

STATE OF NEW HAMPSHIRE

DEPARTMENT OF STATE

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IN THE MATTER OF:

LOCAL GOVERNMENT CENTER,  
INC., ET AL

\* \* \* \* \*

\* No: C-2011-000036  
 \* Volume: II  
 \* Pages: 229-495  
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PETITION TO OBTAIN PERMISSION TO ISSUE NEW  
 AND RENEWAL COVERAGES, BINDERS AND SIMILAR  
 CONTRACTUAL OBLIGATIONS

Hearing held at the State Archives Building, 71  
 South Fruit Street, Concord, New Hampshire on  
 Wednesday, October 7, 2015 from 9:24 a.m. to 5:38  
 p.m.

Court Reporter:  
 Laurie A. Gelinas, LCR No. 35  
 (RSA 310-A:179)

1 I N D E X

2

3 WITNESS: Maureen Stazinsky

4

5 EXAMINATION BY: Page Line

6 Mr. Felmly 236/383 11/9

7 Mr. Volinsky 313/394 17/14

8

9

10 WITNESS: Michael A. Coutu

11

12 EXAMINATION BY: Page Line

13 Mr. Felmly 412/490 19/21

14 Mr. Volinsky 476 4

15

16 INDEX TO PROPERTY-LIABILITY TRUST EXHIBITS\*

17 Description Page Line

18 Exhibit 22 Board of Directors List  
19 For 2015 235 10

20 Exhibit 23 List of PLT Members with  
21 Respect to Coverage Lines 235 12

22

23 \*Exhibits retained by Counsel

1 APPEARANCES:

2

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20 Presiding Officer: Donald E. Mitchell, Esquire

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1           PRESIDING OFFICER: Good morning, ladies and  
2 gentlemen. This is day two of this proceeding. I  
3 will ask once again, is there any member of the press  
4 here today? All right. Seeing none, then I need not  
5 go through compliance with the statute for certain  
6 explanations.

7           That being said, yesterday when we ended we  
8 were in the case in chief of PLT and Mr. Felmly was  
9 about to call a witness. I've been made aware that  
10 there are other proceedings in a different forum this  
11 morning. Do I need to know anything about that? Mr.  
12 Felmly, I recognize you since you've been working two  
13 shifts.

14           MR. FELMLY: Well, I wasn't alone. Mr.  
15 Tilsley was there too. Just a brief report. I think  
16 things have worked themselves out quite well. After  
17 we left here yesterday we were notified by the Clerk  
18 of the Merrimack Court that there would be a hearing  
19 this morning in front of Judge Nicolosi on the  
20 application that Mr. Coutu made to have essentially  
21 judicial enforcement of the subpoena quashed. We  
22 notified Ms. Rose of that and indicated that it may be  
23 prudent to push this back to 9:30. It started a

1 little earlier than 8:30 and the report on that was  
2 that the Court issued an order after a fair amount of  
3 argument and probing that essentially indicated that  
4 Mr. Coutu was ordered and instructed to honor the  
5 subpoena and come and provide testimony, so he will be  
6 here, and I told him that he would be the witness  
7 after Ms. Stazinski today, so I expect him here later  
8 this morning. He's been perfectly cooperative about  
9 that as has his counsel. It perhaps is a bridge too  
10 far, but the bottom line is the Court said it is  
11 ordering him to appear at this time. The issue of the  
12 scope of immunity and whether he has immunity and what  
13 the law on that is is premature and for another day  
14 and we're not getting into that. So Judge Nicolosi  
15 has issued that order and as far as I understand it  
16 Mr. Coutu is perfectly happy with that ruling and will  
17 be coming to testify, so I think that matter is behind  
18 us and I don't believe there's any aspect of that that  
19 we need to pursue. There was complete acknowledgement  
20 by counsel for Mr. Coutu as to the validity of the  
21 subpoena, the propriety of service and the absence of  
22 any incapacity or disability or any reason for him not  
23 to attend, so that one is behind us.

1           PRESIDING OFFICER: Thank you, Mr. Felmly.

2           MR. FELMLY: One other housekeeping item for  
3 your pleasure. At the end of the day you requested of  
4 Ms. Parker lists or an identification of members of  
5 Property-Liability Trust. I have two proposed  
6 additional exhibits copies of which have been provided  
7 to the Bureau. One is a listing of the 2015 Board of  
8 Directors of PLT. The other list is the members of  
9 PLT, the participant members, and they are in three  
10 packets, if you will, all clipped together reflecting  
11 the three different coverage lines, so I propose that  
12 we mark those as PLT or Petitioner exhibits which the  
13 next one would be 22 and I would describe that as the  
14 Board of Directors list and then I would mark as 23  
15 the package of all Board members. So I believe we've  
16 provided you what you were looking for.

17           PRESIDING OFFICER: Thank you. Mr. Volinsky.

18           MR. VOLINSKY: We have no objection to either  
19 exhibit. We would just note that the list of the  
20 Board of Directors doesn't have their affiliations,  
21 the towns or school districts they come from and so I  
22 wonder if when we reconvene on Friday we can just put  
23 in a page with their affiliations so we know which

1 members are actually on the Board and which Board  
2 members are unattached to a member community.

3 MR. FELMLY: We have no problem with  
4 annotating that, if you will.

5 PRESIDING OFFICER: Then with that we'll  
6 accept PLT Exhibit 22 which is the Board of Directors  
7 list for 2015 and Exhibit 23 which is a package  
8 representing the members of each of the respective  
9 three lines of coverage presently offered by PLT.  
10 (Petitioner's Exhibit 22, Board of Directors List for  
11 2015, was marked for Identification, as of this date.)  
12 (Petitioner's Exhibit 23, List of PLT Members with  
13 Respect to Coverage Lines, was marked for  
14 Identification, as of this date.)

15 PRESIDING OFFICER: With the understanding  
16 that it may be amended later if you don't find it on  
17 their web site.

18 MR. VOLINSKY: We would have it, so we just  
19 need to print it and bring it in.

20 MR. FELMLY: At this time we would call  
21 Maureen Stazinski.

22 MAUREEN STAZINSKI  
23 having been duly sworn by the Presiding

1           Officer, was examined and testified as  
2           follows:

3           PRESIDING OFFICER: Can you state your full  
4           name and spell your last name for the record?

5           MS. STAZINSKI: My name is Maureen B.  
6           Stazinski. Stazinski is spelled S-T-A-Z-I-N-S-K-I.

7           PRESIDING OFFICER: Thank you, Ms. Stazinski.  
8           Mr. Felmly, your witness.

9                                   EXAMINATION

10          BY MR. FELMLY:

11           Q. What is your current business address?

12           A. My current address is 800 Boylston Street,  
13           Boston, Massachusetts.

14           Q. And by whom or what company are you employed?

15           A. I am employed by Towers Watson.

16           Q. And can you discuss or summarize what is the  
17           business of Towers Watson or the businesses of Towers  
18           Watson?

19           A. Towers Watson is a professional services  
20           organization in the business of assisting clients with  
21           their issues surrounding talent, rewards, people, risk  
22           and financial management. I am included in the risk  
23           area where we assist clients with property casualty



1 types of risk issues in terms of their financial  
2 issues.

3 Q. And in terms of your area of professional  
4 skill is there a particular discipline or area that  
5 you specialize in in terms of providing those  
6 services?

7 A. Yes, I specialize in helping clients with  
8 their reserves, rate making and financial pro forma  
9 projection type of work. I also assist in feasibility  
10 studies and have had experience with merger and  
11 acquisition types of projects.

12 Q. And in terms of the skills you employ and the  
13 training you employ to do that does that involve  
14 actuarial services and actuarial skills and talent?

15 A. Yes, it does.

16 Q. And again with respect to Towers Watson can  
17 you give us a sense as to the nature, size and scope  
18 of that business organization?

19 A. Towers Watson is a worldwide consultancy. We  
20 employ over fourteen thousand employees around the  
21 world in countries including North America, Latin  
22 America, Europe, the Middle East, Asia Pacific and  
23 Africa and, as I said earlier, we have a consultancy

1 that is in many different areas including risk,  
2 talents, rewards and financial matters.

3 Q. And in terms of the component of Towers  
4 Watson's business that provides actuarial services or  
5 having actuaries perform those services do you have an  
6 understanding as to roughly the size of that or how  
7 many of your colleagues are involved in Towers Watson  
8 in the actuarial part of the business?

9 A. In the part of the business that I'm in, the  
10 risk and consulting area, we are trained and  
11 credentialed with the Casualty Actuarial Society of  
12 which I am a fellow of the Casualty Actuarial Society.  
13 Our firm employs the largest number of fellows of the  
14 Casualty Actuarial Society, somewhere I would say in  
15 the range of over 75 to a hundred or so actuaries  
16 within our firm who have credentials from the Casualty  
17 Actuarial Society.

18 Q. In terms of the area that you have described  
19 that is your particular focus, risk management and  
20 consulting, in that area what are some examples of the  
21 types of clients that you've worked with and continue  
22 to work with with regard to providing actuarial  
23 services and projections?

1           A. The largest component of clients that I have  
2 worked on are risk pools, an example being  
3 Property-Liability Trust. In my career I've worked  
4 with over thirty pools throughout the United States  
5 helping them with actuarial matters concerning their  
6 risk financing and risk management issues.

7           Q. And so that we're all on the same page with  
8 respect to risk pools, and I appreciate you mentioning  
9 that PLT would be representative of one, what would be  
10 the definition or what are the components of an entity  
11 -- what does an entity called a risk pool commonly  
12 consist of or look like?

13          A. A risk pool commonly has certain  
14 characteristics. They are member owned and member  
15 governed and they have the responsibility of managing  
16 their client's risk financing and risk management.  
17 They are very similar in nature in a lot of ways to  
18 insurance companies, but they do have certain  
19 characteristics that make them different such as the  
20 business they are in of providing coverage to  
21 different types of municipal types of entities, and in  
22 this sort of intergovernmental arrangement the members  
23 are the recipients of the coverage as well as the

1 owners of the pool as well.

2 Q. In terms of the nature of the municipal  
3 services and the types of activities that are insured  
4 are there differences of that sort or type that are  
5 significant as contrasted with a commercial business  
6 that might be buying its insurance from, say, The  
7 Hartford or Aetna or a commercial insurance company?

8 A. Yes. Because the pools are so focused in on  
9 trying to increase safety they have various programs  
10 that are very unique.

11 MR. VOLINSKY: May I interpose an objection?  
12 I don't think this witness has been disclosed as an  
13 expert on the risk management side of pools versus  
14 insurance companies. I think this explanation is  
15 beyond the reserves and pro forma area that she has  
16 been disclosed in.

17 MR. FELMLY: I think that this is background  
18 with respect to her expertise that leads to her going  
19 into PLT. She has identified PLT as one of the  
20 organizations like this. We've had testimony about  
21 this before that the other side had the opportunity to  
22 provide. We provided a detailed report probably in  
23 the thousands of pages with respect to their work.

1 Hundreds upon hundreds of emails reference the work of  
2 Towers Watson in connection with PLT. I think she can  
3 provide the context for which she is providing her  
4 actuarial services. I think it's right in the center  
5 of the strike zone of what would have been expected to  
6 be her testimony.

7 PRESIDING OFFICER: I'm going to allow this  
8 line of questioning. I will ask one question of the  
9 witness so that I'm together with all of you. In  
10 terms of this experience that you've cited in working  
11 with thirty pools throughout the country, risk pools,  
12 have they all been nonprofit risk pools?

13 MS. STAZINSKI: Yes, they have all been  
14 nonprofit member owned chartered by state  
15 legislatures, so very similar in nature to  
16 Property-Liability Trust.

17 PRESIDING OFFICER: Do you have any  
18 experience with the private, I believe the word was,  
19 commercial risk pool management programs?

20 MS. STAZINSKI: I do have experience with  
21 commercial carriers that provide coverage to the same  
22 type of entities that PLT provides coverage to. So  
23 you know, as an example, an insurance company that

1 competes with Property-Liability Trust was named  
2 yesterday. I believe it was Travelers. Insurance  
3 companies like that I have provided assistance to as  
4 well.

5 PRESIDING OFFICER: Do they pool their risks  
6 as well?

7 MS. STAZINSKI: They don't typically pool  
8 their risks. They typically provide it as a coverage  
9 offering and they include it within their own company,  
10 so it's not a separate pool.

11 PRESIDING OFFICER: I'll allow you that  
12 question, so your objection is denied. Please  
13 continue. And I'll just take this opportunity to say  
14 that because an audio recording is being made as well  
15 as a stenographic record, we'll try to keep our pace  
16 down in terms of speed and with respect to counsel,  
17 you know, help facilitate the proceedings, but leading  
18 questions will be a little more tightly scrutinized  
19 today. Thank you. Please proceed.

20 Q. So I was asking you about the ways in which  
21 the customers/members/clients in a pooled fund, how  
22 their activities may influence the way in which a pool  
23 fund is dealt with by an actuary and you were

1 explaining the differences that come from that.

2 A. So I think the train of thought I was on was  
3 that because pools have very specific safety programs,  
4 loss control programs and risk management that are  
5 focused specifically to their members, they have the  
6 benefit of increasing safety which drives down the  
7 costs and as a result there is an opportunity for  
8 pools to provide more expansive types of coverage than  
9 the commercial industry, so there are some unique  
10 differences that we then can see in the loss  
11 experience of the pools.

12 Q. I understand from the response that you just  
13 made to the Presiding Officer that you also have some  
14 experience with respect to commercial insurance and  
15 partnered pools, is that right?

16 A. That's correct.

17 Q. And what type of services do you provide a  
18 commercial carrier from an actuarial perspective?

19 A. The types of services that I would provide  
20 that are relevant to pooling but are provided to a  
21 commercial carrier would include actuarial pricing  
22 assumptions which includes looking at their loss  
23 development history, providing benchmarks to

1 commercial carriers so that they can price business,  
2 and also helping them with their internal actuarial  
3 needs in terms of evaluating that specific type of  
4 business.

5 Q. How many years have you been employed by  
6 Towers Watson?

7 A. I've been employed by Towers Watson for  
8 twenty years.

9 Q. And in terms of your current position or  
10 title with Towers Watson, what is that?

11 A. My current position is senior consultant.

12 Q. I'm going to ask you what a senior consultant  
13 does in that role.

14 A. A senior consultant is a client relationship  
15 type of manager in several engagements of an actuarial  
16 nature. I have an expertise in public entity pooling,  
17 so roughly 70 percent of the clientele I work on year  
18 after year, what we call annuity type of business, is  
19 in the pooling sector, so I talk to clients, make  
20 presentations on the actuarial findings, do analyses  
21 with a team that we have in our office which is  
22 composed of analysts and consultants. I also do a lot  
23 of peer review work, so I review the work of others



1 and a lot of that work is also in the pooling sector  
2 as well.

3 Q. So when you say peer review of others do you  
4 mean colleagues of yours that are in lead positions  
5 with other clients?

6 A. That is correct.

7 Q. And what does a peer reviewer do when you are  
8 a peer reviewer?

9 A. A peer reviewer reviews all the assumptions,  
10 the analyses and the flow of the work stream to make  
11 sure that it's up to the methodologies and standards  
12 that we employ at Towers Watson and within the  
13 actuarial profession. We also make sure that the  
14 findings make sense, and sometimes we take the  
15 perspective of the client in reading the report to  
16 make sure that the findings are understandable and  
17 that everything seems to flow. It's sort of an  
18 objective look of a report before it goes out the  
19 door.

20 Q. So if you're the lead person with respect to  
21 doing actuarial services for a pooled fund can you  
22 describe to the Hearing Officer the typical or  
23 significant tasks or responsibilities that you as a

1 senior consultant and actuary commonly find yourself  
2 doing?

3 A. So I commonly find myself making sure that  
4 I'm talking to the project team on current work  
5 assignments, having lots of communication with our  
6 clients in terms of conference calls, in-person  
7 meetings and emails to make sure that the  
8 understanding between us and our clients is very  
9 transparent and clear. I also attend many conferences  
10 including what Andy referred to yesterday as AGRIP. I  
11 talk to other prospects and clients in the industry as  
12 well. I also am involved with research and  
13 development of intellectual capital in terms of  
14 different types of actuarial work that the firm wants  
15 to continue to develop and enhance, so I have sort of  
16 a wide array of things that I have on my day-to-day  
17 plate as a senior consultant.

18 Q. For a pooled fund that is managing and  
19 dealing with risks in the casualty or the property  
20 market or perhaps workers' comp, is one of the things  
21 you're looking at projecting losses and what reserves  
22 should be and how they should manage that risk?

23 A. Yes.

1           Q. So how does an actuary like yourself in the  
2 role that you're in working with a team participate in  
3 that process? What are sort of the typical tasks and  
4 steps you do in trying to manage that risk or assess  
5 the loss and reserves that are appropriate for that  
6 company?

7           A. So from the start of a project we talk to the  
8 client in terms of what are the assignments we're  
9 looking at. An example would be a reserve analysis.  
10 Another example would be a rate level study. We talk  
11 about the data we would receive. Once we receive the  
12 data we review the data. I have conversations with  
13 colleagues about whether the data is reasonable and  
14 similar in nature to what we've seen before. Then we  
15 put the data through our calculations and we project  
16 the data forward so that we can project what the  
17 claims will ultimately be, and then in terms of what  
18 we do with those results, we can calculate the  
19 reserves meaning what is left over between now and the  
20 time all the claims are paid and help our clients  
21 understand what that level is so they can book it on  
22 their financial statement, and we also take those  
23 ultimate losses that we project and use them to help

1 forecast what the rate should be for the upcoming  
2 year.

3 Q. So if you're trying as a layperson to  
4 understand the difference between what an accountant  
5 does in terms of dealing with the financial numbers of  
6 a particular company or fund as contrasted with what  
7 an actuary is doing or the difference between those  
8 two professions, can you give us a description that  
9 would be helpful in contrasting the role of the  
10 actuary versus the role of the accountant?

11 A. The actuary focuses in more on the potential  
12 for risk. The accountant would not have any expertise  
13 or background on projecting the reserve or the  
14 liability. Being an actuary we do have a general  
15 understanding of the balance sheet and the income  
16 statement. However, an accountant would know the ins  
17 and outs of the whole financial perspective a bit  
18 stronger in terms of details. We do understand it and  
19 understand how it flows. I would say our more  
20 concentrated focus and our educational background is  
21 in calculating the liability which is the biggest item  
22 on the liability side of the balance sheet for an  
23 insurance entity or for a pool like PLT.

1 Q. And in terms of your training can you provide  
2 the Hearing Officer a summary of what education you  
3 have and how you were trained and ultimately qualified  
4 and certified, if that's the right term, with respect  
5 to actuarial services?

6 A. Yes. I have a Bachelor of Arts in  
7 mathematics with a minor in economics and after  
8 graduating from college I became employed with Towers  
9 Watson and started taking the actuarial exams which  
10 are a series of at the time ten exams which requires  
11 many hours of study in order to pass each exam.  
12 Therefore, that's why it took seven years to get  
13 through it and ultimately became fully credentialed as  
14 a fellow of the Casualty Actuarial Society. I'm also  
15 a member of the American Academy of Actuaries as well.

16 Q. And in terms of your work with pooled funds,  
17 approximately how many years of experience do you have  
18 with respect to providing actuarial work to companies  
19 comparable to PLT?

20 A. During my entire twenty year career at Towers  
21 Watson I have worked on pooling types of clientele  
22 including from when I first started my career as an  
23 analyst throughout my career going through the ranks

1 as a consultant up to becoming a senior consultant. I  
2 have had consistent exposure and work related  
3 experience with pooling types of clients such as PLT  
4 including PLT as well throughout my entire twenty year  
5 career.

6 Q. So in addition to working with approximately  
7 thirty others, in addition to the thirty other pooled  
8 funds that you have worked with, approximately the  
9 period of time you've actually worked with PLT or its  
10 predecessor companies was how long? How long have you  
11 done that?

12 A. Can you repeat the question?

13 Q. Yeah. I'm trying to find out what the length  
14 of time your experience of actually having PLT as a  
15 client has been.

16 A. The entire twenty years, so from the  
17 beginning of my career as an analyst I started working  
18 on PLT actuarial projects.

19 Q. And in terms of providing actuarial services  
20 and the understanding that goes into it, how would you  
21 describe the importance or relevance of having a  
22 significant period of knowledge or history with a  
23 particular client?

1           A. Are you asking is it common for me to have a  
2 long-term history?

3           Q. No, I wasn't so much asking that. I was  
4 asking are there advantages, are there plusses or  
5 minuses that come from having that period of  
6 experience with a client and being very familiar with  
7 a business?

8           A. Yes, there is because you build upon the  
9 knowledge of prior analyses. You also have the  
10 benefit of prior discussions and meeting times and you  
11 also understand the business and understand things  
12 such as their claims philosophy, their underwriting  
13 process. You become more fluent with the types of  
14 risks they underwrite. In PLT's case they  
15 historically have written just municipal type business  
16 but then also brought school business on board, so  
17 understanding what you're looking at and not starting  
18 from scratch makes the analysis even more  
19 comprehensive and deep.

20           Q. You mentioned AGRIP which, as I understand  
21 it, is a professional organization that deals with  
22 risk pools, is that correct?

23           A. Yes.

1 Q. And that acronym stands for what?

2 A. Association of Government Risk Pools.

3 Q. And in this area of the market or in this  
4 area of endeavor is that an organization that is well  
5 recognized and has significance?

6 A. Yes, AGRIP is well recognized. It has close  
7 to two hundred pooled members throughout the country.  
8 They have conferences two times a year which I  
9 typically attend where they have been growing in  
10 attendance with up to four hundred to five hundred  
11 attendees. It is known to be a resource in the  
12 pooling industry when any questions come up that are  
13 pool specific. There are many different types of  
14 information sharing resources that AGRIP puts out in  
15 addition to the conferences that they hold. They have  
16 many webinars. They have different types of email  
17 groupings depending on the situation and the topic.  
18 So they're very focused in on helping the pooling  
19 industry become stronger and stronger.

20 Q. And you have been active in that group for  
21 approximately how long?

22 A. Towers Watson has been a member or has been  
23 what is called a QEI participant of AGRIP for the last



1 several years. I personally have been attending the  
2 conferences and have attended what they call QEI  
3 conference calls for the last couple of years. I've  
4 been attending conferences for the last five to six  
5 years and in doing so have been able to attend the  
6 sessions that they hold that are very pooling specific  
7 and in doing so am able to network with clients and  
8 prospects in order to understand their issues and  
9 understand what's going on in the pooling industry.

10 Q. What do the QEI initials stand for that you  
11 said Towers Watson had been involved in?

12 A. It was QEI participation. I'll have to get  
13 back to you on what exactly that is, but it's a type  
14 of membership that AGRIP provides to consultants. So  
15 you can't become a typical pooling type of membership  
16 with AGRIP, but if you are a consultancy or a service  
17 provider, then it's a different type of membership  
18 that AGRIP offers.

19 Q. In terms of the work that Towers Watson has  
20 done during your twenty years of tenure both at the  
21 firm as well as working with PLT what are the types of  
22 projects or services that you have been involved in  
23 providing PLT?

1           A. The types of services that I've been  
2 providing to PLT include the reserves work, rate  
3 making, pro forma financial analyses. Those are the  
4 typical mainstream projects that we have assisted PLT  
5 with and across their workers' compensation,  
6 property-liability and unemployment compensation  
7 coverages.

8           Q. And in terms of making assessments and  
9 calculations and trying to make actuarial  
10 determinations about reserves or rates or projected  
11 losses or whatever, do you have available to you  
12 technology and programming that assists in running the  
13 various calculations and models and things that are  
14 part of that?

15          A. Yes. Within Towers Watson we have various  
16 software that we use in our routine actuarial work.  
17 We have a software program called ResQ which is a  
18 triangulation software and that is a basic actuarial  
19 tool where we compile our client's specific loss  
20 information to help us understand how the claims will  
21 develop in the future, so it's a very basic building  
22 block tool that actuaries use, and we have software  
23 that makes it very efficient for you to build these

1 tools that we use in our analyses.

2 Q. You have provided us and we have provided the  
3 tribunal a description at Exhibit 19 specifics to  
4 Property-Liability Trust that is essentially a  
5 memorandum or a presentation that describes how loss  
6 development information is utilized, assembled and I  
7 guess triangulated under your triangles under this  
8 process that you were describing.

9 A. Yes.

10 Q. And without getting into all the details of  
11 that but just for purposes of understanding the basics  
12 of that model, what's the basic way as you're doing  
13 this with a client like PLT, how is it that you  
14 develop this notion of triangles and why does that  
15 give you, if it does, enhanced reliability or belief  
16 that you can rely upon the numbers through that  
17 process?

18 A. So on side one of that addendum -- is that  
19 what it's called?

20 Q. Exhibit.

21 A. Exhibit. It's what we just talked about. We  
22 look at triangles to help us project losses and claims  
23 including loss adjustment expenses, and basically on

1 slide 2 we have a definition of how we look at the  
2 information. So we compile our data by looking at  
3 losses that occur within a given year. For example,  
4 accident year 2014 includes claims related to  
5 accidents that occurred during that year regardless of  
6 whenever it was reported or paid. If you keep moving  
7 along, slide 3 basically shows you in a hypothetical  
8 illustration that a claim over time can have a  
9 different value depending on when in time you're  
10 looking at the claim. When a claim comes in the door  
11 you're evaluating the circumstances, but once you  
12 understand it a bit better, say within six months, you  
13 would have a case reserve put up. Say it would be  
14 something like \$15,000. Then over time as the claim  
15 is assigned, investigated, negotiated and comes to a  
16 settlement, you'll see that because of more  
17 information coming in the door the case reserve of the  
18 claim will change between \$15,000 and somewhere over  
19 \$100,000. It could be that you have a case reserve  
20 set for the claim. In this example it's about  
21 \$125,000, but then by the time the actual settlement  
22 happens it could settle for less what it was case  
23 reserved for, in this case roughly \$110,000. So that

1 just gives you an idea of why it's important to look  
2 at development in understanding the age of an accident  
3 year. And that's what actuaries focus in on. Moving  
4 to slide 4 you'll see that again this is a claim and  
5 it gives you an idea of the time perspective, so  
6 you'll see under Y two or year two that a claim  
7 occurred on June 30th of that year. As you move  
8 forward in time to year three, after the claim has  
9 been assessed there's a case reserve put up for a  
10 thousand dollars and then as you move to year four  
11 when the claim is paid, in this particular situation  
12 it was paid for more than what it was case reserved  
13 for at \$1,500, so even though the claim occurred in  
14 year two, transactions on the claim can happen in the  
15 future and so that's what we're looking at in terms of  
16 our triangles. We're trying to understand the  
17 accident in the year of the accident and then  
18 understand what typically happens between that point  
19 in time and when a claim is ultimately developed. So  
20 if you flip two pages ahead to slide 6, this is how  
21 our triangles are set up. So as I just talked about a  
22 few minutes ago, we look at information in terms of  
23 accident years and if you take a look at accident year

1 2013, what the actuarial triangle does is it captures  
2 what the reported loss amount was for that particular  
3 accident year when it was twelve months old which  
4 would be December 31, 2013. Then twelve months later  
5 you would take a look at the reported loss amount. So  
6 we take a look at this and we track these accident  
7 years as they develop in time so that if you keep  
8 flipping forward you can see how we evaluate what the  
9 development factors on slide 8 are. So the actuary  
10 takes a look at what the development is between those  
11 points in time. We take a look at the development  
12 between 12 months and 24 months, between 24 and  
13 36 months, et cetera and we select through our  
14 triangulation software what the two important factors  
15 are. So if you go to slide 9, we can fill out the  
16 triangle for the part of the exhibit that wasn't  
17 filled in on the last slide. We can fill out the  
18 triangle so it can look like a square, and ultimately  
19 that is the actuarial projection so we can understand  
20 what the actual amount of losses will be for a  
21 particular accident year.

22 Q. And in terms of being able to manage that in  
23 an organization that has a large number of claims, is

1 this assistive or do you manage this by using computer  
2 software assistance?

3 A. Yes. So the triangle that we looked at a few  
4 slides ago, we are assisted by a software that I  
5 mentioned earlier called ResQ and that software holds  
6 the data or compiles the data so that when we get a  
7 new evaluation of information, in PLT's case when we  
8 looked at the December 31, 2014 analysis we already  
9 had all the prior evaluation of losses in our  
10 software, so we could add on another diagonal or  
11 triangle so that we could continue to always evaluate  
12 new information and update our development patterns.

13 Q. And how does that process, that  
14 triangularization and the ability to update the loss  
15 information, how does that enable you to then address  
16 the question of what is probably going to be the  
17 experience in years in the future in terms of where  
18 those claims are going to go?

19 A. Because we have the relevant and specific  
20 experience of Property-Liability Trust which for  
21 property-liability coverage, this goes back to, I  
22 believe, 1986 and for workers' compensation goes back  
23 fifteen years. You can't get any better information

1 than the client's own specific information, and so by  
2 looking at the development that is specific to the  
3 client and very relevant to the way they handle claims  
4 and the way they underwrite, looking at their  
5 development is the most relevant information and  
6 therefore gives us the best idea by looking at the  
7 past how to project the future.

8 Q. And is this a process that you just do with  
9 PLT or is this process that you have been describing,  
10 development of loss information, something that you  
11 apply generally with your pooled fund clients?

12 A. We generally apply this approach to the  
13 extent the data is available, relevant and credible  
14 which is most of the time, we take a look at triangles  
15 of specific information and we do the similar analysis  
16 that I just discussed.

17 Q. Incidentally, with respect to the other  
18 pooled funds that Towers Watson, to your knowledge, is  
19 working with and providing services to, to what extent  
20 do those pools have more than one line of coverage  
21 versus being just one line of coverage? Can you  
22 describe for me what your observation or experience is  
23 in terms of organizations like PLT that have three



1 lines of coverage within the pool as opposed to pools  
2 that may only have one line of coverage?

3 A. In my experience with the other pools that I  
4 work on across the country it's very common to see a  
5 pool that has many lines of coverage, you know,  
6 property, the various types of liability coverages  
7 including auto liability, law enforcement liability,  
8 et cetera as well as workers' compensation in the  
9 pool. When we do our analysis we look at each line of  
10 coverage individually because the characteristics are  
11 distinct enough to warrant a separate analysis by line  
12 of coverage, but when we do our analysis, when we do  
13 our actuarial analysis, we look at all the coverages  
14 within the study and it's common for us to see many  
15 lines of coverage including property-liability and  
16 workers' comp, and unemployment compensation is  
17 sometimes in the mix as well.

18 Q. And are there advantages or disadvantages to  
19 having more than one line of coverage within one pool  
20 in terms of the actuarial risk or the potential for  
21 risk of the organization?

22 A. There's the advantage of diversification. So  
23 as an example, when an accident occurs, and say it's

1 specific to your auto coverage, you have other  
2 coverages there that have brought in surplus. Those  
3 other coverages can support one another. If you were  
4 looking at just auto liability, it would just be one  
5 line of coverage. Therefore, you would see the  
6 dramatic hit to that one coverage and you wouldn't  
7 have other coverages to support it, so there is an  
8 advantage there in terms of the diversification and  
9 being able to absorb the risk because you have a  
10 larger base to absorb within.

11 Q. I forgot to ask you, other than AGRIP is  
12 there any other significant national organization that  
13 specializes or mobilizes the public pooled risk fund  
14 area?

15 A. Specific to property casualty types of risks  
16 there is another organization called NLC-RISC. RISC  
17 is the part and that's an organization similar to  
18 AGRIP that also has resources and conferences and  
19 different types of information sharing relative to the  
20 industry.

21 Q. And does Towers Watson including yourself  
22 stay abreast of what's going on with NLC-RISC?

23 A. Yes. We actually have a relationship with

1 NLC-RISC. We sometimes attend their conferences and  
2 make presentations occasionally at those conferences  
3 as well like we do with AGRIP.

4 Q. And do you participate in that personally?

5 A. I do participate. I would say my  
6 participation with AGRIP is stronger, but yes, we do  
7 keep in touch with the NLC organization as well.

8 Q. So let me talk to you about the period in  
9 2014 and into 2015 involving PLT. And I'm really  
10 starting that roughly in July or August of 2014 when  
11 the consent decree was entered into by PLT and issued  
12 by the Hearing Officer, and I want to focus on the  
13 type of work that you on behalf of Towers Watson and  
14 your team did throughout the fall and then into 2015,  
15 so in that timeframe can you describe for us first in  
16 a general sense the types of engagements or the types  
17 of projects and work you and your team did with PLT  
18 relative to their risk and their actuarial  
19 circumstances?

20 A. So we had a very active relationship time  
21 period starting in June of 2014. We did a reserve  
22 analysis which again is the actuarial analysis that I  
23 discussed earlier projecting the outstanding

1 liabilities for property-liability, workers'  
2 compensation and unemployment compensation. We also  
3 then went forward with the pro forma analyses. We  
4 used assumptions from the latest available reserve  
5 study and also the latest available rate level study  
6 which we also did the work for and did the  
7 calculations and provided results to PLT for their  
8 2015-2016 fiscal year and we used that information as  
9 the basis of our pro forma calculations as well as our  
10 loss estimates of the reserves in the past as well as  
11 what the losses for the ongoing period are going to be  
12 based upon our analysis and the results of our  
13 reports. We also worked with management cohesively in  
14 terms of getting the best assumptions in terms of how  
15 the future will play out in terms of the membership  
16 level, the operational expenses to run the pool and  
17 investment income that would be generated as a result  
18 of assets that were available to Property-Liability  
19 Trust, so we put all of that information together.

20 PRESIDING OFFICER: Just so I don't lose the  
21 thread, in June of 2014 you undertook first some  
22 actuarial analyses and also some pro forma analysis?

23 MS. STAZINSKI: Yes.

1           PRESIDING OFFICER: And in doing at least the  
2 pro forma analysis you relied on the rate level study  
3 and financials provided by PLT?

4           MS. STAZINSKI: Yes. The rate level study is  
5 in our reports. The financials would have been put  
6 together by Property-Liability Trust management.

7           PRESIDING OFFICER: What were the dates of  
8 the financials that were provided to you upon which  
9 you based your June 2014 rate level study? And you  
10 can take a moment or you can consult your notes, but I  
11 do want to remind counsel again that I'm looking for  
12 specific documentation of what these witnesses are  
13 relying upon. If I'm left with a financial moving  
14 target, it will be difficult to ascertain whether or  
15 not burdens have been maintained in these proceedings.  
16 So I mention it in passing after reflection of my  
17 notes last night. Well, enough said.

18           So I return to you. I've given you time to  
19 think about it. Do you have an answer?

20           MS. STAZINSKI: So when you say the date, I'm  
21 assuming you mean the as of date.

22           PRESIDING OFFICER: What's that?

23           MS. STAZINSKI: When you say the date, are

1 you saying the date it was actually provided to me or  
2 the evaluation?

3 PRESIDING OFFICER: No, the date of the  
4 information upon which you based your rate level  
5 study.

6 MS. STAZINSKI: Okay. The rate level study  
7 that we used for the pro forma would have had  
8 information, I believe, as of June 30th, 2014.

9 PRESIDING OFFICER: Thank you.

10 Q. (By Mr. Felmly) So starting from that point  
11 and the date of June 30th, 2014 and then in the fall  
12 of 2014 what additional work and analysis was  
13 underway? What were you doing?

14 A. So basically when we received the financials  
15 as of June 30th, 2014 we then in the fall did a set of  
16 pro formas using that information and that evaluation.

17 Q. Using the June 30th of '14 date?

18 A. Yes.

19 Q. Let me just ask you this. Because we use  
20 this word a lot. When you use the term pro formas,  
21 what's the working definition that we should  
22 understand you mean about that type of report or  
23 document? What is a pro forma as opposed to some

1 other kind of financial statement or balance sheet or  
2 whatever?

3 A. A pro forma is basically taking a balance  
4 sheet but projecting it years into the future. So the  
5 June 30th, 2014 balance sheet is the starting point of  
6 our pro forma analysis, but they then project what the  
7 balance sheet is going to look like over the next five  
8 years, so the entire analysis of looking at these  
9 snapshots of the balance sheet over the next five  
10 years is what we call a pro forma analysis.

11 Q. And you did multiples of those during the  
12 2014-2015 period?

13 A. Correct. We did.

14 Q. And in terms of that process were there  
15 particular people at PLT that you worked more  
16 extensively with than others? Who were the people  
17 that you were primarily engaged with in obtaining that  
18 data and consulting with them on that data?

19 A. We worked with Wendy Parker and George  
20 Tsiopras. Occasionally we would work with Ken Rooster  
21 in terms of supplying some data and information, but  
22 our deepest relationships were with Wendy Parker and  
23 George Tsiopras of PLT. We also worked with Mike

1 Coutu at certain points in time as well when he was  
2 engaged or when he was the liaison.

3 Q. And in terms of your work with him, would  
4 that include actual discussions and trading emails and  
5 communications?

6 A. Yes, there would be discussions that Mike was  
7 involved with, and at the time we would have those  
8 discussions Wendy or George would also be involved.

9 Q. And how would you characterize both the  
10 extent of Mr. Coutu's involvement or participation in  
11 this process as well as the extent to whether it was  
12 either of assistance or not?

13 A. Can you repeat the question?

14 Q. Yeah. I'm trying to find out how you would  
15 characterize the interactions with Mr. Coutu. Were  
16 they extensive? Were they helpful? Were they not  
17 helpful?

18 A. The discussions that we had with Mr. Coutu  
19 were very objective trying to understand the analyses  
20 that we were providing to PLT, answering any questions  
21 that he had as he went through the details, so the  
22 discussions were very productive and they were very  
23 businesslike types of discussions. When we were



1 explaining our analyses a question would be asked and  
2 we would put forth the answer and any follow-ups, so  
3 that type of interaction.

4 Q. Now, you heard testimony from Ms. Parker  
5 yesterday about how there was a strategic plan  
6 prepared in roughly the November-December timeframe  
7 and there were some addendums to those plans. Are you  
8 familiar with those processes or those plans?

9 A. Yes.

10 Q. And is part of your work in actuarial  
11 projections and pro formas going to be part of what  
12 those plans set out?

13 A. Yes.

14 Q. So that work continues over what period of  
15 time? You've discussed it started in the fall and  
16 obviously the strategic plan goes through a couple of  
17 iterations. What is the basic timeframe with Towers  
18 Watson with you leading that effort and continuing  
19 that work of providing pro formas and revisions to  
20 those?

21 A. So we did our work in the fall of 2014 which  
22 included mostly research into the pro formas with the  
23 financial information as of June 30, 2014. Then when

1 information became available, when loss information  
2 became available for us to do another actuarial  
3 analysis, we updated our reserve report and our  
4 actuarial report to reflect data as of December 31,  
5 2014, and then in the spring of 2015 we updated and  
6 revised the pro formas, the balance sheet projections  
7 using a starting point still with the financials as of  
8 June 30, 2014, but we were able to update the loss  
9 information to be more reflective of more recent data.  
10 Also, we were provided assumptions about the future in  
11 terms of operating expenses that were more up-to-date  
12 as well.

13 Q. And that would come from who? The client?

14 A. Yes, those would come from the client, from  
15 PLT management.

16 PRESIDING OFFICER: Excuse me. Point of  
17 clarification. In just reciting the strategic plan  
18 and when you updated it, you made reference to a  
19 second updating in the spring of 2015, is that  
20 correct?

21 MS. STAZINSKI: Yes.

22 PRESIDING OFFICER: I thought I heard you say  
23 that the update in the spring of 2015 still was based

1 on the data of June 30, 2014. Did you mean to say  
2 2015?

3 MS. STAZINSKI: When we do our pro formas we  
4 have a starting out point, so because the fiscal year  
5 is a twelve month period, there wasn't really a good  
6 way for us to start with December 31, 2014 from a  
7 financial balance sheet perspective, but we did update  
8 our projections and losses going into the future using  
9 December 31, 2014 data and evaluating the data, so  
10 that was more on the actuarial side of the house using  
11 more recent data, but we still started with the  
12 June 30, 2014 financials.

13 PRESIDING OFFICER: And that was true when  
14 you updated it in the spring of 2015?

15 MS. STAZINSKI: Yes.

16 Q. So just staying with that for a second, the  
17 baseline, if you will, or the foundation for those pro  
18 formas started with the June 2014 data and that  
19 continued, but as you got the December data a portion  
20 of this pro forma dealing with the losses was updated  
21 by the more recent December data, is that correct?

22 A. Yes.

23 Q. And that was then carried forward, is that

1 true?

2 A. Yes.

3 Q. And is that something that was uniquely  
4 tailored for this situation or would it be common in  
5 actuarial practice to do it that way?

6 A. It would be common to do it that way if we  
7 were to do an analysis for another client to start off  
8 with the more recent, full-year financials and then if  
9 needed, if more actuarial data or reports are  
10 available to help us project the future that is more  
11 relevant for what we would expect to happen in the  
12 future, that would be the way that we would do it.

13 Q. Incidentally, at the end of our discussion  
14 today I'm going to ask you some questions about the  
15 critiques in the expert report that the BSR has  
16 provided. Some of their critiques deal with whether  
17 or not your work is in accordance with accepted  
18 standards of actuarial practice or the rules or  
19 guidelines of the profession. So as far as you know,  
20 is the work that you have done for PLT in preparing  
21 these pro formas and the exhibits that we're going to  
22 be using, to your knowledge is it consistent do you  
23 believe with accepted standards of actuarial

1 principles and the guidelines that govern your  
2 profession?

3 A. Yes. There are many actuarial standards of  
4 practice. The more relevant ones are what we call the  
5 standards of practice related to cash flows which is  
6 number 7. There's also an actuarial standard of  
7 practice related to credibility which is number 25  
8 which is relevant. There's also an actuarial standard  
9 of practice that provides guidance to actuaries in  
10 terms of how to project reserves or liabilities and  
11 that's number 43 which is very relevant to the work we  
12 did for Property-Liability Trust.

13 Q. And that body or standard is called what?  
14 What's the title that's given to that in your  
15 profession?

16 A. The actuarial standard of practice?

17 Q. Yes.

18 A. Can you repeat that?

19 Q. Yeah. I'm just trying to find out what we  
20 call -- I think I have them here -- but what we call  
21 that body of work or the name of that standard, what  
22 the abbreviation is.

23 A. Yes, they're called ASOPs or actuarial

1 standards of practice.

2 Q. And that's what you were referring to when  
3 you identified the specific ones at issue here?

4 A. Yes.

5 Q. In terms of your work in this matter and what  
6 your firm has prepared, you believe it is consistent  
7 with that practice?

8 A. Yes, I do.

9 Q. So let me take you to the pro forma that has  
10 been referred to and was discussed extensively by Ms.  
11 Parker yesterday. That's going to be the June 29,  
12 2015 pro forma which we've marked as Exhibit 8 and I  
13 want to direct your attention to that and have you  
14 explain for purposes of this proceeding to the Hearing  
15 Officer what the salient findings of that are and what  
16 the projections of that are.

17 PRESIDING OFFICER: That would be in book 2?

18 MR. FELMLY: Book 2, number 8.

19 PRESIDING OFFICER: Thank you.

20 Q. So in terms of just the responsibilities or  
21 the participation in this, if we turn to page 10 of  
22 Exhibit 8 we can see that you are a signatory together  
23 with Ms. Centofanti of this document.

1 A. That's correct.

2 Q. Your signature is at the bottom. Are you the  
3 person primarily responsible for that?

4 A. Yes.

5 Q. And in terms of its assembly and direction  
6 and the underlying information that was both  
7 calculated in it as well as narratively described, are  
8 you the person that would be most involved or  
9 responsible for it?

10 A. Yes.

11 Q. Before we were talking about something that's  
12 called peer reviewing. Is this the type of document  
13 that within your organization some other colleague  
14 would likely be involved in reviewing or providing  
15 peer review on?

16 A. Yes.

17 Q. And to your knowledge did that happen with  
18 this document?

19 A. Yes.

20 Q. And that's a standard practice that you  
21 follow?

22 A. It is a standard to have all deliverables  
23 receive an objective peer review.

1 Q. So big picture. This is a pro forma, and  
2 what is the information or what does this pro forma  
3 set forth or provide in terms of information to the  
4 reader? What's the purpose of the study and what's  
5 the summary of what it describes or tells the reader?

6 A. The purpose of this report was to provide  
7 information to Property-Liability Trust to understand  
8 their financial position in terms of the net position  
9 over the next -- we have eight years listed here --  
10 over the eight-year period year looking at. In other  
11 words, we have projected the balance sheet going  
12 forward between 2014-2015 through 2021. Basically  
13 this two-pager is a summary of various important items  
14 that go into a balance sheet so at the end of the day  
15 you can understand what the net position is in terms  
16 of dollars and then a related confidence level in  
17 terms of what the net position represents in terms of  
18 the confidence level of the reserves. So those are  
19 the two large takeaways.

20 MR. VOLINSKY: The witness referred to a  
21 two-pager.

22 MS. STAZINSKI: I'm sorry. Summary sheets 1  
23 and 2.



1 Q. When you refer to the two pages you're  
2 referring to the same two pages that immediately  
3 follow the signature page which we focused on with Ms.  
4 Parker yesterday, is that right?

5 A. That's right.

6 Q. Sheet 1 and sheet 2?

7 A. Yes.

8 Q. And I think I hear you saying those two pages  
9 contain a lot of the salient information that's  
10 important to focus on to understand the conclusions.  
11 Did I get that right?

12 A. Yes, that's correct.

13 Q. So we won't ignore everything else, but we  
14 will spend some time on these two pages. There was  
15 some discussion about confidence levels yesterday.  
16 You deal with confidence levels as part of your risk  
17 assessments all the time, is that true?

18 A. Yes, sir.

19 Q. So explain to us in practical lay terms, if  
20 you can, what is a confidence level when it's applied  
21 to a pro forma where you are projecting and trying to  
22 analyze the probability of certain loss exposure  
23 that's going to confront the client in the future.

1                   PRESIDING OFFICER: Mr. Felmly, just ask her  
2 the question. Tell me about confidence level.

3                   A. So Wendy explained it really well yesterday.  
4 A confidence level is a statistical calculation where  
5 based on information relevant to the coverages at hand  
6 in terms of frequency and severity, it's a loss  
7 simulation or a statistical calculation of the  
8 probability that there will be enough to pay all the  
9 claims by the time all the claims are paid out. So a  
10 90 percent confidence level would represent that nine  
11 out of ten times you will have enough money to pay all  
12 of your claims. A 70 percent confidence level would  
13 represent that you have a seven out of ten chance or  
14 seven times out of ten you pay all the claims by the  
15 end day, by the time they're all closed out.

16                   PRESIDING OFFICER: If you will allow me, do  
17 you make certain assumptions to reach that confidence  
18 level?

19                   MS. STAZINSKI: In our actuarial judgment we  
20 have to make some assessment in terms of severity, but  
21 those assumptions are based upon the historical  
22 experience of PLT.

23                   PRESIDING OFFICER: Thank you. Mr. Felmly,

1 continue.

2 Q. So in terms of sort of the bottom line or the  
3 conclusion or the baseline information that the pro  
4 forma is presenting, how important are the confidence  
5 level numbers or figures? In other words, if you're  
6 assessing viability or how well a company is doing  
7 over a period of time and how they are going to  
8 perform, what's the relevant importance of the  
9 confidence level?

10 A. The relevant importance of the confidence  
11 level gives you a gauge to understand whether the  
12 company or the pool will be able to pay out its  
13 obligations or its promises in terms of the policies  
14 it has issued; is there enough money beyond what is  
15 booked on the liability line; is there enough left  
16 over in terms of the net position in case the  
17 liabilities aren't correct, because the liabilities  
18 are booked at a 50 to 55 percent confidence level and  
19 the remaining net position is there as a cushion just  
20 in case your liability which is at a 50 to 55 percent  
21 confidence level isn't enough.

22 Q. So let me ask you to take page 1 of the two  
23 sheets which is the page right after the signature

1 line, and I realize it's very small print, but  
2 focusing on that and explaining how you are going to  
3 work us towards this confidence level analysis, where  
4 does it start and what is the significance of the  
5 first entry which is called Gross Earned/Collected  
6 Contribution?

7 A. The first block here is what PLT collects  
8 from its membership in terms of contributions or what  
9 is known as premium which is what do the members pay  
10 for the coverage they're buying from PLT. So we start  
11 off with \$17,880,000 in column 4 and that's the amount  
12 for property-liability and workers' compensation. As  
13 you go down the column you will see that the numbers  
14 decrease in '14-'15 to 12.773 and as you move down to  
15 2021 you'll see the contributions that are collected  
16 are \$16.78 million. So basically we project in the  
17 future what the contributions will be collected from  
18 membership based on assumptions of the level of  
19 membership in this ongoing scenario and also in terms  
20 of what rate level changes will be taking place over  
21 those subsequent years.

22 Q. Now, the rate level information is  
23 information that you get from where?

1           A. The rate level changes are selections made by  
2 management as to what the rates will be, what they  
3 would take in terms of actual adopted rate level  
4 changes in the future, so those are provided in  
5 consultation with management.

6           Q. And if you change the rate assumptions do you  
7 have software available that you can run to see the  
8 impact of changes in rates and be able to assess what  
9 difference it makes if the rate is slightly higher or  
10 lower?

11          A. Yes.

12          Q. There must be also information I assume about  
13 the number of members you're going to have or some  
14 proxy of numbers. We heard something about exposures.  
15 Can you explain how that plays out?

16          A. Yes. So in the scenario we have here, the  
17 assumption is that membership will remain the same  
18 after '14-'15, that the overall level of exposure  
19 would remain flat, and that would include losing  
20 members and adding members, but the net effect would  
21 be neutral, so there would be the same level of  
22 exposure going into the future.

23          Q. So you're not projecting growth in the number

1 of members?

2 A. We're not explicitly. We're saying  
3 everything will stay constant.

4 Q. It's likely some people will leave and some  
5 people will come on, but you are essentially factoring  
6 that as a constant?

7 A. Yes.

8 Q. The next entry is entitled Reinsurance Cost,  
9 and how does that then implicate or affect this  
10 calculation that we're working down through?

11 A. So reinsurance costs are the -- it's  
12 basically what PLT pays to reinsurers, so when claims  
13 get to be a certain size they will have another  
14 insurance carrier take over if it goes beyond the  
15 retention level. So property-liability, for example,  
16 has a retention level in the future of \$250,000 per  
17 claim and when a claim gets to \$300,000 or \$350,000,  
18 PLT would cover the first \$250,000 and the reinsurer  
19 would cover the next \$100,000, but in order to do  
20 that, in order to get that coverage, PLT has to pay  
21 the reinsurer for that as well, so it's the cost for  
22 protection to pay claims when they go above the  
23 self-insured or the retention level.

1 Q. What is net earned/collected contributions?

2 A. That's just the difference between gross  
3 contributions and reinsurance costs, so it's the  
4 amount that is left over at PLT after they have paid  
5 the insurance.

6 Q. These would be the members' contributions  
7 after the payment goes out to the reinsurers to  
8 provide that reinsurance protection?

9 A. Yes.

10 Q. All right. Retained insured loss and LAE  
11 including SIF assessment, what is that and how does it  
12 affect this calculation as we're moving through?

13 A. This is a large actuarial component that goes  
14 into the pro forma calculation so that you have the  
15 projections of what the losses will be for each fiscal  
16 year going forward. It also includes what Wendy  
17 referred to yesterday as the unallocated loss  
18 adjustment expense or the cost to handle claims. It  
19 also includes what the workers' compensation coverage  
20 has to pay which is a self-insured fund assessment.  
21 So there's a fund in the state of New Hampshire that  
22 workers' comp carriers or pools have to pay into and  
23 each are assessed a certain amount of money. So

1 there's the losses that PLT has to cover in the  
2 future, there's the ULAE amount which is the cost to  
3 handle claims as well as the workers' comp assessment  
4 that they will get assessed for in the future, so  
5 there's three components there, but largely it's the  
6 losses.

7 Q. Now, you said this is a large actuarial  
8 component of the calculation. Is this the  
9 demonstration you provided to us earlier explaining  
10 the triangles and how you do a methodology of how this  
11 is applied?

12 A. Yes. It's the result of all the methodology  
13 and the examination of the triangles and the  
14 examination of our analysis.

15 Q. So this is the place where you take the  
16 individual claim and you assess it against that  
17 triangle analysis and project it forward and using  
18 software you do that for a large number of the pending  
19 claims?

20 A. Exactly.

21 Q. And then you are able to provide what?  
22 Provide on an ongoing basis your actuarial assessment  
23 of the loss?



1 MR. VOLINSKY: I think at this point I would  
2 object to the leading.

3 PRESIDING OFFICER: The basis?

4 MR. VOLINSKY: Leading.

5 PRESIDING OFFICER: Mr. Felmly, would you  
6 please try to do it a different way?

7 MR. FELMLY: It was leading, but I thought it  
8 was a summarization.

9 PRESIDING OFFICER: But I would like to hear  
10 it from witness because you're going to ask me to  
11 accept her as an expert and if she's the expert, she  
12 should be able to explain it to me.

13 MR. FELMLY: I apologize.

14 Q. Would you please explain for us the  
15 methodology and the tools and the way in which this  
16 particular actuarial component is calculated,  
17 reviewed, assessed and provided?

18 A. Based on the experience of PLT coverages, we  
19 reviewed the losses, what we call losses per exposure  
20 by line of coverage and we project based on the  
21 exposures going into the future what the losses will  
22 be at a central level basis, and those losses are  
23 based on the methodology of looking at PLT specific

1 information. We take a look at the historical  
2 experience to help us understand what the loss  
3 exposure is and that ultimate loss exposure is based  
4 upon a review of the triangulation analysis which  
5 includes several loss development projections and we  
6 carry forward what we think is a loss per exposure.  
7 However, we also have to trend as well going into the  
8 future because of inflationary changes between what it  
9 costs to pay a claim today versus what it will cost  
10 three to five years down the road, so we also build  
11 that trend into our analysis as well which is based on  
12 PLT experience. We also bring in a calculation based  
13 on PLT's experience of what an allocated loss expense  
14 would be and we also calculate a self-insured  
15 assessment amount based on what the assessments were  
16 in the past and project that as well into the future.  
17 So based on all of this information historically that  
18 is PLT specific going back at least fifteen years, we  
19 have a wealth of information to project what the  
20 losses will be based on the exposure assumptions going  
21 out into the future and that's how we project the  
22 losses starting out with \$12.783 million going down to  
23 \$8.7 million because of the decrease in exposure level

1 that Wendy talked about yesterday and then we  
2 projected going forward up to \$10.5 million because of  
3 basically trend, so it's going to cost a little bit  
4 more and more each year because of inflation to pay  
5 for claim costs and they will increase over time, so  
6 that's why that increases and those are what we expect  
7 the losses, the ULAE and the assessment to be each  
8 year going forward on an ongoing basis.

9 Q. And in terms of that approach and methodology  
10 that you've described can you tell us over what period  
11 of time and at what frequency you are involved in  
12 doing these types of analyses with other clients or  
13 similar situations to this one?

14 A. We routinely look at our clients at least  
15 once a year. So basically whenever their fiscal year  
16 is complete and they have to do a financial statement,  
17 that is the typical time. We also have other clients  
18 that like to have a preview or an earlier look at what  
19 the indications are as well, so having an every six  
20 month look as well. We have some clients that do  
21 that. We have some clients that just look at it once  
22 a year. We were actually just looking at it once a  
23 year up until about 2013 with PLT, but then with all

1 of the various issues and things going on with PLT we  
2 looked at it every six months which in this case  
3 because of the surrounding circumstances it makes  
4 sense to keep a close eye on the losses, so looking at  
5 it every six months gives you a better handle on what  
6 the liabilities are given the financial condition that  
7 PLT is in.

8 Q. What do you mean when you say in this case?  
9 What are the factors in the financial condition that  
10 warrant more inquiry or focus than perhaps might be  
11 the case with somebody else?

12 A. Well, in this situation given the various  
13 payments made by PLT over the last couple of years, I  
14 think yesterday we talked about the \$3 million payment  
15 and the substantial \$17 million payment, that has put  
16 PLT into a more volatile, sensitive financial  
17 condition. It's not because PLT has had bad  
18 experience. In fact, up to a couple years ago there  
19 was significant good experience that PLT had been  
20 experiencing and it's been stable since then. We just  
21 want to make sure that by looking at it every six  
22 months we're keeping a close eye on the losses just  
23 because there's less net position to support the

1 business in case there's a sudden change.

2 Q. So in terms of the number of these types of  
3 studies in your career that you have done with  
4 comparable types of assessment on losses and leading  
5 that type of inquiry, can you give us an order of  
6 magnitude as to the number of times you have done  
7 similar kinds of projections and studies?

8 A. I would say currently I work on around  
9 somewhere in the neighborhood of five to ten clients  
10 where I take a look at their liabilities two times a  
11 year, but for most of my other clients it's probably  
12 one time a year.

13 Q. So is this scores or hundreds or how many  
14 times do you think you've done this type of analysis?

15 A. Oh, this type of analysis throughout my  
16 entire career?

17 Q. Yeah.

18 A. I've probably done -- reserve analyses?  
19 That's a great question. I don't know. Two hundred  
20 to three hundred to four hundred in my career.  
21 Something like that. Pro forma analyses I've done, I  
22 would say at least, you know, 25 to 50 in my career,  
23 so I've seen many of these and many types of rate

1 studies and reserves analyses.

2 Q. Let's move to operating expenses excluding  
3 ULAE. I would just ask you what that part of the  
4 table is and what it shows.

5 A. So this part of the table shows the expenses  
6 that have been provided by PLT except that the only  
7 expense component that's not here, and Wendy went  
8 through this, is ULAE, but this is all other expenses  
9 except for ULAE that are expected to be incurred by  
10 PLT over the course of this future period.

11 PRESIDING OFFICER: Excuse me again. Would  
12 you please tell me what ULAE stands for as an acronym  
13 and also SIF?

14 MS. STAZINSKI: So ULAE is unallocated loss  
15 adjustment expenses, and those are the costs to handle  
16 claims, and SIF stands for self-insured fund, and  
17 that's another pool in the state of New Hampshire.

18 PRESIDING OFFICER: Understood. I just  
19 needed to make sure that I understood what those  
20 acronyms are.

21 Q. So the way in which the operating expenses  
22 get factored into this formula is what?

23 A. So basically these expenses are provided by

1 management as a flat cost amount going into the future  
2 based on management analysis and assessment of what it  
3 will take to run the company going into the future  
4 with the caveat that it doesn't include ULAE.

5 Q. The next one, combined ratio as a percentage  
6 of gross earned/collected contributions, can you  
7 explain what the combined ratio is designed to show?

8 A. So the combined ratio, the first set here  
9 uses gross earned contributions. The second ratio is  
10 more relevant. It uses net earned contributions, but  
11 basically a combined ratio theoretically helps you  
12 understand for every dollar of premium or contribution  
13 that comes in the door what percentage of it do you  
14 use to pay for the losses that you have incurred and  
15 the operational expenses to run the pool, so if you  
16 have a combined ratio, and if we skip down to  
17 percentage of net which is more relevant because the  
18 reinsurance cost is deducted from that and what's  
19 really left over for PLT, if you skip down to the  
20 combined ratios as a percentage of net  
21 earned/collected contribution you'll see 107.5 in  
22 '13-'14. What that means is for every dollar  
23 contribution that comes in the door you pay one dollar

1 and 7 and a half cents in losses and operational  
2 expenses, so basically that other seven and a half  
3 cents needs to be funded some other way whether it be  
4 through investment income or net position, but  
5 basically it gives you a relative idea of the adequacy  
6 of the contribution that's left over after you pay  
7 reinsurance to pay the obligations.

8 Q. And what would you be looking for as the  
9 target there if you had your druthers with respect to  
10 the company?

11 A. In the pooling industry I would be looking  
12 somewhere at around a hundred percent. It would  
13 depend on the investment income potential, but having  
14 it somewhere in the range of a hundred percent would  
15 give me comfort that the adequacy of the rate level is  
16 close to being break even which is for the most part  
17 the nonprofit mission of most pools.

18 Q. So let me take you over to page 2 of these  
19 two sheets. At the top of the page it has  
20 underwriting profit/loss per year. How do those  
21 calculations affect the pro forma that you're doing?

22 A. The underwriting profit/loss basically tells  
23 you before investment income whether the rate level is



1 enough or not enough, so with a negative number, and  
2 you'll see in column 4 for '14-'15 it's a negative  
3 720, that tells you the premium for '14-'15 has a loss  
4 of \$720,000. As you move down the column the numbers  
5 become positive. There's \$148,000 in '17-'18 up to a  
6 little over a million by the last period, so on an  
7 underwriting basis the premium is enough to cover  
8 losses and expenses before you consider investment  
9 income.

10 Q. And that's the next category, investment  
11 income, and this information impacts it in what way?

12 A. That assumption is largely driven by input  
13 from management. We were given the results of their  
14 internal analysis of what the investment rate of  
15 return going forward into the future is. We were  
16 provided investment rates and we calculated what the  
17 dollars of investment would be based upon those  
18 investment rates which were provided by PLT  
19 management.

20 Q. And to what extent is the investment income  
21 posture of the company affected by the millions of  
22 dollars in payments they have made?

23 A. So because there's less position available

1 after the payments that Wendy went through yesterday,  
2 more recently the \$17 million and the \$3 million  
3 payment, there's less net position available to  
4 generate investment income which has the effect  
5 coincidentally on property-liability because when we  
6 did that rate study we assumed there would be more  
7 assets available to generate investment income which  
8 is an important assumption in a rate study because  
9 basically the less you have in available assets to  
10 invest obviously the less investment income can be  
11 generated, so with a small net position you also have  
12 the premiums that are coming in the door each year and  
13 when they are collected and the time claims are paid.  
14 You also have that source to generate investment  
15 income as well. That's basically how the investment  
16 income is generated.

17 Q. Before we get down to confidence level we  
18 have two more, net income after return to BSR and net  
19 position, so we're sort of in the home stretch of this  
20 calculation. Can you tell us, these net numbers, what  
21 do they tell us?

22 A. The net income block here tells you each  
23 fiscal year after investment income whether it's

1 adding money or deleting money or taking away money  
2 from net position. So the minus \$685,000 shows us  
3 that that particular fiscal year is projected to be a  
4 loss, so the subsidy would come from net position, but  
5 as you move down the column you'll see that the net  
6 position turns positive, and when you have positive  
7 numbers each year you are left over with additional  
8 funds and that additional amount would go into net  
9 income each year. If you move down to the net  
10 position block, this is a cumulative tally of what the  
11 net position is for each fiscal year going into the  
12 future starting with the \$1.35 million of net position  
13 which again was the starting point of our analysis  
14 which was based off of the financial statement as of  
15 June 30th, 2014.

16 PRESIDING OFFICER: Excuse me just a moment.  
17 The group that you're speaking of now and the group of  
18 calculations immediately above that as net income,  
19 were those numbers provided to you by PLT management  
20 or is that an independent calculation by you?

21 MS. STAZINSKI: The net income?

22 PRESIDING OFFICER: Net income and net  
23 position.

1 MS. STAZINSKI: The net income is a  
2 calculation that is generated based on a combination  
3 of our work and PLT input, so it's basically premiums  
4 coming in the door minus the losses minus the  
5 operational expenses plus income, so it's a  
6 calculation. It's a result of some additions and  
7 subtractions. The net position is the starting point  
8 provided by PLT, the \$1.35 million, and then  
9 calculated going into the future based on our  
10 calculations of what the net income will be each year.

11 PRESIDING OFFICER: You do the calculation  
12 and they provide the figures?

13 MS. STAZINSKI: Yes.

14 PRESIDING OFFICER: Is that the same as the  
15 group above?

16 MS. STAZINSKI: We do the calculation.

17 PRESIDING OFFICER: And they provide the  
18 figures?

19 MS. STAZINSKI: Some of them.

20 PRESIDING OFFICER: Which figures do you  
21 provide?

22 MS. STAZINSKI: We provide the incurred loss  
23 from the prior page, the loss figure there, and they

1 provide a lot of the input for everything else.

2 Q. (By Mr. Felmly) So take us through that.  
3 Once that is completed are we at the point now where  
4 you are able to address the confidence level and the  
5 outcome of this?

6 A. Yes.

7 Q. And can you explain how that becomes sort of  
8 the conclusion or bottom line?

9 A. So we start off with that \$1.35 million net  
10 position number, and because of the calculations we're  
11 taking a look what the net position will be over the  
12 future period and so we end up with \$3.7 million by  
13 2021 in a net position. Then you move down to the  
14 confidence level block and you'll see that the  
15 confidence level starts off with 70 percent. We  
16 talked about confidence level earlier. In other  
17 words, the \$1.35 million of net position gives PLT  
18 70 percent confidence that they will be in a position  
19 to pay all of their claims between now and the time  
20 they are all closed, but because net position  
21 decreases in '14-'15 and it decreases down to about  
22 \$318,000, then it starts to increase again, and you'll  
23 see that the confidence level goes from 70 percent to

1 64 percent down to a low of 60 percent and then builds  
2 back up over time to 61, 66, 77, 86 and then to the  
3 last number of 93 percent confidence level, so in  
4 other words, this projection shows that by the time  
5 you get to 2021 the expectation is that PLT will be  
6 back to its policy of a 90 percent confidence level  
7 which is what the Board has decided is a reasonable  
8 level of net position.

9 Q. So in terms of the data available and the  
10 assessment you made in applying the accepted standard  
11 for actuarial assessment, in terms of the outcome here  
12 in regards to these confidence levels, what is your  
13 opinion with respect to the viability or how would you  
14 describe the financial viability of the company in  
15 light of these numbers and calculations?

16 A. Based on our analysis which we've gone  
17 through in pretty good detail, we've gone through a  
18 rigorous analysis, we and PLT, we've worked with them  
19 for many years and we feel very strongly that the  
20 losses brought into the analysis are very good numbers  
21 and that the assumptions that were also brought in  
22 based on PLT management are also reasonable that we  
23 have brought in here, the rate changes, the

1 operational expenses provided by management based on  
2 their assessment, but also to the extent we see these  
3 types of assumptions with other pools, we believe that  
4 they are within a realm of reasonable ranges.  
5 Therefore, based upon that assessment of the building  
6 blocks and looking at these confidence levels as we go  
7 into the future, the confidence level does go down a  
8 bit but is built up over time and with this plan and  
9 these reasonable, assumptions, I feel strongly that  
10 this is a good plan and a good basis to go forward and  
11 to get back to the level of operation that PLT was at  
12 just a short time ago before having to pay the  
13 millions of dollars that put them into the financial  
14 position they are now in.

15 Q. Based on the other aspects of the business  
16 leaving aside the payments they had to make, when you  
17 look at the skill level or the nature of the workers  
18 or the nature of the operation is there any other  
19 institutional problem or challenge that you see with  
20 the organization that tells you that they're not  
21 positioned to move forward on this plan recognizing  
22 they have --

23 PRESIDING OFFICER: You can answer that

1 question. Do you see any problem with their moving  
2 forward?

3 A. I don't see any problem with them going  
4 forward. The assumptions and the organization which  
5 we have frequent contact with when we do our analyses  
6 is a strong organization and is very diligent about  
7 what their mission and vision is, and in terms of how  
8 to operate this pool it seems like a strong  
9 organization with a good plan to go forward.

10 PRESIDING OFFICER: Mr. Felmly, how much  
11 longer do you have? I'm inquiring for the  
12 stenographer.

13 MR. FELMLY: I think I'm moving to my last  
14 area of topic. I would estimate it's fifteen to  
15 twenty minutes.

16 (There was a short recess.)

17 PRESIDING OFFICER: All right. We are  
18 returning on the record from our recess. Mr. Felmly  
19 has Ms. Stazinski on direct. Would you please  
20 continue.

21 Q. Let me just deal with two quick housekeeping  
22 things to clarify and correct one issue. While you  
23 were describing workers' comp related issues you



1 referenced a self-insured fund and during the break  
2 you indicated that may not be the correct term for it.  
3 What term were you talking about?

4 A. I was talking about the second injury fund.

5 MR. FELMLY: Just in terms of the place in  
6 the record where some of the documents the witness has  
7 spoken to are, and I'm mindful of the Hearing  
8 Officer's suggestion that that's helpful, I wonder if  
9 we can just identify for the record and mark some of  
10 those starting with the June 30, 2014 audited  
11 financials which you described as one of the starting  
12 places in book 1 in Exhibit 1, essentially Exhibit E.  
13 It's Exhibit 1 of book 1 and then within that it's the  
14 E exhibit. The second one is the December 31, 2014  
15 updated numbers and that's the analysis of unpaid loss  
16 and ULAE as of 12-31-2014, and that's at book 2,  
17 Exhibit 7, and then finally the budget for fiscal year  
18 2015 is at book 1, Exhibit 1, Exhibit G, tab E and  
19 it's in a column called Fiscal Year 2015 PLT-Revised  
20 September 2014. I just offer those so that we can  
21 find those documents in the record. It's actually the  
22 last page, the last one of that document.

23 PRESIDING OFFICER: I'm sorry?

1 MR. FELMLY: In that document, the  
2 information that's pertinent is on the last page of  
3 the exhibit.

4 PRESIDING OFFICER: Thank you very much for  
5 being specific.

6 Q. So let me just finish up with the issues  
7 raised by Casco and give you the opportunity to  
8 comment a bit on that while you're on the stand. You  
9 read the expert report that they provided which  
10 comments on your work.

11 A. Yes, I have.

12 Q. Is Casco Consulting Group known to you? Have  
13 you had experience with them?

14 A. No, I have not.

15 Q. In your work with pooled risk funds have you  
16 come across them or heard of them or do you have any  
17 knowledge as to whether or not or to what extent they  
18 work with pooled risk funds?

19 A. No, I have not heard of their actuarial  
20 consultancy experience with pooled risk funds.

21 Q. And in looking at their web site and the  
22 resumes provided is there any reference there to  
23 either a pooled risk fund client that you can identify

1 or the organizations that you referenced that are  
2 actively pooled risk funds?

3 A. There is no reference to actual pooled risk  
4 funds and there's no reference to the organizations we  
5 referenced earlier, AGRIP or NLC-RISC, which are  
6 organizations that are in the business of helping  
7 pooled risk funds.

8 Q. Now, one of the issues they raised dealt with  
9 membership levels and a concern that the assumptions  
10 here involving membership levels may be a criticism or  
11 a concern in the way they are treated here. What was  
12 your understanding of what they were concerned about  
13 or complained about in terms of your analysis  
14 involving the membership level information?

15 A. My understanding of their critique of the  
16 membership level is that there was no assumption of  
17 adverse selection of the membership going into the  
18 future.

19 Q. And is that a term you are familiar with or  
20 have heard of before?

21 A. Yes, I am familiar with the term adverse  
22 selection.

23 Q. And what does it mean?

1           A. It means that when you are in the business of  
2 insurance and you play out into the future in this  
3 situation, that if membership does decline, that you  
4 could be left with worse than average type of members  
5 in terms of their loss propensity.

6           Q. And what's the mechanism of that? Why do you  
7 end up with the bigger risk?

8           A. The mechanism would be as the rates are  
9 increased going into the future, that because of  
10 competitive nature of the business the more favorable  
11 risks may be priced more favorably elsewhere than PLT  
12 and would leave PLT the more adverse risks which would  
13 not get favorable pricing given their theoretical  
14 adverse experience and would stay with PLT.

15          Q. In your work in connection with these pro  
16 formas that we've been discussing today and before you  
17 ever read the Casco criticism on that, to what extent  
18 had Towers Watson's work assessed the issue of whether  
19 that adverse selection phenomenon could be a problem  
20 in this case?

21          A. When we did the last rate study we actually  
22 had a conversation with Wendy Parker about that  
23 potential phenomenon and whether, because of the

1 decline in membership that Wendy talked about  
2 yesterday, roughly 20 percent in 2014, we addressed  
3 that question and asked her from her perspective the  
4 nature and profile of the membership that had remained  
5 and she didn't have any concerns, but we also wanted  
6 to take a look at the historical information of the  
7 current membership and we took a look at it in terms  
8 of their historical loss ratios, comparing their  
9 historical loss ratios of what the remaining  
10 membership was compared to the historical loss ratios,  
11 and we did not see any concrete differences. They  
12 were pretty much relatively the same.

13 Q. This was before you heard the Casco critique?

14 A. Yes, this was before.

15 PRESIDING OFFICER: What was the date of the  
16 last rate study that you just referred to?

17 MS. STAZINSKI: The date of the last rate  
18 study was for the fiscal year '15-'16 and so that was  
19 done -- I believe it was released in November of 2014.

20 Q. And are there exhibits or graphics that you  
21 have prepared which are Exhibits 14 and 15 in book 2  
22 that deal with this comparison of loss ratios with  
23 different membership groups?

1           A. Yes.

2           Q. So looking at Exhibit 14, what does that tell  
3 the reader?

4           A. This tells the reader if you look at the  
5 yellow bar that the historical five-year loss ratio of  
6 current membership is 46 percent, and taking a look at  
7 the entire historical experience of Property-Liability  
8 Trust -- this is just workers' comp by the way -- so  
9 the current '14-'15 members, what their last five  
10 years were in terms of losses divided by contributions  
11 compared to all membership that was part of PLT's  
12 workers' comp coverage for the same five years, and we  
13 evaluated whether the loss ratios were different and  
14 it turned out they were relatively the same.

15          Q. And how about Exhibit 15? Now dealing with  
16 the property-liability loss ratios, what is your  
17 explanation for the relevancy of the data shown on  
18 that chart?

19          A. So similarly we did an analysis of  
20 property-liability coverages and we took a look at  
21 loss ratios spanning the last three to five years for  
22 current members in yellow and that loss ratio was  
23 42 percent and for all members over that three to

1 five-year it was a little bit higher actually at  
2 56 percent, so --

3 Q. So --

4 MR. VOLINSKY: If he could let her finish the  
5 answer.

6 PRESIDING OFFICER: Either that or he needs  
7 to follow up. Mr. Felmly, go ahead. Continue where  
8 you're going.

9 Q. Finish your answer, please.

10 A. So in this particular case actually the  
11 current membership shows to have a better experience  
12 because the loss ratio is lower than the historical  
13 experience of all members that were part of  
14 Property-Liability Trust over the last three to five  
15 years.

16 PRESIDING OFFICER: Thank you. Are you all  
17 set, Mr. Volinsky? Mr. Felmly, are you all set?

18 MR. FELMLY: Yes.

19 PRESIDING OFFICER: Are you ready to go to  
20 the next question?

21 MR. FELMLY: I am.

22 Q. So with respect to the issue of adverse  
23 selection and the data that you have, what's your sort

1 of bottom line based on the evidence that you see or  
2 don't see of it?

3 A. As far as the current membership and what it  
4 has become which is a lower amount of exposure than  
5 the previous historical period, we do not see any  
6 evidence of adverse selection. In other words, we  
7 felt comfortable assuming that we could project rates  
8 using an entire historical loss period and assume that  
9 that would be relevant for the membership that  
10 Property-Liability Trust has currently and going  
11 forward.

12 Q. Let me turn to another issue they raised  
13 dealing with the unpaid loss and loss adjustment  
14 numbers or expense reports. First they made some  
15 criticisms of the approaches you took. What is your  
16 understanding of what they were saying you had in  
17 their view done either too optimistically or not  
18 appropriately?

19 A. For the workers' compensation analysis the  
20 critique was that there wasn't enough reliance on  
21 industry benchmarks.

22 Q. And what does that mean? What are industry  
23 benchmarks?



1           A. Industry benchmarks would mean data outside  
2 of Property-Liability Trust's own experience.

3           Q. And what's your response or retort, if any,  
4 to that criticism?

5           A. Given that the workers' compensation coverage  
6 has fifteen years of historical experience, we have  
7 built the triangles that we discussed earlier in my  
8 testimony of Property-Liability Trust workers'  
9 compensation losses. We are also following ASOP  
10 number 25, credibility, which guides the actuary to  
11 use actuarial judgment in terms of the availability of  
12 relevant data and also the fact that the industry  
13 information that the Casco report was pointing to does  
14 not have any public sector workers' compensation  
15 within it because pools do not typically report to  
16 those types of organizations, and so we felt that  
17 given the experience period and the relevant  
18 information we have of Property-Liability Trust  
19 workers' comp information and the nature of the  
20 business and our experience in this area, we felt that  
21 relying completely on the information in the triangles  
22 at hand that we had built was the only way to go in  
23 this analysis.

1           Q. They raised a concern or a criticism about  
2 the workers' compensation rate level report and  
3 criticized the selected rate level that was utilized.  
4 Can you explain what you understand the criticism to  
5 be in that area?

6           A. Well, one criticism was that the underlying  
7 analysis, because of the tail factor discussion I just  
8 discussed or the reliance too much on  
9 Property-Liability Trust information, would produce  
10 indications that are too low, and that actually flows  
11 into the rate level study in terms of the loss  
12 projection. So that was one criticism.

13          Q. And what's your reply to that?

14          A. My reply to that is that we believe that the  
15 analysis we did based on the relevant data is adequate  
16 and is our central estimate of what the losses were  
17 historically and therefore flows into the rate study  
18 using the same relevant assumptions and models and  
19 follows the standard of practice; therefore, we  
20 believe that the rate level is not optimistic and is  
21 adequate.

22          Q. Is there another element of their criticism  
23 you were about to say or did you cover it?

1           A. The only other element that I could think of  
2 is their assessment on the level of rate level changes  
3 that are assumed in the pro forma.

4           Q. And what is your response with regard to  
5 that?

6           A. The response in regards to that is that the  
7 rate level changes were provided by management and  
8 based on their historical level of rate changes which  
9 in recent years had been 9 percent and going into the  
10 future with 5's and 3's, we believe that those seem  
11 relevant and somewhat reasonable, so they were part of  
12 our analysis for the projection that we did.

13          Q. There was a concern or a complaint that was  
14 raised about whether or not you/Towers and Watson had  
15 factored into your calculations a variety of different  
16 estimates or different runs at different levels rather  
17 than sort of taking a single point. I'm not  
18 expressing that very well, but maybe you can express  
19 it more professionally the criticism they raised and  
20 then address it.

21          A. The criticism raised was that there was only  
22 one projection of the future put forth and used or  
23 shown in our report and their critique was that more

1 scenarios with different assumptions about losses and  
2 adverse selection and membership decline would be also  
3 more appropriate in their opinion, but that was the  
4 take.

5 Q. And more runs or more assumptions or more  
6 simulations, in your opinion should there have been  
7 more or what's your response to the fact that you did  
8 it differently?

9 A. There were different assumptions over the  
10 course of running many different working drafts of the  
11 pro formas based on assumptions from management.  
12 There were others looked at and this ultimate scenario  
13 is what was chosen. However, in terms of the loss  
14 projections, we believe that what was put forth is a  
15 reasonable assessment of the expected levels going  
16 forward and for the purposes of what our principal was  
17 requesting from us which is the nature of the work and  
18 guided in our standards of practice, we believe that  
19 providing the scenario and results that we gave forth  
20 was appropriate for the situation at hand.

21 MR. FELMLY: Thank you very much. I'm  
22 finished.

23 PRESIDING OFFICER: Thank you, Mr. Felmly.

1 Mr. Volinsky, are you taking this witness on  
2 cross-examination?

3 MR. VOLINSKY: Yes, sir.

4 PRESIDING OFFICER: Do you know how long that  
5 cross-examination will be based on your long  
6 experience?

7 MR. VOLINSKY: About an hour and a half.

8 PRESIDING OFFICER: Let's take an early lunch  
9 break, then, and return at quarter of 1:00.

10 MR. VOLINSKY: Thank you.

11 (The luncheon recess was held.)

12 PRESIDING OFFICER: All right. Returning  
13 from our lunch recess, Mr. Volinsky will now begin his  
14 cross-examination.

15 FURTHER EXAMINATION

16 BY MR. VOLINSKY:

17 Q. Good afternoon, Ms. Stazinski.

18 A. Good afternoon.

19 Q. I think with a little indulgence from  
20 everyone I can keep everyone in book 2 of the PLT  
21 exhibits. I won't start with it, but go to book 2,  
22 Exhibit 8 which should be your June 29th pro forma  
23 report.

1           Based on your testimony to this point, Ms.  
2 Stazinski, I understand that you have been with Towers  
3 Watson for twenty years, is that right?

4           A. That's correct.

5           Q. And all twenty of those years you were  
6 assigned to work with PLT or one of its other  
7 iterations, correct?

8           A. Correct.

9           Q. I take it, then, you've known Wendy Parker  
10 for twenty years.

11          A. No, I have not known Wendy for twenty years.

12          Q. How many?

13          A. I've known Wendy since probably about 2004,  
14 2003, something like that.

15          Q. Okay. So eleven, twelve years?

16          A. Yes, that's right.

17          Q. In the last few years you've worked quite  
18 closely with her, correct?

19          A. Correct.

20          Q. You described PLT as an annuity client.

21          A. Yes, an annuity client meaning that we work  
22 with them year over year.

23          Q. And you get paid by them year over year,

1 right?

2 A. Yes, we get paid consulting fees.

3 Q. I want to ask you a little bit about Towers  
4 Watson. Towers Watson is a large international  
5 consulting firm, correct?

6 A. Yes, that's correct.

7 Q. Have you worked anywhere other than in the  
8 Boston office? Have you been assigned anywhere other  
9 than Boston?

10 A. I've worked my whole entire career out of the  
11 Boston office. However, I do work with other clients  
12 across the country if that's your question.

13 Q. Of course. Who is your direct supervisor?

14 A. My direct supervisor is Ann Conway.

15 Q. And what is Ms. Conway's title?

16 A. Ms. Conway's title is Director of Towers  
17 Watson.

18 Q. And who would be directly above Ms. Conway?

19 A. Her boss I believe is Duncan Briggs.

20 Q. And Mr. Briggs' title is what?

21 A. Managing Director of the Americas.

22 Q. Of the, I think you said, fourteen thousand  
23 professional employees at Towers Watson are there

1 accountants?

2 A. Can you repeat the last part of that?

3 Q. Yes. Are there accountants in that fourteen  
4 thousand compliment of employees?

5 A. There are probably people with the accountant  
6 education and designation. I don't know for sure, but  
7 I have worked with some folks with that designation.

8 Q. Are there professionals at Towers Watson who  
9 are competent or even expert, if you like, in  
10 surveying a target market to determine if a new  
11 insurance product is feasible?

12 A. There are consultants within Towers Watson  
13 who perform feasibility studies of new programs.

14 Q. And is the right name for that kind of person  
15 a consultant in your scheme of things?

16 A. They would be consultants, yes.

17 Q. Okay. Those consultants who perform the  
18 feasibility studies for new production, part of their  
19 feasibility studying is to determine whether a  
20 particular rate structure will be acceptable to the  
21 particular market, correct?

22 A. I would say that I don't know for sure if  
23 they do those types of market studies, but there is an



1 assessment of the viability or need for product, so  
2 that would be in a sense their measure of whether a  
3 product for a feasibility study would be acceptable.

4 Q. So are you saying you do feasibility studies  
5 for a new product without assessing the acceptable  
6 cost for that product?

7 A. What I'm saying is that market studies are  
8 done, but in a particular situation for a feasibility  
9 study at the request of a client there usually is a  
10 pricing study of some sort assessed.

11 Q. And what kind of professional at Towers  
12 Watson does pricing studies?

13 A. The determination of adequate pricing is done  
14 by the actuaries.

15 Q. I think we just changed terms. I'm asking  
16 about the acceptability of pricing to a target  
17 customer community. Who at Towers Watson does that  
18 kind of pricing study?

19 A. A consultant.

20 Q. Okay. That study of acceptability of pricing  
21 to a target community, it's really no different if  
22 you're doing a new product line or a new product line,  
23 right? You do the same kind of surveying to determine

1 acceptable prices, correct?

2 A. I don't know if I would agree with that.

3 Q. Have you led feasibility study teams?

4 A. No. I've been part of a team, but I have not  
5 led them.

6 Q. In this case there's a question about raising  
7 rates in the PL lines base rate each year at five  
8 percent for seven years, right?

9 A. That is the assumption within the pro forma.

10 Q. And five percent for two years on workers'  
11 comp followed by three percent after that, correct?

12 A. Correct.

13 Q. Towers Watson has the professionals in-house  
14 who could have surveyed the target market of potential  
15 PLT customers in New Hampshire to determine the  
16 feasibility of those rate increases, is that not  
17 correct?

18 A. I don't agree with that because we don't have  
19 a routine business that does market surveys of that  
20 nature and that's not the way we usually perform these  
21 types of analyses, so in the context that I think  
22 you're asking me, I don't think we have a specified  
23 consultant that does market surveys of the feasibility

1 of rate changes.

2 Q. Do you know whether you dedicate a consultant  
3 to this purpose or not? Are you saying you don't have  
4 any consultants at the Towers Watson international  
5 firm who could have conducted that kind of rate survey  
6 for PLT in the context of this case?

7 A. I think that we probably could have if it was  
8 under the scope of the engagement, but that would have  
9 been a different study. There is a possibility to  
10 perhaps do that, but as I said, it would be a  
11 completely special, different type of project.

12 Q. And to be fair, you weren't asked to do that.

13 A. We weren't asked to do that because we were  
14 given those assumptions from the client.

15 Q. Are you aware of PLT searching for any other  
16 professionals who could have done this kind of market  
17 survey if not Towers Watson?

18 A. I'm not aware of it, but given their  
19 relationships with the member community and the fact  
20 that they have been in this business for several  
21 years, they took it upon themselves to make that  
22 evaluation given their deep expertise.

23 Q. Do you find that people at PLT have the

1 financial wherewithal to keep their books, their  
2 financial books?

3 A. Can you repeat the question?

4 Q. Yeah. Do you find that the appropriate staff  
5 members at PLT have the financial wherewithal to keep  
6 their financial books in proper order?

7 A. Yes, I believe they have the right level of  
8 finance professionals within the organization to keep  
9 their financials up to date and in proper order.

10 Q. Okay. Let's accept that. I'm not  
11 quarrelling with that.

12 A. Okay.

13 Q. Despite that opinion PLT still sends their  
14 financial records out to a third party auditor to have  
15 audited financial statements completed annually,  
16 correct?

17 A. That is my understanding, that they have  
18 their financial records audited as most insurance  
19 companies do.

20 Q. And you would agree with me that having a  
21 disinterested outside financial auditor gives some  
22 comfort that management isn't biasing the financial  
23 statements because they've been reviewed by an

1 independent outside auditor, right?

2 A. I agree that the purpose is to have  
3 objectivity in the financials and have them reviewed  
4 by an unbiased party.

5 Q. And you would agree in the context of this  
6 case that we don't have an outside third party who  
7 looked at the question of whether PLT can raise rates  
8 as indicated in the plan and still maintain their  
9 customer base. We have not had an outsider do that,  
10 correct?

11 A. To my knowledge I am not aware of any outside  
12 unbiased review or market study done of the rates for  
13 the future period.

14 Q. Thank you.

15 A. But --

16 Q. I'm sorry. If you want to say more, go  
17 ahead.

18 A. But I don't think that's really a fair  
19 comparison because audits are usually done on a  
20 financial statement that is as of a current period and  
21 you're talking about prospective rate changes in the  
22 future for modeling purposes.

23 Q. Okay. My point, and you correct me if I

1 misunderstood this, is that we are totally dependent  
2 on PLT's assumption of being able to effectuate the  
3 rate increases without losing customers. In this case  
4 they assessed that, no third parties assessed that,  
5 correct?

6 A. In this case for the pro formas, yes, we are  
7 dependent on PLT's judgment based on their historical  
8 experience and their knowledge of what the rates are  
9 and their ability to attain and keep people in the  
10 future.

11 Q. AGRIP, you mentioned them a few times. Is  
12 Jenny Emery still the director of AGRIP?

13 A. No.

14 Q. When did she stop?

15 A. She stopped, I think it was, in the middle or  
16 end of 2014.

17 Q. Jenny Emery was an expert witness in the  
18 trial that happened here in 2012. Are you aware of  
19 that?

20 A. Yes, I am.

21 Q. Were you at that trial?

22 A. No, I was not.

23 Q. Did you receive reports on it?

1 A. No, I did not.

2 Q. You were here when Wendy Parker testified  
3 yesterday.

4 A. Yes, I was here yesterday.

5 Q. So you heard her. Obviously you were paying  
6 attention to her testimony.

7 A. Yes.

8 Q. You heard her explain that in about October  
9 of last year the strategic planning process started.  
10 Is that about the timeframe that you remember?

11 A. Yes.

12 Q. And were you involved since October?

13 A. Yes, I've been involved in an actuarial  
14 capacity as I talked about in my testimony.

15 Q. This is one place where I will ask for just a  
16 bit of indulgence rather than looking for the book.  
17 Are you aware of the consent decree that was entered  
18 in this case?

19 A. Yes, I am aware of the consent decree. I'm  
20 aware that it exists. I haven't studied it.

21 Q. It's actually only one paragraph. Do you  
22 know that in the consent decree there was a specific  
23 agreement as to what had to be proven by PLT in this

1 hearing? Are you aware of that?

2 A. I think so.

3 Q. If I show you the paragraph from Mr. Felmly's  
4 petition, paragraph 8, can you see that?

5 A. May I stand over there?

6 Q. Yeah, and we can twist it a little it too.  
7 If I represent to you that that's the standard that  
8 has to be met...

9 A. (Reading number 8 of consent decree on easel  
10 board.)

11 Q. Okay?

12 A. Yes.

13 Q. And you'll see at the end Mr. Felmly put in  
14 the legal cite, paragraph 7.

15 A. Okay.

16 Q. Before reading it just now were you familiar  
17 with the fact that this was the standard that PLT had  
18 to meet?

19 A. I was aware that there had to be an approval  
20 process to write new business effective July 1, 2016  
21 and that it would have to be done before that date.  
22 It would have to be done before June 30th, be  
23 petitioned before June 30th.



1 Q. And were you aware that what had to be proven  
2 was financial viability without subsidy?

3 A. Yes, I was aware of the need to prove  
4 financial viability.

5 Q. And that if PLT passes this test as indicated  
6 in the consent decree under paragraph 7 they get to  
7 start writing new policies effective July 1, 2016. Do  
8 you understand that?

9 A. Yes, I understand that once they have the  
10 consent of the BSR --

11 Q. The Presiding Officer.

12 A. Once they have the consent of the Presiding  
13 Officer they could write new policies as of July 1,  
14 2016.

15 Q. And if you were to start writing new policies  
16 effective July 1, 2016 you essentially need to start  
17 marketing to get those policies sold this fall and  
18 through the winter, right, if you were a risk pool?

19 A. This fall? So the fall of 2015? I presume  
20 so. I presume that you would start marketing.

21 Q. And the same is true for renewing policies  
22 effective July 1, 2016. You need to meet this test.  
23 And PLT wants to renew some of its policies, right?

1 You understand that's why we're here?

2 A. Yes, I understand that's why we're here.

3 Q. So with the Presiding Officer's permission we  
4 may have a situation where PLT starts writing policies  
5 or starts marketing policies essentially now and those  
6 policies take effect in the next fiscal year, correct?  
7 You understand that's the circumstance, right?

8 A. I understand that's the circumstances. I  
9 have no involvement in that, in marketing, but --

10 Q. Well, here's why I'm asking you. The pro  
11 forma that you did and the testimony that you offered  
12 all this morning explains to us that PLT doesn't get  
13 to a 90 percent confidence level until 2021, right?

14 A. That's what the pro forma showed, that they  
15 do not get to that confidence level until sometime at  
16 the end of 2020, the beginning of '21.

17 Q. So all of this --

18 PRESIDING OFFICER: Excuse me. You have to  
19 say yes or no, so when he said "right," what is your  
20 answer, please?

21 MS. STAZINSKI: Yes, I understand that.

22 PRESIDING OFFICER: Thank you.

23 Q. So under the pro forma that you wrote about

1 and that you testified about, PLT will be writing new  
2 policies for fiscal years '16, '17, '18, '19 and '20  
3 before they hit an acceptable confidence level of  
4 90 percent, right?

5 A. Yes, they will be writing policies when the  
6 confidence level is below 90 percent for those five  
7 years that you just named.

8 Q. So rather than being here proving that PLT is  
9 financially viable without subsidy today so that we  
10 can start writing policies today, what you've  
11 described is a plan to become financially viable in  
12 six years, right?

13 A. I'm sorry. Can you say the first part of  
14 that again?

15 Q. Yeah. Fair enough. You can always ask me.  
16 My question, and I may not be able to get it precisely  
17 the same, is PLT is asking for permission to start  
18 writing policies essentially now, but what you've  
19 testified about --

20 PRESIDING OFFICER: Excuse me. Let me just  
21 suggest stopping at "now "and see what her response  
22 is.

23 Q. In the next available fiscal year PLT wants

1 to write policies.

2 A. Yes, that's correct. That is the request, to  
3 write policies in the next fiscal year.

4 Q. And you have described an acceptable  
5 confidence level as being 90 percent, correct?

6 A. Can you define what you mean by acceptable?  
7 Like acceptable in what context?

8 Q. In the context of this hearing.

9 A. I don't agree that we've said that a  
10 90 percent confidence level is acceptable in terms of  
11 I guess what you're saying in this hearing. The  
12 90 percent confidence level has been alluded to  
13 because it was the Board level of target, that  
14 position, and once you get to that level, then any  
15 additional would be released, so that's the context of  
16 the 90 percent confidence level that has been  
17 described so far.

18 Q. So just so I understand, your testimony this  
19 morning was not that a risk pool like PLT needs to  
20 obtain a 90 percent confidence level so that it is  
21 financially viable? That's not your testimony?

22 A. My testimony wasn't directly that it's  
23 financially viable only at a 90 percent confidence

1 level. My testimony was that over the course of the  
2 next seven years to get to a 90 percent confidence  
3 level there's a reasonable path that has been  
4 demonstrated in the pro forma analysis and at this  
5 time it is below the 90 percent confidence level, but  
6 there is confidence above an expected level. In other  
7 words, there's positive net position in order to get  
8 to that point.

9 Q. So what you're describing is a path to  
10 90 percent, right?

11 A. Yes, it's a path to 90 percent performance  
12 level.

13 Q. Why do you use 90 percent as the end of that  
14 path?

15 A. The 90 percent confidence level is chosen for  
16 a couple of different reasons. One is that it's the  
17 Board adopted level of target net surplus. Second, in  
18 my experience a 90 percent confidence level is a  
19 benchmark that pools can and routinely use to assess  
20 their level of financial strength.

21 Q. And they use that benchmark because  
22 90 percent means you have attained financial strength,  
23 using your terms, right?

1           A. Yes, they use that as a benchmark of  
2 financial strength.

3           Q. And over the twenty years that you have  
4 worked with PLT haven't you had discussions with the  
5 PLT Board about where to recommend their confidence  
6 level be set as the actuary?

7           A. Yes, over the years there have been  
8 conversations looking at various confidence levels  
9 which we have performed the work for.

10          Q. And haven't you expressly recommended that  
11 they adopt 90 percent as their measure of financial  
12 viability?

13          A. Yes, we have recommended that a 90 percent  
14 confidence level is a reasonable level of measuring  
15 for financial strength.

16          Q. When you say financial strength do you mean  
17 that at a 60 percent confidence level the organization  
18 would be considered financially strong?

19          A. So I think the second part of your statement  
20 was talking about a 60 percent confidence level, is  
21 that right?

22          Q. Yes.

23          A. We would characterize a 60 percent confidence

1 level as less strong than a 90 percent confidence  
2 level and would encourage management to try to move in  
3 the direction of a 90 percent confidence level.

4 Q. As a matter of fact, you would describe as an  
5 actuarial a 60 percent confidence level for a workers'  
6 comp line weak or substandard, wouldn't you?

7 A. Yes, we would characterize a 60 percent  
8 confidence level as being less strong and --

9 Q. Weak or substandard is my question, Ma'am.

10 A. I don't agree with substandard. I would say  
11 that a 60 percent confidence level would be weak,  
12 weaker than a 90.

13 Q. Well, 89 is weaker than 90, isn't it?

14 A. That's true.

15 Q. So I'm not asking you to do a mathematical  
16 comparison. I'm asking you from your experience as an  
17 expert actuary. Sixty percent is too weak for a  
18 workers' comp risk pool to have their confidence level  
19 at and just stay there without making plans to get to  
20 90, isn't that right?

21 A. So in the second part of that question I  
22 believe you said to get to a 90 percent confidence  
23 level.

1 Q. You wouldn't leave one of your clients at  
2 60 percent without encouraging them to make an effort  
3 to get to 90, right?

4 A. Correct. Our advice would be if you were at  
5 a 60 percent confidence level, we would encourage them  
6 to certainly try to build up surplus to get to a  
7 higher confidence level such as 90 percent.

8 Q. And those questions that I've just asked you  
9 about workers' comp risk pools also go for  
10 property-liability risk pools, right? If they're at  
11 60 percent, you as the consulting actuary would tell  
12 them to make plans to get to 90, right?

13 A. In the same context we would. Yes, I agree  
14 that we would recommend that they get to a 90 percent  
15 confidence level.

16 Q. And as we all sit here today PLT's workers'  
17 comp line is not at 90 percent.

18 A. That is correct.

19 Q. What is it at today?

20 A. Today the confidence level is roughly  
21 64 percent.

22 Q. The same question with the  
23 property-liability. What's the confidence level of



1 the property-liability line today?

2 A. Just to preface the question, workers'  
3 compensation and property-liability are together and  
4 so property-liability would be at the same confidence  
5 level as workers' comp at 64 percent.

6 Q. No, Ma'am. I asked you specifically, don't  
7 we have the numbers in the documents that you created  
8 that allow you to tell me the confidence level for the  
9 property-liability side of the insurance programs and  
10 workers' comp side insurance programs? Do we have  
11 those numbers?

12 A. Are we talking about tab 8?

13 Q. I'm talking about anything you want to look  
14 at. I think it's tab 8, but you go anywhere you want.  
15 I think it's sheet 1 and sheet 2.

16 A. The confidence level isn't filled out  
17 separately for property-liability. We have one  
18 confidence level for the entire pool.

19 Q. And the finances for both lines, for each  
20 line, are the finances kept separately in the books  
21 and records of PLT?

22 A. The finances are kept tallied separately for  
23 the purpose of being able to report workers'

1 compensation to their separate regulator, the  
2 Department of Labor.

3 Q. So do you know the net position currently for  
4 PL by looking at Exhibit 8?

5 A. The net position for PL currently -- well,  
6 looking at Exhibit 8 it's minus \$1.1 million.

7 Q. I'm sorry?

8 A. Minus \$1.1 million is the amount of net  
9 position in Exhibit 8.

10 Q. And is that our best estimate coming as close  
11 today as we can for the net position of the PL line  
12 and all the work you've done related to this hearing?  
13 Is that the best estimate, a negative \$1.1?

14 A. If you were just looking at  
15 property-liability without the additional funds that  
16 are designated for workers' comp, then that is what is  
17 on the exhibit, minus \$1.1 million for the net  
18 position for property-liability.

19 Q. Maybe I'm being unfair. Can you estimate  
20 what the confidence level would be for a line that had  
21 that negative net position?

22 A. It's less than 50 to 55 percent confidence.  
23 I would have to -- I don't have the numbers at my

1 fingertips. I would have to go back and look, but  
2 it's less than 50 percent confidence.

3 Q. Right. And that's fair. If I ask you  
4 something that you don't know on the fly, you can just  
5 say that, but if the net position were zero, that  
6 would mean you would have to rely on the confidence  
7 level in the reserves, right?

8 A. If the net position was zero, then yes, the  
9 confidence level would be 50 to 55 percent because all  
10 the liabilities would be in the reserves.

11 Q. Right. So when we think of net position, net  
12 position is like a ballast, right? If a ship tips too  
13 far hopefully the ballast straightens it up again. Is  
14 that a fair characterization of what net position is?

15 A. Net position?

16 Q. You've never heard it explained that way?

17 A. No, I haven't heard it explained that way,  
18 but I can understand that it's support for if the  
19 liabilities go beyond the 50 to 55 percent confidence  
20 level or higher than the liability line, it's there to  
21 support, to be able to pay the claims.

22 Q. Right. So when you tell me that PL has a  
23 negative net position, that helps me understand that

1 there's no ballast to right the ship. Actually, we're  
2 in the hole in PL over a million dollars by way of  
3 your pro forma, right?

4 A. That's correct if you do not consider the  
5 additional documents that PL has access to that are  
6 under the workers' comp column of this exhibit.

7 Q. Do you know how much workers' comp has in  
8 investments in the timeframe reflected by your pro  
9 forma? Let me make it easier. In essence, if I were  
10 to suggest to you that workers' comp has \$14 million  
11 plus in investment securities in this timeframe  
12 reflected by your pro forma, does that sound about  
13 right?

14 A. Yes, \$14 million sounds about right. That's  
15 the amount that is on the asset side for workers'  
16 compensation, but I would have to --

17 Q. You can check to confirm, but that's my  
18 understanding.

19 PRESIDING OFFICER: Take whatever time you  
20 need to check that.

21 A. Total assets I see on the workers' comp going  
22 concern exhibit, sheet 1, I do see \$14,192,000.

23 PRESIDING OFFICER: Could you say that again

1 more slowly?

2 MS. STAZINSKI: So on Exhibit 1, sheet 1 of  
3 the workers' comp going concern exhibit, on the total  
4 asset line there is \$14,192,000 as of June 30th, 2014.

5 PRESIDING OFFICER: Are you still within tab  
6 8?

7 MS. STAZINSKI: Yes, still within tab 8.

8 PRESIDING OFFICER: Is there a page number on  
9 the page you just referred to?

10 MS. STAZINSKI: There is not a page number.  
11 The label says WC Going Concern Exhibit 1, sheet 1.

12 PRESIDING OFFICER: Thank you.

13 Q. Do you know if that \$14.1 million is the  
14 amount of restricted assets held pursuant to an  
15 agreement with the Department of Labor?

16 A. Actually, there's restricted investment  
17 securities of \$13.7 million, but that's close to what  
18 you're alluding to.

19 Q. And those restricted investments are  
20 restricted by the Labor Commissioner. Are you aware  
21 of that?

22 A. Yes, I am aware that they are being held by  
23 the Department of Labor.

1 Q. Pursuant to a particular order.

2 A. Yes, I am aware of that being held pursuant  
3 to a particular order.

4 Q. And the purpose of that security being held  
5 is as a security against potential workers' comp  
6 claims, right?

7 A. Yes, the purpose of the security is to hold  
8 in the event of an inability to pay workers' comp  
9 claims.

10 Q. And without getting into the details, you  
11 know that none of that \$13 or \$14 million can be  
12 released without the Labor Commissioner's permission,  
13 right?

14 A. Yes, I'm aware that it cannot be released  
15 without the Labor Commissioner's permission.

16 Q. So going back a few questions, you were  
17 commenting that although PL has a negative net  
18 position of \$1.1 million, we still have to account  
19 against the money that the workers' comp side has,  
20 right?

21 A. That is correct. PL also has the support of  
22 the net position that is listed under the workers'  
23 comp column within sheet 2 of tab 8.

1 Q. And what is the net position within sheet 2?

2 A. The net position?

3 Q. For workers' comp.

4 A. The net position for workers' comp is \$1.81  
5 million.

6 Q. And so in order to get to a confidence level  
7 on a combined basis that's more than 50 or 55 percent  
8 you have to combine the net positions of PL and  
9 workers' comp, right?

10 A. To get to the total confidence level we add  
11 together the PL minus \$1.1 million and the workers'  
12 comp plus \$1.81 million to get to a total net position  
13 of \$664,000. That's the way we evaluate the  
14 confidence level of the entire pool consisting of  
15 property-liability and workers' comp coverages.

16 Q. But doesn't that analysis ignore the fact  
17 that virtually all of workers' comp capital is subject  
18 to the restricted agreement by the Department of Labor  
19 that allows it only to be used for workers' comp  
20 claims security?

21 A. Yes, the workers' comp \$1.81 million has the  
22 element of having securities held by the Department of  
23 Labor restrictions.

1 Q. So the money that you list in your analysis  
2 to do a combined confidence level between the two  
3 lines depends on money that the Department of Labor  
4 says can only be held as security for workers' comp  
5 claims, right?

6 A. That is correct. It depends on the money  
7 that the Department of Labor --

8 Q. Thank you. If you don't mind, let me direct  
9 you to Exhibit 8 which should be your June 29th pro  
10 forma.

11 PRESIDING OFFICER: Your Exhibit 8 or theirs?

12 MR. VOLINSKY: It's theirs.

13 Q. I want to talk about the part of Exhibit 8  
14 that Mr. Felmly didn't focus on.

15 PRESIDING OFFICER: I thought you were going  
16 to focus on two pages.

17 MR. VOLINSKY: No, that was Mr. Felmly.

18 Q. So let me direct your attention to the first  
19 page of the 10-page narrative. Are you with me?

20 A. Yes.

21 Q. I would consider the first paragraph to be  
22 like a scope of the assignment. Is that what that's  
23 intended to be?



1           A. Yes, I would consider the first paragraph to  
2 describe the scope of our assignment for  
3 Property-Liability Trust.

4           Q. And is that what you did for  
5 Property-Liability Trust, what's described in the  
6 first paragraph?

7           A. Yes, that's what we did. We produced pro  
8 forma financial statements.

9           Q. Going back to paragraph 7 from the consent  
10 decree, is there any place in your most recent  
11 iteration of these pro formas, the June -- well, let  
12 me ask you, June 29th, is that the most recent  
13 iteration of your pro formas?

14          A. June 29th is the most recent iteration of the  
15 pro formas that are -- yes, they are the most recent  
16 based on the June 30th analysis, the June 30, 2014  
17 analysis.

18          Q. Do you have iterations that are based on more  
19 recent data?

20          A. No, there's no iterations available based on  
21 more recent data.

22          Q. So assuming this is the most recent iteration  
23 is there anyplace in this ten-page report where you

1 answer the question is PLT currently financially  
2 viable without subsidy? And you can rely on the  
3 language in the consent decree, paragraph 7. I'm just  
4 paraphrasing.

5 A. So the purpose of the analysis to assess the  
6 viability without subsidy was an analysis performed to  
7 help answer the question in this paragraph.

8 Q. So my question is do you in this report  
9 conclude that yes, it is financially viable without  
10 subsidy or no, it's not financially viable and if so,  
11 show us where that is in your report.

12 A. By defining viable -- yes, in the context of  
13 defining whether it is a viable organization in terms  
14 of whether it needs a subsidy in any way, I believe we  
15 answer that question when we show on sheet 2 that  
16 throughout the projection period the net position  
17 stays positive and there's no other sources of revenue  
18 that come into the organization in order to keep that  
19 position positive.

20 Q. So that would answer the question can they  
21 act without subsidy. My question is are they  
22 financially viable and where have you said that in  
23 your report?

1           A. On page 4 of our narrative in the fourth  
2 paragraph we reference workers' comp in sheets 1 and 2  
3 to say that they provide details regarding the  
4 financial statements. We do not make a specific  
5 reference to whether the organization is viable. We  
6 provide these reports to give management the ability  
7 to assess along with other business decisions whether  
8 it is a viable plan or not and so we give them the  
9 information for them to then put forth their business  
10 decision.

11           Q. Thank you. So going back to the first  
12 paragraph on page 1 you wrote that Towers Watson was  
13 retained by Property-Liability Trust to produce pro  
14 forma financial statements under selected future  
15 assumptions. Those future assumptions, Ma'am, were  
16 the assumptions chosen by PLT, correct?

17           A. Yes, some of the future assumptions were  
18 selected by PLT in regard to all of the future  
19 assumptions except for assumptions about the losses,  
20 the actuarial nature of the pro formas.

21           Q. So with that exception the assumptions were  
22 PLT recommended assumptions for you to use, right?

23           A. Yes, they were provided by PLT.

1 Q. And this morning when you testified you  
2 described the pro forma process as being one in which  
3 a set of financial information was projected forward  
4 in time. Is that a fair statement of what you said?

5 A. Yes, I said earlier in my testimony that the  
6 pro formas were projections of balance sheets going  
7 forward in time.

8 Q. You were here yesterday, were you not, when  
9 Ms. Parker testified that the pro formas in this case  
10 were backed into, that is, the goal being 90 percent  
11 confidence, what are the rates we need to charge to  
12 get there. You were here for that testimony?

13 A. I heard that testimony yesterday.

14 Q. So that would seem to be the reverse of a  
15 true, honest pro forma process, right?

16 A. When you say reverse, can you define that?

17 Q. Let me ask it this way. You did not simply  
18 take PLT's financial statement and develop assumptions  
19 based on your own best estimates and best judgment and  
20 then play them out for seven years, did you? You've  
21 already testified that you relied on their  
22 assumptions.

23 A. Right. We basically ran pro formas based on

1 assumptions about the business that are not actuarial  
2 in nature provided by PLT management.

3 Q. And based on the applied assumptions from PLT  
4 management you showed a model that could get this  
5 organization to a 90 percent confidence in the year  
6 2021, right?

7 A. Based on the assumptions we provided an  
8 analysis that showed a path to get to a confidence  
9 level of 90 by 2021, yes.

10 Q. The second paragraph on page 1 describes the  
11 purpose for which your report is to be used by your  
12 understanding. Do you see where I am?

13 A. Yes, I see the purpose of our report for PLT  
14 management.

15 Q. Yeah. So the report was prepared for the  
16 internal use of PLT management to understand, as it  
17 says in the next sentence, the proposed rate levels,  
18 right? That was the purpose?

19 A. Yes, for understanding proposed rate levels  
20 for the coverages.

21 Q. On both sides, both the PL and the workers'  
22 comp?

23 A. Yes, for workers' comp and

1 property-liability.

2 PRESIDING OFFICER: Excuse me. I need a  
3 clarification. You used the word evaluated or  
4 evaluation.

5 A. For evaluating.

6 Q. And the very next sentence, is this a  
7 sentence that you subscribed to when you signed this  
8 report? "Our report is not intended or necessarily  
9 suitable for any other purpose"?

10 A. This sentence is a basic building block of  
11 the report and it points out that the primary purpose  
12 to our principal which is PLT management, is that the  
13 report was provided for their internal use to evaluate  
14 the pricing of workers' comp and PL lines.

15 Q. As you use the term internal use, would that  
16 include presentation of the report to a hearings  
17 officer in a contested hearing like this?

18 A. Yes, it would be under the context of being  
19 subject to the potential of it being exposed to a  
20 hearing officer. We did recognize that when we were  
21 writing the report and had that laid out in the  
22 distribution section of our report. On page 3 of the  
23 report we say, "We understand that PLT may wish to

1 provide copies of this report to the State of New  
2 Hampshire regulatory authorities," so the reasoning  
3 that we had that there is we wanted to point out the  
4 primary use of this document was to help management in  
5 their business decisions about the future of the  
6 organization, but we do understand that in the  
7 proceedings going forward in the future that our  
8 document could be provided to the State of New  
9 Hampshire as a working document, so that's sort of the  
10 whole process.

11 Q. And you would agree, as you wrote it, that  
12 it's not necessarily suitable for the purpose of going  
13 to the State of New Hampshire for regulatory purposes,  
14 right?

15 A. Yes, I would agree with that in the context  
16 that we are not working for the State of New  
17 Hampshire. We are working for PLT. However, since we  
18 did recognize that it was potentially going to be  
19 provided, we were comfortable with that intended use  
20 as well.

21 Q. Okay. Move to page 2. You'll see at the  
22 bottom a heading called Material Assumptions Set By  
23 PLT.

1 A. Yes, I see that.

2 Q. And you acknowledge in this report that your  
3 report is materially influenced by certain assumptions  
4 selected by PLT, correct?

5 A. Yes, we note that there in the first  
6 sentence, that the findings are materially influenced  
7 by certain assumptions selected by PLT.

8 Q. And then you identify certain assumptions  
9 following that.

10 A. Yes, we identify some of them.

11 Q. One of the assumptions you were asked to  
12 assume is a rate of return for investment of  
13 1.9 percent annually which is higher than the then  
14 existing rate of return of 1.78 and 1.30, correct?

15 A. Yes, I see that. We did assume a slightly  
16 higher investment return for fiscal years '16 through  
17 '21 as compared to what the rates of return were for  
18 fiscal year '15 which were 1.78 for PL and 1.30 for  
19 workers' comp.

20 Q. You were also asked and did assume estimated  
21 exposures, correct?

22 A. I'm sorry. Can you repeat that part?

23 Q. I'm just following the same paragraph. You



1 were also asked and did assume estimated exposures  
2 supplied by management.

3 A. Yes, we also relied on estimated exposure  
4 supplied by management.

5 Q. And you were also asked to rely on and did  
6 rely on estimated contributions supplied by  
7 management.

8 A. Yes, we were asked to rely on contributions  
9 that were calculated in the future based on rate level  
10 changes as we say in the next sort of parenthetical  
11 including rate level changes, so basically the  
12 contributions were derived based on assumptions from  
13 management.

14 Q. And then finally you were also asked to rely  
15 upon estimated operating expenses as estimated by  
16 management, correct?

17 A. Yes, we relied on operating expenses provided  
18 by management.

19 Q. And then there's also an assumption about  
20 estimated brokerage fees.

21 A. Yes, the same. We were provided estimated  
22 brokerage fees provided by management.

23 Q. The next assumption as stated here is that

1 PLT also requested that funds from workers' comp will  
2 be transferred to property-liability in the amount  
3 explained in the rest of that sentence. Do you see  
4 where I am?

5 A. Yes.

6 Q. And you wrote at the bottom, "The assumption  
7 regarding the transfer of funds was requested by PLT  
8 based on PLT's discussions with regulators in the  
9 State of New Hampshire." Correct? You wrote that?  
10 The same paragraph near the bottom.

11 A. Yes, the assumptions regarding the transfer.  
12 Yes, I see that.

13 Q. Now, to give us a time context, this report  
14 is dated June 29th, 2015, correct?

15 A. Yes.

16 Q. If I suggested to you that PLT filed their  
17 first petition on March 1st of 2015 to get compliance  
18 with this standard, is that consistent with your  
19 memory?

20 A. That's about consistent with my memory, yes,  
21 March 1st.

22 Q. And were you also aware that the Bureau  
23 objected to that petition in part because it relied on

1 interlying transfers?

2 A. I was aware of the rejection of the petition,  
3 but I did not -- I was not fully aware that it was  
4 because of interlying transfers. I wasn't at those  
5 meetings and I wasn't part of those conversations.

6 Q. If you had known that was part of the  
7 objection and the objection was made in late March a  
8 couple months before you wrote this report, would it  
9 have been appropriate for to you build an actuarial  
10 pro forma based on an assumption you knew was not  
11 true?

12 A. I don't agree with that because basically the  
13 spirit of our pro formas is to take a look at the  
14 total column and see how it plays out in terms of net  
15 position between workers' comp and property-liability  
16 because that's just an allocation, so we don't build  
17 pro formas that are, you know, -- we don't base our  
18 conclusions based on workers' comp in isolation from  
19 property-liability. We would still be able to produce  
20 a total pro forma at the end of the day and still  
21 produce this report if that's your question.

22 Q. Maybe. So were you asked to assume that PLT  
23 had discussions with the State regulators? I think in

1 that second to last sentence you say you were asked to  
2 assume that.

3 A. Yes, we were told by management that it would  
4 be reasonable to make that assumption based on their  
5 interactions and daily conversations and discussions  
6 that we weren't completely part of.

7 Q. That's fine. Thank you. Turn to page 4,  
8 please, the second paragraph. Your projections are  
9 based on the assumption that there will be no change  
10 in the exposure levels for fiscal year 2015 and after,  
11 is that right?

12 A. That's correct. Our projections were based  
13 on no changes in exposures.

14 Q. Your projections were based on operating  
15 expenses that were recommended to you by management,  
16 correct?

17 A. Yes, that is correct.

18 Q. Turn to page 5 for me. At the bottom you  
19 have a chart indicating Workers' Comp Estimated  
20 Operating Expenses. Can you find the line for  
21 '15-'16?

22 A. Yes, I see it. \$1,247,000. Is that what  
23 you're looking at?

1 Q. Yeah. Hang on one second. I'm sorry. I  
2 meant '14-'15.

3 A. 1.252.

4 Q. If you turn the page can you find the  
5 corresponding expense item for PL?

6 A. The corresponding expense item is 1.795.

7 Q. So if I just add those two numbers, does my  
8 math look right? I get to just over \$3 million. I  
9 put a piece of paper there if you wanted to look at  
10 it.

11 A. Yes, that looks correct to me, 3.047.

12 Q. And that's the estimate that in part you  
13 built your model on, correct, for that year, 3.047?

14 A. For the '14-'15 year, yes.

15 Q. Can you turn to the back of Exhibit 8 and  
16 find the financial statement that includes the  
17 operating expense that corresponds to these two  
18 numbers?

19 A. So you want me to go into the workers' comp  
20 section?

21 Q. Yep.

22 A. So in an exhibit called WC and PL Going  
23 Concern, Exhibit 2, sheet 2, in the column '14-'15

1 there is \$2,309,548.

2 PRESIDING OFFICER: Would you refer to the  
3 lower left? Can you tell me the time of day on June  
4 26th for the page you're looking at?

5 MS. STAZINSKI: Yes. It's 8:40 p.m.

6 Q. That's net of ULAE though.

7 A. Right. So we have an additional \$737,000  
8 remaining which would be in the loss line. Actually,  
9 on the prior page, Exhibit 2, sheet 1 you'll see the  
10 gross ULAE line is \$737.4 million, so that's what the  
11 remainder?

12 Q. You're giving me both your estimates, right?  
13 Those are both modeling estimates. I'll come back to  
14 that. Thank you. Go to page 6 for me, please.

15 A. Page 6 of the narrative?

16 Q. Yes. You have a heading near the bottom  
17 called Inherent Uncertainty.

18 A. Yes.

19 Q. Do you agree with the statement that you  
20 wrote, that "Pro forma financial projections are  
21 subject to large potential errors of estimation, due  
22 to the fact that the ultimate disposition of claims is  
23 subject to the outcome of events that have not yet

1 occurred"? Would you agree with that statement?

2 A. I agree with that statement because we don't  
3 exactly know for sure what's going to happen in the  
4 future. We only know what's happened in the past and  
5 that helps us project the future.

6 Q. In all of the pro formas that you have done  
7 as an actuary the vast majority of them have been for  
8 five-year periods or less, correct?

9 A. Yes, we have done five-year future  
10 projections.

11 Q. This one is seven years, right?

12 A. Yeah, we go out to 2021 which between '14-'15  
13 and 2021 is seven years.

14 Q. Right. So the longer you project out into  
15 the future the less certain your projections are,  
16 right?

17 A. That is true. The longer we go out into the  
18 future the less certain because it's further out in  
19 time.

20 Q. And the norm is five years to project in a  
21 pro forma.

22 A. I don't agree that there's a norm on how many  
23 number of years to project out. You could go out as

1 far as you want, but as you said earlier, the caveat  
2 is the further you go out there's more and more  
3 uncertainty.

4 Q. Didn't you just say the vast majority of your  
5 pro formas has been five years?

6 A. The vast majority of my pro forma work in my  
7 career?

8 Q. Yeah.

9 A. Has been somewhere around five years.

10 Q. Okay. Why did you pick seven for this one?

11 A. Seven years was the number of years that we  
12 were engaged by the client to take a look at in terms  
13 of going forward, but there was no specific reason.

14 Q. Are you saying that the client told you to  
15 look at a seven-year period?

16 A. The seven-year period was determined in  
17 consultation with the client.

18 Q. Because that's how long it would take to get  
19 to 90 percent?

20 A. In our conversations, yes. In our  
21 conversations with our client the time period going  
22 out that far was the time period to get to a  
23 90 percent confidence level with the reasonable



1 assumptions that were put into our analysis.

2 Q. Move to page 7 for me, please. In the first  
3 bullet there you wrote, "Our results are highly  
4 dependent on the assumption that PLT's overall loss  
5 cost remains the same, regardless of its membership  
6 level." Do you see where I am?

7 A. That is a correct statement based on the  
8 assumption that overall loss costs remain the same.

9 Q. And that is a reference to the adverse  
10 selection issue that was discussed this morning,  
11 right?

12 A. Yes, that is a reference we discussed, the  
13 potential for adverse selection.

14 Q. And if PLT's exposure comes from members who  
15 are more risky than they currently are, then your  
16 projections in this pro forma may be materially wrong,  
17 correct?

18 A. Yes, our projections could be materially  
19 different if the assumption about loss cost does not  
20 go up.

21 Q. The workers' comp and professional liability  
22 exposures are longer tailed lines of business, are  
23 they not?

1           A. Yes, workers' compensation and professional  
2 liability are long tailed lines of business.

3           Q. And that makes the projections in the pro  
4 forma more uncertain than a short tailed line,  
5 correct?

6           A. Yes. Long tailed lines make the projections  
7 in the pro formas more uncertain.

8           Q. This morning you testified that you had a lot  
9 of data from PLT about its claims and loss experience,  
10 right?

11          A. Yes, this morning I had testified in regard  
12 to examining PLT's history.

13          Q. And you relied on that.

14          A. Yes, I relied on their history.

15          Q. To the exclusion of any industry based  
16 factors, correct?

17          A. Yes, I relied on it heavily for the tail  
18 discussion we talked about this morning which was in  
19 the context of workers' compensation.

20          Q. Would you refer to the seventh bullet on page  
21 7, please. In your report did you not describe PLT's  
22 workers' comp program as being relatively immature  
23 given the long tailed nature of workers' comp

1 exposures?

2 A. Yes, we do describe workers' comp in this  
3 context to be relatively immature given the --

4 Q. And in your report because of that immaturity  
5 don't you state that you used industry sources and  
6 that you relied on industry data contrary to what you  
7 testified to this morning? The same bullet.

8 A. So basically earlier this morning we talked  
9 about the triangles and looking at the experience and  
10 we relied on that. We do look at tail factors as a  
11 backup calculation to understand the differences. We  
12 take that into consideration when we look at the  
13 development information, but given that we have  
14 fifteen years, as I said earlier, of workers' comp  
15 information and as you can see in our triangles, we  
16 did rely heavily on PLT workers' comp experience.

17 Q. So your testimony in part came up with a  
18 criticism of Casco's analysis that you didn't use  
19 industry data. Here you say you did. This morning  
20 you said you didn't. Which is it? Did you use  
21 industry data to supplement PLT's data or not?

22 A. Well, we do rely on industry information in  
23 other contexts beyond development such as trend, but

1 in terms of the tail, as I just said, we do look at it  
2 as backup calculations, but at the end of the day our  
3 assumptions were based on PLT's workers' comp  
4 experience. Being that the best relevant source of  
5 information is client information and given that there  
6 was fifteen years of it, we relied heavily on their  
7 experience.

8 Q. So that I get it cleanly in my own head, for  
9 the tail development data did you use industry data or  
10 not?

11 A. For the tail development data, as you can see  
12 in our triangle, we did not select --

13 Q. Thank you.

14 A. For the tail development we did not select  
15 industry benchmarks. As the Casco report points out  
16 we didn't. We relied on the information of the  
17 workers' comp triangle that was used in our analysis.

18 Q. Turn to page 8. Do you see a heading called  
19 Data Reliance near the bottom?

20 A. Yes, I see it.

21 Q. This morning you testified that the rate  
22 assumptions put forward by PLT were in your opinion  
23 reasonable. Was that your testimony this morning?

1           A. My testimony this morning was that we  
2 believed that the rate changes were reasonable in the  
3 context of what we see with other pools in terms of  
4 what they take for rate changes and also the  
5 historical experience of PLT liability in the past.  
6 That was the spirit of my testimony.

7           Q. Is it your opinion that PLT can reasonably  
8 put in place the rate changes through 2021 without  
9 suffering a material exposure decline?

10          A. I don't think I'm qualified to attest to  
11 whether keeping exposure and rate changes apply to the  
12 market in the future. Whether that will happen I  
13 don't know. At the time we believed that it was a  
14 reasonable assumption to model out the future, and as  
15 time moves on there is the hope to continuously  
16 reevaluate the situation for the assumptions and to  
17 modify them if situations occur, but at the time of  
18 the analysis those assumptions were supplied to us  
19 through management and based on our public experience  
20 as well as the experience of PLT we believed those  
21 were reasonable assumptions for this report.

22          Q. As of June 29, 2015, the date of your report.

23          A. That's correct, as of June 29, 2015.

1 Q. And as of next year you're not opining on  
2 whether these rates can be implemented without  
3 exposure loss, are you?

4 A. I am not opining on that in this report.

5 Q. And you didn't intend to do that this  
6 morning.

7 A. This morning my testimony was that we  
8 believed that these were reasonable assumptions to use  
9 for the purposes of this report.

10 Q. So the report and this model is based on the  
11 assumption that PLT will not lose exposure going  
12 forward, correct?

13 A. That is correct, that they will not lose  
14 exposure going forward.

15 Q. And that they will not lose exposure going  
16 forward even if they raise their rates five percent,  
17 correct?

18 A. Correct. That is the assumption.

19 Q. And you are only willing to stand behind  
20 those assumptions as reasonable based on your  
21 testimony as of the time of this report, but things  
22 may have to be completely adjusted next year or the  
23 year after or the year after, fair?

1           A. Fair that the report could be reviewed and  
2 updated and if there are different situations or  
3 circumstances or things learned in the market, that it  
4 would be reasonable to adjust any assumptions.

5           Q. So let me direct your attention to the  
6 paragraph right above Data Reliance. Contrary to your  
7 testimony this morning where you adopted the  
8 reasonableness of the rate level assumptions at least  
9 as to the present, didn't you write in your report,  
10 "These future rate level assumptions are not meant to  
11 be conveyed as feasible or reasonable"? Isn't that  
12 what you wrote?

13          A. Yes, I wrote, "These rate level assumptions  
14 are not meant to be conveyed as feasible or  
15 reasonable."

16          Q. Thank you. Turn to sheet 1 and sheet 2 at  
17 the back of the narrative for me. Projected gross  
18 earned collected contribution, that first segment, do  
19 you see where I am?

20          A. Yes.

21          Q. For the current fiscal year based on your  
22 model PLT was expected to collect \$13,470,000 in  
23 contributions, correct?

1           A. That was the projection to collect,  
2     \$13,470,000 at the time of this report.

3           Q. Were you here yesterday when in response to  
4     Mr. Tilsley's questioning Ms. Parker stated this  
5     year's collected contributions will be \$12 million?

6           A. I was here when she testified and I don't  
7     recall the exact number. I recall that her testimony  
8     was 95 percent retention.

9           Q. Right, and then she was separately asked what  
10    the contribution was and she said \$12 million. Do you  
11    remember that?

12          A. I think that's correct.

13          Q. And if my recall and my notes on it are  
14    correct, that would mean that PLT is already  
15    \$1,470,000 below your projections for this fiscal year  
16    in terms of its incoming premium payments.

17          A. That would be the difference between the  
18    \$13.4 and the \$12 million. It would be a \$1.4 million  
19    difference.

20          Q. Thank you. Look down five sections to  
21    Operating Expenses. Do you see where I am?

22          A. Yes.

23          Q. Those are your projected expenses, correct?



1           A. These are the projected expenses that were  
2 provided by management, yes.

3           Q. But we determined by adding the two numbers  
4 in your report that with ULAE the operating expenses  
5 are \$3,047,000.

6           A. Yes, \$3,047,000 with ULAE.

7           Q. Now, turn in the same book to Exhibit 3, the  
8 second page. The reported operating expense as of  
9 June 30, 2015 combining both lines is \$3,473,088,  
10 right?

11          A. Yes, I see \$3,473,088.

12          Q. That means that the actual was \$400,000  
13 higher than the projected assumption you used based on  
14 management's suggestion, right?

15          A. Well, the one thing to keep in mind is that  
16 this includes unemployment compensation whereas our  
17 pro formas did not include unemployment, so there's an  
18 expense component for unemployment compensation that's  
19 included in this financial statement that's footnoted,  
20 so some of that difference is unemployment expenses.

21          Q. How much? How much is attributable to  
22 unemployment?

23          A. Around \$100,000 or so.

1 Q. I'll accept that. So that means it's  
2 \$300,000 off from the estimated number that you used  
3 in your projections, right?

4 A. If there's no other difference that comes to  
5 mind and we keep it apples to apples, then your  
6 \$300,000 difference would be correct, but I can't say  
7 for sure. There may be something else that I'm not  
8 thinking about that's not in here.

9 Q. Have you engaged in any exercise to stress  
10 test your projections against actual numbers for  
11 fiscal years '14 and '15 like I'm doing right now?

12 A. No, we were not engaged to stress test  
13 '14-'15. Given that the majority of this work was  
14 done in the spring of 2015, that information at that  
15 time wasn't available and given the timeframe and the  
16 discussions that were going on at PLT that wasn't  
17 really something that we discussed doing.

18 Q. So the answer is you did not.

19 A. We did not.

20 Q. So the comparison I made between actual  
21 collected contributions and projected for fiscal year  
22 '15, no one thought to do that before today?

23 A. I don't agree that no one thought of doing

1 that, but it was not something we were engaged to do.  
2 It's something that perhaps management may keep their  
3 eye on, but again, we're a consultant, so we're not  
4 there on a daily basis to have those types of  
5 discussions.

6 Q. When did you know you would likely testify in  
7 this matter?

8 A. I was notified about probably about six to  
9 eight weeks ago.

10 Q. In the last six to eight weeks did you  
11 recommend to PLT that they do the kind of comparisons  
12 that I just did to see if your projected estimates  
13 were the same as the actual experience for the matters  
14 that you knew and had actual experience on?

15 A. No, I did not recommend that we stress test  
16 the June 29th results given that the financials were  
17 still in process and going through the audit process.

18 Q. The section at the bottom of sheet 1 is  
19 Combined Ratio.

20 A. Yes.

21 Q. That tells us, does it not, that PLT is  
22 paying out more in claims and expenses than it is  
23 receiving in contributions and premiums for the first

1 four years of your projections, right?

2 A. That before you consider any investment  
3 income they would be paying more in losses as you just  
4 said, more in losses and expenses than they are  
5 collecting in premiums on a net per diem.

6 Q. So absent money from investments this  
7 enterprise is not holding its own this year, is it?

8 A. That is correct. It's drawing down on net  
9 position which means that it's on an operating loss  
10 basis with the plan to get back to a better position  
11 in the future.

12 Q. Go to the second sheet for me, please. Look  
13 at the section marked Net Position.

14 A. Yes, I see that.

15 Q. For the next fiscal year your planned  
16 projection is a net position of \$318,000 combined,  
17 right?

18 A. Yes.

19 Q. And for the following year it's \$348,000  
20 combined.

21 A. That \$348,000 is for the '16-'17 projection.

22 Q. We just went through one quick analysis that  
23 showed that operating expenses are about \$300,000 more

1 than you used in your projections, right?

2 A. We just went through the exercise that  
3 there's a \$300,000 difference in expenses for '14-'15.

4 Q. Doesn't that about wipe out the net position  
5 for '16 and '17?

6 A. It would be about the net position in '15-'16  
7 and '16-'17.

8 Q. And we also just went through the fact that  
9 premiums or contributions are a million, four less  
10 than projected. Doesn't that wipe out all of the net  
11 position through and including '20, '19 and '18?

12 A. No, because if you're writing less business  
13 then you're going to have less losses, less ULAE.  
14 There would be a ripple effect. It would not be one  
15 for one.

16 Q. How much would it be?

17 A. I don't know off the top of my head. You  
18 would have to recalculate it because we have to  
19 recalculate the losses and you would have to restate a  
20 lot of different things, so there's a lot of moving  
21 parts there and I wouldn't be able to do it without  
22 going back and looking at my calculations.

23 Q. That's fair. One of the assumptions that we

1 talked about was that PLT would not lose exposure  
2 during the projection period, right?

3 A. There was assumption that exposures would  
4 remain flat during the projection period.

5 Q. Do you remember in Mr. Burgess' report that  
6 he included a table that was made from your data about  
7 reductions in exposure? It's BSR Exhibit 7 at page 4,  
8 Book 1. I have a copy if it's easier for people to  
9 look at the copy. What I've handed out is just a  
10 blow-up of that chart because I have trouble reading  
11 it given its size and I put it up on the screen.

12 Did you notice this chart in the Casco  
13 report?

14 A. I noticed this chart, yes.

15 Q. And do you see that it has listed as its  
16 source a particular actuarial report written by Towers  
17 Watson?

18 A. Yes.

19 Q. And would you agree with me that the data  
20 presented here is accurate?

21 A. The data in the table, it is accurate and I  
22 did check it. Yes, it is accurate.

23 Q. And this data reflects that since 2010 on

1 average the workers' comp line has lost 12 percent or  
2 just a little more than 12 percent every year in  
3 exposure over four years, correct?

4 A. The four-year average is 12 percent highly  
5 driven by the fact that the 7-1-2014 renewal had a  
6 reduction of 25 percent which was the first renewal  
7 after the Supreme Court's decision.

8 Q. And that's all the most recent data on  
9 exposure levels prior to your writing this report,  
10 right?

11 A. Writing which report?

12 Q. The report that's cited. Do you see your  
13 12-31-14 report? You used the most recent data which  
14 was July 1st of the same year.

15 A. Yes, this would be the most recent  
16 information that would have been available to me.

17 PRESIDING OFFICER: Date of the report,  
18 please.

19 MR. VOLINSKY: The date of the report is  
20 cited in the source document as 12-31-14 at the top of  
21 that chart and as of that date the most recent data  
22 was as of 7-1-14.

23 Q. And you presume that that precipitous decline

1 was because of the Supreme Court decision?

2 A. That was my understanding in conversations  
3 with management. That was one of the factors that  
4 caused that large decrease.

5 Q. And the fact that PLT would have to pay back  
6 the \$17 million, was that part of management's  
7 explanation?

8 A. Yes. Right. The payback of the \$17 million  
9 obviously put PLT in a much more vulnerable position.

10 Q. Did management tell you they also transferred  
11 the entire company to HealthTrust in this same time  
12 period between the Supreme Court decision and July 1,  
13 2014 and put it in runoff when it did so?

14 A. I was aware of the fact that that happened,  
15 yes.

16 Q. And did management explain to you that that  
17 could be yet another explanation for the precipitous  
18 25 percent decline?

19 A. That specific circumstance wasn't  
20 specifically named, but --

21 Q. Okay. That's my question. That's a fair  
22 answer. So you will agree with me that over four  
23 years for workers' comp minus 12 percent is the



1 average. And I understand you're concerned about the  
2 big one of July 1st, correct?

3 A. Yes, minus 12 percent is the four-year  
4 average driven by the big one on 7-1-2014 of minus  
5 25 percent.

6 Q. Now, property-liability has a number of lines  
7 and we produced a weighted average and for four years  
8 and that weighted average is minus 12.1 percent. Very  
9 similar, correct?

10 A. Yes, the four-year average for  
11 property-liability, the weighted average is minus  
12 12.1.

13 Q. And you can see there's a big drop in that  
14 July 1st, 2014 exposure which is the bottom line of  
15 the data, correct?

16 A. Yes, there's a big drop again of minus  
17 20.6 percent.

18 Q. But if you look at those lines, there's  
19 another precipitous drop halfway up for 19 percent,  
20 20 percent, 19 percent, 19 percent, 17 and 18 percent.  
21 Do you see the line I'm referring to?

22 A. If I go up the weighted average PL annualized  
23 change column I see the minus 18 percent as the next

1 largest one and that was on 7-1-2011.

2 Q. And that weighted average reflects a  
3 significant decline all the way across PL's product  
4 lines, correct?

5 A. Yes, it was pretty much around that point,  
6 between minus 14 and minus 26 percent.

7 Q. And if we go back to the workers' comp,  
8 workers' comp had a big drop that year as well, right?

9 A. Yes.

10 Q. That wasn't because of the Supreme Court  
11 decision, was it?

12 A. No, that was not because it was prior to  
13 that.

14 Q. Thank you. Now, if we looked at the numbers  
15 we talked about before, the expected contribution of  
16 \$13.4 and what Wendy testified to of \$12 million,  
17 that's a \$1.4 million difference drop.

18 A. There would be a \$1.4 million difference,  
19 yes.

20 Q. \$1.4 million over \$12 million is about 8, 9  
21 percent.

22 A. That wouldn't be the way we would do it. We  
23 would do it \$1.4 million over \$13.4, so it's 10

1 percent.

2 Q. And is that contribution drop in line with  
3 the 12 percent four-year averages that apply across  
4 all lines for four years?

5 A. The minus 10 percent is in the range that  
6 we're looking at.

7 Q. The reason I ask that is because premiums are  
8 based on exposure, right?

9 A. Premiums are based on exposure. Losses are  
10 as well.

11 Q. So if you have a \$1.4 million premium loss  
12 from projected, that likely means you have exposures  
13 of about 10 percent less than expected as well,  
14 correct?

15 A. About that. You would have to do the  
16 numbers, but roughly.

17 Q. But your whole plan is based on the idea that  
18 there won't be a decline in exposures, right?

19 A. Our report is based on no decline in  
20 exposures, yes.

21 Q. And we now know there likely was about a 10  
22 percent decline in exposures for the last fiscal year,  
23 right?

1           A. We do, but also keep in mind, as I said  
2 earlier, that there are moving parts that would have  
3 an effect such as the losses that would also go down  
4 as well.

5           Q. Was a core assumption to this whole strategic  
6 plan the fact that there would not be a decline in  
7 exposures? Yes or no.

8           A. The core of the analysis, the assumption was  
9 that there would not be a decline in exposures.

10           MR. VOLINSKY: Thank you. If I can have just  
11 a moment.

12           PRESIDING OFFICER: Absolutely.  
13 (There was a short recess.)

14           PRESIDING OFFICER: All right.

15           Q. If I may direct everyone to book 2,  
16 Exhibit 14, please. It's near the back. Here we go.  
17 This is the chart you used to explain that you didn't  
18 think there was adverse loss development because these  
19 two columns are virtually the same, right?

20           A. Correct. They are the loss ratios over the  
21 last five years and there was no discernable  
22 difference between those historical loss ratios for  
23 workers' compensation.

1 Q. We'll. We'll talk about PL next. The  
2 questions I have start over here. You used data that  
3 was two years old to make this chart, didn't you?

4 A. So the analysis for the '15-'16 rate analysis  
5 is all the timing. We basically used information  
6 available in 2014, but we did it before we even  
7 received the 2014 data, so we had to make a decision  
8 on what kind of data we would like to look at, so in  
9 our conversations with management at that time we did  
10 this analysis to assess whether the current membership  
11 was any different in terms of loss propensity and at  
12 that time that was the information available.

13 Q. Was there anything in the last six to eight  
14 weeks when you knew you were going to testify in this  
15 matter that would have prevented you from updating  
16 this bar graph with more current data?

17 A. No, there was nothing. We could have done  
18 that, but what we wanted to portray is at the time of  
19 doing the analysis this is what we looked at, so  
20 that's that the purpose of this analysis was.

21 Q. By using data as of 6-30-13 -- I don't want  
22 to have to turn back to the other book -- you excluded  
23 30 percent or more in exposure loss on the workers'

1 compensation component, didn't you?

2 A. So basically what we did is for the '14-'15  
3 members, after redoing it for that minus 25 reduction,  
4 what was left over in membership for the '14-'15 or  
5 '15-'16 membership, we looked at that set of data and  
6 compared it to everybody that was in the pool for  
7 those five years.

8 Q. Am I correct that the data you used for the  
9 bar graph did not include the data for workers' comp  
10 for the period January 1st through June 30, 2014?

11 A. It would not have been included in the  
12 '14-'15 numbers, but it would have been included in  
13 the red bar for all members.

14 Q. And a similar question for July 1, '14. You  
15 did not include the data related to the 25.1, correct?

16 A. Correct. '14-'15 would have excluded those  
17 because they were no longer '14-'15 members. They  
18 left as of July 1st.

19 Q. The only other thing on this Exhibit 14 is  
20 you did a five-year loss ratio comparison, correct?

21 A. Yes.

22 Q. Now turn to 15 for me. This is 15, right?

23 A. Oh, Exhibit 15. Yes.

1 Q. And again, you used data from June 30, 2013,  
2 correct?

3 A. Yes, we used data for June 30, 2013 because  
4 it was relevant in the context of the decisions being  
5 made at the time.

6 PRESIDING OFFICER: At the time being when?

7 MS. STAZINSKI: At the time of us doing the  
8 rate study that would be the middle of 2014 because  
9 the June 30, 2014 data was available.

10 PRESIDING OFFICER: Over a year ago?

11 MS. STAZINSKI: Yes.

12 Q. And similarly, because you chose June 30,  
13 2013 you would have excluded the bottom line exposure  
14 decreases for all of the subsidiary lines on the PL  
15 side of the equation, correct?

16 A. Correct, for the '14-'15 column, but it would  
17 be in the all members column.

18 Q. The other question that I have is workers'  
19 comp was done on a five-year comparison and this one  
20 switched to a three to five-year comparison. Why the  
21 switch?

22 A. So we did the analysis. The spirit of it is  
23 virtually the same. It's just what was readily

1 available to us at the time. We had an analysis of  
2 member loss ratios of three to five years that was  
3 available to us for property-liability, so we used  
4 loss ratios that were available there sort of as a  
5 reasonableness test, so it was basically information  
6 for PL that was readily available in an experienced  
7 rating analysis where three to five-year loss ratios  
8 were available, so members that were either with the  
9 program three years, four years or five years. That  
10 was sort of the way the analysis was performed for PL,  
11 but for workers' comp we were able to grab all five  
12 years' experience and we did it that way, so it was  
13 virtually the same loss ratio analysis. It was just  
14 that we had PL readily available from another analysis  
15 which looked at the data for three to five years.

16 Q. The factors being compared here are fairly  
17 volatile year to year, are they not, for PLT?

18 A. What do you mean by volatile?

19 Q. They change a lot from year to year, don't  
20 they?

21 A. If you look at the loss ratios year over year  
22 there could be ups and there could be downs. There  
23 could be volatility on a year to year basis. That's



1 why we looked at it over a longer period.

2 Q. So one could chose a three to five-year  
3 comparison instead of a five-year comparison to  
4 produce one kind of result if one wanted, right?

5 A. (No response.)

6 Q. Let me ask it this way. Did you do a  
7 straight up five-year loss ratio comparison for PL?

8 A. We didn't do it in the context of this  
9 because we were preparing exhibits and the timing did  
10 not allow us to get it done. It could have been done,  
11 but it would have required more work. We felt that it  
12 would have given the same gist of an answer, so that's  
13 what we looked at.

14 Q. The last thing I wanted to ask you about is I  
15 think you said on direct examination that the reason  
16 only one pro forma scenario is presented in your June  
17 29th report is that that's what management asked you  
18 to produce, one pro forma, correct?

19 A. Yes, they asked us to produce one pro forma  
20 after looking at multiple iterations over a working  
21 period prior to that.

22 Q. It was within your ability and possible from  
23 the data that you had to produce more than one pro

1     forma that varied the assumptions that PLT asked you  
2     to assume, correct?

3           A.   We could have produced the results of other  
4     various calculations that we had performed, but in the  
5     context of not showing a lot of information that could  
6     be confusing to multiple parties that we thought this  
7     report could be potentially looking at, we wanted to  
8     focus in on the plan and the path that management was  
9     proposing and therefore decided on one scenario to  
10    show in the report.

11          Q.   So you say it could be confusing.  If you had  
12    varied some of the assumptions, it would have given  
13    all of us an understanding of what would have happened  
14    to PLT if they were wrong in one direction or another  
15    on any of their assumed factors, right?

16          A.   It could be that, a range of more optimistic  
17    or pessimistic, it could have been done, but it was  
18    decided not to show that range.

19          Q.   And when you present scenarios to boards like  
20    PLT it's common for you to present more than one  
21    scenario so that board management can understand the  
22    implications of the decisions they are making, is that  
23    not right?

1           A. It's done to show multiple scenarios and in  
2 fact we have shown PLT management and the Board as  
3 well more than one scenario of pro formas in my  
4 experience.

5           MR. VOLINSKY: That's all I have. Thank you.

6           PRESIDING OFFICER: Mr. Felmly.

7                           FURTHER EXAMINATION

8 BY MR. FELMLY:

9           Q. So the engagement and the purpose of your pro  
10 forma, Exhibit 8 that we've marked as described at the  
11 outset was to provide information and a plan and an  
12 assessment to management, is that right?

13          A. Yes, that's correct.

14          Q. And it was coordinated in terms of making  
15 sure it was presented to the Board and they would have  
16 the opportunity to review it, is that true?

17          A. That is correct.

18          Q. But it was also known that there were  
19 administrative proceedings and that it was likely that  
20 this information would also be used in the context of  
21 PLT's interactions with the regulators, is that true?

22          A. It is true that it was the understanding that  
23 the report could be subject to review by regulators.

1 Q. And it was also known that there was a  
2 standard out there from the consent decree and that  
3 the issue of financial viability without subsidization  
4 was going to be a critical test that was going to be  
5 applied to this matter, is that true?

6 A. Yes, it was known to me that there was a test  
7 under the decree that our report would help management  
8 understand whether they could follow through on that  
9 decree.

10 Q. So in terms of the tie-in, if you will,  
11 between the test that the administrative inquiry  
12 involves, namely financial viability without  
13 subsidization, and the way in which it was presented  
14 and functionally used, do I have it right that it was  
15 going to be your best information and plan and  
16 projection to inform management as to their condition  
17 in that context of whether there was sufficient  
18 viability?

19 A. Yes, it was my understanding that the report  
20 would be a way to help management come to an  
21 understanding of the context and the relative  
22 reasonability or viability going into the future.

23 Q. And you testified this morning when I was

1 asking you about your opinion of what that plan  
2 reflects and what you believed about it that you felt  
3 strongly that it was a reasonable plan and that it did  
4 show that type of viability over the period of time,  
5 that that path to a better confidence level was  
6 projected.

7 A. Right. My testimony earlier talked about the  
8 plan going into the future and that it was a good plan  
9 with reasonable assumptions to get to a viable  
10 situation or a 90 percent confidence level which is  
11 the Board set level by 2020 or 2021.

12 Q. Now, the nature of the kind of projections  
13 that you did, it's clear that you do not expect all of  
14 the numbers in those years to come in as the  
15 projections exactly laid them out. Life is not that  
16 precise.

17 A. Exactly. As Wendy said yesterday, one thing  
18 we know for sure, one thing we know is that these  
19 numbers aren't going to come out exactly as we have in  
20 this pro forma and that it would be reasonable to  
21 continuously monitor and assess the situation by  
22 running pro formas into the future when new  
23 information becomes available.

1 Q. And so Mr. Volinsky spent a lot of time this  
2 afternoon pointing out the various numbers that show  
3 that some particular indicator or number is actually  
4 being received in current time and are in actuality  
5 different than the projection and therefore not in  
6 conformance with the plan. Is that kind of a typical  
7 situation with respect to a pro forma of measuring  
8 against actual performance? Is that something that's  
9 common in terms of continued review and reassessment?

10 A. In my experience it's not something that we  
11 commonly go back and reassess how a year played out  
12 versus what we projected originally. It's more common  
13 that as time goes by and pro formas are continuously  
14 done, but it's a reevaluation of the future and not  
15 really going back into the past as much.

16 Q. So you don't go back and review the June 29,  
17 2015 plan. You have a new pro forma that takes into  
18 account the new data or you move to a new pro forma.

19 A. That would be the next step. That would be  
20 the next step.

21 Q. And there are a lot of different data points  
22 in that plan. There's a lot of different information.  
23 Are they highly integrated between each other? In

1 other words, if certain numbers change, for example,  
2 if the number of members or the exposure goes down,  
3 can there be corresponding changes, for example, in  
4 the number of claims or the number of losses, that  
5 these things tend to get affected in multiple years?

6 A. That is correct. As I said earlier, if the  
7 number of exposures upward or downward changes in the  
8 future there are a lot of moving parts that would  
9 affect the pro forma including not only contributions  
10 but also the losses, the ULAE, potentially some  
11 portion of operating expenses, that investment income  
12 would be affected, so it's hard to tell what the  
13 affect of that would be without re-running the pro  
14 formas.

15 Q. So moving towards the question of whether the  
16 plan that is presented in the pro forma of June 29,  
17 2015, Exhibit 8, in light of the information now  
18 coming to light that in some of the areas the numbers  
19 are different than what the numbers were projected in  
20 advance to be, how does that affect, in your view as  
21 the person perhaps most responsible for this pro  
22 forma, the underlying issue of whether or not there  
23 remains a reasonable and viable plan for PLT to go

1 forward? In other words, do these changes cause you  
2 to say, oh, my goodness, this plan isn't working,  
3 ignore it, or how do you respond to that kind of  
4 approach that Mr. Volinsky just went through?

5 A. I still have the utmost confidence that the  
6 pro formas that we provided in the June 29, 2015  
7 report is a strong plan. I would expect there to be  
8 variations in all areas. Expenses could be different.  
9 Losses could be different. I do expect some  
10 fluctuation in some of these inputs, so there is --  
11 it's not surprising to me, but as I said earlier, it's  
12 the results of my June 29, 2015 report. I feel that  
13 there's nothing that was said earlier that makes me  
14 feel any differently about the level of confidence and  
15 the path to get to the 90 percent confidence level by  
16 the end of the projection period of 2021.

17 Q. When Mr. Volinsky was asking you about  
18 confidence level and the fact that it is not divided  
19 into the two lines, in other words, you have one  
20 confidence level for the risk pool and not a separate  
21 confidence level for PL and workers' comp, that's not  
22 accidental I assume. What's the reason why when you  
23 present confidence level information you are



1 presenting it as a total package for the entire risk  
2 pool? What are the reasons or advantages or strengths  
3 and weaknesses of that decision?

4 A. So the purpose of looking at the confidence  
5 level in a total view for all coverages together is  
6 that those businesses can support each other because  
7 there's a larger base of losses to absorb fluctuations  
8 in loss or shock losses. In fact, if we look at  
9 workers' comp in isolation and property-liability  
10 coverages and we were measuring confidence level  
11 indications, the confidence level, the sum of the two  
12 separately would be a larger number than if you looked  
13 at them in the context of a combined pool, so to the  
14 extent that you look at them in combination you  
15 actually have a lower dollar amount to get to a  
16 90 percent confidence level as opposed to looking at  
17 each pool individually because each pool has a smaller  
18 base individually. Therefore, it would require an  
19 amount to get to a 90 percent confidence level that's  
20 much higher when added together than when you look at  
21 them combined, so there's that advantage right there  
22 which goes right to membership in terms of not needing  
23 to hold as much net position in the pool and the

1 members being able to have those funds given back  
2 earlier in time than if each were individual.

3 Q. So for those of us who have heard the adage  
4 the sum is the total of the two parts, it sounds like  
5 you're saying in actuarial work in connection with  
6 this, that adding them together doesn't necessarily  
7 come up with a total that is equal to the two sums and  
8 that that's not something that's accidental but that  
9 you are aware of it and you adjust accordingly.

10 A. Yes.

11 Q. And again, what's the short reason and the  
12 benefit that comes from that in terms of each group  
13 supporting or providing strength to the other and  
14 saving money in terms of how you deal with the  
15 confidence level?

16 A. So because of the Board and management  
17 decision to have the pools supporting each other, when  
18 we do our analysis we perform our loss simulations or  
19 our actuarial work assuming that the coverages support  
20 each other and therefore are provided in the context  
21 of one pool together. If it was the decision of the  
22 Board and management to have two individual pools with  
23 totally separate responsibilities, we would do a

1 different analysis where the workers' comp would be  
2 simulated separately with no support from  
3 property-liability and vice versa, property-liability  
4 with no support from workers' comp. However, at the  
5 end of the day the amount of required net position for  
6 each together would come to an amount that is greater  
7 than if they were simulated together, so that's sort  
8 of the -- because that's the way we've been instructed  
9 to do the analysis, that's the type of confidence  
10 level on a combined basis that we have shown in our  
11 June 29th, 2015 report of the pro formas.

12 Q. And what is it about having two smaller units  
13 dealt with individually that would cause them to have  
14 to come up with more money versus doing it on a  
15 combined basis?

16 A. So the individual PL is separate from  
17 workers' comp. There is \$6 to \$7 million or so in  
18 premiums and they are a smaller base and so you would  
19 have less of a base to support any catastrophic losses  
20 or high frequency losses, any unusual loss activity,  
21 so therefore because of the smaller base you would  
22 need a higher percentage or a higher amount of net  
23 position to support that.

1 Q. You used a term before and I didn't quite get  
2 the last part of it. It was something like a shock  
3 loss or a shock impact. What was the term that you  
4 used and what is it and how does it apply to this?

5 A. A shock loss, Wendy alluded to what's going  
6 on in South Carolina, so all of that, the storms that  
7 suddenly hit, the property losses. If there was a  
8 shock loss that was, you know, at least two-fifty for  
9 property-liability alone taking into consideration  
10 reinsurance, if you also had a phenomenon, something  
11 in the environment that is different that suddenly is  
12 causing losses and it's happening to a lot of your  
13 members at the same time, then that could be sort of a  
14 shock loss phenomenon as well. So if there's  
15 something that's causing, you know, either a high  
16 frequency of losses or suddenly large losses, that's  
17 what I'm putting in the context of shock losses.

18 Q. And is a single pool with two lines better  
19 situated to deal with a shock loss than two smaller  
20 individual confidence level analyses?

21 A. Yes, because it's better to have the larger  
22 base with lines of coverages that have different  
23 circumstances and different exposures. For instance,

1 if there is, you know, a weather related situation,  
2 not all of your lines of coverage are going to be  
3 affected equally. You're probably going to have  
4 property losses and maybe some physical auto damage  
5 losses, but you are less likely to have law  
6 enforcement or professional losses. Depending on the  
7 situation you're not going to be hit across all  
8 different coverages. Therefore, you have some  
9 coverages supporting others in situations when other  
10 coverages need the help basically, so it's got to have  
11 a diversification. It's similar to your investment  
12 portfolio if you think about it that way.

13 Q. So one last point. In terms of the  
14 shortfall, if we can call it that, between the  
15 confidence levels that are projected and that exist  
16 now as contrasted with trying to get to a target of  
17 90 percent, approximately how much money does that  
18 represent for the organization? In other words, if  
19 somebody said, you know, let's try to figure out what  
20 that difference is roughly, what roughly is that  
21 amount of money between the confidence level or the  
22 place where they are at now?

23 A. It's probably a little over \$3 million I

1 believe.

2 Q. So it's actually quite close to the amount of  
3 money that was given back to members as excess surplus  
4 prior to the \$17.1 million dollar payment.

5 A. That's correct. There was a payment, I  
6 believe, before the \$17 million payment of \$3 million  
7 which coincidentally had that not been paid,  
8 Property-Liability Trust would be at around 90 percent  
9 confidence level.

10 MR. FELMLY: Thank you.

11 PRESIDING OFFICER: Mr. Volinsky for recross.

12 FURTHER EXAMINATION

13 BY MR. VOLINSKY:

14 Q. That \$3 million payment was made in the fall  
15 of 2012, right?

16 A. I thought it was later than that. I don't  
17 know exactly when it was. It was somewhere around  
18 there or later is my memory.

19 Q. The \$3 million payment came before the  
20 25 percent declines that we saw on the chart, the  
21 25 percent exposure declines.

22 A. Yes, that's true, but the point is that had  
23 that \$3 million still been there it would be in a net

1 position and it would today be close to the 90 percent  
2 confidence level. That was the point.

3 Q. If the \$17 million wasn't paid back, we  
4 wouldn't be having this discussion either, right?

5 A. That's true.

6 Q. But the \$17 million was an illegal subsidy,  
7 so you wouldn't expect PLT to take advantage of that,  
8 would you?

9 A. I don't understand the question. Can you  
10 repeat the question?

11 Q. I'll withdraw it. You were being asked some  
12 questions about shock losses.

13 A. Yes.

14 Q. I want to ask you about non shock losses in a  
15 combined enterprise. If you would go to book 2,  
16 Exhibit 8 which is your report, sheet 2 which is right  
17 after the narrative, can you find the section on net  
18 position?

19 A. Yes.

20 Q. You project the net position in '14-'15 to be  
21 six hundred and change, three hundred and change the  
22 year following, two years following, and then seven  
23 hundred and change in '17-'18, right?

1 A. Yes, that is the net position.

2 Q. The retention by PLT for workers' comp losses  
3 is \$750,000, right?

4 A. That's correct. The retention for workers'  
5 comp is \$750,000 given the market conditions.

6 Q. So if PLT's workers' comp program had one  
7 large claim that went to the level of retention, that  
8 would wipe out the net position in all of those years,  
9 wouldn't it, because it would be \$750,000.

10 A. An additional \$750,000 beyond the losses  
11 projected in the loss part of this pro forma would  
12 wipe out surplus in '15-16 and pretty much break even  
13 in '16-'17.

14 Q. And so that's not a Charleston, South  
15 Carolina big storm that affects lots of different  
16 people. That's one very seriously injured expensive  
17 workers' comp claimant.

18 A. That would be one workers' compensation  
19 claim.

20 MR. VOLINSKY: Thank you. That's all I have.

21 PRESIDING OFFICER: Ms. Stazinski, I have a  
22 couple questions. When you use the word spirit as you  
23 have frequently, what do you mean?



1 MS. STAZINSKI: What I mean is the purpose or  
2 the intent.

3 PRESIDING OFFICER: You've made reference to  
4 confidence levels.

5 MS. STAZINSKI: Yes.

6 PRESIDING OFFICER: Is the confidence level a  
7 component or element -- well, that's compound. Is it  
8 an element of a determination of sufficient financial  
9 viability?

10 MS. STAZINSKI: It is a determination of  
11 sufficient financial viability by most, predominantly  
12 by management and the Board.

13 PRESIDING OFFICER: Do you remember your  
14 testimony when Mr. Volinsky had been asking questions  
15 of you and he was talking about a discussion generally  
16 about the money that the Department of Labor was  
17 holding in a fund?

18 MS. STAZINSKI: Mm-hmm.

19 PRESIDING OFFICER: And you were asked or you  
20 testified that the money that was subject to the  
21 Department of Labor hold or fund can only be used for  
22 the workers' comp claims. Do you remember that?

23 MS. STAZINSKI: I remember the discussion.

1           PRESIDING OFFICER: What industry standard or  
2     accounting standard or actuarial standard allows you  
3     to apply the money as you did for the purposes of your  
4     pro forma?

5           MS. STAZINSKI: I don't think --

6           PRESIDING OFFICER: Should I try it again?

7           MS. STAZINSKI: I mean, is your question what  
8     industry standard or what standard practice guides  
9     actuaries to use assumptions about pro formas that are  
10    outside of the actuarial part of it? Is that what you  
11    mean?

12          PRESIDING OFFICER: Let me try it again. The  
13    Department of Labor is holding money that only can be  
14    used for workers' comp, correct?

15          MS. STAZINSKI: Yes.

16          PRESIDING OFFICER: That's your  
17    understanding?

18          MS. STAZINSKI: That is my understanding.

19          PRESIDING OFFICER: Yet in the preparation of  
20    your pro forma, that \$664,000 which was the figure  
21    being used that you had for that year --

22          MS. STAZINSKI: Yes, that's the total net  
23    position.

1           PRESIDING OFFICER: Thank you. Is there a  
2 standard in your industry that allows you to cite that  
3 money even though you know it's being held by another  
4 regulatory agency for an exclusive purpose?

5           MS. STAZINSKI: There's one standard of  
6 practice, number 7, that gives guidance on cash flows.  
7 I can't think of any specific others. However, our  
8 understanding was the money was still being held in an  
9 account under I guess the shepherding of the  
10 Department of Labor and it was allowed to accrue some  
11 amount of investment income, so that was the  
12 assumption, that the money was just being held there  
13 but still having the ability to have some investment  
14 income, and that's sort of the biggest part of the  
15 impact on that in our analysis.

16           PRESIDING OFFICER: And that understanding  
17 was provided to you by information given to you by  
18 PLT, correct?

19           MS. STAZINSKI: Correct.

20           PRESIDING OFFICER: You were testifying to  
21 interrogatories directed to you, questions directed to  
22 you. I want to get into my job. About two months ago  
23 give or take prior to this hearing in which you had to

1 prepare financial information, you were asked if you  
2 had been asked by PLT to do another iteration or  
3 reiteration of your pro forma. Do you remember that  
4 exchange?

5 MS. STAZINSKI: Yes. I was asked when was I  
6 notified about this hearing and I said six to eight  
7 weeks ago and had I done any stress testing with the  
8 actual information versus the June 29th report.

9 PRESIDING OFFICER: You seem to remember it  
10 well. Let me ask a question of you in that regard.

11 MS. STAZINSKI: Okay.

12 PRESIDING OFFICER: The data that you have  
13 relied on is data that was current in your June 30,  
14 2014 pro forma, is that correct?

15 MS. STAZINSKI: Yes.

16 PRESIDING OFFICER: Property-Liability Trust  
17 did not ask you for any other reiterations or  
18 recalculations since that time.

19 MS. STAZINSKI: They have not asked us to do  
20 any reiterations or recalculations of the June 29th  
21 report. As you know, we have been working on and it's  
22 still in draft form the liability studies using June  
23 30th, 2015.

1           PRESIDING OFFICER:  When will that work be  
2     done in the normal course of events?

3           MS. STAZINSKI:  We're waiting for Board  
4     approval, for any audit to be completed, for the  
5     liability reports which I believe would be within the  
6     next month or so and we would then update our analysis  
7     of pro formas after that, probably within another  
8     month or so.

9           PRESIDING OFFICER:  Could you describe the  
10    document that would go before the PLT Board for  
11    approval that would be generated by you having worked  
12    with PLT management?

13          MS. STAZINSKI:  The document that goes before  
14    management or before the Board is -- basically there  
15    are a couple of different important steps.  The Board  
16    has to approve the reserve levels which is coming up  
17    in the October meeting and then at some point in the  
18    future depending on the situation at hand the Board is  
19    informed of the results of pro forma.  I don't know if  
20    there's ever Board approval of a final report on that,  
21    but they are informed and they have discussions and  
22    are educated on that.

23          PRESIDING OFFICER:  And so your next pro

1 forma report or your next reiteration of that will  
2 await the October determination by the Board to set  
3 the reserve level, is that correct?

4 MS. STAZINSKI: Yes, that is correct, and  
5 also an audit will have to be done as well which I  
6 believe the audit is almost done.

7 PRESIDING OFFICER: And that audit is being  
8 done by Towers Watson?

9 MS. STAZINSKI: No, the audit is being done  
10 by the auditing firm Johnson & Lambert.

11 PRESIDING OFFICER: And how soon do you  
12 expect that to come to you, you meaning Towers &  
13 Watson?

14 MS. STAZINSKI: I would say the audit of the  
15 financials will probably be within the next two months  
16 or maybe by the end of November. That's my best guess  
17 at a time frame, but I think I would have to defer to  
18 Wendy and management on the timeframe of that.

19 PRESIDING OFFICER: You're pretty much  
20 dependent on management for any of the reports you've  
21 referenced today, is that correct?

22 MS. STAZINSKI: Yes, we were dependent on  
23 management to provide data, to provide assumptions for

1 pro formas, to provide guidance. They hired us as  
2 consultants to perform the main actuarial exercises.  
3 They are our principal.

4 PRESIDING OFFICER: The colored charts that  
5 were part of an exhibit today, do you remember those?

6 MS. STAZINSKI: Yes.

7 PRESIDING OFFICER: You made reference to  
8 slides. Do you remember making reference to slides?

9 MS. STAZINSKI: Yes.

10 PRESIDING OFFICER: Those slides, were they  
11 prepared for another purpose than here?

12 MS. STAZINSKI: Those specific slides, they  
13 were prepared for here, but they were summaries of  
14 actual analyses that took place the middle of 2014, so  
15 those slides were prepared to sort of summarize it so  
16 it would be easy to understand and see what we did as  
17 opposed to looking at exhibits and numbers. It was  
18 like a summary of something we did previously.

19 PRESIDING OFFICER: So those slides were not  
20 shown to the Board of directors of PLT, is that  
21 correct?

22 MS. STAZINSKI: Correct. They were not  
23 shown.

1                   PRESIDING OFFICER: Was the Board shown any  
2 slides? Were they asked to approve your pro forma?

3                   MS. STAZINSKI: The Board is shown a  
4 presentation and power point format slides of  
5 information. We show the Board results of the various  
6 iterations that we have with management and they are  
7 informed of the decisions. They don't have any final  
8 approval process because I don't know if at the time  
9 of showing them there was any purpose of having  
10 approval. I would have to ask Wendy about that.

11                  PRESIDING OFFICER: If we have to we'll go  
12 back and I'll ask Ms. Parker about that. I'll leave  
13 that for the moment. As I understood your  
14 explanation, and this was during the so-called  
15 redirect, that's when Mr. Felmly asked you some  
16 questions here, you were explaining that if the pools  
17 were being operated separately they would actually  
18 have to have larger budgets, that is, a larger net  
19 position.

20                  MS. STAZINSKI: Net dollar-wise, yes.

21                  PRESIDING OFFICER: And I believe Mr. Felmly  
22 had a homily or adage to that.

23                  MS. STAZINSKI: Mm-hmm.



1           PRESIDING OFFICER: I understand your  
2 testimony in that exchange to have been that you look  
3 forward and not backwards when, for instance, you're  
4 putting this strategic plan together, is that correct?

5           MS. STAZINSKI: Is that in the context of the  
6 confidence level too or is that a separate question?

7           PRESIDING OFFICER: I think that's a separate  
8 question.

9           MS. STAZINSKI: Okay. The pro formas are a  
10 projection of the future but heavily based on the  
11 experience of the past.

12           PRESIDING OFFICER: Would the experience of  
13 the past, and please keep in mind my background is not  
14 mathematics, would the experience of the past not  
15 include a comparison of how your predictions were in  
16 the past versus the actual?

17           MS. STAZINSKI: I mean, we do go back when we  
18 do new analyses and reestimate historical data, so we  
19 do go back in our actuarial analysis and project. For  
20 instance, we talked about this earlier. We looked at  
21 year 2013. We look at it when it's twelve months old  
22 and project. In our next analysis we reestimated  
23 2013. So we're always redoing our past projections in

1 that context.

2 PRESIDING OFFICER: In my question I might  
3 have missed the mark, so what I'm trying to discern  
4 from your expertise is -- may I put a hypothetical to  
5 you?

6 MS. STAZINSKI: Sure.

7 PRESIDING OFFICER: You have an enterprise A  
8 and you have an enterprise B. For a combination of  
9 reasons B is always, as they say, sailing close to the  
10 wind. They're at red line whereas the other  
11 enterprise seems to be doing okay.

12 MS. STAZINSKI: Okay.

13 PRESIDING OFFICER: Do you ever look back at  
14 whether or not your projections over time historically  
15 were missing the mark and by how much and compare it  
16 to the enterprise that's redlining?

17 MS. STAZINSKI: We don't typically go back  
18 and do that although it could be done. It's just that  
19 we do it in a different way I think. I think we're  
20 always reassessing maybe the pieces of the puzzle.

21 PRESIDING OFFICER: But the pieces -- and I  
22 know that perhaps it's a distraction I've asked, what  
23 time about, when was that, but when you look back, and

1 I understand you recalculate the loss, there's a  
2 claim, there's a loss and you recalculate whether he's  
3 getting better quicker or he's being a malingerer. I  
4 understand that. I'm thinking more along the lines of  
5 just the straight lineal mathematical comparison of do  
6 you rely on management to provide almost all of the  
7 data which you use to make your pro formas. And say  
8 we're always having difficulty with enterprise A.  
9 Should we not go back to see if the information they  
10 are providing us, to use your phrase, is too  
11 optimistic or too pessimistic? That analysis is not  
12 done in your industry is my understanding presently.

13 MS. STAZINSKI: We go back and we assess the  
14 historical. You know, if you look at these results  
15 you'll see losses with a high proportion of premium  
16 and so that's the largest component that's driving the  
17 results here, so we are constantly looking at the  
18 biggest piece of the puzzle and in terms of what  
19 management provides us in terms of expenses and the  
20 investment rate of return.

21 PRESIDING OFFICER: Rates?

22 MS. STAZINSKI: Yes.

23 PRESIDING OFFICER: Reserves? All those

1 things?

2 MS. STAZINSKI: Yes.

3 PRESIDING OFFICER: And you don't, correct?

4 MS. STAZINSKI: I think to some extent we do  
5 look at that. We look at what has happened in the  
6 past.

7 PRESIDING OFFICER: For how long in the past?

8 MS. STAZINSKI: Well, at least over the last  
9 -- we would look at the last five years or so, you  
10 know, what is the expense ratio, what is the  
11 investment rate of return. We talked about this  
12 earlier. What is the retention rate. We take a look  
13 at it for reasonableness. Like if Wendy had come to  
14 us and said, okay, let's assume over the next five  
15 years 20 percent rate increases. We wouldn't be  
16 comfortable putting forth a pro forma like that today  
17 because we would feel that that's just not reasonable,  
18 but a five percent rate increase in the context of  
19 what they had taken in the prior years, Wendy  
20 testified yesterday to plus 9 percent over '12 and '13  
21 and then having smaller increases going into the  
22 future. That type of assessment is done. So I don't  
23 know if that answers your question.

1           PRESIDING OFFICER: No, I'm not sure it does,  
2 but there's other witnesses we have to get to. What  
3 if they said 10 percent and not 20 percent? Don't you  
4 as a practice, Towers & Watson and probably all the  
5 businesses in your industry, I don't know, you're  
6 giving PLT the product that they need, correct? They  
7 tell you what rate increase they want and they ask you  
8 to present a pro forma, correct?

9           MS. STAZINSKI: Yes.

10          PRESIDING OFFICER: Lastly, in your  
11 experience do you -- well, your testimony was that you  
12 have thirty pooled risk management programs that you  
13 work around the country for.

14          MS. STAZINSKI: That I've had experience with  
15 throughout my career.

16          PRESIDING OFFICER: How many are you working  
17 with now, for instance, just as an example? Now  
18 meaning this year.

19          MS. STAZINSKI: Around fifteen or so.

20          PRESIDING OFFICER: How many are nonprofits?

21          MS. STAZINSKI: I would say all fifteen are.

22          PRESIDING OFFICER: Are there such  
23 enterprises as PLT, pooled risk management programs,

1 in the commercial world meaning for profit?

2 MS. STAZINSKI: I don't think I have enough  
3 information to answer that. I was under the  
4 impression that they are nonprofit. I mean, there are  
5 pools that are for profit. If they are  
6 intergovernmental they're usually not for profit, but  
7 there may be some states that I'm not aware of that  
8 could be for profit.

9 PRESIDING OFFICER: Can you name just a few  
10 states that operate pooled risk programs where more  
11 than one type of coverage meaning casualty, workers'  
12 comp, health, unemployment insurance not all subject  
13 casualty, can you tell me a couple states that we  
14 might look at?

15 MS. STAZINSKI: Massachusetts. Rhode Island.  
16 Vermont.

17 PRESIDING OFFICER: They're all close.  
18 That's good. Maine?

19 MS. STAZINSKI: I don't work with the Maine  
20 pool. It's possible. I don't know. If you would  
21 like, I can come back to you with that information.

22 PRESIDING OFFICER: No, that's sufficient.  
23 We have a relatively unique statute in New Hampshire,

1 and you may be aware of that by now, the so-called  
2 5-B.

3 MS. STAZINSKI: Yes.

4 PRESIDING OFFICER: Thank you very much. All  
5 right. Anything further, Mr. Volinsky? Mr. Felmly?  
6 All right. You are excused.

7 You will be around for the duration  
8 represented by Mr. Felmly, is that correct?

9 MS. STAZINSKI: Yes.

10 PRESIDING OFFICER: In case there's any  
11 daycare or personal arrangements that one may have to  
12 make today, we broke yesterday around four o'clock.  
13 We will not be breaking at four o'clock today. I  
14 don't really know how long we'll go on for, but if  
15 there's anyone that has to make those kinds of phone  
16 calls, make them now. We'll take four minutes or so,  
17 five minutes, and Mr. Felmly, you'll be getting ready  
18 for your next witness.

19 MR. FELMLY: Yes. That will be Mr. Coutu.  
20 (There was a short recess.)

21 PRESIDING OFFICER: All right. We're  
22 returning from our afternoon recess. Mr. Felmly,  
23 you've called your first witness, is that correct?

1 MR. FELMLY: I have. We call Michael Coutu  
2 who we have subpoenaed to this hearing.

3 MICHAEL COUTU  
4 having been duly sworn by Presiding  
5 Officer, was examined and testified as  
6 follows:

7 PRESIDING OFFICER: Would you please state  
8 your name and spell your last name for the record?

9 MR. COUTU: My name is Michael A. Coutu.  
10 C-O-U-T-U.

11 PRESIDING OFFICER: Would you give us an  
12 address? It can be a business address.

13 MR. COUTU: It's 805 Central Road, Rye Beach,  
14 New Hampshire 03871.

15 PRESIDING OFFICER: Mr. Felmly, your first  
16 question, please.

17 EXAMINATION

18 BY MR. FELMLY:

19 Q. You were served with a subpoena and you are  
20 here under subpoena, is that correct, Mr. Coutu?

21 A. Yes, I am.

22 Q. In addition to that you have filed or your  
23 attorney did a motion to quash the subpoena in this



1 proceeding which was denied by the Presiding Officer  
2 and it was indicated that you would come forward, is  
3 that true?

4 A. That's correct.

5 Q. And then subsequent to that you filed an  
6 additional motion in the Superior Court which was  
7 heard this morning before Judge Nicolosi. That motion  
8 asked for clarification as to whether she would order  
9 you to appear or alternatively quash the subpoena, is  
10 that true?

11 A. Correct.

12 Q. And she ordered you to appear?

13 A. That is also correct.

14 Q. What is your occupation?

15 A. I am retired.

16 Q. Prior to your retirement what was your  
17 business or professional endeavor?

18 A. From roughly 2011 up until May 28, 2015 I  
19 worked for the BSR or the law firm of Bernstein Shur  
20 on behalf of BSR almost continuously from the official  
21 hire date which I believe was February 7th, 2012 and  
22 again through May 28, 2015. There were periods of  
23 times, albeit small periods, where I did not work for

1 the BSR, and I might also note that when I worked the  
2 BSR I either was on a pro bono basis or without  
3 contract.

4 Q. There is marked by the BSR in this case  
5 Exhibit 14 which I'll represent to you provides your  
6 background and resume. I believe they obtained it  
7 from you and it describes extensive experience and in  
8 part your employment with various insurance companies  
9 including specific expertise with respect to companies  
10 in runoff. Is that an accurate description of  
11 endeavors in your pre-retirement life?

12 A. Yes. I probably have run, I don't know, a  
13 half a dozen or so insurance companies that were  
14 financially impaired.

15 Q. And for approximately how many years did you  
16 work in connection with the insurance industry in one  
17 form or another?

18 A. My career on the insurance side began in 1984  
19 with Fine & Fine Insurance Company, then a subsidiary  
20 of American Express.

21 Q. And what is your educational background, Mr.  
22 Coutu?

23 A. I have a BS from the University of Rhode

1 Island and I've also done some international banking  
2 studies but not in a master's program.

3 Q. In terms of your familiarity or being exposed  
4 to my client, PLT, did that arise during that initial  
5 period beginning in 2011 when you were retained by the  
6 BSR?

7 A. I was retained officially on February 7,  
8 2012. I was generally familiar with PLT and  
9 HealthTrust prior to that but more intensely  
10 commencing with the period February 7, 2012 forward.

11 Q. I'm not going to be asking you questions  
12 about the period of your engagement with the BSR in  
13 that 2012 period forward. I'm going to really start  
14 about in July of 2014 at the time when the consent  
15 decree was issued in this matter because really that's  
16 what this proceeding specifically relates to, the  
17 terms of the consent decree. My client has filed a  
18 petition to be able to write coverage, so I'm going to  
19 be heavily focused on dealing with that, and so you  
20 can understand my questions when I ask you things I'll  
21 be talking about the period from July 2014. Am I  
22 correct that you participated in proceedings in 2014  
23 that led to the negotiation and issuance of the

1 consent decree by the Presiding Officer?

2 A. I was, again on a non contract basis.

3 Q. And as part of that consent decree did you  
4 become named or take the position of liaison as is  
5 described under the terms of the consent decree?

6 A. I did.

7 Q. And just briefly in summary what was the  
8 nature of the liaison role as you understood it from  
9 the terms of the decree and as you began to implement  
10 your responsibilities as liaison?

11 A. I'll start off by saying that the overarching  
12 theme was to rebuild the relationship between the BSR  
13 and both HealthTrust and PLT; second, that I would as  
14 liaison participate in meetings, attend meetings and  
15 have access to documents that I may request, so  
16 somewhat of an unfettered ability to be part of the  
17 organization's day-to-day operations and to provide  
18 information of what I thought was appropriate back to  
19 the BSR. There were issues that were identified that  
20 may be confidential or privileged in nature and I had  
21 to respect that. I also signed a confidential  
22 agreement with both HealthTrust and PLT.

23 Q. And as a consequence of assuming and

1 undertaking the role of liaison did you in fact find  
2 that you were provided by PLT appropriate access to  
3 financial information and operational information  
4 essential to your role?

5 A. Yes, I was.

6 Q. And what about your interactions with  
7 personnel at PLT, the people involved in the  
8 operations of the organization? Did you have good and  
9 continuous access to the personnel you needed to deal  
10 with?

11 A. I did.

12 Q. In particular who were the primary folks at  
13 PLT that you would commonly interact with to obtain  
14 information or share ideas with in your role as  
15 liaison?

16 A. The primary contact that I dealt with was the  
17 Executive Director, Wendy Parker, the acting CFO, and  
18 I say acting because she was an employee of  
19 HealthTrust but by a service agreement providing  
20 services to George Tsiopras, a little bit with Kim  
21 Rooster, and I worked a fair amount with Mr. Foss in  
22 his capacity as outside general counsel, and others in  
23 claims to a lesser extent.

1 Q. And with regard to PLT did you also have  
2 access or interaction with outside consultants that  
3 they had retained, in particular Towers Watson as an  
4 actuarial firm?

5 A. I had fairly extensive access to Towers  
6 Watson.

7 Q. In terms of the personnel there, who were the  
8 principle individuals or professionals at Towers  
9 Watson that you had dealings with?

10 A. Initially and throughout my involvement it  
11 was Maureen who testified today and Chrisey Centofanti  
12 if I'm pronouncing it right.

13 Q. As part of your engagement and consistent  
14 with your role as liaison were you in any way advised  
15 or informed as to a particular outcome for the  
16 organization, whether it stayed in business or went  
17 out of business, that the BSR or the Secretary of  
18 State's office sought for PLT?

19 MR. VOLINSKY: I would object.

20 PRESIDING OFFICER: Mr. Volinsky.

21 MR. VOLINSKY: I don't know whether that was  
22 provided to Mr. Coutu or not, but if it was, it may  
23 have been in the context of meetings that I attended

1 as counsel and therefore are privileged.

2 PRESIDING OFFICER: Mr. Felmly.

3 MR. FELMLY: Well, let me revise it, then.

4 Q. What I'm trying to find out is if you  
5 received as part of your instructions an indication as  
6 to a particular outcome. Excluding communications  
7 that would involve counsel or would be in your view  
8 subject to attorney-client privilege did any such  
9 communication or instruction come to you in your role  
10 as liaison?

11 A. If your question is whether or not PLT  
12 provided me with information with respect to its  
13 financial condition, the answer would be yes.

14 Q. Well, I don't think I was asking you that.  
15 I'm really asking you whether or not as you were  
16 liaising with the BSR you were given an indication  
17 as to what the goal or the outcome for the existence  
18 of PLT was with the caveat that I'm not asking you to  
19 draw on information that would be attorney-client  
20 privileged.

21 A. I was not given a goal with respect to PLT.

22 Q. So in terms of what you understood to be the  
23 function or the role that you were providing as

1 liaison as it related to PLT how would you describe  
2 what you understood you were supposed to do?

3 A. Well, again, my role was, as I testified  
4 already, in part to rebuild the damaged relationship  
5 between the parties; two, as part of my ability to  
6 receive and request documents to review, to  
7 participate in meetings, Board meetings and the like.  
8 The principle thrust of that I believe would be so  
9 that I would become more knowledgeable with the  
10 operations of PLT, and then early on in that journey  
11 there was a key meeting with PLT senior officer  
12 consultants.

13 Q. And approximately when did that occur?

14 A. September 5th, 2014.

15 Q. And why do you describe that as a key meeting  
16 or what was key about it from your perspective?

17 A. At that meeting attended by the two Towers  
18 professionals I mentioned a bit ago along with Wendy  
19 Parker and George Tsiopras and Pat Closson there was a  
20 fulsome discussion with me about the financial  
21 condition of PLT, concerns with respect to the company  
22 which I would characterize as being financially  
23 impaired, issues with respect to having to prepare a



1 runoff plan without knowing what a runoff plan is  
2 which was required as part of an administrative order  
3 issued by the Department of Labor which plan was  
4 originally due August the 1st and then had been  
5 extended to a later date.

6 Q. And so -- I'm sorry. I cut you off.

7 A. The meeting thrust beyond what I've testified  
8 to was the belief by the team that I described that  
9 given my background in bankruptcy, running companies,  
10 insurance companies in runoff that I may have the  
11 experience and skill set that would be beneficial to  
12 PLT.

13 Q. Was there set up as part of your liaison role  
14 a system of regular meetings that would involve you as  
15 the liaison, Mr. Glennon or representatives from the  
16 BSR and also representatives from PLT?

17 A. Yes, there were monthly meetings that were  
18 established, the first of which was on September 18th,  
19 2014 and every month thereafter I believe ending in  
20 February 2015.

21 Q. And there were written agendas prepared for  
22 those meetings and we've actually marked them in  
23 evidence. Do you recall that?

1           A. Yes, I prepared an agenda for each meeting.

2           Q. And in terms of your activities as liaison  
3 and the work that you were doing and the topics that  
4 were being addressed what steps did you take to make  
5 sure that the BSR was appropriately informed of what  
6 was occurring?

7           A. There were actually a series of things. I  
8 shared with PLT and Attorney Closson that I would not  
9 be comfortable in providing advisory services to PLT  
10 without Mr. Glennon being fully aware of it. I also  
11 suggested to Mr. Closson that he might take a cut in  
12 drafting a document that would describe my role, and  
13 it was very important to me that Mr. Closson would  
14 differentiate that whatever advice I may give would  
15 not be in my capacity as the BSR liaison and that  
16 further in that document it would be made clear that  
17 whatever I may say with respect to advice or  
18 representation would not be binding or limiting with  
19 respect to BSR's role under 5-B.

20           Q. And you provided that document in draft to  
21 Mr. Glennon, did you not?

22           A. I did on the 18th of September.

23           Q. And that was never executed?

1           A. It was not. We discussed it at length. It  
2 was not executed.

3           Q. So my question really was as you were in the  
4 job acting as the liaison to what extent did you  
5 inform Mr. Glennon of the types of issues you were  
6 dealing with and the activities you were dealing with?  
7 You were there almost on a daily basis, weren't you?

8           A. I was there on a daily basis.

9           Q. How did you report and to what extent were  
10 you confident Mr. Glennon understood what was going on  
11 with your activities?

12          A. Beginning with a discussion that we had by  
13 phone on the 18th of September 2014 with respect to  
14 the Closson draft, although Mr. Glennon did not sign  
15 it, we had a discussion that I thought it made good  
16 sense to help the risk pool at that time to avoid  
17 bankruptcy and Mr. Glennon's comment to me was, fine,  
18 but do not make any decisions whatsoever that are tied  
19 within the province of management and the Board.  
20 Second, I wrote a very long memo on September the 30th  
21 that laid out the entire game plan of what would have  
22 to be done to produce a runoff plan in great  
23 particularity, and in that September 30th memo which I

1 might note as an interesting comment was the memo that  
2 became the basis for establishing that the projections  
3 would be going out to 6-30-21, the seven years that  
4 were addressed in your discussion with Maureen, and it  
5 spoke about different runoff approaches. It talked  
6 about reinsurance. It talked about an in-house  
7 managed runoff. It talked about how to distinguish  
8 liabilities, how to use reinsurance in case there was  
9 adverse loss development. It's a nine-page memo. It  
10 was sent to Wendy and George and I sent it on to Mr.  
11 Glennon and Mr. Larochelle so that they knew the  
12 extent of my role.

13 Q. Was there any pushback or complaint from that  
14 September memo where even at that time you were  
15 talking about this period of time that would go out to  
16 I guess 2021? Was there any pushback from them saying  
17 they were in any way unhappy with that?

18 A. No.

19 Q. And as time went on through the fall, and I  
20 realize there were monthly meetings, what's your  
21 testimony about the extent to which you believe you  
22 kept the BSR informed of what you were doing and the  
23 nature of the issues you were dealing with?

1           A. Starting with the October 15th monthly  
2 meeting and every month thereafter I was the fellow  
3 who actually presented at the PLT meeting all of the  
4 matters that were on the agenda that dealt with either  
5 the runoff plan, the projections and even the  
6 financial statements of the company and at each of  
7 those monthly meetings either prior to or the day  
8 before or the morning of I would meet with Mr. Glennon  
9 and sometimes Mr. Glennon and Mr. Larochelle to brief  
10 them on what the meeting would cover providing handout  
11 material in advance to review and give them the  
12 opportunity to ask me any questions with respect to  
13 the subject matter of those agendas.

14           Q. So did this continue right through the  
15 entirety of 2014?

16           A. It did and into '15.

17           Q. But let's sort of take them one period at a  
18 time. At any point in 2014 as you were digging into  
19 these issues and getting involved more and more with  
20 the intricacies of PLT was there any instruction from  
21 the BSR that you were acting in some way different  
22 than their expectations or their desires?

23           A. There was not. There was an issue that arose

1 that I codified in an email writing dated November the  
2 6th in which I wrote a note to Ms. Parker saying in  
3 essence that recognizing my BSR role, that on the  
4 issue of assisting PLT on the financial side, the  
5 runoff plan objections, that I may have been  
6 overreaching based on some issues that were developing  
7 with Towers Watson and I had suggested to Ms. Parker  
8 that I thought I needed to sort of pull back my  
9 position because -- my words were I thought I was  
10 acting in too much of a leadership role and I thought  
11 that that needed to be held in check. That memo was  
12 also sent to Mr. Glennon and Mr. Larochelle in part to  
13 make sure they understood what I was doing and in part  
14 because I thought there was a need to pull back.

15 Q. But this was something you did voluntarily?

16 A. I did it voluntarily.

17 Q. At any point in your time as the liaison, and  
18 let's stay in 2014, was there ever any concern on your  
19 part that you were somehow limited or constrained in  
20 terms of stating your personal views or stating in  
21 good faith your beliefs as to how something should be  
22 done? In other words, were there any limitations on  
23 your ability of speaking your own mind?

1           A. There were not, but I did draw some lines  
2 that I felt were consistent with not stepping over the  
3 line. The first thing I did was I made a decision  
4 early on that I would not prepare the projections.  
5 The projections were prepared by Towers Watson. I  
6 reviewed the projections, I analyzed the projections,  
7 I reconciled things in the projections, but I would  
8 not prepare them. Second, I felt it was inappropriate  
9 for me to make any plain assumptions whether it be  
10 rate increases in the new plan or other assumptions  
11 that were relevant to the plan, so I made no  
12 assumptions. I took those assumptions from management  
13 as they were explained to me.

14           Q. But those assumptions as management was  
15 working with Towers Watson were made available to you  
16 and you were familiar with them?

17           A. I was intensely familiar with them. I'm just  
18 pointing out that I did not prepare the projections.  
19 It was Towers' work product.

20           Q. You did from time to time, however, offer  
21 commentary or provide criticisms or suggestions as  
22 these plans were being worked on, did you not?

23           A. Yes. I have a very technical finance and

1 accounting background and have been involved in a  
2 couple runoffs, so certainly there was a very  
3 interactive role between myself and Towers and Watson  
4 and Mr. Tsiopras as well as Ms. Parker.

5 Q. As you were then proceeding, and we're now  
6 in the October-November time, did you become aware  
7 that there was a project underway that would be at  
8 least described as a strategic plan that had I think  
9 come from a request from the Department of Labor?

10 A. Well, in my nine-page memorandum of September  
11 30th I wrote what became the template for the  
12 strategic plan. So the answer is yes. In other  
13 words, I guided the company to say to them, if you're  
14 going to write this plan, this is what it's got to  
15 cover, these are the components, et cetera, et cetera.  
16 Initially the plan jumbled together runoff and  
17 continuing operations and it was my advice to the  
18 company that it would be a better plan and a more  
19 understandable plan if those two goals could be done  
20 on a separate basis.

21 PRESIDING OFFICER: Mr. Felmly, when you make  
22 reference to the company, do you mean the PLT, Inc.?

23 MR. FELMLY: I do, sir.



1           Q. So whether it originates on September 30th  
2 with your nine-page memo, by the time we get to  
3 October or November there's a great deal of work being  
4 done by PLT as well as by their consultant Towers  
5 Watson on the strategic planning process. Is that a  
6 fair statement?

7           A. It is. The projections provide numbers.  
8 What they don't provide necessarily is what are the  
9 numbers telling us and what reasonable conclusions can  
10 we formulate based on those projections. So the  
11 financial interpretive role with respect to what the  
12 numbers say was done by me. So I wrote both for  
13 purposes of presentation to Mr. Glennon as well as  
14 numerous power point slides and in the strategic plan  
15 itself all of the financial sections that dealt with  
16 both the runoff and the so-called continued  
17 operations.

18          Q. So in terms of that plan and that analysis  
19 and the description of what those numbers and  
20 projections mean to what extent did you interact  
21 personally with Mr. Glennon to make sure he understood  
22 the provisions that you were providing or explaining  
23 to him in your role as liaison?

1           A. Well, again, although the work product was  
2 evolving in the early periods, and let's start with  
3 October, it was a description of what the goal was  
4 with respect to formulating these projections and the  
5 runoff particulars. As that evolved starting in, I  
6 believe, the November meeting we began to put pen to  
7 paper and there was actually work product that was  
8 being shown such as power point slides that I would  
9 provide a copy to Mr. Glennon of by email and then the  
10 day of or the day prior to the meeting I would  
11 actually do a page turning with Mr. Glennon to walk  
12 through all of the financial material so that he had a  
13 clear understanding.

14           Q. And in terms of those interactions with him  
15 were you descriptive of the fact that you were  
16 personally working in ways where you were evaluating  
17 these projections and writing some of the descriptions  
18 of this that became part of the plan?

19           A. I don't think, Counsel, that each time that I  
20 talked to Mr. Glennon I said, oh, by the way, I wrote  
21 this. Mr. Glennon and I worked together for many  
22 years. I think he's pretty familiar with my skill set  
23 and experience, and given the fact that I handled all

1 the presentations with him on behalf of PLT I think it  
2 was pretty clear that I was the author.

3 Q. Let me step back to a slightly different  
4 issue. As you came on board as the liaison did you  
5 get involved in making a careful review of the  
6 so-called services agreement that existed between  
7 HealthTrust and PLT?

8 A. Yes. It happened on the first day that I  
9 started that work which was August 28, 2014. I had  
10 the concern that there may be some inequities in the  
11 allocation of costs in the so-called shared services  
12 agreement between PLT and HealthTrust, so beginning  
13 that day I focused on that. I read the shared  
14 services agreement and concluded that there were  
15 matters of inequity that had to be corrected, and that  
16 topic was one of the topics in one of my very first  
17 meetings with PLT with Mr. Glennon about shared  
18 service agreements and in that there were sub bullets  
19 regarding allocation of cost and other problems.

20 Q. And what was the outcome of your having that  
21 both assessment presented and going forward to address  
22 this? What came of your noted inequities or concerns  
23 with respect to the shared services agreement?

1           A. It was amended and incorporated a fair number  
2 of changes that I recommended. A very simple concept.  
3 There were certain services such as financial services  
4 that were provided by HealthTrust to PLT for a fixed  
5 sum. My argument was that that fixed sum may be over  
6 or under based on the actual hours of services  
7 rendered. Since they were keeping timecards, then I  
8 took the position that the shared services agreement  
9 had to have at least an annual adjustment upward or  
10 downward based on the actual hours of service rendered  
11 as opposed to somewhat of a fixed number. That  
12 agreement was amended and incorporated and as it  
13 turned out, I think across the board the costs were  
14 less than what was originally provided for in the  
15 shared agreement, less for PLT.

16           Q. You must have presented to them the suggested  
17 changes that you were proposing.

18           A. I certainly had discussions with Mr. Glennon.  
19 There were agenda items about the shared services. I  
20 would have to go back through my records. I would  
21 suspect there may have been an email or two or three  
22 about it, and I also believe when the agreement was  
23 revised the agreement was actually hand-delivered by

1 Wendy Parker to Mr. Glennon incorporating all the  
2 revisions to bring more equity into the allocations.

3 Q. So from the time the agreement was amended  
4 and these changes that you had strongly recommended  
5 were brought into the agreement does the services  
6 agreement resurface at all as an item of concern or  
7 worry in terms of the interactions between HealthTrust  
8 and PLT?

9 A. There was an after the fact adjustment that  
10 was made to the agreement when PLT's equity interest  
11 in the real estate was reduced to zero as part of the  
12 settlement vis-a-vis the consent decree. This was the  
13 topic of the excess 17.1 when, because it was a  
14 fractional interest deal, the view was that the value  
15 of real estate was something less than carried on the  
16 books and records of PLT. At that time I was working  
17 for the BSR. I said that it had to be discounted by  
18 25 percent vis-a-vis a carry. That resulted in a  
19 \$519,000 additional payment to PLT. When that  
20 transaction was finalized, then the shared services  
21 agreement which contemplated front office receptionist  
22 and related, once PLT no longer had an interest in the  
23 real estate those services and costs were stripped out

1 of the agreement.

2 Q. And that was after the Board had voted on the  
3 amendment with the provisions you had recommended?

4 A. I think it was in two steps. I'm doing this  
5 by memory, but I believe the first step was the big  
6 changes and the real estate adjustment was second. I  
7 do believe they were done sequentially.

8 Q. What I'm really getting at is not so much the  
9 technical adjustment that came out of the real estate  
10 but the more substantive changes that you had  
11 recommended and worked through the system. When that  
12 was accomplished did you understand the service  
13 agreement issue or concerns about it at the BSR level  
14 were off the table?

15 A. Well, insofar as I'm concerned when the  
16 changes were made I felt that the agreement in toto  
17 was fair and equitable from the PLT side not being  
18 overstated.

19 Q. You are aware that when the petition was  
20 filed the first time to rewrite coverage the first  
21 time in March 30th one of the objections raised by the  
22 BSR after the filing of the petition related to the  
23 service agreement. Are you aware of that?

1 A. Yeah, I am aware of that.

2 Q. Did that surprise you?

3 A. Yes, it did.

4 Q. You had thought that was behind you?

5 A. Well, when you think about that issue,  
6 Counselor, I don't recollect that I actually said to  
7 Mr. Glennon, here's the last final revised and amended  
8 agreement, please give me your input so we can put  
9 this in the done column. I don't recall that I did  
10 that. I provided him with updates as to what was  
11 wrong and what needed to be changed and then we went  
12 ahead and changed it. When those changes were all  
13 made and the document was delivered again I believe by  
14 Ms. Parker to Mr. Glennon there was no objection  
15 raised.

16 Q. And then you were surprised when it became an  
17 issue in their objection?

18 A. Well, because there was no objection raised  
19 with respect to the end product I was surprised that  
20 it became an issue after the fact.

21 Q. Did you also look at the lease when you came  
22 on board?

23 A. I looked at all the leases. Again, Counsel,

1 I was working both from an HT perspective and a PLT  
2 perspective, so I was worried about whether the leases  
3 that were entered into by HealthTrust with all the  
4 tenants were fair market value and that the lease  
5 arrangement between HT and PLT was also representative  
6 of fair market value.

7 Q. And how did you come out on that?

8 A. I got copies of all the leases. I got  
9 information not independently I might note. There was  
10 information that was supplied by HealthTrust with  
11 respect to fair market values of rental property of  
12 comparable type and we looked at that and based on  
13 that value concluded that the leases between  
14 HealthTrust and its various tenants were written  
15 fairly close to if not at fair market value. There  
16 was one lease that was kind of a month to month  
17 arrangement and it was to be codified as a formal  
18 lease and I don't know if that was done before I was  
19 out of there.

20 Q. But in general your view after reviewing the  
21 leases was that they were quite close to what you  
22 thought would be fair market value?

23 A. Correct, and there were kind of incentives



1 that sometimes related to questions about the fair  
2 market value of leases.

3 Q. Did the issue of leases after your initial  
4 review and assessment ever become a matter of further  
5 controversy or concern communicated to you by the BSR?

6 A. Every one of those leases was sent  
7 electronically to the BSR.

8 Q. And you never heard any complaint or concern  
9 that you had it wrong in terms of the assessment?

10 A. Other than there was a technological issue  
11 because the server for the State can only take fifteen  
12 thousand pages at a time, so they had to do it in  
13 about seven installments.

14 PRESIDING OFFICER: You're speaking for the  
15 record, the stenographic record being made, so just as  
16 they've got after me today for my raspy voice, try not  
17 to trail off if you can. Thank you.

18 MR. COUTU: Yes, sir.

19 Q. So going back to the financial planning part  
20 of the liaison role, at the end of 2014, at that time  
21 am I correct in my understanding that there were both  
22 plans being formulated to show a runoff scenario for  
23 the company as well as a going concern scenario?

1           A. If I may so that we're clear, when I laid out  
2 the process, the first thing I said to PLT's  
3 management is that the company and the Board had to  
4 determine whether or not the company was bankrupt, so  
5 I said, we have to go through a process to evaluate  
6 bankruptcy within the context of the bankruptcy code,  
7 if we are not bankrupt, then we can talk about runoff  
8 and we need to focus on runoff, and then the third  
9 step in the process was whether there was merit as an  
10 alternative to the resumption of underwriting, so all  
11 that began with bankruptcy.

12           Q. And I was trying to jump a little bit ahead.  
13 My understanding is you did raise that and the  
14 conclusion was that they were not bankrupt.

15           A. That required some projections because in the  
16 insurance business your cost of goods sold is not  
17 known at the time of the sale because of the nature of  
18 the long-term manifestations of a claim, so we needed  
19 projections that would look at the entire claims  
20 payout pattern which initially went to 2032 and was  
21 revised to 2029 and along that route two goals had to  
22 be achieved. One, they had to maintain a positive net  
23 position during the pendency of the runoff and then

1 two, they had to have sufficient liquidity to fully  
2 discharge all valid claims without discount or  
3 amendment. Only then and after that review was done  
4 could it be concluded that the company was not  
5 bankrupt vis-a-vis its ability to discharge its debt  
6 obligations.

7 Q. So did that happen? Did that analysis occur  
8 as the fall progressed and was there sufficient  
9 satisfaction that they were not bankrupt?

10 A. There was. The projections prepared by  
11 Towers Watson were then given to the Board to answer  
12 the bankruptcy code issue of solvency and what were  
13 the projected financials that would support the  
14 contention that the company was not insolvent.

15 Q. Based on your financial experience and based  
16 on your understanding, to what extent was the millions  
17 of dollars that PLT had been ordered to pay and in  
18 fact paid including \$3.1 million of excess surplus  
19 that they had to return and then the \$17.1 million and  
20 then the \$519,000, what role did those millions of  
21 dollars of payments leaving aside the issue of whether  
22 they were justified or unjustified, just the fact of  
23 that cash going out the door, what was the

1 significance of that in terms of their financial  
2 condition?

3 A. \$17.1 million, \$519,000 and \$3.2 million,  
4 that's the sum total, so there were not enough assets,  
5 liquid assets, cash assets in the balance sheet of  
6 workers' comp on an unofficial standalone basis and so  
7 the cash came out of Property-Liability Trust's book  
8 of business again on an artificial construct in order  
9 to discharge those obligations. The effect of the  
10 discharging of those obligations effectively rendered  
11 Property-Liability Trust with a negative net position  
12 as a result of those actions. Again, I say that  
13 unofficially because this is one legal entity and so  
14 the construct of looking at separate books may be  
15 helpful for different reasons, but the bankruptcy test  
16 was applied on a consolidated basis, not on a book of  
17 business basis.

18 PRESIDING OFFICER: Mr. Felmlly, in your  
19 questions I would really like to stay away from what I  
20 would consider now redundant testimony. We've had  
21 these numbers listed before. I don't know the extent  
22 to which the issue of bankruptcy is relevant. If it  
23 is, please instruct me, but I do want to stay away

1 from redundant testimony. This man has a specific  
2 purpose here. And Mr. Coutu, Mr. Felmly is in  
3 control, so if he asks you a question that calls for a  
4 yes or no, please give him a yes or no first. If he  
5 wants to dig further, he will.

6 MR. COUTU: Yes, sir.

7 PRESIDING OFFICER: And the same will be true  
8 on cross-examination, Mr. Volinsky. Thank you.

9 Q. So without getting into again all the details  
10 of the numbers, those stream of payments is the  
11 situation that put PLT in the financial straits they  
12 were in?

13 A. Correct.

14 Q. Now, as the process of developing these pro  
15 formas go forward at approximately what point is the  
16 issue of a going concern option becoming a realistic  
17 item to discuss or consider?

18 A. In connection with the June 30, '14  
19 financials, the then new outside auditors, Johnson &  
20 Lambert, had raised the specter with George Tsiopras  
21 that they were concerned whether PLT on a combined  
22 basis may be qualified with respect to their  
23 accounting opinion as a going concern.

1 Q. My question was really when did that happen,  
2 not tell me everything about the underpinnings. I  
3 mean, try to structure it. In the series of events as  
4 we come to the end of 2014 when does it become the  
5 case that the issue of a going concern and continuing  
6 to write coverage becomes something that is the  
7 subject of serious discussion as you recall it?

8 A. If I may, Counsel, are you asking me from the  
9 standpoint of the outside auditors?

10 Q. No. When you were involved in discussions  
11 when it was apparent that there was now on the table  
12 an important question about whether or not PLT was  
13 going to go forward on a going concern basis, when  
14 does that happen? Not the precise day but the range.

15 A. Are you saying -- maybe I'm not understanding  
16 your question.

17 PRESIDING OFFICER: The question, Mr. Coutu,  
18 is when did you first become engaged in discussions  
19 concerning whether or not PLT was going to be able to  
20 continue as a going concern.

21 MR. COUTU: That probably would have been --  
22 that may have been, I'm going to guess, probably the  
23 end of October.

1                   PRESIDING OFFICER: Thank you, sir.

2                   Q. Now, there comes a time, and it's  
3                   communicated in some of the emails and testimony  
4                   you've given, that you came to believe that PLT was  
5                   viable in terms of continuing its operations, is that  
6                   true?

7                   A. As a continuing operation?

8                   Q. Yes.

9                   A. Yes, as a continuing operation.

10                  Q. And what were the reasons that caused you to  
11                  come to that conclusion? What were the factors that  
12                  supported your view that as a continuing operation PLT  
13                  was financially viable?

14                  A. A number of things. And unfortunately much  
15                  of my world is very technical. To be very clear, I  
16                  did not have any input with respect to the rates that  
17                  were being projected in the going forward scenario, so  
18                  I took those as a given. However, that  
19                  notwithstanding, it was clear to me that to establish  
20                  a viable operation two things had to be established.  
21                  One, the balance sheet capital structure had to be  
22                  rebuilt to something approaching 90 percent. We'll  
23                  call that the confidence level. The second is there's

1 something called a combined ratio. I laid out the  
2 proposition that unless PLT could show an ability to  
3 reduce its combined ratio to something around a  
4 hundred percent or less, then its going forward  
5 business would not be viable. The plans that were  
6 developed for the going forward proposition showed the  
7 combined ratio which starts off at 107 percent and  
8 falling below a hundred percent, I would say, by year  
9 4 in the projections that were developed. With  
10 respect to the confidence level the projections showed  
11 under the ongoing scenario that they could rebuild the  
12 mathematical confidence level to 90 percent or better  
13 by the fifth year of the projections. That said to me  
14 based on all of the assumptions that the company could  
15 rebuild its organization financially speaking into a  
16 viable, fully sustainable business.

17 Q. Did you communicate that conclusion and your  
18 assessment on that in your role as liaison to the BSR?

19 MR. VOLINSKY: Let's again just be careful  
20 not to include attorney communications in that answer.

21 MR. FELMLY: Well, I don't know that that  
22 admonition is appropriate, but let me be clear.

23 MR. VOLINSKY: I would object to the --



1 MR. FELMLY: Let me finish my comment if I  
2 could and not have you interrupt me.

3 Q. I just want to be absolutely fair and clear.  
4 I'm not calling for attorney-client communications  
5 when I ask you about communications. I'm not doing it  
6 with this question and I won't be doing it with any  
7 questions, so it may be perfectly appropriate to be  
8 reminded of that, but I'm not calling for you to  
9 disclose attorney-client communications. So my  
10 question to you is did you communicate to the BSR the  
11 view that you had developed and assessed with those  
12 factors, that you believed the company had a plan for  
13 financial viability?

14 PRESIDING OFFICER: Mr. Coutu, the area that  
15 we're entering, just because I've been here and you  
16 have not is, shall we say, a sensitive area which has  
17 been argued and some of it has been ruled on, some of  
18 it has not, but both attorneys are attempting to walk  
19 a very thin line. That thin line surrounds the issue  
20 of what is commonly referred to as attorney-client  
21 privilege. Counsel have different views of some  
22 aspects of that, so I'm going to have to ask you to  
23 anticipate that as Mr. Felmly proceeds in this

1 direction that Mr. Volinsky will be making objections  
2 and I will have to, you know, get that settled before  
3 we can come to you for an answer, okay? So please  
4 understand that and try not to be so quick to respond  
5 to those types of questions before I make a ruling,  
6 all right? Do you understand that?

7 MR. COUTU: I do, sir. The other problem is  
8 I have to think about the question and think about  
9 what's in the privilege bucket and what's not in the  
10 privilege bucket because I don't want to get into that  
11 either.

12 PRESIDING OFFICER: So let me get this  
13 settled, okay? Mr. Volinsky.

14 MR. VOLINSKY: I understand Mr. Felmly's  
15 questions are designed to exclude responses that  
16 breach the attorney-client privilege. I would ask the  
17 Hearing Officer to instruct the witness that he tell  
18 us whether his substantive answer to the question  
19 requires him to reveal privileged information, and I'm  
20 concerned that the last question may require him to do  
21 that.

22 MR. FELMLY: Telling the BSR that he thinks  
23 it is financially viable is privileged information?

1 Inherently privileged information?

2 PRESIDING OFFICER: I believe, Mr. Volinsky,  
3 if I may, I'm interpreting your objection and what  
4 could be a continuing objection to be one again of  
5 getting into an area that is just going to bring us  
6 into attorney-client privilege difficulty. I have  
7 already ruled that Mr. Coutu could testify here and I  
8 have attempted to address that meaningfully. Mr.  
9 Felmly and you both discussed this issue. I think you  
10 both have a sensitivity to it as do I. However, let  
11 me just refresh my recollection.

12 Mr. Coutu, you're not an attorney, is that  
13 correct?

14 MR. COUTU: That's correct.

15 PRESIDING OFFICER: You're also not a  
16 certified public accountant as long as I'm on the  
17 topic, is that correct?

18 MR. COUTU: That's correct.

19 PRESIDING OFFICER: To ask Mr. Coutu to make  
20 the determination as to whether or not he is revealing  
21 or violating attorney-client privilege is difficult  
22 for the witness, so I'm going to ask that Mr. Felmly  
23 apply his understanding and his respect for the

1 profession and everything that's gone on before in the  
2 discovery phase of these proceedings, and I'll ask you  
3 to make the same recognition, Mr. Volinsky, and I will  
4 attempt my best to differentiate, if you will, what  
5 might be considered a factual question that does not  
6 invoke attorney-client privilege. And I won't go  
7 through the list of those. I'm hoping there won't be  
8 too many of them, but know that I'm prepared to make  
9 those calls on a question by question basis. Beyond  
10 that assurance all I can say is that I understand that  
11 your objection is that this witness should not be  
12 sharing privileged information, privileged information  
13 being defined as that information falling under the  
14 attorney-client privilege. Do I understand your  
15 objection correctly?

16 MR. VOLINSKY: Close.

17 PRESIDING OFFICER: Would you help me, then.

18 MR. VOLINSKY: If Mr. Felmly were to ask Mr.  
19 Coutu, "did you tell the Bureau the sky was blue," and  
20 that was relevant to the legal representation and the  
21 advice that the sky was blue happened at a meeting at  
22 which I was personally in attendance, that would be a  
23 privileged communication, and I just want to make sure

1 that the answer to the question doesn't come from a  
2 meeting in which I or Mr. Tilsley -- I'm trying to  
3 limit this to outside counsel -- were present and  
4 attending and exchanging communications with the  
5 witness.

6 PRESIDING OFFICER: Thank you. Mr. Felmly,  
7 could I hear from you in regard to the parameters that  
8 Attorney Volinsky has incorporated into his objection?

9 MR. FELMLY: The notion that a non employee  
10 consultant goes to a meeting at which a lawyer happens  
11 to be there and talks about the sky being blue and Mr.  
12 Volinsky's representation that that would clearly be  
13 under the attorney-client privilege I think would go  
14 beyond any attorney-client privilege law or analysis  
15 that I've ever seen. You're really in the work  
16 product doctrine. He's a third party. He's not the  
17 client. There are circumstances when consultants and  
18 experts are sometimes under that, but they are not  
19 with respect to talking about whether the sky is blue.  
20 It is highly fact intensive. So that's not the  
21 correct statement of the law, that's not the  
22 principle, and I think looking at the rulings here,  
23 and maybe I can rephrase the question so it's more

1 clear what I'm calling for, I'm not asking for him to  
2 tell me what he said to Mr. Volinsky. I'm asking him  
3 what was said to the BSR. Mr. Volinsky is not the  
4 BSR. So I don't think that this is even close to an  
5 area of concern with respect to violating  
6 attorney-client privilege. The sky being blue is  
7 actually probably the part of the analysis which I  
8 think causes everything to break down, so let me say  
9 this. If I could withdraw that question and ask a  
10 somewhat different question, maybe we can get to it  
11 without this being a problem.

12 PRESIDING OFFICER: Mr. Volinsky, will you  
13 accept that representation by Mr. Felmly? He's going  
14 to try his question a different way.

15 MR. VOLINSKY: Absolutely.

16 PRESIDING OFFICER: Do you want to have a  
17 continuing objection or do you want to take them one  
18 at a time?

19 MR. VOLINSKY: I'm fine with a continuing  
20 objection as long as the BLT is fine with that.

21 PRESIDING OFFICER: Mr. Felmly, are you okay  
22 with that if he's fine with that?

23 MR. FELMLY: I don't care if he has a

1 continuing objection.

2 PRESIDING OFFICER: So there's a continuing  
3 objection by Mr. Volinsky with respect to information  
4 that may be solicited from the witness Mr. Coutu. Mr.  
5 Volinsky, do you want a continuing objection?

6 MR. VOLINSKY: I do.

7 PRESIDING OFFICER: You may now continue.  
8 That objection would include references, emanations or  
9 communications from a meeting or any communication at  
10 which Mr. Volinsky, Mr. Tilsley or any other outside  
11 counsel to the BSR was present. Is that accurately  
12 stated, Mr. Volinsky?

13 MR. VOLINSKY: Yes.

14 PRESIDING OFFICER: Mr. Felmly, did you  
15 understand what I just said?

16 MR. FELMLY: I understood what you said and I  
17 said I don't mind him having a continuing objection.  
18 I believe the first time he said it, it was not a  
19 proper objection. Each time that we're continuing I  
20 don't think he is properly stating the law or properly  
21 stating the objection, but I don't mind him having a  
22 continuing objection. As far as what he thinks the  
23 law is and what I think the law is, it's very

1 different, but that's for another day.

2 PRESIDING OFFICER: That is for another day.  
3 By accepting his continuing objection I'm not going to  
4 stop you at every question. I think that this kind of  
5 interchange or exchange, if you will, should be  
6 sufficient to learned counsel to get to the point and  
7 I appreciate your effort to withdraw that question and  
8 try it a different way. Thank you.

9 Q. So Mr. Coutu, in Exhibit 12, and I don't  
10 think you'll need to go to it because you obviously  
11 know these communications probably by heart, there's  
12 an email that you wrote on Tuesday, April 21, 2015 to  
13 Mr. Glennon that has been marked as an exhibit  
14 entitled -- the re line says "Important" and it  
15 references that you just got a call from Senator  
16 Jeanne Forrester and it goes on to describe the  
17 interchange you had with her.

18 PRESIDING OFFICER: Mr. Felmly, excuse me for  
19 interrupting, but if there is a PLT number in the  
20 lower right, could you please refer me to the exhibit  
21 you're talking about?

22 MR. FELMLY: It's the number at the bottom  
23 middle of page 239. Those exhibits are all



1 chronological and it's dated April 21, 2015 in tab 12  
2 and it's page 239.

3 Q. In that email that you wrote to Mr. Glennon,  
4 sir, you describe the fact that she had asked you if  
5 you thought it was viable, referencing the PLT plan,  
6 and then you said, "I said that it was but not  
7 necessarily the least risk without going into  
8 details," and then you go on to talk about it. My  
9 question to you is this. It is apparent from that  
10 email that you were discussing with Mr. Glennon the  
11 issue of viability. There's no counsel copied on that  
12 email. There's no indication or reference to counsel  
13 or Mr. Volinsky.

14 MR. VOLINSKY: I'm sorry. I lost the page  
15 number.

16 PRESIDING OFFICER: Page 239, the lower  
17 bottom of Exhibit 12 in PLT binder 2. In the center  
18 in about ten point print there's one set of numbers,  
19 and just for you all out there so you don't think that  
20 we're just terribly confused up here, know that these  
21 exhibits that we're referring to have been discussed  
22 in several different contexts. There are a series of  
23 numbers in the lower right, in the center, in the

1 upper left. So that's for your benefit. We wouldn't  
2 want you to think adversely on what this proceeding is  
3 accomplishing here today. So Mr. Volinsky indicates  
4 he has it.

5 MR. VOLINSKY: I have it.

6 Q. So there's plainly a discussion going on in  
7 this email with Mr. Glennon about viability and so now  
8 my question to you is this. As you and Mr. Glennon  
9 communicated what were the reasons that you explained  
10 to him about the viability of PLT and its plan in your  
11 view?

12 A. Well, again, if we were to accept the fact as  
13 I've said from the beginning that I had no play in the  
14 development of the assumptions as it relates to rate  
15 increases, I took them as a given; however, the  
16 viability question turns on two things. One, can you  
17 recapitalize this company through the resumption of  
18 underwriting to a level that at least is consistent  
19 with historical perspectives or at a minimum present a  
20 level of confidence level that is at least within the  
21 broad standards of the industry and then, two, the  
22 ability to rebuild the balance sheet can only be  
23 accomplished if the company is able to write the

1 business at a so-called combined ratio of a hundred  
2 percent or less, and since the projections were able  
3 to demonstrate to my satisfaction that they could be  
4 accomplished I deemed therefore the plan to be viable.

5 Q. Did Mr. Glennon offer opposition or concern  
6 or what was his response to your indication that you  
7 thought this plan was workable and viable?

8 A. I don't remember any discussion with Mr.  
9 Glennon in which he indicated a view or an opinion or  
10 an agreement as to whether or not the plan was viable.

11 Q. Did you discuss the continuation or  
12 resumption of writing business on the part of my  
13 client PLT directly with the Secretary of State?

14 PRESIDING OFFICER: Yes or no.

15 MR. COUTU: Again, because of privilege  
16 issues, your Honor, I have to think through this for a  
17 second. I did.

18 Q. In an email that you wrote on June 10th of  
19 2015 which was after your testimony to the Joint  
20 Commission, and that's at page 241 of Exhibit 12, in  
21 that memo which the memo which starts, "Barry, am I to  
22 infer that you are contemplating suing me," do you  
23 remember that email?

1           A. I do.

2           Q. At the bottom of the page you say, "I  
3 certainly feel like I have become the enemy. Why?  
4 Because I disagreed with Bill?? If that is the case  
5 what was my role if not to give my expert opinion on  
6 matters that the BSR had to decide." Is the Bill  
7 referenced in that paragraph the Secretary of state?

8           A. It is.

9           PRESIDING OFFICER: Let the record also show  
10 that Exhibit 12, page 000241 contains a double  
11 question mark after the name "Bill" which was not read  
12 into the record. Go ahead, Mr. Felmly.

13          Q. In the emergency application that you filed  
14 in court the other day which we heard this morning you  
15 made the statement as part of your prayer to the Court  
16 or your attorney made the statement on your behalf  
17 that your actions including giving testimony on behalf  
18 of PLT are based at least upon Coutu's efforts that  
19 PLT's health has improved to the point that it has  
20 petitioned the BSR to allow it to resume writing  
21 coverage apparently to the great displeasure of the  
22 Secretary of State and BSR presumably resulting from  
23 venom developing over years of contentious litigation

1 with PLT."

2           What is the basis or what are you basing your  
3 comments on with respect to either some venom or  
4 animosity with respect to the issue of PLT? What is  
5 the basis for these representations?

6           A. I have to say that my comments which would  
7 answer your question are clearly within the scope of  
8 the privilege.

9           Q. And that is because why? They were made to  
10 counsel?

11          A. I don't know how much more I can say on this.  
12 I will tell you that --

13           PRESIDING OFFICER: Let me take over, please,  
14 for a moment so that I might make some inquiries.  
15 One, you've heard the statement that he just read that  
16 was purported to be made by an attorney in a different  
17 venue, your attorney, earlier this morning, correct?

18           MR. COUTU: Correct.

19           PRESIDING OFFICER: The exhibit that we just  
20 referred to where you made an inquiry of Mr. Glennon  
21 as to the reasoning that you feel like you, quote,  
22 "have become the enemy" is based on what? And I'm not  
23 asking for the content of anything, but you reached --

1 well, one, did you reach that conclusion?

2 MR. COUTU: I mean, I have to look at the  
3 gentlemen who are lawyers here guiding me.

4 PRESIDING OFFICER: No, I'm going to guide  
5 you right now as the Presiding Officer.

6 MR. COUTU: Again, I'm trying to be very,  
7 very careful because a lot of this is clearly within  
8 the four corners of the privilege.

9 PRESIDING OFFICER: And I'm extending to you  
10 every courtesy, Mr. Coutu, but let me disabuse you of  
11 one thing. You do not have unfettered authority here.  
12 Do you understand that?

13 MR. COUTU: Yes, sir.

14 PRESIDING OFFICER: So I'm going to ask you  
15 again. Because we already have this document in  
16 evidence without objection I might add by the BSR and  
17 Mr. Felmly is trying to get at the reason that you  
18 developed a belief that you feel like you "have become  
19 the enemy." I'm simply asking you not for the content  
20 but rather how you came to that belief. Did you  
21 receive a letter? Did you receive an email? Did you  
22 receive a communication? And we'll go carefully into  
23 any further depth. I'm trying to assist here.

1 MR. COUTU: One, I objected to the basis of  
2 the objection filed by the BSR. Two, there were  
3 comments made in certain meetings directed at me that  
4 in my judgment raised some real questions and in my  
5 judgment again I felt perhaps were driven more through  
6 ill feelings rather than either a financial or  
7 regulatory or legal basis for statements.

8 PRESIDING OFFICER: Excellent. Could you  
9 give me a timeframe?

10 MR. COUTU: March 26th; March 27th.

11 PRESIDING OFFICER: You formed that opinion  
12 on that day based on the timeframe of these actions  
13 that you just characterized?

14 MR. COUTU: Sir, I took exception to the  
15 language and the statements in the objection filed by  
16 the BSR and wrote about those in an email that I think  
17 is privileged. Second, I met with Mr. --

18 PRESIDING OFFICER: You wrote about that. Do  
19 you know about when you wrote about that?

20 MR. COUTU: It would have been when we were  
21 working on the objection, so that's roughly March.

22 PRESIDING OFFICER: Thank you, sir.

23 MR. COUTU: Second, I met with Mr. Gardner.

1 I asked to have a personal meeting with him without  
2 Mr. Glennon and without Mr. Larochelle the late  
3 afternoon of the 26th of March and then the meeting  
4 which took place where some of these, I'll call them,  
5 harsh views were formed was the meeting that took  
6 place on March 27th.

7 PRESIDING OFFICER: So we're all in the March  
8 26 through 28 timeframe?

9 MR. COUTU: Yes.

10 PRESIDING OFFICER: Mr. Felmly, you can have  
11 your witness back.

12 Q. So you had a private meeting with the  
13 Secretary of State without the presence of counsel on  
14 the 26th did you say?

15 A. Correct.

16 Q. What was said at that meeting?

17 MR. COUTU: May I ask you a question, sir?

18 PRESIDING OFFICER: Sure.

19 MR. COUTU: If we're going to start getting  
20 into discussions about individuals, it worries me if  
21 we're doing this in a public arena versus non public.

22 PRESIDING OFFICER: I can tell you that this  
23 is a public hearing.



1 MR. COUTU: Right. I understand.

2 PRESIDING OFFICER: And that's how we're  
3 doing this.

4 MR. COUTU: So this is not a 91-A issue?

5 PRESIDING OFFICER: Neither party here has  
6 raised it as a 91-A issue to me.

7 A. I had a meeting with Mr. Gardner in the late  
8 afternoon of the 26th in which I criticized him for  
9 not taking the time to listen to me play out the  
10 particulars of both the runoff plan and the so-called  
11 ongoing plan.

12 PRESIDING OFFICER: Okay. Stop there. Mr.  
13 Felmlly, question. We're going to do this like an  
14 interrogatory process. I'm not just going to let  
15 narrations go on.

16 Q. What was his response when you criticized him  
17 for not getting into the details that you felt he  
18 needed to know?

19 A. He didn't say anything initially. I then had  
20 a discussion with Mr. Gardner which I would  
21 characterize his duties as the regulator and I said to  
22 Mr. Gardner that in my opinion he had two overarching  
23 responsibilities; one, to make sound judgments and

1 two, to act in good faith and that the predicate for  
2 sound judgment is that he had to make them on an  
3 informed basis.

4 PRESIDING OFFICER: Mr. Felmly, what's the  
5 relevance of this testimony or this line of  
6 questioning?

7 MR. FELMLY: I think I have a right to know  
8 and explore relevant evidence as to what was the  
9 reason why the Bureau objected and what's the reason  
10 why they are in opposition to this and the testimony  
11 here involves the Secretary of State which is the  
12 party under which the Bureau is here, so when the  
13 consultant/analyst here is having conversations with  
14 the regulator regarding issues of the regulator's view  
15 or perception of it, I think it goes actually right to  
16 the heart of the process that we're engaged in.

17 PRESIDING OFFICER: Mr. Volinsky.

18 MR. VOLINSKY: This line of questioning goes  
19 right to the heart of our motion about Mr. Coutu's  
20 testimony because there are things that I would bring  
21 out were they not privileged and where I am now being  
22 placed in a position that I can't use because they are  
23 privileged. They are directly relevant to this topic

1 and would be helpful to an understanding, but because  
2 some of Mr. Coutu's conversations occurred in a  
3 privileged circumstance and some did not, the public  
4 and the Hearing Officer will not have a fair  
5 understanding.

6 PRESIDING OFFICER: I'm afraid I don't see  
7 the relevance if the issue at hand is that at the end  
8 of the day I need to determine whether or not PLT has  
9 sufficiency in their financial position to proceed, if  
10 you will, as an ongoing entity to issue and reissue  
11 insurance contracts. I fail to see how a discussion  
12 between Mr. Coutu and the Secretary of State is  
13 relevant to that determination of financial  
14 sufficiency. As I've said, financial viability has  
15 been used as a word. So I'm going to ask you to move  
16 on to a different area of questioning, Mr. Felmly, and  
17 if it's for another day, then it will have to be for  
18 another day, but to me it's a reach. I just think  
19 it's reaching a little bit far and I fail to see how  
20 it helps me come to a determination as to the issues  
21 at hand here, at least the factual issues as I see it  
22 and which have been framed by both counsel as to the  
23 financial sufficiency of PLT. Counsel knows that

1 there's another legal issue that has been  
2 characterized as having to do with the separation of  
3 lines, the lines of insurance or the types of  
4 insurance within a 5-B regulated agency. For those  
5 reasons, sir, I'll ask you to move to a different area  
6 of questioning.

7 MR. FELMLY: And I will, but I would like to  
8 say in the nature essentially of an offer of proof  
9 that it seems to me that in the context of the  
10 regulatory matter that we're engaged in that there is  
11 a very broad panoply of both proper procedure, proper  
12 administrative practice, good faith and fair dealing  
13 with respect to information that bears on how the  
14 client, in this case PLT, is dealt with in that  
15 process, and the testimony that came out from Mr.  
16 Coutu thus far raises a line of inquiry that I think  
17 is completely appropriate to pursue. I hear what  
18 you're saying and I will move on, but I don't want it  
19 to be in any way suggested that I'm either waiving  
20 that view or somehow relinquishing that view. The  
21 suggestion that we are not able to continue in a  
22 writing business mode in the eyes of the regulator due  
23 to its objection I think inherently requires an

1 understanding of what the basis of those objections  
2 are and whether they are based on accounting and  
3 actuarial principles or whether they are based on  
4 something else which may be more personal or  
5 different. I think it is an appropriate area of  
6 inquiry. I hear what you're saying, but I won't spend  
7 anymore time on this. I'm not waiving my position on  
8 this and I know you understand it.

9 MR. VOLINSKY: I will just say that we're  
10 here by agreement for PLT to carry its burden of proof  
11 and so I think this whole line of questioning is  
12 inappropriate.

13 PRESIDING OFFICER: I've already made my  
14 ruling and I've heard from counsel, so Mr. Felmly,  
15 I'll ask you to proceed.

16 Q. Understanding I'm not going further into the  
17 discussion with Mr. Gardner, but with respect to the  
18 area of disagreement in the discussions, to the extent  
19 that you can describe for me your view as to the  
20 Bureau's objections and how they differed from your  
21 views, what particular topics did you have a different  
22 view on?

23 MR. VOLINSKY: I would object for the same

1 relevance issue that you articulated.

2 PRESIDING OFFICER: I'll grant the objection,  
3 so you can proceed, Mr. Felmly.

4 MR. FELMLY: So I'm not permitted to find out  
5 what his understanding was of the Bureau's objections?

6 PRESIDING OFFICER: Well, I don't know that  
7 I'm concerned with what the Bureau's objections are.  
8 The law is my guide. The law is my guide procedurally  
9 and substantively. I'm fully aware of my  
10 responsibilities to provide due process. I'm fully  
11 aware of my procedural responsibilities under the  
12 statute 421-B:26. I'm fully aware of my substantive  
13 legal responsibilities in terms of, if you will,  
14 measuring pooled risk management programs under RSA  
15 5-B. So if you're asking if my response is that you  
16 can continue to ask questions that I deem irrelevant,  
17 my response remains the same. No.

18 MR. FELMLY: Well, I must say I do not  
19 understand the limits of it, so I'm going to try my  
20 best.

21 Q. Can you tell me, as you continued throughout  
22 the spring of 2015 and as you approached the end of  
23 your term or before you resigned as the liaison did

1 you continue to hold the view that the plan that had  
2 been formulated and presented as to PLT as a going  
3 concern, did you continue to hold the view that that  
4 remained viable?

5 A. I did.

6 Q. And did you so testify at a joint legislative  
7 hearing on June 9th?

8 A. I did.

9 Q. Without getting into the details of  
10 attorney-client privilege did there continue to be  
11 discord and tension between you and the BSR over your  
12 position?

13 A. I resigned on May 28th. The hearing I  
14 believe was on June 9th. Other than the fact that Mr.  
15 Volinsky, Mr. Glennon and Mr. Larochelle were there,  
16 there was dialogue or there was an email written to me  
17 by Mr. Volinsky the next day about my testimony.

18 Q. At any point in your entire tenure as liaison  
19 up until this time in June or thereabouts when you  
20 resigned, and maybe it was late May, did you believe  
21 at any point in time that you had acted in violation  
22 of your responsibilities, loyalties or duties to the  
23 BSR?

1           A. I did not.

2           PRESIDING OFFICER: At this time let me  
3 interrupt for a brief moment to put on the record, Mr.  
4 Coutu, in and around the time of your resignation on  
5 May 28th did you directly or did you indirectly  
6 correspond with me by telephone?

7           MR. COUTU: I did with respect to unpaid  
8 fees.

9           PRESIDING OFFICER: I don't have those in  
10 front of me, but I wanted to tell counsel if they  
11 weren't already aware and I'm seeing a head nod. Mr.  
12 Felmly, you aware that Mr. Coutu contacted me  
13 directly?

14          MR. FELMLY: I think you had mentioned that.  
15 And yes, I was aware of it.

16          PRESIDING OFFICER: And did I respond to you,  
17 Mr. Coutu?

18          MR. COUTU: You did, sir.

19          PRESIDING OFFICER: And what did I say?

20          MR. COUTU: The essence is that I was a third  
21 party and I had no real standing in the matter, that I  
22 failed to bring any precedent or case law or authority  
23 to you in this matter and that basically you couldn't



1 do anything or wouldn't do anything.

2 PRESIDING OFFICER: And I confess to not  
3 doing anything. Again, I just wanted to put that on  
4 the record. I couldn't tell you today what was in  
5 those communications other than the general  
6 characterization as Mr. Coutu just indicated. Thank  
7 you, Mr. Coutu.

8 MR. FELMLY: Your Honor, I want to ask Mr.  
9 Coutu a question that I want to present first to you  
10 and determine if it's within the scope of your ruling.  
11 On Wednesday, April 15th he wrote Ms. Parker an email  
12 that starts, "A sad and difficult day. My heart  
13 reaches out to you and staff. It was never a fair  
14 fight and frankly the manner in which the BSR fought  
15 PLT's resumption petition leaves me with a very bitter  
16 taste."

17 PRESIDING OFFICER: Could I have the page  
18 number of that exhibit?

19 MR. FELMLY: 216.

20 PRESIDING OFFICER: Thank you.

21 MR. FELMLY: I would like to direct a  
22 question to Mr. Coutu, and I don't want to run afoul  
23 of your order, as to what he means by the manner in

1 which the BSR fought PLT's resumption petition and I  
2 would like to ask what he means by the comment "leaves  
3 me with a very bitter taste."

4 PRESIDING OFFICER: Mr. Volinsky.

5 MR. VOLINSKY: If the inquiry is whether the  
6 Bureau did something other than file an objection, I  
7 guess I don't understand the inquiry.

8 PRESIDING OFFICER: Let me ask you this, Mr.  
9 Volinsky. I understand the inquiry, Mr. Felmly, but  
10 Mr. Volinsky -- I'm sorry. Would counsel please  
11 approach?

12 (Bench conference held off the record.)

13 PRESIDING OFFICER: We're going back on the  
14 record. Mr. Felmly, would you try your question  
15 again, please?

16 Q. When you say, "My heart reaches out to you  
17 and staff, it was never a fair fight and frankly the  
18 matter in which the BSR fought PLT's resumption  
19 petition leaves me with very bitter taste," what were  
20 you referring to? What did you have in your mind when  
21 you referenced the manner in which the BSR fought  
22 PLT's resumption of the petition?

23 A. That view and opinion was formed from two

1 elements. The first element which I think is fair  
2 game to discuss is the substance of the objection that  
3 was filed, I believe, on April 8th, 2015. It was the  
4 full version versus the abridged version. And then  
5 the second and more salient reason goes back to this  
6 meeting on the 27th of March which I guess is under  
7 privilege and I can't discuss what was stated there.

8 Q. The Secretary of State's meeting?

9 A. No, the meeting with the Secretary was on the  
10 26th. It was the follow-up meeting with the  
11 Secretary, Mr. Volinsky, et cetera on the 27th.

12 PRESIDING OFFICER: Thank you, Mr. Coutu.

13 Q. And the second one you will not let me go  
14 into I would assume.

15 MR. VOLINSKY: I would object to it.

16 Q. A couple of last things. Were you okay as  
17 the liaison with the proposition that PLT had two  
18 lines of coverage within the same risk pool?

19 A. Very commonplace.

20 Q. So you were comfortable with it?

21 A. Yes.

22 Q. Are there advantages from your experience  
23 with these companies having the two lines within one?

1           A. Accepting that my background is primarily in  
2 the commercial insurance sector --

3           PRESIDING OFFICER: Is he going to say  
4 anything that's any different than what Ms. Stazinski  
5 said today?

6           Q. Are you going to say anything different?

7           A. I can put a shuffle point on it if I may.

8           Q. If you can do it briefly, I would encourage  
9 you.

10          A. There are very few insurance companies that  
11 write what is called a mono line, one product line.  
12 Even Geico is known for auto and home insurance. The  
13 vast majority of commercial insurers, big, medium,  
14 small, write multiple lines for two reasons. One, you  
15 could have a bad year in one line and a good year in a  
16 different line, and because none of these lines are  
17 predictable in terms of their favorable or unfavorable  
18 experience, what makes an insurance company successful  
19 or not successful is how the combined nature of the  
20 products they offer will perform over a period of  
21 time. Second, Mr. Volinsky mentioned the issue of  
22 capitalization, that if you have two entities and you  
23 were to determine the capital structure of each, there

1 would be more capital required than if those entities  
2 operated under a single legal entity, so there are  
3 capitalization requirements that have a regulatory  
4 impact as well vis-a-vis having multiple books of  
5 business within a single line.

6 PRESIDING OFFICER: Mr. Coutu, were you here  
7 for Mr. Stazinski's testimony?

8 MR. COUTU: I missed the morning and I came  
9 here about eleven-ish I believe.

10 PRESIDING OFFICER: Did you hear her speak of  
11 capitalization?

12 MR. COUTU: She did speak of capitalization  
13 and unbundled versus consolidated.

14 PRESIDING OFFICER: I've heard this before.  
15 I don't think that it's a final point that you're  
16 putting on it, so Mr. Felmly, do you have any further  
17 questions of this witness?

18 MR. FELMLY: I don't. I conclude subject to  
19 the reservation I made and the offer of proof.

20 PRESIDING OFFICER: Mr. Volinsky,  
21 cross-examination. And Mr. Volinsky, you'll be  
22 sensitive to the orders that I've already issued with  
23 respect to Mr. Felmly's direct?

1 MR. VOLINSKY: Yes.

2 FURTHER EXAMINATION

3 BY MR. VOLINSKY:

4 Q. Mr. Coutu, have you suggested to PLT that  
5 they form a shadow risk pool in a new enterprise?

6 A. I believe I had a discussion with Ms. Parker  
7 that if PLT did not survive in its current form that  
8 there was nothing I believe that would stop them from  
9 forming a different corporation whether you want to  
10 call it PLT II or otherwise so long as it comported  
11 with 5-B.

12 Q. Did you also suggest that you would be  
13 willing to head that new enterprise should it be  
14 created?

15 A. I said to her that because of the  
16 complexities associated with that and the transfer of  
17 liabilities I would be willing to act as sort of the  
18 acting CEO in order to be able to make all that  
19 happen.

20 Q. For up to perhaps a year?

21 A. A short term. I may have said a year.

22 Q. Did you also suggest to Ms. Parker in January  
23 of this year that you would like Mr. Norsworthy to

1 eventually take your place in working with PLT?

2           A. What I did is I wrote a text message to Mr.  
3 Glennon and offered up to him as maybe a resolution in  
4 connection with the impasse on the continuing  
5 operation that Mr. Norsworthy would be willing to come  
6 in and serve as the CEO and I would be willing on a  
7 noncompensated basis to serve as the chairman subject  
8 to PLT approving it if somehow it would break the  
9 logjam that was building between PLT and BSR.

10           PRESIDING OFFICER: Mr. Volinsky, would you  
11 please be mindful of the fact that in your questioning  
12 I would like for you to ask a question which you just  
13 did which called for a yes or no. You did not get  
14 your yes or no, but you did get a rather lengthy  
15 explanation, so I'm going to say to you the same thing  
16 I said to counsel for the other party and that is ask  
17 a question and if it's a yes or no, get your yes or no  
18 and then go for any further answer that you feel is  
19 sufficient.

20           Q. So you did recommend Norsworthy to Ms.  
21 Parker?

22           A. No, I made the recommendation to Mr. Glennon.

23           Q. Didn't you also email Ms. Parker on

1 January 21st of this year saying you were trying to  
2 extricate yourself and suggesting Thomas Norsworthy as  
3 a replacement?

4 A. Different role. The conversation I had with  
5 Mr. Glennon was about running PLT. The conversation I  
6 had with Ms. Parker was that I was seeking to see if  
7 Tom would come in and replace me as the BSR liaison.

8 Q. And Tom Norsworthy is a person with whom  
9 you've worked for a number of years?

10 A. He's been a partner of mine. He's been my  
11 chief financial officer, et cetera, et cetera.

12 Q. Do you recall that when the Supreme Court  
13 decided the LGC case there was an agreement that came  
14 into play?

15 A. I do.

16 Q. Do you recall that that agreement was  
17 secretly entered into the preceding October?

18 A. I do.

19 Q. And when the --

20 MR. FELMLY: Objection, your Honor. I'm  
21 going to object to the relevance of this.

22 PRESIDING OFFICER: Mr. Volinsky.

23 MR. VOLINSKY: The next question is about how



1 the runoff occurred and it comes from this agreement.

2 MR. FELMLY: And that's relevant to the  
3 financial viability of my client how?

4 MR. VOLINSKY: It goes to how they came to be  
5 discussing these issues in August when he had to put  
6 together the plan which was the testimony elicited  
7 through Mr. Felmly.

8 MR. FELMLY: I'll stand on my objection. I  
9 don't think it's relevant.

10 PRESIDING OFFICER: I'm going to sustain Mr.  
11 Felmly's objection and ask you to get right to the  
12 quick of did such and such occur as opposed to, if you  
13 will, building any necessary foundation.

14 MR. VOLINSKY: Fair enough.

15 Q. I think you testified on direct examination  
16 that in August you attended a meeting with Wendy,  
17 George and Pat Closson to discuss the subject of  
18 designing a runoff plan.

19 A. September 5th.

20 Q. September...

21 A. 5th.

22 Q. At that meeting it was clear to you that no  
23 one at PLT had any idea of how to create a runoff

1 plan, correct?

2 A. Correct.

3 Q. You had to supply that information.

4 A. Correct.

5 Q. As a matter of fact, I think you provided a  
6 plan that was used at Kemper to use as a template, is  
7 that correct?

8 A. I used the runoff plan from Kemper that was  
9 provided as assistance in developing a runoff plan for  
10 PLT.

11 Q. And then later as the work on this runoff  
12 plan progressed there became an option to develop a  
13 plan for staying in business, correct?

14 A. That was a little bit down the road.

15 Q. Yes, admittedly down the road. October-ish,  
16 correct?

17 A. Right.

18 Q. And is it not accurate that in order for PLT  
19 to fix its financial situation it has to sell  
20 additional policies?

21 A. Well, yes and no. I mean, it has to either  
22 renew coverages or sell new coverages.

23 Q. And so --

1           A. To new insureds.

2           Q. And if PLT sells policies to new insureds it  
3 means that the new insureds are subject to whatever  
4 financial risk PLT poses, correct?

5           A. Correct.

6           Q. And if they sell renewed policies it means  
7 that members who are subject to the renewals are  
8 subject to the financial risk that PLT will impose.

9           A. Correct.

10          Q. And so in order for PLT to right itself  
11 whether through new policies or renewals it has to  
12 expose additional members to risk of their financial  
13 failure, correct?

14          A. Not necessarily. The new business can either  
15 be written profitably or unprofitably. If written  
16 unprofitably, what you're suggesting would be a  
17 potential outcome. If it is able to write profitably,  
18 and this is the combined ratio concept again, then the  
19 answer to the question is that it's a strengthening  
20 balance sheet that over a period of roughly five years  
21 would be fully viable.

22          Q. When you say combined ratio, that's a  
23 comparison of the premiums to the claims and expenses,

1 right?

2 A. Yes, sir.

3 Q. And so what you're saying in effect is if  
4 they charge high enough rates so that premiums are  
5 high enough to offset claims and expenses they can  
6 become profitable, correct?

7 A. If the combined ratio is a hundred percent or  
8 less and the premiums are sufficient to cover the sum  
9 of losses and expenses excluding the investment income  
10 which is an additional contribution.

11 Q. So my statement is correct. If they write  
12 premiums high enough they can balance them off against  
13 the losses and expenses and achieve a combined ratio  
14 of one hundred percent.

15 A. So long as they write at a hundred percent or  
16 better.

17 Q. Right. And in order to write at a hundred  
18 percent or better they have to set premiums high  
19 enough to offset the other side.

20 PRESIDING OFFICER: I think you have your  
21 answer. Move on to another question.

22 Q. Well, here's my question. You have three  
23 times by my writing said that you didn't have anything

1 to do with PLT's rate assumptions.

2 A. Right.

3 Q. Am I right?

4 A. Absolutely.

5 Q. And so the rate assumptions directly play  
6 into this meaning the hundred percent combined ratio,  
7 correct?

8 A. Except that the plan particulars, Mr.  
9 Volinsky, require PLT to write at an improving  
10 combined ratio. That was the genesis of the plan  
11 which, if it failed to do so, then the company was  
12 failing.

13 Q. I guess I don't understand. You've testified  
14 that the rate assumptions came from PLT and not you.

15 A. Correct.

16 Q. And if those rate assumptions are wrong, they  
17 won't achieve the hundred percent combined ratio,  
18 correct?

19 A. Most likely. They could reduce expenses and  
20 still get there because of the ratio issue.

21 Q. Your role in the strategic plan was to write  
22 all of the financial sections.

23 A. In both the runoff and the continuing.

1 Q. And is that true for the strategic plan, the  
2 addendum and the second addendum?

3 A. Correct.

4 Q. When did you first learn that PLT was going  
5 to file to come out of runoff? In March?

6 A. To come out of runoff?

7 Q. Yeah, this proceeding. Remember they filed  
8 in March? When did you first learn they were going to  
9 file?

10 A. The original filing?

11 Q. Yes.

12 A. I think I was told by either Wendy or Mr.  
13 Closson a week before the filing or maybe two weeks.  
14 I mean, we knew it was coming, but the plan had to be  
15 finished first and I believe the plan wasn't finished  
16 until the end of February, the beginning of March, so  
17 that was the precursor.

18 Q. The same question with respect to the  
19 June 30th filing. When did you know that filing was  
20 coming?

21 A. June 30th meaning the ordering of the  
22 financials?

23 Q. No, the June 30th petition to allow them to

1 write new and renewed coverage, the one that has us  
2 here today.

3 A. When did I know they would be back for round  
4 two?

5 Q. Yeah.

6 A. I don't know. Maybe a month ago.

7 Q. A month ago? So you didn't know before it  
8 was filed?

9 A. I wasn't tracking it to see what was going  
10 on. I think I learned after the fact that it was  
11 filed. I could be wrong. I don't remember that  
12 detail precisely.

13 Q. Didn't you in fact encourage Wendy Parker to  
14 have PLT make the second filing, the June 30th filing?

15 A. I don't believe I did.

16 Q. So just to give you some context, didn't you  
17 communicate with PLT about a bunch of political  
18 conversations and as part of that suggest that they do  
19 a second filing?

20 A. I disagreed with PLT's withdrawal of its  
21 petition which I believe occurred on April the 15th  
22 and I disagreed on the basis that I felt they should  
23 have gone the distance, so in the alternative when

1 they refiled and with the intent of going the distance  
2 I thought that strategically that was the better move.

3 Q. Didn't you encourage that filing?

4 A. I may or may not have, counsel. I really  
5 don't recall. If you're asking if I was in favor of  
6 them refileing, yes, which is a different question than  
7 did I encourage them.

8 Q. Yes, sir, it is a different question.

9 A. I just don't recall.

10 Q. Would you agree with me that a legitimate  
11 reason for -- withdrawn.

12 Would you agree with me that the standard  
13 that we're here to litigate, financial viability  
14 without subsidy, is one which PLT agreed with in the  
15 consent decree?

16 MR. FELMLY: I'm going to object.

17 PRESIDING OFFICER: Mr. Coutu, hold on.

18 MR. FELMLY: The document speaks for itself.  
19 It sets out the co-signed agreement. What his  
20 interpretation is is irrelevant.

21 MR. VOLINSKY: I wasn't trying to get at his  
22 interpretation, just the fact that we're here based on  
23 a standard that PLT agreed to, that's all, and I can



1 rephrase it that way.

2 MR. FELMLY: I will stipulate that the  
3 language in the consent decree has the paragraph  
4 dealing with what the burden of proof and standard is.  
5 What he thinks of that is irrelevant.

6 MR. VOLINSKY: That's fine. With that  
7 stipulation I don't have to ask that question.

8 PRESIDING OFFICER: I thank both counsel.

9 Q. You are of the mind that PLT met the standard  
10 that I'm not going to articulate, correct?

11 A. To be clear, they met the standard of having  
12 a viable plan. I'll stop there.

13 Q. You've nicely moved me to my next question  
14 which is what is proposed here is a plan for PLT to  
15 meet the standard that's agreed to in five years,  
16 correct?

17 A. Correct.

18 Q. It's not a current conclusion that today as  
19 we litigate this issue they are presently meeting the  
20 standard.

21 A. I believe Maureen testified in her comments

22 --

23 Q. I would just ask for a yes or no and then you

1 can explain. I'm not going to repeat the standard.  
2 You know what the standard is. The proof today is  
3 that they hope to meet the standard in five years, is  
4 that right?

5 MR. FELMLY: I'm going to object. That's not  
6 the proof as it was presented by the actuarial expert.  
7 That's not what she actually said. That wasn't the  
8 proof.

9 PRESIDING OFFICER: The record will speak for  
10 itself, but I think, Mr. Volinsky, you should try your  
11 question in a different fashion.

12 Q. The strategic plan where you wrote the  
13 financial pieces, you are familiar with the entirety  
14 of the plan, are you not?

15 A. I am.

16 Q. That plan is to have PLT meet the standard  
17 that would allow them to write policies five years  
18 from now, correct?

19 A. No, the plan was contemplated that they would  
20 write policies beginning with fiscal year '15.

21 Q. When will they reach the financial viability  
22 standard under the strategic plan?

23 MR. FELMLY: Objection to the way he's

1 charactering it. It doesn't define the timing in the  
2 document.

3 PRESIDING OFFICER: It doesn't what, please?

4 MR. FELMLY: The definition of exactly what  
5 the timing is of financial viability is not set forth  
6 in the consent decree. It doesn't say it has to be  
7 that moment or in two years. It doesn't say that. It  
8 says financial viability, and there's an opportunity  
9 to put in proof as to what that should properly mean,  
10 so Mr. Volinsky's question that it has to be today or  
11 tomorrow or whatever, it doesn't have any basis in the  
12 document.

13 PRESIDING OFFICER: Let's ask it without the  
14 reference to the document, Mr. Volinsky.

15 MR. VOLINSKY: I'm just trying to ask about  
16 the strategic plan.

17 PRESIDING OFFICER: Without reference to the  
18 document. Ask him the ultimate question.

19 Q. Is PLT today financially viable?

20 A. It is not insolvent. It has the sufficient  
21 financial wherewithal to discharge the liabilities as  
22 they are constituted today.

23 Q. Today. And do they have a 90 percent

1 confidence level today?

2 A. They do not.

3 Q. Is it accurate to say they have about a  
4 60 percent confidence level today?

5 A. I haven't tracked the company in months, but  
6 I understand that Maureen testified yesterday that it  
7 is 64 as of today.

8 Q. Do you have any reason to quarrel with her  
9 estimate?

10 A. I do not.

11 Q. I think I want to ask about one other area,  
12 so we're switching topics. There was an error of  
13 about \$400,000 in the actuarial work. Do you remember  
14 that error?

15 A. There were a series of errors.

16 Q. And did they total \$400,000?

17 A. No, more.

18 Q. More? How much more?

19 A. There was an overstatement of the premiums in  
20 the original plan of \$612,000 in '14 and roughly  
21 \$600,000 in '15. Fiscal years I'm talking about.  
22 There was an issue with respect to the reserves of  
23 \$494,000. The error that was in the numbers was that

1 PLT booked out at 6-30-14 its held reserves at  
2 \$19,500,000. Towers Watson's estimate which is the  
3 actual central estimate was actually \$19,900,000. The  
4 projections took the booked reserve, not the ACE  
5 number in the first go-around of objections  
6 understating the loss reserves by \$400,000.

7 Q. Let me just ask you to answer with a yes or a  
8 no. Are those all material errors in the context of  
9 PLT?

10 A. They had a material impact on the projections  
11 once they were reamended.

12 Q. Did Towers Watson bring those errors to  
13 light?

14 A. It was between Towers Watson and Wendy  
15 Parker. I don't know which of the two. I think Wendy  
16 found the errors when I was working through the  
17 reconciliation. I couldn't tie out the loss reserve  
18 numbers.

19 Q. Wasn't there a point where George Tsiopras  
20 found the \$400,000 error and in confronting the  
21 actuaries they said, oh, we knew that, we just hadn't  
22 brought it forward yet?

23 A. There was some discussion about the issue

1 being known, but the fact is at the end of the day  
2 they were not in the original projections and so the  
3 projections were revised to take the loss reserves to  
4 Towers Watson's ACE limit.

5 Q. Did those errors undermine your confidence in  
6 the Towers Watson actuarial work?

7 A. No, it did not.

8 Q. Didn't you insist that you not have to deal  
9 with one of the Towers Watson actuaries because their  
10 work was so poor and they couldn't explain it?

11 A. There was an incident which I described  
12 earlier in my testimony about a memo I wrote on  
13 11-6-14 in which I said there may have been some  
14 overreaching on my part. There was an issue between  
15 myself and one of the Towers Watson actuaries in the  
16 process of the numbers in the reconciliation.

17 MR. VOLINSKY: No further questions.

18 MR. FELMLY: Just one.

19 FURTHER EXAMINATION

20 BY MR. FELMLY:

21 Q. On this issue of a confidence level of  
22 90 percent and companies operating at lower than the  
23 confidence level is it the case that the 90 percent

1 target or the 90 percent confidence level is a  
2 standard or an invarying requirement for financial  
3 stability or are there circumstances when companies  
4 that are financially viable and operating well may be  
5 below 90 percent in terms of confidence?

6 A. That's a difficult question to respond to  
7 because nobody in the industry follows that  
8 methodology. The industry methodology is that capital  
9 and reserves are treated as two different buckets. In  
10 the industry loss reserves are treated in the context  
11 of confidence levels and anything 50 percent or higher  
12 is deemed to be adequate. The offsetting comment to  
13 that is the capital structure, the industry uses risk  
14 based capital which is a different capital that meets  
15 the level of capital needed. What Towers Watson did  
16 is sort of a blend of two different concepts, and I  
17 cannot tell you as a professional in the business that  
18 I have experience enough to say to you that the goal  
19 must be 90 or it could be less than 90. My experience  
20 does not travel or track with the way Towers Watson  
21 calculates the amount of sums and capital to get to  
22 their number.

23 Q. But in terms of the operation of PLT when you

1 last reviewed the numbers, they were meeting their  
2 obligations, they were not insolvent and had a plan  
3 for financial viability that you were supportive of?

4 A. Everything that I looked at was indicative  
5 that the company had the ability to actually discharge  
6 their claims timely and without discharge.

7 MR. FELMLY: Thank you.

8 PRESIDING OFFICER: Mr. Coutu, bear with me.  
9 I'm conscious of the time of day, but I need to review  
10 my notes. For clarification, Mr. Coutu, you testified  
11 earlier in these proceedings, is that correct?

12 MR. COUTU: These proceedings? The current  
13 proceedings?

14 PRESIDING OFFICER: The proceedings that  
15 began when you were employed in 2012.

16 MR. COUTU: Yeah, I testified in 2012 and I  
17 was very involved in the consent decree as you also  
18 know.

19 PRESIDING OFFICER: And I understand that  
20 your experience is in that special area.

21 MR. COUTU: Yes, sir.

22 PRESIDING OFFICER: But do I also understand  
23 correctly today that when you used the word profit,



1 that in the nonprofit sense we look at that as  
2 surplus?

3 MR. COUTU: No, surplus, sir, would be --

4 PRESIDING OFFICER: Let me start again. What  
5 is the corresponding term for nonprofit in insurance  
6 parlance as compared to profit as that term is used in  
7 the commercial context?

8 MR. COUTU: If I may, we use net position to  
9 describe surplus and in the commercial sector we call  
10 it surplus or policy surplus. Some risk pools call it  
11 net position.

12 PRESIDING OFFICER: So when you've used the  
13 word profitability and profit in your testimony, what  
14 are you referring to?

15 MR. COUTU: I'm talking about profits as it  
16 relates to the income statement, the remainder of the  
17 residual after premiums less expenses.

18 PRESIDING OFFICER: And in the nonprofit  
19 world isn't that referred to as surplus?

20 MR. COUTU: No, it's referred to as net  
21 income.

22 PRESIDING OFFICER: So if you said something  
23 in previous testimony which is different --

1           MR. COUTU: Well, net position in the risk  
2 pool sector, sir, oftentimes gets retained and when it  
3 comes over to the balance sheet it becomes surplus in  
4 the commercial sector.

5           PRESIDING OFFICER: Thank you. If I haven't  
6 started anything, we will conclude this hearing for  
7 today and we will reconvene on Friday at nine o'clock.  
8 We are now off the record.

9           (The hearing was adjourned at 5:38 p.m.)

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C E R T I F I C A T E

I, Laurie A. Gelinas, RPR, a Certified Shorthand Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of the Hearing in the Matter of Local Government Center, Inc., et al, taken at the place and on the date hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

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