen might have come to meetings or
11 something and said, "I decide we think it's fair,
12 we're behind you and we're going to go through with
13 this." But as a whole Body per se other than
14 approving it in the budget, no, I didn't confront it.

15 Q. What about the Comptroller's Office?

16 A. Comptroller's Office, as far as I can see
17 learning in the deal later with the Comptroller's
18 Office the only thing they wanted to do was say no to
19 everything and pull back all of the benefits that
20 were given.

21 Q. In fact they took the opposite position for
22 promising?

23 A. They did later when they found out that
24 they were going to attempt to do this, change their

1 position, up until that time they never entered, what
2 the Mayor said they did and they were good old
3 soldiers and followed the plan to extent.

4 Q. I am asking if you're aware of any promises
5 made by officials in the Comptroller's Office?

6 A. To me they were not in position to make
7 promises. It was the Mayor's decision.

8 Q. Now which Mayor was it that made this
9 promise?

10 A. What Mayor made the promise? By the action
11 I know Mayor Daley had started these benefits and he
12 continued them all through his careers, which how
13 many years was he around, 19? And he kept all of
14 those promises and never reneged on them. Jane Byrne
15 had made them and she made the big change and then
16 she decided that it would be in her best interest to
17 keep the word that she had given, and she called off
18 her budget director when she was thinking of making
19 some changes.

20 Q. Who was that budget director?

21 A. I am sorry, I said budget, Benefits
22 Director, Mrs. Malloy, I believe her name is, and up
23 until that point there had never been any thought of
24 doing it.

1 Q. Have you thought of anymore terms of this
2 proposal or promise that we have talked about?

3 A. No, I can't think of any other terms there
4 would be other than a handshake agreement. That's
5 what we lived by. When I call it a promise or
6 handshake or gentleman's agreement at that time there
7 were no ladies representing. I don't mean to offend
8 anybody, but there were no ladies representing the
9 Police or Fire Fund at that time, so it was strictly
10 a handshake agreement and our word was always our
11 bond.

12 Q. Now you said that you came up with this
13 idea; is that correct?

14 A. Yes.

15 Q. Did you ever write it down?

16 A. No, I had no reason to.

17 Q. Did you ever write down any of the terms of
18 the idea that you came up with?

19 A. No, I never had a secretary to do that and
20 you know, a lot of times you would meet fellows at a
21 golf outing or Sergeants Association meeting and it
22 might be two nights before something and you say,
23 "Hey, I think I have a very good plan of something
24 that might really work for the benefits of all of our

1 membership," and that's how soon and readily they
2 would accept that.

3 Q. The idea that we're talking about this as
4 being your idea is the one that you outline in
5 paragraph 6 of your affidavit; is that right, of City
6 Exhibit 23?

7 A. Right. And the reasons listed are reasons
8 that I gave. We were thinking it would be beneficial
9 to the City and the membership.

10 Q. Now, those are kind of selling points for
11 the idea?

12 A. That is correct.

13 Q. A through D?

14 A. Yes, sir.

15 Q. Now in paragraph 6 up above, that is not
16 the number, subparagraph, not the letter
17 subparagraphs, it talks about proposals -- "The
18 Sergeants know that police bargaining representatives
19 propose an alternative by which the City would pay
20 for retiree health care through the pension funds by
21 separate tax levy parentheses the 55, \$21 plan end
22 parentheses." Is that what the proposal was?

23 A. Yes, to my knowledge that was it.

24 Q. Okay. Down in subparagraph C, one of the

1 selling points for the proposal is that you gave
2 employees an additional lifetime retirement benefit.
3 Now why is this a lifetime benefit?

4 A. Well, because we feel that anything that
5 you get in your pension cannot, that those benefits
6 cannot ever be taken away from you once the State
7 Legislation which governs or pension passes it. We
8 have an article in there which states that you can't
9 diminish the benefits once they have been given to an
10 individual. And we felt that that was the case and
11 that would adequately cover us.

12 Q. All right. It sounds as if you consider it
13 to be fairly open and shut?

14 A. It certainly did once the agreement had
15 been reached, definitely, it was always our
16 understanding and agreement and we never had any
17 recourse to doubt that that would be the future.

18 Q. And it was lifetime and it was governed by
19 statute and it couldn't be changed and that was it?

20 A. That was a benefit which we rightly earned
21 and deserved, yes, sir.

22 Q. That was part of the proposal then that it
23 be a lifetime thing?

24 A. It was part of it. Everything that we did

1 we never put lifetime before it or after it or in
2 parentheses. We just assumed that that's how it was
3 because the benefits were increasing. We never
4 signed a contract that was going to be less than what
5 you received in the past. So anything would have to
6 be better.

7 Our second goal, if I may continue on
8 with this, was that we were going to have the spouse
9 have that paid for at a later date. Unfortunately,
10 we never got into that. But that was our next goal,
11 to have that done and then we felt that the retiring
12 and the spouse because their children at least are
13 going to be maturing and getting out on their own and
14 not having it necessary to have these health benefits
15 as they turn 21 and covered that we would have the
16 man or the annuitant and his spouse adequately
17 covered for the rest of their lives. Because we
18 could see at that minute that benefit increase were
19 escalating and we wanted to protect the individual
20 and his family and his wife, and that's why that
21 would have been the next proposal, but unfortunately
22 we never got a chance to get that accepted.

23 MR. KRISLOVE: Can we break for two minutes
24 now?

1 MR. FULLERTON: Lisa can stay here. I have
2 a few more questions before I want to take a break.

3 MR. KRISLOVE: Can we break at 2:30?

4 MR. FULLERTON: If I get my few questions
5 in by then.

6 BY MR. FULLERTON:

7 Q. You say that lifetime, it wasn't explicitly
8 part of the proposal that this be for life; is that
9 right?

10 A. That's right.

11 Q. You just assumed that it was for life?

12 A. That's correct.

13 Q. Can you tell me why you assumed that?

14 A. I thought I just did, but I will be happy
15 to repeat it if we did.

16 MR. KRISLOV: You already answered it.

17 MR. FULLERTON: He can answer it again.

18 THE WITNESS: I thought that it was always
19 part of our hand shake agreement when we did
20 something the benefits would never be diminished,
21 that they would continue to at least remain the same
22 unless improvements were made through our
23 legislature.

24 BY MR. FULLERTON:

1 Q. Then you went on to talk about the spouse
2 added to it?

3 A. Right.

4 Q. We need not repeat that.

5 MR. KRISLOV: If you want to ask and
6 answer, let him answer fully. If you want to tailor
7 it, answer it yourself.

8 BY MR. FULLERTON:

9 Q. Did you ever discuss that it would be for
10 lifetime with other police representatives?

11 A. Yes, yes, because when we made proposals
12 like that and that was what we would ultimately
13 consider one of our pension improvements and benefits
14 that we would make that anyone that is made we
15 considered a lifetime benefit other than that, unless
16 we approved it. It was never going to be diminished.
17 It just would always be said that at least we have
18 this for the rest of our life, once we accept this.
19 It's not like a pay raise that we're going to be
20 paying taxes on it, we're going to be hurt by it,
21 that this is going to be a lifetime benefit for. I
22 assumed that me, myself would be covered for a
23 lifetime.

24 Q. By the way are you a participant in the

1 City's retiree health care plan?

2 A. Yes, sir, I am.

3 Q. When did you begin your participation?

4 A. When I retired.

5 Q. Okay. On the date of your retirement?

6 A. Right.

7 Q. Are you married?

8 A. No, I am a widower.

9 Q. Do you have children?

10 A. Yes, sir, three.

11 Q. Are any of them covered by the plan?

12 A. They're all older and past the stage where
13 they would be.

14 Q. Are you covered by Medicare?

15 A. Wow, do I look that bad? No, no, I am not.

16 Q. Are you eligible when you turn 65?

17 A. When I turn 65 I will be eligible.

18 You want me to continue to cooperate,
19 right? A little levity for the record, I hope.

20 MR. FULLERTON: Why don't we take a break.

21 (WHEREUPON, a short break was
22 had.)

23 BY MR. FULLERTON:

24 Q. Mr. McDonough, did you ever do any other

1 affidavits for Mr. Krislov?

2 A. No, sir.

3 Q. Did he ever ask you to do any?

4 A. No, sir.

5 Q. Who do you understand was covered by the
6 agreement on a retiree health care that was reached
7 in 1982?

8 A. Who do I understand was covered would be
9 the officer and the annuitant himself.

10 Q. Was that just the policemen?

11 A. Oh, you mean the other with the fire group?

12 Q. Police.

13 A. I thought you meant police.

14 Q. It was police and fire?

15 A. Right.

16 Q. Is that all police officers?

17 A. Yes.

18 Q. All firemen?

19 A. Yes.

20 Q. What about the municipal and laborers?

21 A. I don't know. To my knowledge I really
22 don't know if they were covered in that or if they
23 ever paid -- I don't think they ever did. I don't
24 think it was ever passed. I think the individual

1 continued to pay his, but I'm not sure.

2 Q. Who was involved with the firemen in '82
3 when that proposal was accepted for them?

4 A. The union, I don't recall who the president
5 was, it had several changes in the meantime and I
6 can't recall who the president was.

7 Q. Do you know who was involved in those
8 negotiations with the firemen on behalf of the City?

9 A. No, I don't. Other than the Mayor, she
10 asked if it would be acceptable, you know, if she
11 made that same proposal to them. And we said, "No
12 problem as far as we're concerned. That's up to you
13 to deal with it as the way you see fit."

14 Q. Are you speaking about a meeting that you
15 were at personally?

16 A. No, but when the people came back that had
17 attended the meeting with the Mayor they said she was
18 so responsive to it and thought it was such a good
19 idea she thought maybe we can reach the same kind of
20 a settlement with the fire union and she said would
21 you mind and they said definitely not, and they said
22 handle it any way you want.

23 Q. This is Dick Jones and the others who you
24 can't recall?

1 A. Yes, John Daneen.

2 Q. John Daneen was one?

3 A. Yes.

4 Q. Any others that you can remember?

5 A. Thulis, I believe was the president at the
6 time.

7 Q. I forgot how you spell his name.

8 A. T-h-u-l-i-s.

9 Q. What was his first name?

10 A. John, currently a lieutenant on the
11 Department.

12 Q. What was his involvement with these
13 negotiations?

14 A. I believe he was the president, either that
15 or he was the chairman of the negotiating committee
16 if he wasn't the president.

17 Q. Is that with F.O.P.?

18 A. No, that would be with the Sergeants
19 Association. You're going back 10 years. It's hard
20 to recall all of the names of the people who were
21 there. I have a good memory, but it's kind of short.

22 Q. Did you review any documents before coming
23 to this deposition today?

24 A. No, other than this one document itself,

1 the affidavit.

2 Q. You didn't look at any other documents?

3 A. No, really my records are so spread out,
4 you know, it's really tough for me to try to get them
5 all together. I have some at my daughter's home. I
6 couldn't get that many down to Florida.

7 I have been moving three times
8 actually in the last seven months, so I have had a
9 real tough time trying to get paperwork together. If
10 you ever moved once you know what a problem, let
11 alone do it three times. I really haven't had a
12 chance to go over anything.

13 Q. Did you speak with Mr. Krislov before the
14 deposition today?

15 A. Yes, this morning.

16 Q. What did you talk about?

17 A. He wanted me to read it and go over it.

18 Q. Did you talk about anything else?

19 A. Small talk about the weather conditions and
20 about the parade, the demonstration that was going on
21 at City Hall that he was going over to address them
22 and that was it.

23 Q. And did you talk about the deposition at
24 all?

1 A. Yes, we went over this, I looked at it.

2 Q. Not the affidavit, the deposition?

3 A. No, about this, no. A few items he said --
4 I said, "Who's going to be here?" And he said,
5 "Somebody from the Corporation Counsel," and he
6 figured different lawyers representing the pension
7 funds. And I know most of them so I looked forward
8 as an opportunity to see some of them again that I
9 haven't seen since my retirement.

10 Q. Anything else?

11 A. No. That's about all I can recall.

12 Q. You spoke earlier of what you call
13 "re-enrollment," can you tell me what that was about
14 in '83?

15 A. Yes, that was a program which was initiated
16 by the City because of the numerous complaints that
17 they had of illegal people obtaining the benefits of
18 the City hospitalization plan. In other words, there
19 were members that were apparently putting children on
20 that were not legally theirs and offspring and other
21 people that were not under legal description
22 eligible.

23 So they figured this was costing the
24 City millions of dollars, and as far as the

1 respective funds were concerned we said, "Hey,
2 wonderful, if you have an idea to save the City money
3 and to keep these people off the roles that aren't
4 deserving of it, we want to cooperate in any way we
5 can."

6 That's what this whole program was
7 about. It was very, very successful. The City saved
8 I don't know how many millions of dollars by doing
9 this and getting people off the the roles that were
10 not eligible for benefits. And that's the last thing
11 any of us wanted to see City seeing unnecessary
12 monies for people that weren't entitled to the
13 benefits, because as far as I'm concerned it's a
14 theft process and people should be prosecuted.
15 They're stealing money as far as I'm concerned. And
16 hopefully, you know, they're going to get it down to
17 a minimum where we can start putting the money to the
18 proper uses where it should be put for the people
19 that earned them.

20 Q. You stated that that was, the re-enrollment
21 took place after the City had indicated that it
22 wanted to raise the rates; is that right?

23 A. That is correct.

24 Q. And the City decided not to raise the

1 rates?

2 A. That's right. There was such an outcry
3 among the recipients of it and all the retirees and
4 everything that they just common sense prevailed and
5 they said, "Wait a minute, we'll draw back and try
6 and save the money some other way."

7 Q. Did the City in '83 through Mrs. Malloy
8 tell you why they wanted to raise the rates?

9 A. Oh, because the cost kept escalating, you
10 know, and the City was like they're always saying are
11 short of funds. And it seems to me that once that
12 started, the easiest way that the City seems to think
13 they could save money or somebody can jump at the
14 perception they can save money is who are the most
15 vulnerable people out there.

16 Not the active officers because they
17 have unions, they have spokespeople and
18 organizations, who's the most vulnerable? The
19 retirees. Right? They're spread throughout the
20 country, they're spread throughout the City, they're
21 old, many of them are feeble, many are widowed,
22 widowers, and they have nobody to come to their
23 defense. So unfortunately it would never be the
24 Mayor's, but it would be somebody who was in their

1 administration. People that don't stay for years.
2 The ones that I have seen throughout the years that
3 are the budget managers and budget directors, they
4 are hired for a year or two when they come in, they
5 have an ax to grind, they show how sharp they are and
6 how much money they can save the Mayor and
7 administration. So the first thing they all seem to
8 want to do at that point on is cut down the most
9 vulnerable people that are involved, which are the
10 retirees.

11 Q. Is that what they told you?

12 A. That's basically what they did. Some
13 people you can just understand what they're doing
14 when you see it happening to you. They don't have to
15 come out in those direct words and tell you, but you
16 see it.

17 Q. I am trying to understand what they told
18 you about why they wanted to raise rates?

19 A. They wanted to save money.

20 Q. Did they tell you why they wanted to save
21 money?

22 A. Very obvious, because the City has to save
23 every dollar they can and we're all in favor of that,
24 and we're all in favor of cooperating so that people

1 that weren't entitled to it would get off the roles
2 and save the money for the people that do need it.

3 Q. After '83 did the City ever indicate to
4 you; or to your knowledge, did the City ever indicate
5 that it wanted to raise the rates again?

6 A. Yes.

7 Q. When was the next time?

8 A. The next time was about 198 -- with the
9 case that came up with the Ryan case, was it '84?
10 Correct me if I'm wrong, '84? When did the Ryan case
11 take place?

12 Q. Well, to the best of your recollection when
13 was it?

14 A. Somewhere around 198 -- I don't know if I
15 put it in here, it would be maybe about '86 then or
16 '87, somewhere in that area.

17 Q. That was the next time you heard that the
18 City wanted to raise rates?

19 A. They were really talking, pushing it
20 seriously, yes.

21 Q. How did you learn that?

22 A. How did I learn that?

23 Q. Yes.

24 A. Well, basically we found out that the Ryan

1 case they were suing the City for back interest
2 payments that certain individual members of
3 respective pension funds thought the pension boards
4 were entitled to and never received. So that figure
5 was supposed to be somewhere in the area of \$30
6 million.

7 So the next thing we knew that the
8 City and the funds would apparently be sued and then
9 our attorney came in one day in a meeting and Mr.
10 Kugler told us that he had some very, very bad news
11 that the City was thinking of raising the health
12 benefits for all of the retirees.

13 Q. Raising the cost?

14 A. The cost, right, of the benefits to the
15 individuals and to the annuitants. And we thought
16 well, why? Isn't it strange that the figure happened
17 to be in the area of 30 million to \$35 million and
18 that was the same amount as the suit that was pending
19 in the Ryan case. So then we thought, well, there
20 has got to be more than circumstance that these
21 numbers kind of coincide.

22 So the next thing our attorney came
23 back after meeting with the City and several other
24 attorneys and he told us that, he said, well, he

1 said, "The only thing I can say is that the City
2 would drop this suit against the possibility of
3 raising the hospital insurance for all of the members
4 if the pension boards would drop the lawsuit against
5 the City."

6 Q. The Ryan lawsuit?

7 A. The Ryan lawsuit for the \$35 million.
8 Well, we looked at one another. We said, "Wait a
9 minute you're asking us to do something against our
10 fiduciary responsibility." We couldn't understand
11 this. Something isn't right here. Why should all
12 these figures coincide. They decide now they want to
13 raise the rates and try to make this kind of an
14 offer.

15 We said, "Wait a minute. After
16 talking to the right attorneys, we knew as fiduciary,
17 we certainly could not stop members from suing the
18 City if they felt the funds was entitled to the
19 money; and they felt at the same time we're entitled
20 to the money. It's ours and let's get it."

21 Q. The Ryan money?

22 A. That's correct. And that was a proposal
23 made to us. So at that time I began to realize that,
24 hey, the City apparently can do whatever they want to

1 do. That's when we felt the full brunt of it and we
2 were very dismayed and saddened by it that somebody
3 in the City administration would make that decision.

4 Q. When was the the next time or was there a
5 next time that you heard that the City wanted to
6 raise the rates?

7 A. Well, when was the next time? I don't
8 know. Probably somewhere in that area when the
9 Korshak case was initiated, you know.

10 Q. That was in the fall of '87; is that right?

11 A. That is correct.

12 Q. Were you named as a defendant in the
13 Korshak case?

14 A. Sure.

15 Q. You appeared in the case; is that right?

16 A. No. I actually never took the stand. I
17 was never called to testify, but I definitely was at
18 several of the Court sessions, many of the Court
19 sessions; and I attended many meetings relative to
20 that the trustees would be involved in.

21 Q. By appeared, I am using the legal term, I
22 mean were you represented by an attorney in the
23 Korshak case?

24 A. Definitely, Kevin Ford was the attorney,

1 him and his law firm were hired by the Police Pension
2 Board to represent us in the case..

3 Q. Was -- were there any changes in the terms
4 of retiree health care benefits offered by the City
5 after '82?

6 A. Were there any terms?

7 Q. Any changes?

8 A. There were several proposals, but to my
9 knowledge there were no changes, you know, they were
10 talking about -- you know, when I say "they," Mrs.
11 Malloy and her staff was talking about things that
12 were issued, there were numbers issued and things
13 done at that time and then they were all withdrawn
14 and nothing ever came, but there were quite a few
15 different proposals that were thrown around and
16 passed around, but nothing ever came of it. So we
17 thought at that time that that was the end of it.

18 Q. Now, did the -- did the pension fund,
19 pension board ever take any legal action prior to the
20 Korshak case about increase in rates to the retirees?

21 A. No, not to my knowledge.

22 Q. Not until the Korshak case started?

23 A. Right. And then only after we had to go
24 out and hire a law firm to represent us in the

1 matter. It was very, very expensive to the fund,
2 very costly to all of the funds, but it was at that
3 time we realized that the City actually felt that
4 they had some legal means to withdraw some of these
5 benefits we earned. That was a shock to all of us.

6 Q. : Well, isn't it true that in '83 you
7 understood that the City thought it could change the
8 rates?

9 A. Well, a couple of people in the City but,
10 again, we came back once we got to the Mayor and she
11 analyzed the problem and thought back of her concerns
12 and her agreement that they withdrew.

13 Q. And when you talked about the Ryan case you
14 also indicated that you understood at that time that
15 the City thought that they could raise the rates?

16 A. Again, that was a budget director who, when
17 it came out in testimony in court came out with his
18 comptroller and it was their decision in a closed
19 door meeting between the two of them to take this 30
20 to \$35 million out of the budget and to use it for
21 other means rather than health care, and that's when
22 the alderman and everybody else when it came out in
23 court testimony and public testimony before the City
24 Council that they had done something that they had no

1 right to do. So, yes, anything is possible when you
2 see people of this type working for City government
3 when they don't have long tenure, when they're there
4 for maybe a year or two and hope to come up with
5 decisions to save their job. You can see that a lot
6 of these wrong decisions can be made or my humble
7 opinion, and consequently a lot of people thought
8 they were wrong because the funds all thought they
9 were wrong because they all went out and hired law
10 firms and legal experts to fight the City on this
11 issue.

12 Q. I mean aside from whether or not they're
13 wrong, you understood that both in '83 and in
14 sometime before the Korshak case started and having
15 to do with the Ryan case that the City thought that
16 it could raise the rates?

17 MR. KRISLOV: Objection, he's already
18 testified that there were certain people who thought
19 at times that they could get away with having the
20 City do it. He's never testified that the City
21 itself as a entity had the right to do that. You're
22 mischaracterizing his testimony, I believe.

23 BY MR. FULLERTON:

24 Q. Could you answer my question?

1 A. Would you repeat it.

2 (Record read as requested.)

3 THE WITNESS: My answer would be the same
4 as I did previous that there were certain people in
5 the City not what I consider legal civil government
6 on that, meaning the City Council or the Mayor
7 himself.

8 BY MR. FULLERTON:

9 Q. In your affidavit, City Exhibit 23, you
10 state that you participated in pre-retirement
11 seminars?

12 A. Yes, sir, I did.

13 Q. Could you tell me when you did that?
14 Without looking at your affidavit?

15 A. When I did it? I did it up until they
16 started approximately in '86 through a couple of
17 months before I retired.

18 Q. Okay.

19 A. Like I say, I did most of them unless
20 something unusual came up where I had to attend
21 another function or do something, then another
22 trustee would handle it, Ron Norris, who's also on
23 the Police Board would handle several. In fact, he
24 handles them now. And maybe a fellow by the name of

1 Dave Murphy, he is now the auditor, he might fill in
2 for me occasionally, but I probably represented 95
3 percent of them.

4 Q. From '86 through?

5 A. Probably November, December when I retired
6 prior, a couple of months prior to my retirement.

7 Q. Okay. Now --

8 MR. KRISLOV: December of '89?

9 THE WITNESS: That would be '89, I retired
10 in February of '90.

11 BY MR. FULLERTON:

12 Q. Without referring to your affidavit for
13 now, you would appear at the pre-retirement seminars
14 on behalf of the Police Fund; is that right?

15 A. That is correct.

16 Q. Did you ever appear on behalf of anyone
17 else?

18 A. No.

19 Q. Did you ever appear on behalf of the City?

20 A. No, I didn't.

21 Q. Or the police department?

22 A. No, I didn't.

23 Q. Or any of these officer's associations that
24 you've talked about?

1 A. No, I didn't.

2 Q. Exclusively on behalf of the Police Fund?

3 A. At the retirement seminar, that is correct,
4 sir.

5 Q. And then you personally conducted around 95
6 percent of --

7 A. All of the seminars.

8 Q. -- all of the seminars at which the Police
9 Fund appeared?

10 A. It would be one day a month or one day
11 every other month.

12 Q. For those --

13 A. Period of time.

14 Q. -- three or four years?

15 A. Right, yes, sir.

16 Q. As I understand it these retirement
17 seminars were all day affairs; is that right?

18 A. That is correct.

19 Q. Did you have a set time during the day that
20 you would go?

21 A. Usually about 10:00 o'clock, my time, which
22 is usually 10:00 a.m. until 11:00.

23 Q. So you had an hour?

24 A. Approximately an hour.

1 And then I would give my program and
2 then the last 10 or 15 minutes we accept questions
3 and answers, go into that at the end of it.

4 Q. And how many of these seminars did you go
5 to, approximately?

6 A. Did I go to?

7 Q. Yes.

8 A. Over that period of time?

9 Q. Yes.

10 A. Maybe about 25, I don't know, 20, 25,
11 something like that. Maybe every other month or it
12 depends on how many retirees we had at the time and
13 how many they had lined up, so I would say somewhere
14 in that area.

15 Q. Did you always give the same presentation?

16 A. Just about except as the benefits were
17 changing I would notify them. We had improvements in
18 the retirement benefits or any of that nature I would
19 keep them abreast of the latest things that were
20 happening.

21 Q. Did you stay for the whole day at these
22 seminars?

23 A. No, no, I didn't.

24 Q. You would go and give your talk and then

1 leave?

2 A. Yes, I would say stay maybe for the next
3 one I might stay 10 or 15 minutes continuing to
4 answer questions in the back or pay attention to see
5 what was going on. See because it was important
6 because usually the one that followed me was the
7 hospitalization presentation.

8 Q. And who gave that?

9 A. Usually the benefits director or one of his
10 assistants or hers for the City.

11 Q. Who is that?

12 A. I really don't recall her name because it
13 changed so frequently. At that period of time there
14 was a lot of changes being made.

15 Q. Can you name any one of those people?

16 A. No, I am sorry, I don't have any of their
17 names.

18 Q. Now, you said that -- now these seminars
19 are only for police, right?

20 A. And their spouses.

21 Q. And their spouses?

22 A. Yes.

23 Q. But they're not for firemen or others?

24 A. No, nothing. It was just predominately so

1 they could find out what benefits they were entitled
2 to upon retirement. How to go about retiring. What
3 steps to take, what procedures, what they could
4 expect in retirement and how their retirement money
5 was being spent, in what proportions, etcetera,
6 etcetera.

7 And part of that I might add would be
8 that I would tell them about their health care
9 benefits and what the costs would be.

10 Q. I was going to ask you what did you tell
11 them about their health care benefits?

12 A. What their cost would be.

13 Q. What did you tell them specifically?

14 A. That if they were a retiree, this \$55 cost
15 would be paid by the City. If they were a spouse,
16 her \$55 would be paid by them. And if when was a
17 family plan, it would cost them \$145 and basically
18 these were the numbers that you tell them.

19 Q. Did you tell them anything else about the
20 health care benefits?

21 A. No, other than, you know, their optical
22 plan, you know, once they retired they wouldn't be
23 covered by anything, you know, their dental or
24 optical program would not be covered.

1 I wanted to just hit on the highlights
2 of it because the majority of it would be handled by
3 the City administration at the conclusion of my talk
4 or whenever the talk was going to be scheduled for
5 that day. So I told them to save most of their
6 questions for them.

7 Q. Okay. Did you tell them anything else
8 about the health care benefits?

9 A. Only if I was asked questions they might
10 ask me my opinion, did you think that yours, you
11 know, my cost or anything was going to be paid, you
12 know, by the City or paid by them the rest of their
13 careers?

14 And most of the time I say, "No, I
15 feel that ours is going to be taken care of." I
16 said, "What, the cost of the spouse or the family
17 plan." I said, "We never made any kind of a deal on
18 that." I said, "That is always subject to change."
19 I said, "Basically ours I think will be paid." I
20 said, but at the later part of it I corrected it to
21 say that, "Hey, we're now under fire. We're going
22 through a long legal battle and who knows what will
23 happen." You know, I wasn't going to mislead anybody
24 and tell them anything that I didn't believe to be

1 true.

2 Q. That was after the Korshak case started?

3 A. That is correct.

4 Q. Prior to the Korshak case starting
5 though --

6 A. : I told them what my opinions were as far as
7 we were individually concerned. I thought ours would
8 be paid for life.

9 Q. And for spouses and family?

10 A. Subject to change.

11 Q. Did you tell them what would lead the
12 change in that area?

13 A. Decision by the City if they decided to
14 raise the rates because we did not have any agreement
15 on that, you know, other than that it would be like
16 it had been.

17 Q. So your understanding of the agreement that
18 was reached in '82 in which you relayed to
19 perspective police retirees at the seminars was that
20 the agreement only covered officers?

21 A. Right. And retiree who was --

22 Q. And retired officers?

23 A. Yes, yes, the officer himself, not the
24 spouse or the family, that's correct, sir.

1 Q. Did you tell the people at the seminars
2 anything else about the health care benefits?

3 A. No, no. Like I said, I was not attempting
4 to be a health expert, you know, from the City; and I
5 knew what I could relate to them relative to the
6 numbers that we had at our disposal at that time and
7 again what was subject to change.

8 And naturally you could imagine the
9 uproar coming once the Korshak case hit. I told
10 everybody, "Be patient. This is going through the
11 courts and it's something that we're all going to
12 have to live and suffer from." But in the meantime,
13 you know, we're being told just what these numbers
14 are and that's what I can only tell what they
15 currently are." I said, "Any questions you have,
16 give them all to the benefits director. Let him know
17 your unhappiness and what your problems are." And,
18 you know, God only hopes you can get somebody else to
19 listen to them. It was not my position to tell them
20 anything more than.

21 Q. Prior to the Korshak case, again, let's go
22 back to before Korshak started and we'll talk about
23 Korshak and a period after Korshak later.

24 Prior to the Korshak case starting,

1 when you told the perspective retirees that the costs
2 of health care and the retirement for their spouse
3 and family is subject to change, what was the
4 reaction that you would get from these people?

5 A. Again they all become concerned, fearful
6 that, you know, what do you think it's going to be.
7 I used to tell them, I said, "Listen if I could look
8 into the crystal ball. I wouldn't be standing in
9 front of you today, I would be at the racetrack, if I
10 could pick out what's going to happen in the future,
11 I certainly wouldn't be remaining in the Police
12 Pension Fund as an officer." I said, "Unfortunately,
13 you know, nobody knows down the line what might
14 happen. Hopefully in the positive.

15 Q. How many people did you speak to at the
16 seminars?

17 A. Could be anywhere from 75 to 100.

18 Q. Per seminar?

19 A. Seminar, coming and going.

20 These were at the seminars. I would
21 go to monthly meetings to Sergeants Associations,
22 periodically to the Lieutenants and Captains and
23 speak to them to tell them in general what the latest
24 things that were happening with the Pension Board and

1 things of that nature.

2 Q. Did you also talk about the health care at
3 these meetings?

4 A. Sure, questions always come up. The
5 prime thing is how much am I going to get and the
6 next thing is what's it going to cost me a month, you
7 know, and I think that's all of our concerns. I'm
8 sure it will be when it comes time for you to retire.
9 That's our uppermost thoughts in our mind and you can
10 see where they're so concerned, especially -- we all
11 know what's happened, none of us has had our heads in
12 the sand the last five years, with the escalating
13 cost throughout the world, throughout the country. I
14 represent the National Conference of the Public
15 Employee Retirements systems, I represent retirees
16 throughout the country. It's not only a problem in
17 Chicago, it's throughout the world. We're being
18 faced with a serious dilemma. Everybody is
19 concerned.

20 Q. The escalating costs of health insurance?

21 A. Definitely so. And many, many people are
22 not going to be able to afford to retire and other
23 people are going to be forced into working jobs that
24 they can't work and things of that nature. So it's a

1 terrible dilemma.

2 Q. When you spoke at the Officer's
3 Association, Sergeants Associations, I believe,
4 Lieutenant's Association, did you tell them the same
5 thing about the retiree health care as you told at
6 the seminars?

7 A. I tell everybody one story; the facts and
8 remain with it. I don't change it for audiences or
9 looking for votes. That's what always made me a
10 success in the semi-politician that I was because I
11 always told the truth. It might not have been what
12 they wanted to hear, but it was the facts as they are
13 today and what you can expect. That's it.

14 Q. So you told them also for the spouse and
15 for the family plans those rates were subject to
16 change?

17 A. That is correct.

18 Q. Now tell me about what happened after the
19 Korshak case started? How did that impact -- how did
20 it change the seminars you conducted?

21 A. People were, you know, concerned again.
22 They said, "Well, what do you think?" And I said,
23 "Well, hopefully they're going to rule in our favor."
24 And I said, "Number 2, maybe the City will realize

1 that hopefully they were going to get beat." But
2 when the tide started to change, things started
3 coming, I said, "Who knows. Make your plans
4 accordingly. If you can't afford the money you're
5 paying now, it's only going to get worse. So look at
6 it in the long run, the long view, the cost figures.
7 Because it's a serious issue and somebody is going to
8 pay for it somewhere along the line and how they're
9 going to do this or what has got to be worked out."

10 The sad thing is we had so many plans
11 and different ideas and to this point nobody really
12 has really worked at it. I can't believe the City
13 administration isn't acting on it.

14 Q. Now prior to Korshak you would tell them
15 that it was your understanding that the '82 agreement
16 that the individual officer --

17 A. That is correct.

18 Q. -- Plan would not change, his cost would
19 not change?

20 A. That is right.

21 Q. Other participants --

22 A. Right.

23 Q. -- through that officer were subject to
24 change?

1 A. Because we had never reached an agreement
2 on that issue.

3 Q. And after the Korshak case started, did you
4 then say, "Well, perhaps the individual officer also
5 his costs are subject to change"?

6 A. I said, "That's what the suit is all
7 about." I said, "We don't agree with it. Be
8 realistic about it. Everything is subject to change
9 when they go before a judge in a court." I said, "So
10 this is what we're faced with.

11 Q. You understood yourself that there was a
12 risk that that might happen?

13 A. No question about it.

14 Q. And you explained it to people
15 participating at these seminars?

16 A. Yes. I tried to the best I could. But,
17 you know, a lot of people want to just believe what
18 they want to believe, you just can only do so much to
19 tell them. Hopefully they understood it and many of
20 them did and many of them don't. It's just like you
21 can talk about benefits and improvements and doing
22 things for people until it comes time, when it comes
23 time to make them and they can't always understand it
24 or see it in any other light than their own

1 perspective, and it's tough and a lot of these people
2 are getting up in age they find it difficult to
3 believe that something like this could happen that
4 the City would renege on them. I don't know if they
5 will ever accept it.

6 Q: : Before the Korshak case started, you said
7 that it was usually, and if I remember it, you said
8 that it was usually the City benefits person who
9 spoke after you?

10 A. That is right.

11 Q. Now did you -- would you stay for that
12 presentation?

13 A. No. I just stayed a couple when the real
14 heat was on at the end I wanted to see how they were
15 going to handle it when the crowds got unruly and
16 saying things. We can't believe they're going to
17 tell us this now that after all of these years, most
18 of them by that time had completed 30 years of
19 service and had this benefits for the last almost 9
20 or 10 years at that point and now they couldn't
21 believe that the City was going to renege on this
22 promises.

23 MR. KIRSLOV: He's asking for before
24 Korshak.

1 MR. FULLERTON: Well, you're answering my
2 question, that's fine.

3 MR. KRISLOV: Well, I don't think he
4 understands you're talking about before Korshak.

5 THE WITNESS: I thought you said -- before
6 Korshak I had no problems with it, because there was
7 no change, no talk of any change. That's why I
8 assumed that you said after Korshak.

9 BY MR. FULLERTON:

10 Q. No. I was asking did you stay for the --

11 A. For the benefits, no, because I knew what
12 they were and they never changed. There was never a
13 problem.

14 Q. You started, you said that you started
15 saying for that presentation after?

16 A. That was I thought you said after Korshak.

17 Q. Okay. I understand. You said you started
18 staying to listen to the City person after the
19 Korshak case started --

20 A. Right to --

21 Q. -- to see how they would handle it?

22 A. Because, you know, we kept hearing rumors,
23 things were changing, positions were changing, you
24 know, they're still going on.

1 Q. Prior to that, prior to staying to hear how
2 they would handle the pressure, you weren't present
3 when the City benefits people spoke of the health
4 care?

5 A. No, because like I said at that time there
6 was no changes being proposed, they would just come
7 on and tell everybody what the numbers were.

8 Q. So you can't tell us today what those City
9 benefits people told the retirees?

10 A. No, no, I can't.

11 Q. After the Korshak case started can you tell
12 us what --

13 A. I can say this, that I never had anybody
14 question me as to, you know, is there going to be a
15 problem or anything because I am sure they would have
16 if there was. There was never any question.

17 Q. Okay. After the Korshak case started, can
18 you tell me what the City benefits people said when
19 you stayed around for those seminars?

20 A. That things were subject to change. That
21 they thought that there might have to be some
22 increases made and naturally that's when the people
23 go, "Oh, my God," I couldn't believe it. They're all
24 total shock and what's happening and we don't know

1 how City administration could do this to us and we're
2 going to see that they don't. You know, things of
3 that nature, and we tell them, "Calm down. We're
4 doing the best we can and handling it through the
5 courts, and we'll make every effort to maintain the
6 benefits." I would forewarn them actually.

7 Q. So it's basically the same message?

8 A. Yes.

9 Q. That you had given them?

10 A. Right. Yes.

11 Q. After the Korshak case started, can you
12 tell me whether or not you or the City representative
13 ever made a promise of life-time health care
14 insurance at unchanged rates for people at the
15 seminar?

16 A. I can only speak for myself.

17 Q. Okay.

18 A. No, no, I never did. I never made a
19 promise to anybody at any time, you know, prior to
20 that or after that because I knew better.

21 Q. Do you know whether the City
22 representatives before Korshak ever made those
23 promises?

24 A. I don't know.

1 Q. Now, you and other members of the Police
2 Pension Fund Board were defendants in the Korshak
3 case, right?

4 A. That is correct.

5 Q. What was your position in the Korshak case?

6 A: What was our position?

7 Q. Yes.

8 MR. KRISLOV: Are you talking about the
9 legal position or their view?

10 BY MR. FULLERTON:

11 Q. What was your legal position in the Korshak
12 case?

13 A. What was our final position? We felt that
14 the, as far as we were concerned, the City had the
15 responsibility and not the Pension Board.

16 Q. In fact, you were defendants, but you also
17 sued the City?

18 A. That is correct.

19 Q. In a counterclaim?

20 A. That is correct.

21 Q. And the counterclaim was to continue the
22 health care benefits at unchanged rates; is that
23 right?

24 A. That is right.

1 Q. And the City's position, what's your
2 understanding of what that was in the Korshak case?

3 A. That they could charge any amount that they
4 deem necessary to carry out their program.

5 Q. Also, in fact that they could terminate the
6 plan if they wanted to?

7 A. Right.

8 Q. This is a matter of grave concern to the
9 retirees, wasn't it?

10 A. Uppermost in their thoughts other than how
11 much am I getting that month, you know.

12 Q. It's also a matter of grave concern to the
13 beneficiaries for your fund?

14 A. Definitely so.

15 Q. Of whom you were a trustee?

16 A. That is correct.

17 Q. To whom you owed fiduciary duties?

18 A. That is correct. That's why we had a
19 problem as trustees with the City wanting us to
20 contribute more and more money towards these funds.
21 because nobody ever contributed one penny towards
22 hospitalization. They contributed 9 percent towards
23 their benefits. They go 6 and-a-half percent towards
24 their retirement. They go 1 and-a-half percent

1 towards their spouse and 1 percent towards their
2 annuity.

3 Q. That is their contributions during their
4 active employment?

5 A. During active employment. Not 1 cent ever
6 contributed towards hospitalization; therefore, we
7 felt that our obligation was to the annuitants in
8 receiving their pension check not as a source of
9 benefits for medical benefits.

10 And it was all agreement among all of
11 the trustees that the City was responsible, there was
12 never any disagreement there.

13 Q. Right.

14 Am I right that the fund or funds
15 generally weren't authorized in their view to pay for
16 this without some type of legislation passed in
17 Springfield?

18 A. No question about that, that's right.

19 Q. That it would take that in order to
20 authorize the funds to spend money towards annuitant
21 health care?

22 A. That is right.

23 Q. Prior to the Korshak case, as a trustee, I
24 take it that you always acted in the best interest of

1 your beneficiaries; is that right?

2 A. Definitely so.

3 Q. And during the Korshak case you also acted
4 in the best interest of your beneficiaries?

5 A. Definitely so.

6 Q. Did you ever not act in the best interest
7 of your beneficiaries?

8 A. Not willfully or without my knowledge did I
9 ever do that.

10 Q. To the best of your ability you always
11 acted in the the best interest of your beneficiaries?

12 A. Yes, sir.

13 Q. Throughout your term as a trustee of the
14 Police Pension Fund?

15 A. Yes, sir.

16 Q. You know that the Police Fund settled the
17 Korshak case?

18 A. I understand we had to. There was not too
19 much choice that we had as trustees at that time.

20 Q. And you were on the Board at that time?

21 A. That is correct.

22 Q. And you were -- I mean you were Trustee at
23 that time?

24 A. That is correct.

1 Q. Was there a vote on the Korshak settlement?

2 A. I recall we had to make some deal that we
3 would -- we felt that we had no alternative, our back
4 was to the wall when you said yourself that you
5 either accept this or they're going to terminate it,
6 you have no other recourse but what action you think
7 is in the best interest of your participants. And
8 that's the way it was given and shoved down our
9 throats. Basically we really had no choice. But,
10 yes, we had to take the best of a lot of evils that
11 were handed to us, and we didn't think it was for the
12 best interest of our membership. But at that time we
13 had no choice but to accept it, and I still feel that
14 way.

15 Q. Well, was there a vote on settlement?

16 A. I don't recall -- yes, there was a vote. I
17 don't recall what it was.

18 Q. Do you recall how you voted?

19 A. Yes, I voted that I felt we had to accept
20 it.

21 Q. You voted in favor of the settlement?

22 A. Yes.

23 Q. The settlement was explained to you by an
24 attorney, wasn't it?

1 A. Yes, it was.

2 Q. Who was that attorney?

3 A. Mr. Ford.

4 Q. Okay. Was -- did you ever discuss it with
5 other attorneys?

6 A. Oh, sure. We discussed it with all of the
7 attorneys that were representing the different funds.
8 We had many, many meetings, scores of meetings,
9 scores of many meetings with City boards and City
10 appointees and things of that nature. And like I
11 said, it was just a -- we thought a very, very poor
12 settlement for our thing. It was something that we
13 had no choice. When you're backed down to the wall
14 and looking at people that can't afford to pay what
15 they're currently paying, and then you're going to
16 tell them that you might take this whole thing away
17 when you come to some agreement. I think it was a
18 gun to our heads. It was a very, very unpopular, and
19 unfavorable decision, I think a wrong one that was
20 handed down, but unfortunately we can't do other than
21 what the Courts tell us to do.

22 Q. I'm sorry, was it wrong to vote for the
23 settlement, did you say?

24 A. It was wrong in regard that the proposals

1 that were handed to us were very, very poor choices
2 that we were unable to have anything with. So, yes,
3 we had to vote for the best of one of the many evils
4 that were given to us.

5 I felt I had to do that rather than
6 see the plan terminated. But did I like doing it?
7 No, I didn't like doing it. But at the time, yes, it
8 was for the best of the participants.

9 Q. Now, am I correct that the settlement that
10 was eventually voted on and accepted by the fund had
11 been negotiated or was in the works of over a long
12 period of time?

13 A. Yes, it was.

14 Q. In fact over a year, wasn't it?

15 A. Yes, sir.

16 Q. As I recall, the outlines of a deal were
17 made sometime in mid or early 1988; is that right?

18 A. I don't know, if you say that was the date,
19 but there was just so many months that transpired and
20 so many different things that were were talked about
21 that it was probably in that area of time.

22 Q. And legislation was introduced in
23 Springfield in 1988, also?

24 A. That is correct.

1 Q. That would allow the funds to pay more
2 towards their annuitant's health care?

3 A. That's right.

4 Q. That was passed, but vetoed by the
5 Governor; is that right?

6 A. That's my understanding, yes.

7 Q. In '88?

8 A. Yes.

9 Q. It was then reintroduced in 1989; is that
10 right?

11 A. Yes.

12 Q. Was that the same legislation as had been
13 introduced in 1988?

14 A. Basically I think the numbers were the same
15 65 and \$75.

16 Q. Right?

17 A. Yes.

18 Q. That legislation was finally passed in
19 August of 1989, right?

20 A. That's correct.

21 Q. And then there was a settlement agreement
22 reached sometime after that, right?

23 A. I am sure -- you know, I am not sure of the
24 dates.

1 MR. KRISLOV: The settlement agreement
2 wasn't reached after that, the settlement agreement
3 was reached before that. Are you trying to confuse
4 him or get this clear?

5 THE WITNESS: They had to get the
6 legislation passed, in other words, before this
7 settlement could go into effect, I think that might
8 be what we're talking about; is that right?

9 BY MR. FULLERTON:

10 Q. Okay. That's what we're talking about.

11 After the legislation was passed in
12 August of 1989, then a notice was sent out to the
13 annuitants; is that right?

14 A. Yes.

15 Q. And there was a fairness hearing on the
16 settlement?

17 A. Yes.

18 Q. That was approved by Judge Green?

19 A. Yes.

20 Q. So the whole process of the settlement of
21 Korshak from beginning to final approval of the
22 settlement implementation by Judge Green lasted well
23 over a year, right?

24 A. Yes.

1 Q. And I am sure you had an opportunity to
2 discuss the settlement with your fellow trustees
3 during that time?

4 A. Oh, yes. We discussed it, yes. We all --
5 most of us, I should not say all, but most of us felt
6 the same way, that we thought it was very unfair
7 toward the annuitants and spouses and families.

8 Q. And you talked about it a lot, didn't you?

9 A. I am certain we discussed it.

10 Q. Did you ever discuss it with Mr. Kugler?

11 A. I am sure he knew how we felt, I am sure he
12 did.

13 Q. Did you discuss the settlement with him?

14 A. I am certain that we did over time, but I
15 am sure he was aware of it, he was on speaking terms
16 with Mr. Ford and I know that somebody must have
17 talked about it or something, but Mr. Kugler wasn't
18 handling it per se, so I am sure he would have told
19 us to talk to the attorneys representing you on the
20 issue.

21 Q. Did you ever go get -- well, tell me why
22 you felt forced to accept the settlement?

23 A. Why I felt forced?

24 Q. Yes.

1 A. Well, I think you said it yourself when you
2 said the City could step out and terminate the entire
3 plan if they felt that they wanted to. When somebody
4 tells you that and you have this fear for your people
5 who are out there unable to get hospitalization
6 anywhere and acquire it, I think it's like having a
7 gun to your head and saying, hey, you know, play the
8 game our way or we could do this to you. And I think
9 when they make that kind of a resolution to you, just
10 looking at your people and seeing the condition of
11 many of them -- I myself had no problem because I was
12 young and healthy, but most retirees have problems
13 where they can't get health care anywhere else, and
14 what are they going to do, be out in left field
15 without a glove, so to speak? So, yes, it was very,
16 very fearful and very life-threatening to many of
17 these people, and it still is.

18 Q. You understand that the City's ability to
19 terminate the plan was a matter in litigation?

20 A. Yes, I certainly do. That was the basis of
21 the litigation.

22 Q. Your fund was contesting that the City had
23 that right?

24 A. That is correct.

1 Q. So tell me if I'm wrong; if you had wanted
2 to, you could have reject the settlement and
3 litigated with the City about whether it could
4 terminate the plan?

5 A. Well, that's what we had done for a year,
6 how long this whole thing was going on, was
7 litigating with the City, and we certainly hadn't
8 gotten any further than that and these threats were
9 still being made to us, so you tell me what I can
10 litigate from there.

11 It was a case of accepting a bad deal
12 or no deal at all, and we were afraid of that no deal
13 at all and leaving our people without any coverage
14 whatsoever. And I think any prudent person would
15 have been forced to make that decision because I
16 could not live consciouswise and say that I was the
17 cause of one old lady or one old man walking around
18 without any health insurance benefit. Maybe I might
19 have to come up and pay more money towards it or
20 maybe I have to do a lot of things I don't want to
21 do, but I couldn't live with myself. So it was not a
22 tough decision to make. It was a unpopular one, very
23 unfavorable one, but in my heart I knew it was the
24 only one.

1 Q. Are you -- you stated that for you yourself
2 you always tried to act to the best of your ability
3 and in the best interest of the beneficiaries of the
4 fund?

5 A. Yes, sir.

6 Q. Is that true for the funds other trustees
7 as well?

8 A. I believe so.

9 Q. What about the other funds?

10 A. Oh, I think those trustees that I -- to me
11 personally --

12 MR. KRISLOV: Objection to if you're asking
13 whether they acted in accordance with the best
14 interest of the trustees, would you please advise us
15 whether you're asking --

16 MR. FULLERTON: Clint, if you have an
17 objection, state it.

18 MR. KRISLOV: I'm objecting to the question
19 because it's unclear.

20 MR. FULLERTON: You're making a speech. If
21 you have an objection, state it.

22 MR. KRISLOV: When I get done you can say
23 what you want.

24 If you want to ask him a question,

1 please clarify whether you're asking him for his
2 opinion as to what the other trustees were doing was
3 in the best interest or whether their intention was
4 in the best interest or in his evaluation they were
5 acting in the best interest, please ask -- please let
6 us all know what it is you're asking for.

7 MR. FULLERTON: Could you read back the
8 question.

9 (Record read as requested.)

10 BY MR. FULLERTON:

11 Q. Could you answer that question, please.

12 A. I was so concerned about our fund that I
13 really did not concern myself with the problems of
14 the other funds. We had more than enough to worry
15 about. But, yes, I think most trustees acted in good
16 conscious. I would have to say that in order to be a
17 trustee, and the ones that I met personally I think
18 they're very capable people.

19 Q. Isn't it true that the other funds were
20 confronted with the same dilemma as your fund was?

21 A. Yes.

22 Q. And they were trustees with fiduciary
23 duties as well?

24 A. Yes.

1 Q. You have no criticism to make of the other
2 trustees?

3 A. No.

4 Q. Is there -- are you aware of any facts that
5 would tend to indicate that any trustee violated his
6 or her fiduciary duty to the beneficiaries?

7 A. That I am aware of?

8 Q. Yes.

9 A. No.

10 Q. Specifically in regards to accepting the
11 Korshak settlement?

12 A. No, they would have to be conscious with
13 them. I don't know how I could be judgmental and I
14 wouldn't want to have to sit in judgment.

15 Q. I am not asking you to sit in judgment.
16 I'm asking that you --

17 A. I am telling you that I couldn't make that.
18 I don't know what their position was or how they
19 understood it. I had enough trouble making my own
20 choice let alone trying to analyze what somebody else
21 did.

22 Q. I guess I am asking do you know of any
23 facts that would tend to indicate that whether or not
24 you in fact believe it or not?

1 A. No.

2 Q. Did you discuss the Korshak settlement with
3 the other fund's trustees?

4 A. Not in particular, no.

5 Q. Did you attend meetings where the other
6 fund trustees were in attendance?

7 A. Yes. From time to time, you know, how soon
8 or how after, things of that nature.

9 Q. Where?

10 A. Who were there or how many were there, I
11 don't recall.

12 Q. Where the settlement was discussed?

13 A. Yes.

14 Q. Do you have -- Mr. McDonough, if I use the
15 term "conflict of interest," you know what I am
16 talking about, right?

17 A. Sure.

18 Q. Are you aware of any facts that would lead
19 you to think or lead me to think that there was a
20 conflict of interest between any of the trustees of
21 your fund and their beneficiaries?

22 A. Our fund and their beneficiaries. None
23 that I can think of offhand.

24 Q. There's no personal financial interest?

1 A. Not to my knowledge.

2 Q. That would conflict with the trustee's duty
3 to the beneficiaries, for example?"

4 A. You mean other than being a City appointee,
5 is that what you mean one of the City appointees that
6 are trustees?

7 Q. I am talking about -- let's limit it to the
8 trustees that voted on the Korshak settlement.

9 A. You would have to tell me what the vote is
10 on it, who voted in what favor, you have to tell me.

11 Q. I understand it was unanimous. Does that
12 refresh your memory?

13 A. I don't recall anybody that would have a
14 personal gain to make by doing it, no.

15 Q. Okay. What about with regard to the other
16 funds, do you know of any conflict?

17 A. I have no knowledge, I have no knowledge.

18 Q. Okay. Is there any reason that you can
19 think of why the Korshak settlement does not bind the
20 fund's beneficiaries?

21 MR. KRISLOV: You're asking -- objection,
22 you're asking for his lay opinion or his legal
23 opinion? Which?

24 BY MR. FULLERTON:

1 Q. Can you answer my question?

2 A. If you want my legal opinion?

3 Q. However you want to answer the question.

4 MR. KRISLOV: Objection, it calls for a
5 legal opinion. This is -- Mr. McDonough is obviously
6 an honest person, but he does not appear to be a
7 lawyer yet.

8 BY MR. FULLERTON:

9 Q. Do you understand my question?

10 A. Yes, I understand that it would be very
11 difficult for me to answer that.

12 Q. Well, could you please answer it?

13 A. Well, being a police officer we always
14 abide by the law. They're not always the best laws,
15 but sometimes we have to abide by them anyway, so I
16 would naturally have to abide by it if it's given to
17 me in that direction.

18 Q. Are you yourself affected by the Korshak
19 settlement?

20 A. Certainly I will be. I will go from paying
21 nothing a month to approximately \$100.

22 Q. You were aware of that when you voted on
23 the settlement, right?

24 A. Certainly. Again, putting myself there

1 too, I didn't want to be left without health
2 insurance.

3 Q. Your interests in that case were aligned
4 with the beneficiaries, correct?

5 A. Correct.

6 Q. Can you tell me whether or not the Korshak
7 settlement was the product of conspiracy between the
8 City and the funds?

9 MR. KRISLOV: You're asking for his lay or
10 his legal opinion?

11 MR. FULLERTON: You can answer my question.

12 MR. ALLEN: I don't think he's asking for
13 opinion, I think he's asking for facts.

14 MR. KRISLOV: You're asking for a legal
15 term. If you're asking for facts I presume you're
16 asking for a lay opinion.

17 BY MR. FULLERTON:

18 Q. Can you answer my question?

19 A. Being an investigator for many, many years
20 I would have to have fact before I can come to a
21 conclusion on that, and I don't have any fact as a
22 basis to say that there was a conspiracy.

23 Q. Okay.

24 A. And I don't like to use the word

1 "conspiracy" because it gives it more of a criminal
2 act, it gives it more of a nature, and I don't think
3 there was a nature behind it. There was a lot of
4 suspicious acts and a lot of wrong things I thought
5 were acts, but I don't think anything in a criminal
6 nature. Somehow you always associate conspiracies
7 with criminal activity, I don't think it's a good
8 word to use.

9 Q. Well, put it this way; is it your
10 understanding that the settlement agreement between
11 the funds and the City was the product of
12 negotiation?

13 A. Yes.

14 Q. Hard fought negotiation?

15 A. Definitely so.

16 Q. Hard fought litigation?

17 A. Yes.

18 Q. Between -- involving lawyers who were
19 capable?

20 A. Yes.

21 Q. On both sides?

22 A. Yes. And it's still not over, so I guess
23 that point is still well taken. It's still not over
24 with and we still have a lot of differences of

1 opinions.

2 Q. Referring now to the Korshak settlement?

3 A. Right.

4 Q. The settlement agreement.

5 A. Right.

6 Q. That was a product of negotiation?

7 A. That is correct.

8 Q. Did either side get everything that they
9 wanted in the Korshak settlement?

10 A. Well, I think the one side got all that
11 they wanted, they wanted to pass along the increases
12 and that's what they have done.

13 Q. You're talking about the City now?

14 A. That is correct. Certainly the
15 beneficiaries didn't benefit by it.

16 Q. Did the funds get everything that they
17 wanted?

18 A. Definitely no, definitely not. The funds
19 should not have been a party to this to begin with.
20 Like I told you, nobody has ever contributed towards
21 it. We felt the obligation was there with the City
22 and unfortunately we lost.

23 Q. Did you read your affidavit this morning?

24 A. Yes, sir, I did.

1 Q. Is what you said in there the truth?

2 A. Yes, but with -- but see there was one
3 error made at the very end there, it was pointed out
4 to me and I said, "Oh, my goodness gracious,
5 definitely a oversight on my part." If you look at
6 paragraph 13, Lifetime health care coverage, lifetime
7 benefit received employment was subject to change, it
8 should be not proposal.

9 Q. Who pointed this out to you?

10 A. Our attorney, Mr. Krislov.

11 Q. When did he do that?

12 A. This morning he said do you realize -- "Do
13 you want to read this over again?"

14 And I said, "Wait a minute, explain
15 this to me." I said, "Would you, please." I said,
16 "Am I giving double talk here after the whole
17 statement I made of five page and now I am getting
18 down to one word." Apparently I didn't know if he
19 left it out or I did, but one of us made an error.
20 That's about the only one that I could see.

21 Q. There's no other changes that you would
22 make in this?

23 A. No, sir.

24 Q. Mr. McDonough, you said earlier that you

1 reviewed the affidavit before you signed it, didn't
2 you?

3 A. That is correct.

4 Q. And you've done affidavits before in your
5 career?

6 A. : I certainly have and I am sure I made other
7 mistakes, counselor, in my career. You know, some of
8 them have been longer and some have been shorter and
9 some of them done with a longer period of time, and
10 I, like many, many people in this world, am not
11 perfect and it was an oversight, believe me.

12 Q. I would like to talk with Jane outside.

13 (WHEREUPON, a short break was
14 had.)

15 MR. FULLERTON: I don't have anymore
16 questions for now.

17 MS. FORDE: I have just a couple.

18 CROSS EXAMINATION

19 BY MS. FORDE:

20 Q. I think I understand from your affidavit
21 and from your testimony that prior to the Korshak
22 case, the health care plan that was in effect -- well
23 between '82 and Korshak the health care plan that was
24 in effect was part of a collective bargaining

1 package; is that correct?

2 A. That is correct.

3 Q. When you gave the retirement seminars you
4 gave your part of the retirement seminars, as that
5 explained that that benefit was in lieu of monetary
6 compensation?

7 A. Usually I never went that far into detail.

8 Q. When you had received your affidavit from
9 Mr. Krislov did you notice that there were two
10 captions on it, one from Korshak and one was the
11 Retired Chicago Police Association versus City of
12 Chicago?

13 A. I seen that.

14 Q. You did?

15 A. Yes.

16 Q. Did Mr. Krislov explain to you what the
17 Retired Chicago Police Association case was about?

18 A. Yes, today.

19 Q. No, I mean before you signed the affidavit?

20 A. He did. I knew my responsibilities.

21 Q. Did he show you a copy of the complaint in
22 the RCPA case?

23 A. No, not to my knowledge, I don't think so.

24 Q. So have you ever read the complaint?

1 A. No.

2 Q. Do you know that in the complaint the
3 Retired Chicago Police Association alleges that the
4 Trustees of the Pension Fund violated their fiduciary
5 duty?

6 A. : Yes, I understand that. And I have to say
7 this; as far as our attorney is concerned in this, he
8 has never once asked me questions as far as any
9 Trustee responsibilities or my fiduciary
10 responsibilities or any of his concern, he's just
11 asking me questions about my participating in the
12 fund, and he did not ask me anything that would be
13 detrimental to me, my opinion, that is my position as
14 a Trustee. He told me that I wore many hats in this
15 issue. And I said "Yes, I do. But I said I just
16 want to see the the truth come out. I am here to
17 tell you what I know about it in all honesty and
18 present the case." Because I don't think I did
19 anything wrong in either capacity.

20 Q. Did he explain to you that you were a
21 defendant in this case?

22 A. Yes, he did.

23 Q. And the organization alleges that you
24 breached your fiduciary duty?

1 A. I could see where they would feel that way,
2 yes.

3 Q. And they also alleged that you conspired
4 with the City to relieve the pension fund of the
5 responsibility they had?

6 A. : Well, again, you know my opinion on that, I
7 gave you that.

8 Q. But that was explained to you before you
9 did?

10 A. Yes, it was.

11 MS. FORDE: I have no more questions.

12 MR. KRISLOV: My turn?

13 MR. ALLEN: No, I have to ask a few.

14 CROSS EXAMINATION

15 BY MR. ALLEN:

16 Q. Mr. McDonough, my name is David Allen. I'm
17 with Marty Burns' law firm. We represent the
18 Firemen's Pension Fund.

19 I believe you testified earlier that
20 the '82 agreement that was negotiated or reached with
21 the Mayor that the reason that you assumed that it
22 was going to be a lifetime benefit was that whatever
23 was discussed in that agreement was passed in the
24 legislature, right?

1 A. That is right.

2 MR. KRISLOV: That wasn't exactly what he
3 said. I presumed his answer -- if you're trying to
4 be generic, that's fine. If you're trying to limit
5 him to only one aspect of what he said, that's
6 objectionable.

7 MR. ALLEN: No, I'm trying to give some
8 background as to leading into the next question.

9 BY MR. ALLEN:

10 Q. I also believe you said that there was a
11 provision somewhere that benefits would never be
12 diminished; is that correct?

13 A. That is correct.

14 Q. Could you tell me where that provision is
15 located?

16 A. It's in the code but exactly what the line
17 item is, I don't know, but we can sure find it out
18 because most of the lawyers who have worked on the
19 case know what the provision is. It's definitely
20 there.

21 Q. Is that something out of the Illinois
22 Constitution?

23 A. Yes, out of the Illinois Code.

24 Q. Pension Code?

1 A. Yes.

2 Q. I believe you also said that while you
3 acted as a Pension Trustee at some point that the
4 Funds' attorney advised all of the trustees that the
5 City really was serious about it's intention of
6 increasing costs?

7 A. Yes.

8 Q. Okay. Do you remember the name of the --
9 who the attorney for the Fund was?

10 A. I mean is this prior to us hiring --

11 Q. Yes.

12 A. -- the outside firm?

13 Q. Right.

14 A. Mr. Kugler.

15 Q. I would like to ask you a few questions
16 about your affidavit.

17 A. Sure.

18 Q. Starting on page three, paragraph seven.
19 Do you see that paragraph?

20 A. Yes, I do.

21 Q. Okay. There it states, "The City was so
22 pleased with this approach" -- that is the approach
23 detailed in the proposal that you made -- "that it
24 asked if the police would object to the

1 administration offering the same deal to the fireman
2 who readily accepted it as well." Okay. Is that
3 referring to who you heard about the conversations
4 with Mayor Byrne and those people who had gone to
5 talk to her?

6 A. That is correct.

7 Q. Okay.

8 A. That she was going to make it to them, and
9 would it be all right with them if they were to make,
10 if she was to make that same benefit increase to the
11 fire department.

12 Q. Okay. And it says here that "The fireman
13 readily accepted as well." What do you base that on?

14 A. Just on the fact that I believe they did
15 get the same benefit and they accepted it and I think
16 they might have made it a part of their written
17 agreement that they had at that time. I have to
18 understand they do have a -- don't they have a
19 hospitalization agreement in there that they're
20 discussing?

21 MR. KRISLOV: I am sure Mr. Allen could
22 provide us with that information specifically.

23 MR. ALLEN: I believe you will receive a
24 package of materials today.

1 BY MR. ALLEN:

2 Q. Let me ask you about something about the
3 retirement seminars.

4 Do you recall at any seminar prior to
5 the Korshak case where you advised the officers and
6 or their spouses that health care costs might
7 increase, but that any increase would be
8 insignificant?

9 A. No, I would never say insignificant because
10 I didn't have any idea. I thought when we first
11 started hearing rumors about it back in '83 that
12 anything was significant when they started coming up
13 with any proposal, so I know I never used that word
14 insignificant.

15 Q. Okay. At what point did you alert the
16 officers and other spouses in these seminars of
17 rumors that you were hearing from the City?

18 A. Once the Korshak case came into being.

19 Q. Okay. So that was sometime in '87, '88?

20 A. Yes.

21 Q. Okay. I would like finally to refer you to
22 on page five of your affidavit where it states, "In
23 fact there was every indication generally given to
24 the retirees to assure them that these benefits, as

1 stated, were benefits of their work for the City of
2 Chicago and would not be changed during the time of
3 their retirement." Can you tell me what you mean by
4 "that every indication generally was given"?

5 A. I said in that the past, you know, when we
6 reached this agreement that we would not have our
7 benefits diminished, so I said that I think that as
8 far as I am concerned that I would assume that ours
9 may not be touched, may not be touched, but who knows
10 what they will do to our spouses or to our children.

11 Q. Okay. And when you were referring to "our
12 benifits," you were referring to the individual
13 police officers?

14 A. That is correct.

15 Q. Sergeant and lieutenants and captains all
16 the way up the rank?

17 A. Right, right.

18 Q. Further in that paragraph "beginning
19 sometime," in your affidavit recites, "Beginning
20 sometime in 1988 the explanation was that this was
21 the current plan without further elaboration." What
22 do you mean by that exactly?

23 A. What others would do would not change, to
24 my knowledge, there's no other communication that

1 would take place, just what I discussed earlier, that
2 as far as I knew there was going to be some problems,
3 but asking the benefits director there's going to be
4 some changes made and they're going to be made by
5 them. But I don't know what's going to happen, what
6 the court ruling is going to be on it. Hopefully
7 it's going to come out in our favor. Naturally if it
8 came out in our favor there won't be any changes
9 made.

10 Q. But where it says "without further
11 elaboration," I don't understand.

12 A. I didn't go into detail because I didn't
13 have the details. This is when we were under the gun
14 and who knows, who knew what would happen.

15 I said as far as I'm concerned at that
16 time we were subject to changing monthly, you know.
17 I said the only thing I can do is when the benefits
18 director come in here they're the ones that should
19 have the answers, the administration is telling them
20 what happened, we certainly don't know.

21 Q. Okay.

22 A. But I said ask them whatever questions you
23 have on the issue. I said they're the final say.

24 Q. Okay. Now at this point we're talking

1 about now that the sometime in '88 the Korshak
2 lawsuit had already been filed?

3 A. Um-hum.

4 Q. You have to answer yes or no out loud
5 because the court reporter can't take down a nodd
6 or --

7 A. Yes.

8 Q. The next sentence states; "However most of
9 the pre-retirees would likely have understood that
10 would not change." Is that an accurate statement?

11 A. Well, maybe I shouldn't have used the word
12 "most," you know, it's hard to say. Again, like I
13 explained to you, they understand what they want to
14 understand, you know, one man is fully knowledgeable
15 another one how much does -- no, maybe that was a
16 poor choice of words.

17 Q. Okay. But you did you explain to the
18 people after the Korshak case was initiated that
19 there might be ramifications in the future?

20 A. Definitely so.

21 MR. ALLEN: I don't have any further
22 questions -- wait.

23 BY MR. ALLEN:

24 Q. When you presented the seminars, did you

1 distribute any written literature concerning the
2 subject of cost of health care coverage?

3 A. Yes, I usually presented a pamphlet that we
4 had issued, I don't know if that was in there but we
5 did have a pamphlet.

6 MR. KRISLOV: Do you want to see them?
7 This is it.

8 BY MR. ALLEN:

9 Q. Mr. McDonough, I'm showing you what has
10 previously been marked as City Exhibit 5. Is this
11 the document that you referred to that you
12 distributed during the preretirement seminars?

13 A. Yes, this would be it. In fact, they were
14 working on a later one. I don't think we ever got it
15 out yet, but this would be the one that I -- I think
16 there's a new one out. And then basically this is
17 what I would go through. I would give -- I would
18 give a brief synopsis. This outlines all of our
19 benefits and what they had, what they had going and
20 what they would except, and basically I gave them in
21 15 minutes a good part of this. Naturally I couldn't
22 hit on every item in there, things of that nature.
23 What I would do to keep them from reading, I would
24 give them a copy at the end of the program so that,

1 you know, they wouldn't all be reading it while I was
2 giving my talk, you know, how that works.

3 Q. Sure.

4 A. And anything else that might be pertinent
5 at the time, any new laws that we had under
6 consideration or things of that nature that may have
7 come out we would hand them out as handouts.

8 Q. I see in this document that there are
9 references to provisions of Illinois Revised
10 Statutes.

11 MR. KRISLOV: Do you want to point them
12 out?

13 BY MR. ALLEN:

14 Q. All right. For example on Page 8 of the
15 pamphlet.

16 A. Yes, sir.

17 Q. Okay. For example, in the middle of the
18 page it says, "For more details refer to pages 48 and
19 49 of the Illinois Revised Statutes Chapter 108 and a
20 half?"

21 A. That's it.

22 Q. Pensions?

23 A. That's it.

24 Q. Okay. That --

1 A. That would be the ones. Didn't we say 108
2 and a half?

3 Q. Right.

4 A. That would be the one where the article in
5 there about any diminished benefits, anything that
6 would diminish our benefits would not be allowed.

7 Q. So it was your understanding that the
8 benefits that Chicago police officers were in --
9 retirement benefits that they were entitled were
10 governed by the Illinois Statutes and the Illinois
11 Pension Code, correct?

12 A. Yes.

13 Q. Is there anything in that pamphlet that you
14 can point us to as you sit here or as you recall that
15 addresses the lifetime entitlement of free health
16 care coverage?

17 MR. KRISLOV: Why don't you start out, see
18 if there's anything with health care coverage.

19 THE WITNESS: I am sure there is about
20 health care coverage.

21 BY MR. ALLEN:

22 Q. Is there anything about health care
23 coverage?

24 A. I believe there is. Under deductions here

1 there's a general rule. The City plan the
2 hospitalization you had as an active member of the
3 police department may be continued only at the time
4 you applied for annuity. One, the hospital premium
5 for the retired employee is paid by the retirement
6 board. The premium for eligible dependent would be
7 automatically deducted from your annuitant check
8 beginning with the first check. That whole paragraph
9 says that.

10 It goes on to say at the bottom, "Any
11 questions about claims or coverage should be directed
12 to the benefits management office in the City of
13 Chicago." Which, you know, I would give them the
14 number.

15 MR. KRISLOV: For the record, he's
16 referring to Page 10, I believe.

17 MR. ALLEN: Yes.

18 THE WITNESS: Page 10, there's a whole
19 paragraph covering that.

20 MR. FULLERTON: That's in City Exhibit 5.

21 THE WITNESS: Again, you know I tried to
22 cover everything in 5 minutes which is very
23 difficult.

24 BY MR. ALLEN:

1 Q. Other than this document, City Exhibit 5
2 which is entitled Your Service Retirement Benefits,
3 were there any other written terms that you
4 distributed at the preretirement seminars?

5 A. There would be different ones from time to
6 time, you know, I would give out, but this was always
7 the primary one. In fact, prior to leaving they were
8 still working on a new one because a lot of the new
9 benefits haven't been covered in that. I am sure now
10 it will even be thicker.

11 MR. ALLEN: I don't have any further
12 questions.

13 CROSS EXAMINATION

14 BY MR. KRISLOV:

15 Q. Mr. McDonough, just to get something
16 perhaps just to give you a slight bit of information,
17 if I told you that the nondiminution protection of
18 pension benefits is located in the Illinois
19 Constitution at Article 13 Section 5 rather than in
20 the Pension Code, I presume that wouldn't be a
21 surprise to you?

22 A. No.

23 Q. But wherever it's located --

24 A. It's there.

1 Q. It's there, okay.

2 Let's go back to the Korshak case.

3 And let me phrase this by telling you that I don't
4 doubt your good intentions and your belief that you
5 were acting in the beneficiary's interest.

6 MR. ALLEN: Is that a concession that you
7 don't believe?

8 MR. FULLERTON: You don't believe the
9 allegation in your complaint?

10 MR. KRISLOV: That's not what I said. I
11 believe that he did not intend to do anything other
12 than acting in the beneficiary's best interest, okay.
13 It's not a concession at all.

14 MR. FULLERTON: That's not exactly what you
15 said, Clint.

16 BY MR. KRISLOV:

17 Q. At the time that the Korshak agreement --
18 you understand that the Korshak, the settlement which
19 we're all referring to in the Korshak case was
20 entered into solely between the City and the trustees
21 of the pension funds, right?

22 A. Acting on behalf of the membership.

23 Q. Okay. But that the only parties to it were
24 the City and the trustees?

1 A. That's right.

2 Q. And you understood at least by the time of
3 the fairness hearing that there was a class of
4 participants certified, right?

5 A. Yes.

6 Q. And that they were separately represented,
7 correct?

8 A. Yes.

9 Q. And that they objected to the settlement?

10 A. Right.

11 Q. You were also aware at that time, were you
12 not, that -- well, I suppose that they were being
13 represented by me?

14 A. Sure.

15 Q. And you knew, did you not, that we had
16 pending before Judge Green a motion for summary
17 judgment for the participants?

18 A. Yes.

19 Q. And that we were asking instead of the
20 settlement to be entered that the Judge make a
21 finding on the merits and grant our summary judgment
22 motion?

23 A. I am sure that's what it was. I am not
24 sure of the legal jargon that they used at the time.

1 Q. That's fine.

2 So that without regard to whether or
3 not the trustees' decision was the right one or the
4 wrong one, the trustees could have said we'll ask
5 that Judge Green decide this case on the merits
6 rather than settling it?

7 A. Well, I would have to say that we listened
8 to our attorney, whatever he said at the time, I
9 don't recall what his exact position was why we chose
10 to go the way we were.

11 Q. But you chose not to risk a decision by
12 Judge Green?

13 A. That is correct.

14 Q. Okay. Also at the time that you entered
15 into the settlement and at the time that the fairness
16 hearing was held, you were not aware of what rates --
17 well, let me go back. You were aware that the rates
18 that the City could charge under the settlement would
19 go up?

20 A. Yes..

21 Q. And might depending on at least whose view
22 of the settlement was accurate resulting in an end of
23 the plan after 1997?

24 MR. FULLERTON: Objection, leading.

1 BY MR. KRISLOV:

2 Q. I think that you can answer the question.

3 A. To my knowledge, in '97 did not put an end
4 to the plan. It was my understanding it is until
5 this day that the City is still required to go in and
6 say, "Hey, wait now it's '97, we're ready to continue
7 the negotiation process, we can go with added
8 benefits or we can negotiate this whole issue." And
9 that's the way it was explained to me as a trustee.
10 And I am sorry that the Attorney Forde left because
11 her office was one of the ones that established it.

12 Now I am hearing rumors that in '97
13 the City could terminate this whole thing if they
14 wanted to and walk away from the benefit. This was
15 not the experience that we got.

16 Q. You understand that the funds subsidy would
17 end after the '97 under the settlement?

18 MR. FULLERTON: Objection, leading.

19 THE WITNESS: Do you want me to answer the
20 question?

21 MR. KRISLOV: You can answer.

22 MR. FULLERTON: You can answer.

23 THE WITNESS: I would say no, as far as
24 we're concerned the fund would still have their

1 obligation and it again won't be diminished. As far
2 as I am concerned, nobody can just walk away from
3 this issue, the responsible parties are still to
4 resume negotiations at that point.

5 BY MR. KRISLOV:

6 Q. : But there's nothing in the law that you
7 know of that would either require or authorize the
8 funds at this point to continue make the subsidy
9 after '97, is there?

10 MR. FULLERTON: Objection, leading.

11 BY MR. KRISLOV:

12 Q. You can answer it.

13 A. To my knowledge we're still responsible
14 after that point for a certain amount of money that
15 we're going to continue to negotiate that issue,
16 nobody is to walk away to my knowledge.

17 Q. Okay. Is it your belief that the other
18 trustees were also aware -- do you have any knowledge
19 of whether the other trustees were also aware that
20 the case, that the participant class had been
21 certified, that they were being represented by me or
22 our firm and that the participant class opposed the
23 settlement?

24 MR. FULLERTON: Objection, vague,

1 confusing, leading.

2 MR. KRISLOV: Let me restate that.

3 BY MR. KRISLOV:

4 Q. Is it your belief that the other trustees
5 knew that the participant class had been certified
6 separately?

7 MR. FULLERTON: Objection, vague. I don't
8 understand the question.

9 THE WITNESS: I knew that they knew that
10 you were representing me, the participants.

11 MR. FULLERTON: You understood it. I
12 didn't.

13 THE WITNESS: Right.

14 BY MR. KRISLOV:

15 Q. Is it your belief that they knew also that
16 we objected to the settlement and wanted -- and that
17 they also, like you, knew that we objected to the
18 settlement and wanted instead for the summary
19 judgment, our summary judgment motion to be ruled on
20 the merits?

21 MR. FULLERTON: Objection, foundation,
22 leading, confusing.

23 BY MR. KRISLOV:

24 Q. You can answer it or if you want me to

1 rephrase it, I will.

2 A. I think that they knew that you were
3 unhappy with the decision or the participants, some
4 of the participants might have been unhappy.

5 Q. Okay. At the time of the settlement,
6 either entering into it or at the time of the
7 fairness hearing, correct me if I'm wrong, but as I
8 understand, the trustees were not aware of what the
9 rates would be, what rates the City would be charging
10 as premiums for future --

11 A. That is correct, we had no idea.

12 Q. Okay. And you had no assurance of what
13 those -- what rates the City would duly charge in the
14 future?

15 MR. FULLERTON: Objection, leading.

16 BY MR. KRISLOV:

17 Q. Did you have any assurance of what these
18 rates would be?

19 A. I had none whatsoever.

20 Q. Referring to that Exhibit 5, the police
21 fund pamphlet, is it your belief that that was
22 generally distributed -- was -- who was that
23 distributed to, if you know?

24 A. All members. After we would do that, we

1 would issue them from time to time to different ones,
2 sometimes it might be given to them when they came on
3 the job.

4 Q. All members of the police fund?

5 A. Right.

6 Q. And that would include as well active
7 employees?

8 A. Pardon me?

9 Q. Active policemen, not just retired
10 policemen?

11 A. And active policemen.

12 Q. Okay. When you mentioned John Thulis, you
13 said he is currently a lieutenant, is he still
14 working for the police department?

15 A. Yes. I believe he's either president or
16 he's on the negotiating committee.

17 Q. As far as your understanding, did the chief
18 negotiator for the -- who was the chief negotiator
19 for the pension funds in these negotiations?

20 MR. FULLERTON: Objection, confusing,
21 vague.

22 BY MR. KRISLOV:

23 Q. Within the Korshak settlement negotiations
24 between the City and the Trustees, who represented

1 the pension funds?

2 A. Basically the directors.

3 Q. And were they personally in the
4 negotiations with the City?

5 A. Yes.

6 Q. And so it was the directors who reached
7 these agreements face-to-face with City
8 representatives?

9 A. Well, yes. And then we had different
10 meetings where we would all sit down and discuss some
11 of the negotiations, where they were going and we
12 were trying to see which direction they would go and
13 things of that nature, but you can't have 40
14 different trustees sitting down. As a rule we said
15 the directors had the authority to go in there and
16 try and set the hammer on the hard points.

17 Q. So the directors --

18 A. But they had our authority to come back and
19 report to the trustees.

20 Q. So the directors met with City
21 representatives face-to-face?

22 A. Yes.

23 Q. Or was that done through the lawyers?

24 A. Both.

1 Q. Both. Okay.

2 And who was the lead attorney
3 negotiating for the pension funds?

4 A. They could better tell you than I. Did we
5 have any lead attorneys? Did you ever decide who?
6 To my knowledge they didn't have one, to my
7 knowledge.

8 Q. For the policemen I assume it was Mr.
9 Forde's office?

10 A. That is correct, that's the only one I know
11 of.

12 Q. Okay. Last thing is when you referred
13 before to the settlement Mr. Fullerton asked you
14 whether the settlement was the product of hard fought
15 negotiation and litigation between lawyers on both
16 sides, what you're referring to is the City and the
17 pension funds by "both"?

18 MR. FULLERTON: Objection, foundation.

19 MR. KRISLOV: I believe he testified
20 that -- you asked him whether this was the product of
21 hard fought negotiation and litigation between
22 lawyers on both sides; is that right?

23 THE WITNESS: Sure, I am sure it was.

24 BY MR. KRISLOV:

1 Q. And by "both," you mean the City and the
2 pension funds?

3 A. That is correct.

4 Q. When Mr. Fullerton asked you did either
5 side get everything they wanted, I presume -- did you
6 understand that to mean the City and the pension
7 funds?

8 MR. FULLERTON: Objection, leading.

9 BY MR. KRISLOV:

10 Q. Or who is --

11 A. That's what he meant. I said how could
12 everybody get everything they wanted?

13 MR. KRISLOV: Okay. I think we're done.

14 REDIRECT EXAMINATION

15 BY MR. FULLERTON:

16 Q. Mr. McDonough, as far as the -- I don't
17 want to jump on Mr. Heiss' opportunity to ask
18 questions, but while he's conferring with Mr. Allen,
19 I will ask a couple of more.

20 Under the settlement agreement of
21 Korshak, what was the -- what kind of provisions were
22 made for increasing rates, how were rates to be
23 increased?

24 A. At \$10 increments. I believe it was five

1 years they were going to go up to, when the law was
2 passed they were going to be increased for \$65 for a
3 five-year period of time and 1993 they would go up to
4 \$75 per month for five-year period of time.

5 Q. And that was the pension fund
6 contributions?

7 A. Correct, the money coming through the
8 pension funds, yes.

9 Q. Do you recall if there was a provision for
10 an actuarial study of the cost to the City of
11 annuitant health care?

12 A. No, I don't recall that.

13 Q. Okay.

14 A. It could have been, I really don't know,
15 but I do recall the third provision was that '97 they
16 would be in the continued negotiations if they hadn't
17 been concluded by that time.

18 Q. Do you know John Pierce?

19 A. Yes, sir, I do.

20 Q. How long have you known him?

21 A. Maybe 10, 12 years.

22 Q. Were you on the force together at any time
23 during --

24 A. Never at any time.

1 Q. He has been retired since you knew him?

2 A. That's correct.

3 Q. Have you discussed this case with him at
4 all?

5 A. In fact I saw him this morning in the
6 office here. I told him I was going to be giving a
7 deposition this afternoon relative, you know, to the
8 case that the retirees have pending.

9 Q. Have you discussed the case with him at any
10 other time?

11 A. Oh, from time to time when I run into him.
12 I have seen him a few times since I have been
13 retired, three or four times. I said "How's
14 everything going?" Or small talk about it. And I
15 get his newsletter, I read that and see where the
16 continuing efforts are being made in the Court case.

17 Q. And have you discussed the case with Dick
18 Jones at all?

19 A. It would be probably about the same amount
20 of time, maybe two or times since my retirement over
21 issues about what's going on or what's happening.
22 These are pension representative for retirees. I
23 continue to ask him what he hears, what is going on.

24 Q. Have you discussed with either of them your

1 vote on the Korshak settlement?

2 A. They knew what my vote was. Mr. Jones was
3 a trustee at the time that I was a trustee.

4 Q. He's also an officer of the Retired Chicago
5 Police?

6 A. That is correct.

7 Q. Mr. Jones also voted in favor of the
8 Korshak settlement?

9 A. To my knowledge he did, yes.

10 It was unanimous, wasn't it?

11 Q. Yes. That's my understanding of what it
12 was.

13 Have you ever discussed with them
14 their allegations of breach of fiduciary duty?

15 A. Never.

16 Q. Has that ever come up?

17 A. No.

18 Q. Have you discussed the case with anyone
19 else?

20 A. No. I have been out of town most of the
21 time. I haven't even seen a copy of the final report
22 that I hear is going out from the City, the
23 hospitalization plan, the future plan and the costs
24 and everything, I haven't received my copy yet. My

1 mail hasn't been too direct. I have been confused on
2 the issue myself.

3 Q. I believe that was mailed last week.

4 A. Well, I haven't received it yet, so I
5 probably don't want to -- I know I'm going get an
6 increase.

7 MR. KRISLOV: You have his address, will
8 you send him a copy directly?

9 MR. FULLERTON: I don't have anymore
10 questions.

11 Fred, do you have some?

12 MR. HEISS: I have a couple and I hope -- I
13 tried to check with Dave because obviously I don't
14 know what went on.

15 CROSS EXAMINATION

16 BY MR. HEISS:

17 Q. I want to direct the attention to the
18 statute amendment that covered up to 1997, that's
19 what I want to refer to.

20 A. Okay.

21 Q. Was there ever any discussion with the
22 Police Fund Trustees that the purpose of the statute
23 for '97 was to cut off the fund's participation after
24 '97?

1 A. No.

2 Q. Did you ever have that discussion about
3 that fact that the purpose that the ten-year period
4 was to cut off the fund's provision -- I mean
5 participation after 1997 with any trustees of any
6 other funds?

7 A. No.

8 Q. Is it fair to say that you've never had
9 that discussion with the executive directors of the
10 other funds about that factor?

11 A. No.

12 Q. In fact at one point the police were
13 willing to only have the statute in place for five
14 years, isn't that --

15 A. That was one of the discussions, because we
16 wanted continued negotiation situations and that was
17 my understanding and still is to this time. Just
18 because the date of '97 was given doesn't mean we
19 shouldn't discuss --

20 Q. Continued negotiations?

21 A. -- continued negotiations.

22 MR. HEISS: I have no further questions.

23 THE WITNESS: That was my understanding why
24 they gave that much time. So hopefully everybody

1 will get their heads together and resolve the issue
2 peacefully.

3 MR. HEISS: That was my understanding.

4 THE WITNESS: Is that how you --

5 MR. HEISS: If you're willing for my
6 response.:

7 THE WITNESS: Is that how you explain to
8 your membership?

9 MR. HEISS: Yes.

10 THE WITNESS: I am not asking anymore
11 questions.

12 MR. HEISS: I am not going to answer anymore
13 because I'm not under oath.

14 RECROSS EXAMINATION

15 BY MR. KRISLOV:

16 Q. If the statute as amended does cut off the
17 authority or the right of the funds to continue the
18 subsidy after '97, is it your opinion that that's a
19 mistake?

20 MR. FULLERTON: Objection, leading, calls
21 for speculation and for a legal conclusion.

22 MR. ALLEN: And relevance.

23 MR. KRISLOV: I can ask a leading question.

24 MR. FULLERTON: And I can object.

1 MR. KRISLOV: That's fine.

2 BY MR. KRISLOV:

3 Q. Do you understand the question?

4 A. Do I think there should be continued
5 negotiations?

6 Q: No, I will rephrase it.

7 Do you think -- would it -- if the
8 statute -- strike that.

9 If the statute does cut off the fund's
10 authority to pay that subsidy after '97, is it your
11 belief that that's a mistake or that wasn't what was
12 intended or what?

13 MR. FULLERTON: Objection, leading, calls
14 for a speculation and for a legal conclusion and lack
15 of foundation.

16 MR. ALLEN: And relevance since we don't
17 have a continuing objection.

18 MR. KRISLOV: Why don't you have a standing
19 objection to that one. I hate to pay for a page
20 every time you make an objection.

21 BY MR. KRISLOV:

22 Q. You can answer the question if you think
23 you understand it.

24 MR. FULLERTON: Subject to our objections.

1 THE WITNESS: My opinion is that I believe
2 there are supposed to be continued negotiations up
3 until that point and not be concluded.

4 BY MR. KRISLOV:

5 Q. Okay. So the statute was not intended to
6 stop that?

7 A. In my belief that's correct, it was not
8 intended.

9 Q. Okay. Not by you anyway?

10 A. That's right, that's what I said, my belief
11 that was the way it was explained to me and I
12 interpreted it that way.

13 MR. KRISLOV: I think we're done unless you
14 have something more after that?

15 MR. FULLERTON: Thank you, Mr. McDonough.

16 THE WITNESS: Thank you gentlemen.

17 MR. KRISLOV: Somebody will get you a copy
18 and we will take a look at it.

19 (FURTHER DEPONENT SAITH NOT.)
20
21
22
23
24

STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

I hereby certify that I have read the foregoing transcript of my deposition, given at the time and place aforesaid, and I do again subscribe and make oath that the same is a true, correct, and complete transcript of my deposition so given as aforesaid, as it now appears.

JAMES MCDONOUGH

SUBSCRIBED AND SWORN TO
before me this ____ day
of _____ A.D., 1991.

Notary Public
Cook County, Illinois

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK.)

4 The within and foregoing deposition of
5 the witness, JAMES MCDONOUGH, was taken before
6 JENNIFER ANNE SEASTROM, C.S.R., Notary Public at the
7 333 West Wacker Drive, in the City of Chicago, Cook
8 County, Illinois, commencing at 1:00 p.m., on the
9 20th day of November, A.D., 1991.

10 There were present during the taking of
11 this deposition the following counsel:

12 MR. CLINTON A. KRISLOV and
13 MS. LISA WAISBREN representing
14 The Plaintiff,

15 MR. STUART FULLERTON representing
16 The City of Chicago,

17 MR. FREDERICK P. HEISS representing
18 The Municipal & Labor Fund,

19 MR. DAVID S. ALLEN representing
20 The Firemen's Fund,

21 MS. JANE FORDE, representing
22 The Policemen's Annuity Fund.

23 The said witness was first duly sworn
24 and was then examined upon oral interrogatories; the
questions and answers were taken down in shorthand by
the undersigned, acting as stenographer and Notary
Public; and the within and foregoing is a true,
accurate and complete record of all the questions

1 asked of and answers made by the aforementioned
2 witness at the time and place hereinabove referred
3 to.

4 The signature of the witness was not
5 waived and the deposition was submitted to the
6 deponent as per copy of the attached letter.

7 Pursuant to Rule 207A of the Rules of
8 the Supreme Court of Illinois, if deponent does not
9 appear to read and sign the deposition within 30 days
10 or make other arrangements for reading and signing,
11 the deposition may be used as fully as though signed,
12 and this certificate will then evidence such failure
13 to appear as the reason for signature being waived.

14 The undersigned is not interested in the
15 within case, nor of kin of counsel to any of the
16 parties.

17 Witness my official signature and seal
18 as Notary Public in and for Cook County Illinois, on
19 this 23rd day of November, A.D., 1991.

20
21 JENNIFER SEASTROM, C.S.R., Notary Public
22 105 West Madison Street,
23 Chicago, Illinois 60602
24 Telephone: 782-8376

License No.: 084-003293



Patti Blair court reporters P.C.

DATE: November 25, 1991

Mr. Stuart Fullerton
Corporation Counsel
180 North LaSalle St., #704
Chicago, IL 60601

Re: R.C.P.A. vs. City of Chicago

Deposition of: James McDonough

The testimony in the above-entitled case has been transcribed, and since signature has been reserved, please be advised that under the Rules, the deposition will be available at our office for 28 days from the above date for the witness to read and sign.

As provided by Rule 207A of the Supreme Court rules as amended, if after 28 days the witness does not appear to read and sign the deposition, it will be understood that signature is waived and the deposition may then be used as fully as though signed.

Our office is open from the hours of 9 00 a.m. to 4:00 p.m., Monday through Friday.

Please call to arrange an appointment when it is convenient for the deponent to come in to read and sign the deposition.

Sincerely yours,

Jennifer Seastrom
Patti Blair Court Reporters, P.C.

C/C: Krislov

Reporter: _____

Patti Blair court reporters p.c.

DATE: November 25, 1991

Mr. Stuart Fullerton
Corporation Counsel
180 North LaSalle St., #704
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C/C: Krislov

Reporter: _____