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STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

June 28, 2017

VIA U.S. MAIL

Dan Schwartz and Anne Galloway  
VT Digger  
97 State Street  
Montpelier, VT 05602

Re: Request for tax and financial records regarding Cynthia Diaz

Dear Mr. Schwartz and Ms. Galloway:

I am writing to provide a supplemental response to your June 2, 2017, request for records falling into the following categories:

- The Northrop deposition
- Reports from Gosselin, Clark, Bottino, Howell, Letourneau, Palmer and Chapman
- Correspondence with employees from the State Auditor's Office
- Correspondence with Sullivan and Powers to the State Auditor's Office and Correspondence from the Vermont NEA

I will address each category in turn.

*The Northrop deposition*

Enclosed with this letter are 89 pages of records that are responsive to your request. Discussions of an individual's personal finances and related tax information that took place have been redacted because they are exempt pursuant to several provisions, including: 1 V.S.A. §§ 317(c)(6) (tax returns and return-information) and 317(c)(7) (information in any file relating to personal finances); 32 V.S.A. § 3102(a) ("Confidentiality of tax records"); as well as 26 U.S.C. § 6103 ("Confidentiality and disclosure of returns and return information"). See also Vermont Rules of Public Access to Court Records § 6(b)(9) (exempting "[r]ecords produced or created in connection with discovery in a case in court, including a deposition" from public access where such records have not been used by a party); *Finberg v. Murnane*, 159 Vt. 431, 435, 623 A.2d 979, 982 (1992) (holding that documents derived from tax returns "must be covered [by an exemption] to avoid disclosure of information taken from the return and related documents"). In addition to the provisions relating to financial and tax information, certain information has been redacted as its disclosure could reasonably be expected to

constitute an unwarranted invasion of individuals' privacy. 1 V.S.A. § 317(c)(5)(A)(iii).

*Reports from Gosselin, Clark, Bottino, Howell, Letourneau, Palmer and Chapman*

Enclosed with this letter are 91 pages of records that are responsive. Redactions have been made of information relating to personal finances, an individual's tax return, and information which, if disclosed, could reasonably be expected to constitute a violation of individuals' privacy or would reveal a witness's or victim's identity. Exempt information has been redacted pursuant to 1 V.S.A. §§ 317(c)(5)(A)(iii), 317(c)(5)(D) (criminal investigation information revealing the identities of witnesses or victims), 317(c)(6), and 317(c)(7); 32 V.S.A. § 3102(a); as well as 26 U.S.C. § 6103. Please note that certain financial analyses attached to investigative reports are totally comprised of personal financial and tax-related information that is exempt from production.

*Correspondence with employees from the State Auditor's Office*

Enclosed with this letter are 2 pages of responsive records. One datum has been redacted, as its disclosure could reasonably be expected to constitute an unwarranted invasion of an individual's privacy. 1 V.S.A. § 317(c)(5)(A)(iii). I have determined that other responsive records have been already provided to you as records that pertain to the Mooney audit—records that were previously sent to you are not enclosed with this letter.

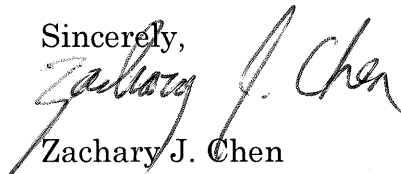
*Correspondence with Sullivan and Powers to the State Auditor's Office and Correspondence from the Vermont NEA*

Enclosed with this letter are 13 pages of responsive records. The Correspondence from the Vermont NEA contains allegations that a public agency or public official has "engaged in a violation of law, or in waste, fraud, or abuse of authority ... ." 1 V.S.A. § 317(c)(42). Accordingly, information that could be used to identify the complainant has been redacted.

To the extent you consider this response to be a denial of your request, you may submit an appeal in writing to:

Joshua Diamond  
Deputy Attorney General  
109 State Street  
Montpelier, VT 05602

Sincerely,



Zachary J. Chen  
Assistant Attorney General

Enc.  
cc: file

**WILLIAM H. SORRELL**  
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**STATE OF VERMONT**  
**OFFICE OF THE ATTORNEY GENERAL**  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

May 13, 2011

Cindy Hall  
Green Mountain Reporters & Captioners  
335 Honan Road  
Moretown, VT 05660

Re: State v. Cynthia Diaz  
Docket No's. 171-2-10 Wncr and 419-4-11 Wncr

Dear Cindy:

Enclosed is a CD to be transcribed for Ultan Doyle. It is a deposition taken on May 11, 2011 at Corrette & Associates in St. Johnsbury. Present at the depo were: Ultan Doyle, Assistant Attorney General; Maggie Vincent, Attorney for Cynthia Diaz; and Randall Northrop, deponent. I am told it is just under two hours. We need this at your earliest convenience.

Feel free to call me at 828-5512 if you have any questions.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Bonnie Boyce".

Bonnie Boyce  
Administrative Secretary

Enc.

**WILLIAM H. SORRELL**  
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STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

May 31, 2011

Randall Northrop  
*redacted*

Wheelock, VT 05851-9645

Re: State of Vermont v. Cynthia Diaz  
Docket No's. 171-2-10 Wncr and 419-4-11 Wncr

Dear Mr. Northrop:

Enclosed please find your deposition which was taken on May 11, 2011, regarding the above-entitled matter. Please read it over, making any changes you may have on the enclosed Errata sheet as soon as conveniently possible. DO NOT MARK ON THE TRANSCRIPT ITSELF. After you have read your deposition and made corrections, please sign it before a Notary Public and return it to me in the enclosed self-addressed, stamped envelope.

If you have any questions, please call. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Ultan Doyle /s/".

Ultan Doyle  
Assistant Attorney General

blb

Enc.

cc: Maggie Vincent, Esq. (w/out enclosure)





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May 25, 2011

Ms. Bonnie Boyce  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001

Re: State of Vermont vs. Diaz

Dear Bonnie:

Enclosed please find the original transcript from the recorded deposition of Randall Northrup. Also enclosed is the CD which we are returning to you. The transcript has been e-mailed to you.

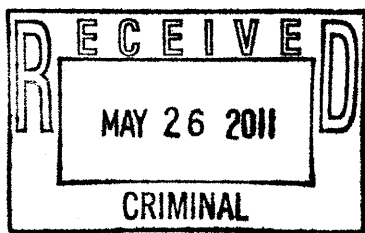
Should you have any questions, please feel free to contact me.

Sincerely yours,

A handwritten signature in cursive script that reads "Kelly A. Gosselin".

Kelly A. Gosselin  
Office Manager

Encs.



ORIGINAL

STATE OF VERMONT

VS.

CYNTHIA DIAZ

RECORDED DEPOSITION

OF

RANDALL NORTHROP

May 11, 2011

1 (Beginning of CD)

2 MR. DOYLE: Okay. We are on the record in  
3 the State of Vermont vs. Cynthia Diaz in Docket  
4 Numbers 171-2-10 wncr and Docket Number  
5 419-4-11 wncr. We are here today for the  
6 deposition of Randall Northrop. Present is Mr.  
7 Northrop; myself, Ultan Doyle, Assistant  
8 Attorney General; and Maggie Vincent who is the  
9 attorney for Cynthia Diaz. And, Maggie, if you  
10 would, just (inaudible) Mr. Northrup in. Thank  
11 you.

12 MS. VINCENT: Will you raise your right  
13 hand?

14 MR. NORTHROP: Will you spell my name  
15 correctly?

16 MS. VINCENT: Sure.

17 MR. NORTHROP: It's an R-O-P at the end.  
18 Not that it matters too much to any people but  
19 me.

20 MS. VINCENT: R-O-P. Actually, probably  
21 the first thing (inaudible) be done would be --

22 MR. NORTHROP: Yes.

23 MS. VINCENT: -- the (inaudible) accurate  
24 spelling of your name. But second thing  
25 because first thing is we want your spelling of

1           your name under oath (inaudible) so if you  
2           could raise your right hand. Do you swear to  
3           tell the truth in the matters we are about to  
4           discuss under penalty of perjury?

5           MR. NORTHROP: I do.

6           EXAMINATION BY MR. DOYLE:

7           Q     Okay. And, Mr. Northrop, can you (inaudible)  
8           please spell -- or, I'm sorry, state your first name  
9           and spell your last name.

10          A     Randall, N-O-R-T-H-R-O-P.

11          Q     And your current address?

12          A     *redacted* , wheelock, Vermont.

13          Q     And your occupation.

14          A     I'm an accountant.

15          Q     Okay. And before we start on the actual  
16          questions of the deposition, there were just a few  
17          things that I wanted just to run by you. The first  
18          is, if you don't understand the question, can you  
19          please let me know?

20          A     (inaudible).

21          Q     And I will -- I will rephrase it. The other is,  
22          this is being recorded. We are on the record, and so  
23          if you could just make sure that your answers are  
24          clear, avoid things like uh-huh or those kind of  
25          things just so it's clear if anybody reads the

1 transcript of this what was actually being said. Any  
2 questions before we begin?

3 A No.

4 Q Okay. So I understand that in August of last  
5 year you prepared some tax returns for Cynthia Diaz,  
6 is that correct?

7 A That is correct.

8 Q And -- oh, I'm sorry. One other thing is  
9 occasionally Maggie may object to some of my questions  
10 as you -- I may ask a question, you may hear her raise  
11 an objection. For the most part, even though she has  
12 objected, you will still be required to answer the  
13 question. There may be some exceptions that Maggie  
14 and I will talk about if something was privilege or  
15 something like that, but for the most part she's  
16 objecting for the record, but you would still be  
17 required, but that can (inaudible) disconcerting for  
18 people, and we can talk about that if -- if it arises.

19 MS. VINCENT: Is part of the usual  
20 stipulations that we didn't put on the record  
21 any objections other than to privilege or  
22 compound or confusing question are waived  
23 during the process?

24 MR. DOYLE: Okay.

25 MS. VINCENT: There (inaudible).

1 MR. DOYLE: Okay. (inaudible).

2 Q So, again, I understand you were approached at  
3 some point by Ms. Diaz to prepare some tax returns,  
4 and this would have been last year, is that right?

5 A That's correct.

6 Q And how did -- how did Ms. Diaz end up contacting  
7 you, do you remember?

8 A I audit the Town of Coventry as an independent  
9 auditor and have for several years, and through this  
10 process Cynthia called me here, I think it was July,  
11 but I didn't keep record of that.

12 Q (inaudible).

13 A To ask me if I could help her by preparing her  
14 returns to come into compliance with the tax filing  
15 requirements.

16 Q Okay. And that would have been July of 2010?

17 A That's correct.

18 Q Okay. And so how long would you say you've known  
19 Cynthia?

20 A About four years.

21 Q Okay. And is that in a professional capacity or  
22 more as a friend or --

23 A I do not know her personally.

24 Q Okay. So it's just as a result of you being the  
25 Town of Coventry independent auditor?



1 A I apologize. It is the town of Coventry's  
2 school.

3 Q Town of Coventry's school. Okay.

4 A She is the town treasurer, but she has for the  
5 several years managed the books for the school --

6 Q Okay.

7 A -- so through that capacity I know Cynthia.

8 Q I see. Okay. Had you ever done any -- provided  
9 any kind of accounting assistance before last year?

10 A To Cynthia --

11 Q To Cynthia.

12 A -- in the role as the treasurer I have.

13 Q Okay. And (inaudible) --

14 A Nothing personal.

15 Q Nothing in a personal capacity. Okay. And when  
16 she contacted you in you think it was July of last  
17 year, did you meet in person to discuss her taxes at  
18 that time or did she send you in information?

19 A She brought in some information and we sat down  
20 and reviewed it briefly here a few weeks before I  
21 signed her returns.

22 Q And did she explain to you at that time why she  
23 hadn't filed taxes for the previous several years when  
24 she met with you?

25 A She did.

1 Q And what did she say?

2 A She said that she felt she owed no tax  
3 liabilities from her income and in her mind that  
4 obviated the need for her to file a return.

5 Q Okay. And when you met with her that first time  
6 did she have any documentation with her?

7 A She brought me some W-2s and 1099s for a variety  
8 of the years she asked me to prepare.

9 Q Okay. And do you have a copy of her tax returns  
10 in front of you right now that we can reference?

11 A I do.

12 MS. VINCENT: (inaudible) copy you're  
13 going to want to have them marked for the  
14 record?

15 MR. DOYLE: Yeah. (inaudible).

16 A I am required to keep copies of returns as of my  
17 profession. I do not have extra copies that I can  
18 render to you without violating my retention  
19 requirement.

20 Q Okay.

21 A If I need to make copies, I can have someone make  
22 copies that you can take with you if that's --

23 Q Yeah, that would probably be the best. I'll --  
24 I'll mark what I have here.

25 MS. VINCENT: (inaudible) you could use

1           yours as the exhibit.

2                   MR. DOYLE: I could use mine as the  
3           exhibit --

4                   MS. VINCENT: Okay.

5                   MR. DOYLE: -- and then just get copies.

6                   MS. VINCENT: Okay.

7                   MR. DOYLE: And then just get copies  
8           afterwards.

9    A    If you'll simply tell me which --

10   Q    So what I'll -- I'll mark this as -- as -- we'll  
11   start with 2003, and I'm going to mark this --

12   A    (inaudible) excuse me. Didn't mean to interrupt  
13   you all.

14   Q    No, no. That's fine.

15   A    (inaudible) 2003.

16   Q    And it would be -- I'll mark this as Exhibit 1.  
17   It's -- it's a -- it's a packet -- it's a cover letter  
18   from you, and it has -- it starts with it looks like a  
19   federal tax return for Ms. Diaz.

20   A    (inaudible).

21   Q    And then a Vermont income tax return (inaudible).

22   A    That's what I have.

23   Q    That's what you have in front of you?

24   A    I do. As well as the --

25   Q    (inaudible) supporting documentation that goes

1 with that. So let's talk about the -- first of all,  
2 (inaudible) so for the year 2003 let's talk about the  
3 supporting documentation that Ms. Diaz provided to  
4 you. Can you tell me what that was?

5 A I certainly can. I received a couple of w-2  
6 forms from Cynthia.

7 Q And they were for?

8 A Wages earned from the Newport Car Wash and from  
9 Gray's Paving.

10 Q And how much was the -- how much was the income  
11 received from Gray's Paving?

12 A \$15,508 was the gross wages.

13 Q And the Newport Car Wash?

14 A \$303.

15 Q Okay. And did she provide you with any other  
16 documentation for any income she may have earned in  
17 the year 2003?

18 A Not income, no.

19 Q Okay. Did you and she -- do you recall having a  
20 discussion with her about any other income she may  
21 have had for that year that could potentially have  
22 been taxable?

23 A Not at that time. In fact, Cynthia said to me,  
24 this is what I have for the year and it should be  
25 enough to do my tax returns.

1 Q Okay. Did you and she have any discussion about  
2 income she may have received for bookkeeping or  
3 accounting services that she provided to other people  
4 or businesses?

5 A Not at that time.

6 Q Okay. And did you and she have any discussions  
7 about wire transfers that she may have received in the  
8 year 2003?

9 A Not at that time.

10 Q Okay. And any discussion about cash deposits  
11 that she may have made during the year 2003?

12 A Not at that time.

13 Q Okay. And did you and she have any discussion  
14 about child support payments that she may have  
15 received in the year 2003?

16 A We did not.

17 Q So she didn't bring up child support at all to  
18 you?

19 A I don't have any (inaudible) of that.

20 Q Yeah.

21 A And I try to keep fairly complete records. It's  
22 possible if she had mentioned to me --

23 MS. VINCENT: (inaudible).

24 A That child support was received, I probably would  
25 have told her that that was only considered for

1 household income purposes in Vermont and not taxable  
2 income.

3 Q Okay. When you were answering my questions you  
4 said not at that time. Was there a -- a subsequent  
5 time where you and she discussed the additional income  
6 that I just referenced?

7 A We discussed some of those things, but as income  
8 subsequent to the preparation of returns Maggie  
9 Vincent contacted my office to provide some  
10 explanation of these sources of cash to Cynthia with  
11 Cynthia then sitting down with me and explaining to me  
12 where the cash came from and her presentation  
13 (inaudible) that was not income to her.

14 Q Okay. But this would have been -- just to be  
15 clear, this would have been subsequent to her filing  
16 of her taxes, is that correct?

17 A That is correct.

18 Q Okay. No discussion of any of these what I just  
19 referenced as being potential income, there was no  
20 discussion of that prior to preparing her 2003 tax  
21 returns?

22 A I don't remember any.

23 Q Okay.

24 A Honestly, we have -- I meet with a lot of people  
25 here and I try to keep fairly clear records. I don't

1 recall any of those discussions and I don't have any  
2 record of them in the tax return so I don't think they  
3 occurred.

4 Q Okay. And if you -- if you had had such a  
5 conversation, do you think you would have made a note  
6 of that somewhere?

7 A Definitely.

8 Q That would have been your practice?

9 A Well, when a -- I have this discussion regularly  
10 with tax clients about sources of income, family  
11 support, other things because, as I mentioned a moment  
12 ago, child support would be considered for current tax  
13 returns because it affects household income  
14 calculations, but as this was seven years, eight years  
15 ago, those property tax claim adjustments that would  
16 be based on household income are inane at this point.

17 Q Right.

18 A So --

19 Q Okay. So just to be clear then, and so for the  
20 year 2003 the only income that she said that she had  
21 was based on the two w-2s that you just referenced,  
22 the Gray's Paving and the Newport Car Wash, is that  
23 correct?

24 A (inaudible).

25 Q And that was the only discussion of any income?

1 A That's correct.

2 Q And can you tell me what date you prepared her  
3 Vermont tax return?

4 A For 2003 I signed the return on August 2nd --  
5 August 3rd, excuse me.

6 Q August 3rd. And then what date would she have --  
7 did she sign -- and would -- I'm sorry. Would the  
8 practice then -- after your prepared the taxes is the  
9 practice with anybody that you go over the tax return  
10 with whoever you prepared the tax return for?

11 A I do not usually review the tax returns with tax  
12 clients. What I do is when it's completed I have my  
13 office manager call them and ask if they want to pick  
14 it up or if they want it mailed to them --

15 Q Okay.

16 A -- then I ask them to review it.

17 Q Okay.

18 A And if they have questions, I'm available to  
19 review it with them. I do not as a practice review  
20 tax --

21 Q Okay.

22 A -- (inaudible) completed with clients.

23 Q Okay. And would that have been the -- would that  
24 be what happened here in this case?

25 A That's correct.



1 Q So you would have -- you -- you -- let's say you  
2 prepared the tax return August 3rd, 2010, you would  
3 have mailed --

4 A I think they were mailed.

5 Q They were mailed to Ms. Diaz.

6 A I didn't keep record whether --

7 Q Yeah.

8 A -- someone picks up the return or we mail it, but  
9 I believe that we mailed it to her.

10 Q Okay. And then who would have actually -- do you  
11 know what date she signed the tax return?

12 A I do not.

13 Q Okay. And who would have filed the tax return,  
14 you or her?

15 A These were prior year tax returns and as such  
16 they cannot be filed electronically --

17 Q Okay.

18 A -- and that requires her to file those returns.

19 Q Okay.

20 A As I understand she did.

21 Q Okay. So after you sent the tax return to her  
22 for her signature that was -- that was -- your -- your  
23 work was completed as far as --

24 A That's correct.

25 Q -- (inaudible) tax returns? Okay. And do you

1 know if she ever called you with any questions about  
2 the tax return?

3 A Not immediately, no.

4 Q Okay. Not -- nothing -- nothing right away.  
5 Okay. And I'm just looking at her 2003 tax return.  
6 It's a -- as tax returns go, would it be fair to say  
7 that is a very straightforward tax return?

8 A Whenever I prepare old tax returns I'm always a  
9 little concerned because five, six, eight years passed  
10 between the time (inaudible) occurs and the taxpayer  
11 prepares the return, there's always a risk that not  
12 everything is included.

13 Q Right.

14 A All the expenses, all the mortgage interest, all  
15 the property taxes, all of the income perhaps. 1099s  
16 are lost or misplaced. You forget about them. So it  
17 seems like a fairly straightforward return but --

18 Q Yeah. And did you -- what you just related to me  
19 there, did you -- did you caution Cynthia about that  
20 and say, you know, are you sure you're providing me  
21 with all of the -- the income you earned in that year  
22 given that there's a risk that things get lost, etc.?

23 A Our work was subsequent to Cynthia's attention  
24 from the State of Vermont and that's public knowledge.  
25 I understand it was published in the front of the

1 paper. I saw it.

2 Q Yeah.

3 A And I think she and I discussed the publicity  
4 these might receive and the need for them to be  
5 accurate and her assertion that they were as accurate  
6 as she could from the records she had.

7 Q Okay. So -- but it would be fair to say there  
8 was some discussion about ensuring that she was -- to  
9 the best of her recollection at least, providing you  
10 with all of the income for the year 2003 that she  
11 believed she -- she had received?

12 A I think so.

13 Q Okay. Anything else about the year 2003 -- the  
14 year 2003 tax return that you think would be important  
15 for us to know?

16 A Nothing I can think of.

17 Q Okay. At this point I'd like to direct your  
18 attention then to State's -- what I'll mark as State's  
19 Exhibit 2. It is a package of information, again,  
20 beginning with a cover letter that you sent to Ms.  
21 Diaz dated August 2nd, and it includes Ms. Diaz's W-2  
22 for that year, federal tax return.

23 MS. VINCENT: You didn't state the year.

24 THE WITNESS: What year?

25 MR. DOYLE: What's that?

1 MS. VINCENT: You didn't state the year.

2 MR. DOYLE: I'm sorry. For the 2004 --  
3 and a Vermont --

4 MS. VINCENT: Just to be clear for the  
5 record.

6 Q (inaudible) yes, thank you. And a Vermont tax  
7 return for the year 2004. Do you have a copy of that?

8 A I do.

9 Q Okay. So we'll just go down through the same  
10 questions again. Can you tell me what Ms. Diaz  
11 provided to you as her sources of income for the year  
12 2004?

13 A I can. I received two W-2s from Cyn -- three  
14 W-2s from Cynthia.

15 Q Okay. Can you -- can you tell me who the W-2s  
16 were -- were from and what the amounts were?

17 A The first was from Shiva Retail Services for  
18 \$467. The second was from State's Construction for  
19 \$1,547. And the last was from Newport Car Wash for  
20 \$2,087.

21 Q Okay.

22 A And I'm rounding to the nearest dollar.

23 Q Yes, I -- I understand that. And in addition to  
24 the three W-2s that you just referenced, was there  
25 also some income that she had received as interest

1 during that year?

2 A I received several years' tax information from  
3 Cynthia at one time, and after I prepared the initial  
4 returns, before I gave them to her I called her and  
5 asked her -- we identified some interest income and --

6 Q Right.

7 A -- (inaudible) income from Edward Jones from one  
8 year and some interest income from a bank for one  
9 year, and I specifically asked her if she had interest  
10 income or investment income from those sources in  
11 other years --

12 Q Okay.

13 A -- and she said no.

14 Q Okay. And for the -- and so for the year 2004  
15 did she provide a W-2 from Gray's Paving and Sealing  
16 to you for that year?

17 A I did not get one.

18 Q Okay. Do you recall if there was any discussion  
19 about income from Gray's Paving and Sealing?

20 A Not from Gray's Paving, no, simply that it  
21 appeared there was some inconsistencies in investment  
22 and interest income, that's what caught my  
23 attention --

24 Q Okay.

25 A -- and made a note of it and contacted her before

1 we finished the returns.

2 Q Okay. How about -- same question I asked you for  
3 the year 2003. Any discussion about any income she  
4 would have received from either providing bookkeeping  
5 or accounting services?

6 A (inaudible).

7 Q Okay.

8 A I wasn't aware she did that.

9 Q And you weren't -- you weren't aware that she did  
10 that, okay. And the -- any -- did she provide any  
11 information to you that would indicate that she  
12 received income from the Town of Coventry for the year  
13 2004?

14 A I didn't have anything (inaudible) --

15 Q Okay.

16 A -- 2004.

17 Q Did she share with you when she started working  
18 for the Town of Coventry? She --

19 A She did not --

20 Q She did not, okay.

21 A -- (inaudible) all that information.

22 Q Okay. And, again, was there any discussion of  
23 wire transfers for the year 2004?

24 A No.

25 Q Any cash deposits that she had made during the

1 year 2004?

2 A Not then.

3 Q Okay. And, again, was there any discussion of  
4 her receiving child support for the year 2004?

5 A Again, I'm not sure. If there had been, I would  
6 have dismissed it as irrelevant.

7 Q Okay. Would you have made a note of something  
8 like that, do you think?

9 A Generally not.

10 Q Generally -- okay. And --

11 A (inaudible) taxable income that -- from  
12 subsequent years really has no effect on taxable  
13 income and so if it would have been a note, it would  
14 have been in passing.

15 Q Okay. So, again, the only income that she  
16 said -- as far as you're concerned, the only income  
17 that she said she received was based on the three W-2s  
18 that she provided you for the year 2004?

19 A That's correct.

20 Q Okay. And your recollection is that there was no  
21 other discussion of income for that year?

22 A Not during the preparation of returns.

23 Q Okay. Anything else about the year 2004 that you  
24 believe would be pertinent for us to know?

25 A No.

1 Q Okay. So let's turn now to the year 2005, and  
2 I'm going to mark a packet that contains her tax  
3 information for the year 2005. Again, it contains a  
4 cover letter from you dated August 2nd, 2010, to Ms.  
5 Diaz, and contained in that information are W-2s, the  
6 federal tax return for the year 2005, and a Vermont  
7 tax return for the year 2005. Do you have that  
8 information in front of you?

9 A I do, yes.

10 Q So can you please tell me what sources of income  
11 Ms. Diaz provided to you for the year 2005?

12 A I have two W-2s, the first from the Town of  
13 Coventry in the amount of \$24,639 and the second from  
14 Gray's Paving for \$1600. And then I received a 1099  
15 INT from Community National Bank for \$274.

16 Q I'm sorry, what was that form?

17 A Community National Bank for interest income.

18 Q For interest income. Okay.

19 A And I received a consolidated 1099 from Edward  
20 Jones with \$1 in interest income and \$218 in dividends  
21 and \$587 in capital gains distribution.

22 Q Was there anything else that she provided to you  
23 as a source of income for the year 2004?

24 A No.

25 Q Okay. Did you and she have a discussion about



1 whether the -- you said -- well, let's talk about you  
2 said there was interest from Community National Bank,  
3 is that right?

4 A That's correct.

5 Q In the amount of \$275?

6 A \$274.38 is what I have.

7 Q Okay. Was there a discussion about whether --  
8 and that was a 1099 that she provided to you?

9 A That's correct.

10 Q Okay. Was there a discussion about whether that  
11 would be a taxable income or not?

12 A It was assumed to be taxable and presented as  
13 taxable, and she understood it was taxable.

14 Q Okay. And same thing about you said there was --  
15 there were dividends for Two Eighteen and the capital  
16 gain for Five Eighty-seven, those were both from  
17 Edward Jones, did I hear you correct?

18 A That's correct.

19 Q Okay. Any discussion about whether the dividends  
20 or the capital would have been taxable income?

21 A They were presented as taxable and included as  
22 taxable. I think she understood them to be taxable.

23 Q Okay. And in the source documentation that she  
24 provided, either -- are these 1099s as well as -- for  
25 the Edward Jones?

1 A It's a consolidated 1099.

2 Q Okay. Are you able to tell from that what the  
3 source of the -- or the -- what the basis for the  
4 capital gain was?

5 A I have no idea.

6 Q Okay.

7 A Though I did call Cynthia and asked her if I  
8 could have some additional information that would help  
9 me help her. She had nothing available.

10 Q Okay. Are we able to tell if this is -- this  
11 would be presumably from some kind of a stock or -- or  
12 something, is that --

13 A (inaudible).

14 Q Okay.

15 A I just don't know what (inaudible).

16 Q So this would be as -- as a result of selling a  
17 stock? The stock was sold at a profit and --

18 A No.

19 Q Well, what's the capital gain?

20 A You're discussing something entirely different.

21 Q Okay.

22 A Dividends are issued from the --

23 Q (inaudible).

24 A (inaudible). I'm going to --

25 Q Okay. Okay.

1 A The capital gains distribution are attributable  
2 distributions from the ownership of stock, have  
3 nothing to do with sales.

4 Q Okay. So -- so you can say that (inaudible) --

5 A (inaudible) investment income without having any  
6 stock activity.

7 Q Okay. And so -- and -- and, again, with the  
8 dividends you can't -- you can't tell what the source  
9 of those dividends are, is that correct?

10 A That is correct.

11 Q Okay. Did she talk to you at all about -- in  
12 that year about a *redacted* that may have  
13 occurred in that year?

14 A She did not.

15 Q Okay.

16 A The only additional thing that she talked to me  
17 about was the sale of her principal residence.

18 Q Did she say how much that was for?

19 A She provided me with a copy of the Vermont Land  
20 Gains Tax Return that evidenced the sale at \$ *redacted* .

21 Q Okay. Are there any other -- did she discuss  
22 with you any other sources of income?

23 A No.

24 Q Okay. If she had told you in that year that she  
25 had had a *redacted*

1        *redacted* , is that something that you would have put  
2 down as taxable income?

3        A     Yes.

4        Q     Okay. And, again, any mention of any income she  
5 received as a result of providing bookkeeping or  
6 accounting services?

7        A     No.

8        Q     Okay. Any reference to any kind of cash deposit  
9 she made in the year 2005?

10       A     No.

11       Q     Okay. And how about a -- receiving        *redacted*  
12              from        *redacted*        for the year 2005?

13       A     Not at that time.

14       Q     Okay. And, again, any discussion of child  
15 support for the year 2005 to the best of your  
16 recollection?

17       A     Not that I recall.

18       Q     Okay. Anything else about the year 2005 that we  
19 need to discuss that we haven't covered already?

20       A     I -- I may have mentioned that the existence of  
21 those 1099s caused me to call Cynthia and ask her  
22 about interest and dividends in other years, but she  
23 wasn't able to identify and documentation for any  
24 income for those years so --

25       Q     What was your -- what was your purpose of making

1 that phone call? were you looking for additional  
2 documentation?

3 A well, as you pointed out, there's dividends  
4 there --

5 Q Yeah.

6 A -- which indicate some stock ownership, which  
7 indicates that maybe there was dividends the prior  
8 year or the subsequent year --

9 Q Yeah.

10 A -- and I didn't have documentation of that. It  
11 doesn't mean that it had to exist. She could have  
12 bought stock at the beginning of 2005 and received  
13 dividends that year without any other stock  
14 activity --

15 Q Yeah.

16 A -- and it wouldn't generate any taxable income.  
17 I cannot know that.

18 Q Right.

19 A I asked her if she had more and she indicated she  
20 did not.

21 Q Okay. And did she discuss with you what kind of  
22 stocks she owned?

23 A we didn't talk --

24 Q Okay. And -- and so she wasn't able to provide  
25 you with any additional information when you called

1 her other than what she had provided you through the  
2 1099s?

3 A That's correct.

4 Q Okay. Anything else?

5 A No.

6 Q Okay. And at this point if I could direct your  
7 attention to State's Exhibit Number 4. It's a packet,  
8 again with a cover letter to Ms. Diaz from you dated  
9 August 2nd of 2010. Contains a W-2, a federal tax  
10 return, and a Vermont tax return for the year 2006.  
11 Do you have that information --

12 A I do.

13 Q -- in front of you?

14 A Yes, I do.

15 Q And can you please tell me what Ms. Diaz provided  
16 to you as the source of her income for the year 2006?

17 A I received a W-2 from the Town of Coventry in the  
18 amount of \$26,066.

19 Q Did she provide you with any other information  
20 relative to any income she may have received for that  
21 year?

22 A No, just the W-2.

23 Q And, again, did she ever provide any information  
24 saying that she had received income from <sup>redac</sup><sub>ted</sub>

25

*redacted*

?

1 A No.

2 Q Okay. Did she ever provide any documentation or  
3 information to you that would indicate that she  
4 received income in the amount of \$ *redacted* from *redacted*  
5 ?

6 A No.

7 Q And, again, any income that you -- or any  
8 indication or any information provided to you that  
9 would indicate she received a *redacted* income  
10 (inaudible) *redacte* ?  
A

11 A No.

12 Q Did she re -- provide you with any documentation  
13 or information that would indicate she received a  
14 capital gain in the amount of \$28 for 2006?

15 A She didn't give me any information about that.

16 Q Okay.

17 A We discussed it because the prior year had  
18 interest and dividends, I would have anticipated  
19 dividends in 2006 and didn't see any and requested an  
20 Edward Jones statement or Community National Bank  
21 interest statement, but she said she had none of those  
22 available.

23 Q She said she had none available? And did -- did  
24 you discuss with her whether she still owned any stock  
25 in the year 2006?

1 A Well, that's the preposition, of course. If she  
2 had dividends in the prior year, she should have  
3 dividends in the subsequent year or you then see stock  
4 activity, sales that would be reportable.

5 Q Okay.

6 A I didn't get that information either.

7 Q And so -- just if I'm understanding you  
8 correctly, if she had purchased stock in the year 2005  
9 and received a dividend in 2005, which she did, and  
10 capital gains in 2005, which she did, even if she had  
11 sold that stock in 2006, it would have still -- there  
12 would have been still some tax liability that she  
13 would have had to pay (inaudible)?

14 A I can't say about a tax liability.

15 Q Okay.

16 A I (inaudible) tax reporting.

17 Q Okay.

18 A It is possible that she owned stock in 2005,  
19 received dividends and capital gains distribution and  
20 continued to hold that stock, but didn't get dividends  
21 or distributions in 2006. So I can't know.

22 Q Okay. So she could have -- again, if I'm  
23 understanding you correctly, she could have kept the  
24 stock and received neither a capital gain nor a  
25 dividend for the year 2006 --



1 A Yes.

2 Q -- (inaudible) virtue of how that stock was --

3 A (inaudible).

4 Q -- was doing.

5 A Exactly.

6 Q Okay. Did you explore that issue with her or did  
7 you just talk to her about do you have any  
8 documentation for that year that would reflect either  
9 a capital or an interest as a result of the stock you  
10 owned?

11 A I called her and asked her for a 2006 Edward  
12 Jones statement.

13 Q Okay.

14 A I said, it looks like you might have had  
15 activity, and I'd expect some. And she said, I don't  
16 have anything that shows that. And so I said, well,  
17 I'll prepare the return without it, but if something  
18 comes up, it may require an amended return.

19 Q Okay. Did you ask her to contact Edward Jones to  
20 see if they had anything?

21 A I often do. I don't recall.

22 Q Okay.

23 A I can't -- as you know, I can't call Edward  
24 Jones --

25 Q Yes.

1 A -- for information. It's regular that I will  
2 tell a client, well, call the bank or call the  
3 investment broker and they can provide you with  
4 information even several years old, but specifically  
5 telling her that, I don't recall.

6 Q Okay. And -- so it's your -- to the best of your  
7 recollection she said, I don't have any source  
8 documentation that would indicate either a dividend or  
9 a capital gain from Edward Jones?

10 A Or a sale.

11 Q Or a sale?

12 A That's correct.

13 Q Okay. Anything else about that before we move  
14 on?

15 A For 2006?

16 Q No. Just -- just with respect to either a  
17 capital gain, a dividend or a sale from Edward Jones.  
18 Any other discussion that you can recall?

19 A No.

20 Q Okay. And -- and how about any discussion she  
21 had paid -- she had paid interest in 2004, I believe,  
22 is that right? (inaudible) or, sorry, 2005 she had  
23 paid interest, yeah. She had paid interest having --  
24 having received interest from Community National Bank  
25 in 2005, but she didn't indicate to you that she had

1 received any income -- or, sorry, or any interest from  
2 Community National Bank in 2006, is that right?

3 A That's correct.

4 Q And did you also have a discussion about whether  
5 she had any interest from Community National Bank in  
6 2006 in light of the fact that she had income the  
7 previous year -- income interest the previous year?

8 A I did ask her for that.

9 Q And do you remember what that con -- how that  
10 conversation went?

11 A She believes she didn't receive any interest  
12 income that year.

13 Q And I suppose the -- the way that may have  
14 happened is that she had, for example, spent the money  
15 in an interest-bearing account, is that --

16 A A couple ways. She could have spent principal  
17 which would generate no income --

18 Q Yeah.

19 A -- (inaudible) or she could have transferred it  
20 to a noninterest-bearing account.

21 Q Okay.

22 A Both of those are nontaxable, nonreportable  
23 activities.

24 Q Yeah. And -- and did you have any further  
25 discussion about interest that she might have received

1 in 2006?

2 A No.

3 Q Okay. And any discussion about *redacted*  
4 *redacted* ?

5 A I did (inaudible).

6 Q Okay. And if you had, would you have reported  
7 this as income?

8 A I would have.

9 Q Okay. Any discussion of cash deposits that she  
10 may have made during the year 2005?

11 A No.

12 Q And any discussion of wire transfers that she may  
13 have received in the year 2005?

14 A No.

15 Q And, again, for the year -- or, sorry, for the  
16 year 2006 (inaudible) year 2006 -- for year 2006 did  
17 -- was there any discussion at all about interest --  
18 or, I'm sorry, about child support that she may have  
19 received during that year?

20 A No.

21 Q Okay. Anything else about the year 2006 that we  
22 need to discuss?

23 A Not that I'm aware of.

24 Q Okay. Let's move on to the year 2007.

25 (inaudible) State's Exhibit 5. And, again, for

1 State's Exhibit 5 we have a packet with a cover letter  
2 from you dated August 2nd of 2010 to Ms. Diaz. In  
3 that packet of information it looks like there's a  
4 W-2, there's a federal income tax return and a Vermont  
5 state income tax return for the year 2007. Do you  
6 have that information in front of you?

7 A I do.

8 Q So for the year 2007 can you please tell me what  
9 Ms. Diaz provided to you as the source of her income  
10 for that year.

11 A Yes. I have a W-2 from the Town of Coventry in  
12 the amount of \$27,698. I also have a mid-year  
13 statement from Edward Jones indicating income from  
14 Edward Jones.

15 Q And is -- is that -- is both the W-2 and the --  
16 is that -- is that -- what kind of income is the  
17 income statement from Edward Jones?

18 A Well, I'm not sure. We treated it as interest  
19 income, as ordinary income in the highest tax bracket  
20 because I did not know the nature of that income. I  
21 asked for a statement for year end and Cynthia wasn't  
22 able to provide one to me. I asked a couple of times  
23 and what I got was a couple of mid-year statements  
24 from the end of November and end of September that  
25 indicated income from this Edward Jones account, but

1 not what it came from or -- or the nature of the  
2 income.

3 Q So are these just statements that she would have  
4 received throughout the year 2007 from Edward Jones?

5 A That's my understanding.

6 Q Okay. But there was nothing -- no -- this  
7 information didn't come from a -- would it have been a  
8 1099, is that what it would typically be reported on?

9 A Typically we'd expect that. She didn't have a  
10 year-end summary 1099 and she gave me these mid-year  
11 statements.

12 Q Okay.

13 A So I took them and used them.

14 Q Okay. And based on the statements you -- you  
15 received from her you calculated interest income to be  
16 how much?

17 A \$1,081.

18 Q And that would have been from stocks that she  
19 owned?

20 A I don't know.

21 Q You don't know.

22 A (inaudible) it could be from stocks, it could be  
23 from dividends, it could be from interest income, it  
24 could be a money market. I -- I do not know.

25 Q Okay. And this was -- again, these statements

1 were provided from her directly to you, is that  
2 correct?

3 A (inaudible).

4 Q And did you have a discussion -- what kind --  
5 well, tell me about the discussion you had about --  
6 when you received these statements what kind of  
7 discussion you had with her.

8 A Well, I called her and said that I needed  
9 year-end 1099s if she had them to make sure that we  
10 had complete records and -- and as I recall, she told  
11 me she no longer had this account. This is a  
12 recollection. I don't have any notes, but I'm fairly  
13 certain she said to me that this account had been --  
14 has been closed sometime between 2007 and now and she  
15 had no additional records.

16 Q Okay.

17 A That's my memory.

18 Q That's your memory on it.

19 A I don't have any -- any documentation to support  
20 that.

21 Q Okay. And -- so other than the -- you said there  
22 was a w-2 from the Town of Coventry?

23 A Yeah.

24 Q And the statements that she provided from Edward  
25 Jones which you -- you believe reflected interest in

1 the amount of \$1,081. Did she provide you with any  
2 other documentation or infor -- or information that  
3 would lead to believe that she had taxable income for  
4 the year 2007?

5 A No.

6 Q And -- so specifically did she provide you with  
7 any information that would indicate she received  
8 dividends in the amount of \$34 for the year 2007?

9 A I don't have anything reflecting that.

10 Q Okay. And how about an income in the amount of  
11 \$38,333.88 from Closing USA, LLC?

12 A I don't know anything about that.

13 Q Okay. How about any potential income she may  
14 have received from North Country Mountaineers?

15 A I don't know who that is.

16 Q Okay. Any discussion about any bookkeeping or  
17 accounting services she may have provided in the year  
18 2007?

19 A No, we didn't have those, not then.

20 Q Okay. Any discussion of checks she may have  
21 received from Edward Jones other than the statements  
22 she provided to you?

23 A well, I specifically asked her --

24 Q Right.

25 A -- whether she had sold stock because there were



1 dividends in some years and no dividends in subsequent  
2 years. She wasn't able to give me any documentation,  
3 so I couldn't really report it (inaudible) numbers.

4 Q Yeah. And those statements that she provided to  
5 you, did they reflect *redacted*

6 *redacted* during that year?

7 A There was a statement -- a \$ *redacted* on  
8 -- on these statements.

9 Q A *redacted*

10

11 ?

12 A There are *redacted* on there --

13 Q Okay.

14 A -- from it looks like *redacted*

15 I -- I'm suppositioning it's a *redacted*

16 It says (inaudible) but I don't know what that is.

17 Q Okay.

18 A And it looks like it's *redacted*,

19 but I -- again, I don't know what it is, and I -- when

20 I saw this I think I understood it to be *redacted*

21 *redacted* which would not be taxable.

22 Q Okay. And the *redacted*, are they -- can  
23 you tell me what those amounts are?

24 A I have -- well, *redacted*

25 *redacted* -- and an



1 A That is my recollection.

2 Q Okay. Anything else about Edward Jones for the  
3 year 2007 that we need to talk about that you recall?

4 A No.

5 Q Okay. And was there any discussion that year of  
6 her receiving wire transfers in the year 2007?

7 A No.

8 Q Okay. Any discussion about child support --  
9 receipt of child support in the year 2007?

10 A Again, probably wouldn't have kept a record of it  
11 as I wouldn't see it as germane.

12 Q Okay. Anything else for the year 2007 that we  
13 need to talk about?

14 A No.

15 Q Okay. And then finally for the year 2008, which  
16 I'll mark as State's Exhibit 6, I'm looking at a  
17 packet, again with a cover letter dated August 2nd,  
18 2010 from you to Ms. Diaz. That packet of information  
19 contains a W-2, a federal tax return and a state tax  
20 return for the year 2008. Do you have that packet of  
21 information in front of you?

22 A Yes.

23 Q Okay. And what information or documentation did  
24 Ms. Diaz provide to you for that year as a source of  
25 her income?

1 A Singularly a W-2 from the Town of Coventry in the  
2 amount of \$30,732.

3 Q And was there any discussion of any other  
4 potential income for that year?

5 A Not that I recall.

6 Q Okay. Any discussion of receiving wire transfers  
7 during that year?

8 A No.

9 Q Okay. And so after you received the source  
10 documentation from the years 2003 to 2008 you went  
11 ahead and prepared her taxes, is that correct?

12 A Yes, it is.

13 Q You mailed the taxes to her at some point and --  
14 is that correct?

15 A Within a day or two (inaudible).

16 Q Okay. Within a day or two of August 3rd of 2010?

17 A That's correct.

18 Q Okay. And then your understanding, at that point  
19 at least, is that at some point she then filed those  
20 tax returns with the State of Vermont?

21 A And the fed --

22 Q And the federal government as well?

23 A Yes.

24 Q Okay. So at some point after that then were you  
25 -- were you contacted by Ms. Diaz?

1 A I was. Actually, I think Attorney Maggie Vincent  
2 called me and asked if I could do some additional work  
3 to explain other cash flows for Cynthia for those  
4 taxable years, and contacted Cynthia to get her  
5 permission to discuss it with the attorney and then  
6 got a package from the attorney, Maggie Vincent, to  
7 review with Cynthia about what the state had  
8 determined might be additional taxable income.

9 Q And this was -- this -- these were -- just to be  
10 clear while we're referencing, are spreadsheets for  
11 each of the years 2003 through 2008 and, again,  
12 they're individual packets for each year, and then  
13 attached to each of these spreadsheets are source  
14 documentation that the State of Vermont believes was  
15 taxable income, is that -- is that what you were  
16 provided?

17 A Yes.

18 Q Okay. And -- so let's start off with the -- and  
19 -- and each of these are captioned as income  
20 schedules, is that what you show?

21 A That's correct.

22 Q Okay. And so you were provided with a 2003  
23 income schedule?

24 A Yes.

25 Q And the purpose of providing this information was

1 to go through the source documentation and determine  
2 whether or not the -- that income would -- that the  
3 state was alleging was taxable was indeed taxable,  
4 is --

5 A That's my understanding.

6 Q Okay. And so for the year 2003 can you tell me  
7 what source documentation you ended up reviewing?

8 A Well, not much. I received the package and asked  
9 Cynthia to come and meet with me so that we could  
10 review these streams of cash to determine their  
11 taxability, and Cynthia came in -- I don't remember  
12 now, I'd have to check my calendar, but it was several  
13 months ago certainly.

14 Q But -- but subsequent to let's say roughly the  
15 end of August or beginning of September last year?

16 A It might have -- might have been in January,  
17 February, but I have to check my calendar. But  
18 subsequent to that, sometime between November and  
19 (inaudible) last few months have been really  
20 (inaudible) for me so (inaudible).

21 Q Okay. And was that the first conversation you  
22 and she had had about her taxes since she had filed  
23 her taxes?

24 A No, I don't think so. I -- I'm -- I'm fairly  
25 certain I pestered her a couple of times to bring me

1 current year tax information as well.

2 Q Okay.

3 A Primarily because the current year would be --  
4 you know, bring her into compliance --

5 Q Yeah.

6 A -- and also she might actually get a refund and  
7 maybe a proper (inaudible) adjustment from the state  
8 to her benefit if she were to bring in information  
9 that we could complete a tax return.

10 Q Okay.

11 A And I think I called her two or three times  
12 asking for that information over a couple of  
13 (inaudible).

14 Q Okay. Any discussion of her -- the tax returns  
15 she had filed for the years 2003 through 2008?

16 A Not until I received this package and spent a day  
17 reading it and then sat with her I believe it was in  
18 February. It could have been January. I'm not sure  
19 of the dates.

20 Q Okay.

21 A But we sat down for about three hours and  
22 reviewed these income schedules and her understanding  
23 of the circumstances that generated this cash flow.

24 Q Okay. And so -- let's say -- and I -- I -- I'm  
25 sorry. 2003 income schedule, I'm going to mark that

1 as State's 7, and just so we're looking at the same  
2 document, we have a spreadsheet sheet with a 2003  
3 income schedule and then attached to that are W --  
4 W-2s and then a number of checks. Is that what you  
5 show in your -- in your package?

6 A I didn't look at any of the supporting  
7 documentation for these schedules. I looked at the  
8 schedules themselves.

9 Q You just looked at the --

10 A And had a discussion with Cynthia about them.

11 Q Okay. Did you also receive the -- the source  
12 documentation as well or did you just receive the  
13 schedules?

14 A Well, I certainly had spreadsheets from the --  
15 from the state's determination of cash movement. I  
16 don't think I have the checks that you're referring to  
17 but -- and transcripts from the Internal Revenue  
18 Service.

19 Q Okay. So your understanding is you were just  
20 provided with the -- the state's spreadsheet of what  
21 the state believes was her income for each of the  
22 years 2003 through 2008, is that correct?

23 A Well, certainly you question about taxability.

24 Q Okay. And so -- so you sat down -- when you sat  
25 down with Ms. Diaz then, you just discussed what was



1 on these spreadsheets, is that correct?

2 A That's correct.

3 Q Okay.

4 A Requested her to provide me with either an  
5 explanation or supporting documentation that would  
6 help us determine the taxability --

7 Q Okay.

8 A -- (inaudible).

9 Q So when you met with her did she -- did she offer  
10 much? Let's talk about the 2003 income schedule. And  
11 so she -- according the state, the state believes or  
12 alleges that she had income from bookkeeping and  
13 accounting services in the amount of \$2,657.23. Did  
14 you and she have a discussion about that -- that --  
15 that income and whether --

16 A We did.

17 Q And what -- what did she tell you?

18 A She told me that first she thought it wasn't  
19 enough money to really worry about and that she felt  
20 she probably had more expenses than she made in income  
21 and felt it would be a loss and to her mind not  
22 reportable as taxable at that point.

23 Q Okay. Did she -- did she dispute the accuracy of  
24 the amount?

25 A Not to my mind.

1 Q Okay. So just so I'm clear, she thought that her  
2 -- and at that point was there a discussion of what  
3 the nature of her employment was that would have  
4 resulted in those -- those checks being sent to her?

5 A Yes.

6 Q What was the -- what did she tell you was the --  
7 was the nature of her employment?

8 A She said she was self-employed and did this for  
9 people to help them. And I explained to her that the  
10 requirements are to include all the income and all the  
11 expenses on a return and that to be complete, she  
12 should be reporting the income. She said to me, I'll  
13 see if I have any paperwork at home for that year and  
14 I'll let you know.

15 Q Okay. And so just so I'm clear the -- if  
16 somebody -- this would have -- so she would have been  
17 considered self-employed for tax purposes, is that  
18 correct?

19 A That's correct.

20 Q And if somebody is providing bookkeeping or  
21 accounting services and receiving payment in return  
22 for those services, can you tell me what legally that  
23 person's required to do as far as filing their taxes?

24 A Well, I can. A couple of things, if she is  
25 running a sole proprietor business, there's the

1 requirement obviously to register with the State of  
2 Vermont to pro -- provide services for compensation,  
3 but she would be required to report the -- the revenue  
4 and prudently would report the expenses related to  
5 that income with a net. If it's a positive net, being  
6 subject to self-employment taxes and income taxes.

7 Q Okay. And was there a discussion at all about  
8 why she didn't bring this to your attention back in  
9 July when you first met with her and were preparing  
10 her taxes for the year 2003?

11 A Well, as I mentioned, we did, and she said it was  
12 because she felt it was a loss and -- and wouldn't  
13 result in any tax consequences.

14 Q Okay. And what did you tell her when she told  
15 you that?

16 A I told her it was all reportable.

17 Q Okay.

18 A I said that already.

19 Q Okay. All right. So, again, just so I'm clear,  
20 it's not that she was disputing the amount, she just  
21 felt that she had -- the expenses associated with her  
22 business would have exceeded the -- the income of  
23 Twenty-six Fifty-seven Twenty-three, is that your  
24 understanding?

25 A That's correct.

1 Q And that, therefore, she didn't think it was  
2 reportable because of that?

3 A Yes.

4 Q Okay. Okay. The next item is wire transfers to  
5 -- and I'm assuming that's Chittenden Bank in the  
6 amount of \$35,940?

7 A That's what this sheet (inaudible).

8 Q Okay. Did you and she have a discussion about  
9 these wire transfers?

10 A We did.

11 Q And what did she tell you?

12 A She said they were money from her ex-husband and  
13 gifts to her and not taxable income.

14 Q Okay. And is -- she used the word gift to  
15 describe it (inaudible)?

16 A She indicated they were transfers from her  
17 husband.

18 Q Okay. Transfers from her husband, and then did  
19 she -- did she say that the entire amount of the  
20 35,940 was a gift?

21 A I asked if it was a gift.

22 Q And what did she say?

23 A She kind of hemmed and hawed a bit and said,  
24 well, it's kind of complicated. You know, we were  
25 married and maybe some of it's mine; maybe some of

1 it's his, but it's supposed to be (inaudible) give me  
2 money. And I talked about whether it was alimony, and  
3 she said, no, no, it's not alimony. And I said, well,  
4 then if it is not a gift -- I mean, if it's not  
5 alimony, then it is a gift and not taxable to you.

6 And --

7 Q I'm sorry (inaudible).

8 A -- (inaudible) conclusion because she was  
9 supposed to bring me some more documentation about the  
10 specific amounts of money that her husband was --  
11 ex-husband to give her --

12 Q Okay.

13 A -- and it never got to that point.

14 Q And, I'm sorry, I don't know if I heard you  
15 properly. You said if it -- you said if it wasn't  
16 alimony and it was not a gift, it would have been  
17 taxable is that --

18 A No. No. If it wasn't alimony --

19 Q Yeah.

20 A -- it would be a gift and nontaxable.

21 Q If it wasn't alimony, it would be a gift and  
22 nontaxable.

23 A That was my understanding. Right or wrong, that  
24 was my understanding.

25 Q Any discussion about whether what her ex-husband

1 was sending her was for child support?

2 A No, I don't think we had that discussion.

3 Q Okay. Did she say what the name of her  
4 ex-husband was?

5 A It's (inaudible).

6 Q She told you Enrique?

7 A I don't -- I think I saw it here and asked who  
8 that was. And I think she said it was her ex-husband.

9 Q Okay. Enrique or -- Enrique Diaz?

10 A I speak a few languages, but (inaudible).

11 Q (inaudible) I'm not sure. But -- so she said  
12 Enrique or Enrique so --

13 A She said her ex-husband.

14 Q Okay. Was the person who was wiring her the  
15 \$35,940?

16 A That's what I understood.

17 Q Okay.

18 A Again, we didn't come to any resolution and that  
19 was simply a discussion because I was expecting her to  
20 bring me supporting documentation that would support  
21 her assertions and we didn't get to that point.

22 Q Okay. (inaudible).

23 A So (inaudible).

24 Q Was it her assertion that it was a gift or was it  
25 your supposition that it may have been a gift? Do you

1 remember? Was she saying to you, I think this is a  
2 gift or did you say it might be a gift and I need more  
3 documentation?

4 A We concluded our conversation that she needed to  
5 go find out what this was and let me know.

6 Q Okay. And is that because you weren't clear from  
7 her whether or not this constituted a gift?

8 A It was because she wasn't clear what the income  
9 was or what that revenue (inaudible).

10 Q Who used the word gift? Was it you or her, do  
11 you remember?

12 A I don't (inaudible).

13 Q Okay. But --

14 A Likely would have been me.

15 Q Okay. But the bottom line is you couldn't  
16 conclude after you spoke to her whether this income  
17 was taxable or not, is that --

18 A We never finished this.

19 Q Right.

20 A (inaudible) I think but --

21 Q Yeah, but based on --

22 A (inaudible).

23 Q Yeah. Based on the discussion you had though  
24 with her about this 35,940 am I correct in saying you  
25 couldn't conclude one way or the other if it was

1 taxable?

2 A It wasn't that we couldn't; we didn't.

3 Q Okay.

4 A We just didn't get to that point. When these  
5 came to me, I reviewed them and said, I need to know  
6 more (inaudible).

7 Q Yeah. Based on the information you couldn't  
8 conclude it -- that that had been -- had been provided  
9 to you from her you couldn't conclude.

10 A Yes.

11 Q Okay. And did she tell you where her ex-husband  
12 lived?

13 A I don't remember.

14 Q Did she tell you where the bank that was sending  
15 these wire transfers was located?

16 A I don't remember.

17 Q Okay.

18 A She talked about a few different places, Panama  
19 and Hawaii and California, but these were fairly vague  
20 discussions and I'm not sure about the details.

21 Q Okay. And did she tell you whose name the bank  
22 account was in?

23 A No.

24 Q Okay. So, again, just to be clear you said it  
25 was kind of -- you weren't clear, from what she was



1 telling you she said that some of the money was hers,  
2 some of it was her husband's and -- did she say what  
3 the purpose of sending this money to her was?

4 A I'm not sure we got to that.

5 Q Okay. Was it a very short conversation?

6 A It was kind of a rambling conversation. Most  
7 often my focus here is -- is to -- is to focus and to  
8 be as clear as possible and hopefully as brief as  
9 possible.

10 Q Yeah.

11 A And these conversations were a lot more rambling  
12 than I would normally prefer.

13 Q Okay. So your --

14 A And of course we didn't have any references --

15 Q Yeah.

16 A -- (inaudible) to look at.

17 Q So the way you left it as far as the wire  
18 transfers were concerned is that she was going to get  
19 you additional infor -- provide you with additional  
20 information. Did you specifically request certain  
21 information from her?

22 A I didn't. She didn't know what she had.

23 Q Okay.

24 A I asked her for any agreements between her and  
25 her ex-husband. I asked her for any documentation

1 that would help us understand this. I asked for bank  
2 statements that would show where move -- money moved,  
3 and she seemed to be taking copious notes and  
4 indicated she'd bring me some things.

5 Q Okay. But she never did?

6 A She never did.

7 Q Okay. Okay. Anything else about the wire  
8 transfers for 2003 that we need to talk about?

9 A Not that I'm aware of.

10 Q Okay. And then what about the -- the cash  
11 deposits in the amount of \$2,477.80?

12 A As I recall, and I didn't keep notes because we  
13 weren't at that point, that she indicated they were  
14 simply cash deposits and didn't generate any income  
15 reporting requirement.

16 Q Okay. And what was your response to that?

17 A Okay. I -- I don't do asset returns as you know.  
18 I do income returns.

19 Q Right.

20 A So I don't know what people have. Many people  
21 have cash at home, and sometimes they deposit it and  
22 sometimes they don't.

23 Q Okay. So nothing -- nothing that you saw there  
24 that would lead (inaudible) that this income was  
25 necessary taxable, is that correct?

1 A That's correct.

2 Q Okay. And then there was income that the state  
3 alleged she received from Sonja Curtis in the amount  
4 of \$150. Was there a discussion about that?

5 A Briefly. I explained to her that this might --  
6 what is it what might -- it might be income, and she  
7 said that she didn't know how much money she received  
8 from Sonja or whether it was a reimbursement or  
9 whether it was income.

10 Q Okay.

11 A And I asked her to see if she could figure that  
12 out and let me know.

13 Q Okay. And it would have been a reimbursement for  
14 what, did she say?

15 A She was -- she does apparently a lot of little  
16 things. She buys things for people and sells them for  
17 other people or moves them around. I don't quite  
18 know.

19 Q Okay. So she was going to check on that and get  
20 back to you as well?

21 A Yes.

22 Q Did you talk about anything else as regards  
23 income or potential income for the year 2003?

24 A Not that I recall.

25 Q Okay. All right. If we could move on to the

1 income schedule that you have for the year 2004, which  
2 I'll mark as State's 8.

3 A Yeah.

4 Q And just so we're clear, we're looking at the  
5 same schedule that's a 2004 income schedule. It was  
6 prepared by State of Vermont, Putty Palmer,  
7 10/26/2010?

8 A I have 10/15 but --

9 Q Okay. And -- well, let's just make sure we have  
10 -- total taxable income of \$35,424.34?

11 A That's what mine says.

12 Q And Four -- \$4,100.06 --

13 A Yes.

14 Q -- is what was reported. Omitted, \$31,325.28,  
15 and nontaxable income according the state of  
16 \$4,098.40.

17 A That's what I have.

18 Q So, again, the purpose -- you -- did you talk to  
19 her about the 2004 income schedule?

20 A I did.

21 Q Okay. And did you discuss the fact that income  
22 in the amount of \$4,997.41, at least income according  
23 to the state, was omitted from her tax return?

24 A I did.

25 Q And what did she tell you?

1 A She didn't have any paperwork for that. And she  
2 might have gotten paid, but she didn't have -- had not  
3 retained a w-2 and wasn't able to provide me with one.

4 Q So she said she may have gotten paid for that  
5 year but just had not kept the w-2, is that --

6 A That's what I understood.

7 Q Okay. Did she -- did she deny that she had  
8 received payment from Gray's Pavement and Sealing for  
9 that year?

10 A No, I don't think so.

11 Q Okay. Did you discuss if she was employed by  
12 them for that year?

13 A Well, we didn't, but it seemed evident.

14 Q Okay.

15 A (inaudible) w-2 was issued, but I -- it was  
16 complicated with Gray's Paving so I don't know.

17 Q Okay.

18 A It's possible that he might have attributed to  
19 her some wages and not given them to her because of  
20 the complexities she had with him.

21 Q Okay. What -- what did she do for Gray's Paving  
22 and Sealing, did she tell you?

23 A She worked for them.

24 Q Doing -- doing -- you don't know what she --

25 A I have no idea.

- 1 Q okay.
- 2 A she could have --
- 3 Q Right. And so -- but her -- her position, at  
4 least to you, was that she just hadn't --
- 5 A She wasn't sure --
- 6 Q If --
- 7 A -- whether it was taxable or not.
- 8 Q Okay. And why was she not sure if it was  
9 taxable?
- 10 A She wasn't sure she received it.
- 11 Q Received the W-2?
- 12 A Received any money.
- 13 Q Okay. So she (inaudible) remember receiving any  
14 money from Gray's Paving in 2004?
- 15 A That's what she said.
- 16 Q Okay.
- 17 A At least that's (inaudible).
- 18 Q (inaudible) but that was her recollection, but  
19 she didn't say to you, I didn't receive income; she  
20 said, I don't remember, is that --
- 21 A I think so.
- 22 Q Okay. And then what about the bookkeeping slash  
23 accounting services for \$5,897.28, was there a  
24 discussion about that?
- 25 A Similar to the one from 2003.

1 Q Okay. And just to be clear --

2 A If she had income, it should include expenses, it  
3 should be subject to self-employment taxes and income  
4 taxes, and she's required to report all compensation  
5 she receives.

6 Q And did she say the same thing to you about the  
7 -- the same comment as she did about the income in  
8 2003 in that -- my recollection is she said 2003 she  
9 thought that her expenses had exceeded her income and  
10 that she didn't need to report the income.

11 A Correct.

12 Q And so she said the same thing for 2004?

13 A For each year.

14 Q Okay. And then she (inaudible) retail -- oh, she  
15 reported that, I'm sorry. The Town of Coventry,  
16 according the state she received income in the amount  
17 of \$10,860.59 which she did not report on her 2004 tax  
18 return. What did she tell you about that?

19 A She had forgotten about it. That she didn't have  
20 the W-2 and it somehow was misplaced.

21 Q She had forgotten that she had received a W-2 or  
22 she had forgotten that she had worked there?

23 A I think she misplaced the W-2.

24 Q Misplaced the W-2. Okay. She didn't say to you  
25 though, I didn't work --

1 A No.

2 Q -- at the (inaudible) during that year?

3 A No, she didn't say that.

4 Q Okay. And the wire transfers in the amount of  
5 \$9,220, did you -- did you have a -- a discussion for  
6 each year with respect to the wire transfers or have  
7 we covered everything? When we talked about the 2003  
8 wire transfers had we covered everything?

9 A Just for efficiency, the fact is we covered wire  
10 transfers for each of these years at one time, and she  
11 seemed confident that they were not taxable income to  
12 her, but that she was going to research her records  
13 and find out if she had any documentation that  
14 supported that.

15 Q Okay. And you had no -- again, just to be clear,  
16 you didn't have an opinion at this point whether or  
17 not it was taxable --

18 A I had no clue.

19 Q -- based on the -- okay.

20 A I'd never seen it before I got these.

21 Q Yeah. And she was confident. Did she say why  
22 she thought it was con -- she was confident that it  
23 was not taxable income?

24 A Please say that again.

25 Q Did she explain to you why she thought the income



1 from the wire transfer was not taxable? You said she  
2 was confident. She -- she told you that she was  
3 confident that she --

4 A She indicated that she felt it was not income.

5 Q Okay.

6 A -- and that's really all we came to.

7 Q That's all you got from her. Okay. Same thing  
8 about -- as with respect to the cash deposits for  
9 \$300, same thing as the year 2003?

10 A She believed that was (inaudible) of cash and not  
11 taxable income.

12 Q Okay. And same thing about the Sonja Curtis, who  
13 I think was also referenced in 2003?

14 A That's correct.

15 Q Okay. And now 2004 we have some checks that were  
16 received from Enrique Diaz for child support?

17 A (inaudible).

18 Q Did you guys have a -- you and Cynthia have a  
19 discussion about those checks?

20 A No.

21 Q Was child support brought up at all in the year  
22 2004?

23 A Well, not until this came up, and there was no  
24 reason to discuss it if the state had already  
25 determined it was not taxable --

- 1 Q Okay.
- 2 A -- our discussion -- I was asked what was taxable  
3 and what the state was proposing to be taxable. We  
4 didn't discuss those.
- 5 Q Okay. Anything else for 2004?
- 6 A No, I don't think so.
- 7 Q All right. And then let's move on to what I'll  
8 mark as State's Exhibit 9, 2005 income schedule. Do  
9 you have that in front of you?
- 10 A I do.
- 11 Q And in that schedule that was prepared by the  
12 state there was income again from bookkeeping slash  
13 accounting services in the amount of \$<sup>redac</sup><sub>tot</sub> that the  
14 state alleges Ms. Diaz received in income. Is it fair  
15 to say the discussion about this was the same as for  
16 years 2003 and 2004?
- 17 A She actually told me that in 2005 she had decided  
18 not to do that and thought she did not do any  
19 compensation services in 2005.
- 20 Q Okay. So she thought she had actually --
- 21 A Stopped.
- 22 Q -- stopped providing. So just had -- had  
23 forgotten about this \$<sup>redac</sup><sub>tot</sub>?
- 24 A I think so.
- 25 Q Okay. She didn't say that isn't from -- again,

1 by 2003 and 2004 she didn't say to you this isn't  
2 income from accounting, is that right?

3 A What I think she said to me was she had earned  
4 that -- if she had gotten it, she had earned it the  
5 year before.

6 Q Okay.

7 A (inaudible) reported it the year before, but  
8 (inaudible) report it at all.

9 Q All right. Okay. The cash deposits, same  
10 discussion as '03 and '04?

11 A Yes.

12 Q Okay. And -- okay. Let's talk about *redacted*  
13 *redacted*. Did she recall what that  
14 was?

15 A I asked her if she had any *redacted*; that  
16 indicated *redacted*. She said she wasn't  
17 sure and she would look.

18 Q Okay. Did she say to you, *redacted*  
19 *redacted* ?

20 A No --

21 Q Okay.

22 A -- not that I recall.

23 Q Okay.

24 A I -- she might have said that she didn't *redacted*  
25

1 Q Okay. And did she *redacted*

2

3 A Well, I mean, quite frankly, the -- the *redacted*  
4 would have been from prior years, I'm  
5 certain. Sometimes those take quite a few years to --

6 Q Okay.

7 A -- (inaudible) to *redacted*

8 Q Okay. But she didn't rec -- recall one way or  
9 the other if she had --

10 A She wasn't sure. She was supposed to check.

11 Q Okay. (inaudible).

12 A (inaudible).

13 Q *redacted* did you talk about  
14 that?

15 A I did. You have to report *redacted* income. And  
16 she said, but I have a lot more expenses to offset  
17 that, it's not going to be taxable to me, and I  
18 believe her.

19 Q Okay. So that was the same discussion though as  
20 far as the -- the *redacted*  
21 *redacted* ?

22 A Yes. That she felt that there was more than  
23 enough (inaudible) expenses to offset that income and  
24 that the result was not taxable reporting, so she  
25 decided that she didn't need to report.

1 Q Okay.

2 A We discussed whether -- whether there was a loss  
3 or a gain, that she still should report all of her  
4 income, and she said, well, I didn't.

5 Q Okay. And is your understanding she does -- this  
6 is a decision she made on her own or was she getting  
7 advice from somebody?

8 A What do you mean?

9 Q About not reporting -- her belief that she didn't  
10 need to report either the income from *redacted*  
11 or the income *redacted*.

12 A I never had the discussion with her about whether  
13 she had someone advising her (inaudible).

14 Q Okay. Anything else? Did we cover everything in  
15 the year 2000 -- well, actually, again, there was --  
16 there were a number of child support payments from  
17 Enrique Diaz for 2005.

18 A We didn't talk about (inaudible) income.

19 Q Didn't talk about (inaudible). Okay. Anything  
20 else for the year 2005?

21 A (inaudible).

22 Q Okay. We'll -- we'll now talk about the 2006  
23 income schedule that the State of Vermont prepared.  
24 I'll mark it as State's Exhibit 10. You have that in  
25 front of you?

1 A I do.

2 Q And in that particular schedule we have an income  
3 that the state's alleged -- state alleges she received  
4 from *redacted* . Did  
5 you and Ms. Diaz talk about that income?

6 A We did.

7 Q (inaudible).

8 A (inaudible) understood she said she had received  
9 that but that had parsed it out to several people and  
10 didn't consider it income to her.

11 Q Did she say what she received it for?

12 A No.

13 Q Okay.

14 A I asked her to go look and let me know if she  
15 could find some paperwork, and she was going to do  
16 that.

17 Q Okay. It looks like there were two checks  
18 received from *redacted* , each in the amount of  
19 *redacted* . Did she say what those checks were for?

20 A She -- they were *redacted*  
21 *redacted* .

22 Q That's what she told you?

23 A That's correct.

24 Q Okay. And did you ask her to provide some  
25 documentation proving that or --

1 A I did.

2 Q Okay. And she told you that --

3 A She was going to go look.

4 Q Okay. Same discussion about the *redacted*  
5 from *redacted* as in 2005?

6 A That's correct.

7 Q Meaning she thought her -- the expenses  
8 associated with *redacted* exceeded the *redacted* she  
9 was receiving?

10 A Yes.

11 Q Okay. How about the *redacted*, did she  
12 say where that came from?

13 A I told her that I needed to get a copy of the  
14 *redacted* she should contact *redacted* and get a copy  
15 and provide it to me.

16 Q Did she tell you if that was from *redacted* or  
17 -- or not or was there any discussion?

18 A I don't remember.

19 Q Okay.

20 A I think we came to the conclusion that it  
21 probably was, but I don't --

22 Q Okay. And, again, she didn't have any  
23 documentation?

24 A She didn't.

25 Q And how about the -- *redacted* ?

1 A The *redacted* and *redacted* income and *redacted*  
2 *redacted* are all in the same position. I asked her for  
3 some documentation that would identify her *redacted*  
4 income so we could report it correctly. We were at  
5 the same time looking at 2006 tax return and seemed to  
6 indicate that even if we included that as income in an  
7 amended return, it wouldn't result in a tax liability.  
8 And, generally, the IRS code says that if an amended  
9 return doesn't result in a change in the tax  
10 liability, don't bother doing one.

11 Q Okay. But you would have needed source  
12 documentation to confirm that, is that right?

13 A Well, I -- actually, quite frankly, I wouldn't  
14 have. This seemed fairly adequate and reliable as a  
15 source of *redacted*. I  
16 would be comfortable using these to report on an  
17 amended return if one was required.

18 Q Okay. But could you -- could you -- could you --  
19 could you conclude then that this would not have been  
20 taxable?

21 A No. I think this would be taxable.

22 Q Oh, you would be taxable (inaudible).

23 A (inaudible).

24 Q Oh, I'm sorry, I (inaudible).

25 A But -- but -- but probably wouldn't generate any



1 tax.

2 Q Right. Okay.

3 A (inaudible) important distinction.

4 Q Yeah.

5 A Okay. Though -- though we might be required to  
6 do an amended return to make sure her gross income was  
7 reported completely, the effect is if there's no  
8 change in the tax liability, Internal Revenue code  
9 says don't do an amended return, and Vermont generally  
10 follows that.

11 Q Okay.

12 A I'm sorry (inaudible) sorry.

13 Q No, I understand that. And then *redacted*

14 ?

15 A Again, I asked her for *redacted* ; she said she  
16 would look.

17 Q And, again, no recollection on her part as to  
18 what this might have been?

19 A She had some vague idea *redacted* ,  
20 but she wasn't sure if it was *redacted* or not --

21 Q Okay.

22 A -- or whether it was someone else's.

23 Q And -- and then the same thing with respect to  
24 the cash deposits and wire transfers that we talked  
25 about?

1 A That or the cash was simply a movement of cash  
2 and the wire deposits were not taxable to her, yes.

3 Q Okay. And the -- again, no discussion of child  
4 support for the year 2006?

5 A We reviewed it very quickly, but we really didn't  
6 talk about (inaudible) it wasn't proposed as taxable,  
7 didn't seem efficient to spend any time on  
8 (inaudible).

9 Q And then I'll mark the 2007 income schedule that  
10 the state prepared. I'll mark that as Exhibit 11.  
11 And do you have that in front of you?

12 A I do.

13 Q There is dividends in the amount of \$34, did she  
14 explain to you where that came from?

15 A No.

16 Q Similar to the discussion to what you would have  
17 had in 2006?

18 A Do we have the same schedule? I just want to  
19 make sure.

20 Q 2007.

21 A I only ask because you jumped down to the 34.

22 Q Yeah, and I'm just looking here.

23 MS. VINCENT: You and I had the same one.

24 UNIDENTIFIED SPEAKER: Okay.

25 Q It's the same -- the same amounts are --

1 A Different sequence perhaps?

2 Q No, it's the same amounts but the -- mine has --  
3 oh, it is a different sequence. The dividends are --  
4 the dollar amounts are the same but the dividends are  
5 further down on yours. It's just a different  
6 sequence, yeah. I was trying to see --

7 A You caught me off guard when you jumped to my  
8 bottom instead of --

9 Q Yes.

10 A (inaudible).

11 Q They're just -- they're just sequence, but the  
12 amounts are the same.

13 A Okay.

14 Q So --

15 A Dividends we had a discussion that I'd like to  
16 get a 1099 and it probably is taxable income.

17 Q Okay. The -- do you have something from the  
18 Closing USA, LLC, escrow account in the amount of  
19 \$38,333.88?

20 A Cynthia explained to me that she sold her  
21 principal residence at some point and wasn't sure the  
22 date and that this was simply a withdrawal of the  
23 proceeds from the sale of her principal residence not  
24 generating a tax liability. I asked her to provide me  
25 with a closing statement, maybe a HUD statement from

1 that, and she indicated she would look.

2 Q And -- I'm sorry. That was one thing (inaudible)  
3 could we just jump back to 2000 -- 2005 income  
4 schedule for a second, State's Exhibit 9?

5 A Do I get to (inaudible)? It's a rhetorical  
6 question.

7 MS. VINCENT: (inaudible).

8 Q The -- the Hundred and --

9 A 2004?

10 Q 2005.

11 A All right.

12 Q On -- there's -- there's income from --  
13 nontaxable income --

14 A *redacted* (inaudible).

15 Q Yeah, for *redacted* Did you and she discuss  
16 what that was?

17 A As we talked about, I did not look at the  
18 nontaxable income at all.

19 Q Okay.

20 A It wasn't (inaudible) as taxable and I wasn't  
21 asked to look at it so I -- I completely disregarded  
22 it.

23 Q Okay. There was -- I thought you mentioned  
24 something earlier about her selling some property and  
25 receiving proceeds of approximately *redacted* ?

1 A That's correct, but that's just -- this  
2 withdrawal from the escrow account is simply a  
3 movement of that cash that was earned during the sale.

4 Q I see. Okay. So that's what she told you.

5 A That's what I understood.

6 Q (inaudible) did you ask again for some  
7 documentation (inaudible)?

8 A (inaudible).

9 Q Okay.

10 A But the movement of cash on the escrow account  
11 wouldn't have gen -- probably generated any  
12 requirement for reporting or any documentation.

13 Q Right, but the HUD statement would have shown the  
14 proceeds from the original sale, is that correct?

15 A (inaudible) probably would have asked for deposit  
16 information and where it was.

17 Q Okay.

18 A (inaudible) trying to be complete. We didn't get  
19 to that point.

20 Q I see. Okay. And then the -- again, (inaudible)  
21 County -- I'm sorry, North Country Mountaineers, did  
22 she say what the income was?

23 A I don't remember.

24 Q Okay. Okay. The accounting services,  
25 (inaudible) she -- did she recall what that was?

1 A She laughed and said, no, I shouldn't have made  
2 any money that year --

3 Q Okay.

4 A -- is what she said. In 2007 we -- again, we  
5 chuckled (inaudible) because the \$125, regardless of  
6 whether it was taxable or not, wouldn't have created a  
7 tax liability --

8 Q Yeah.

9 A -- so she wasn't too concerned about it, though I  
10 asked her to see if she found any paperwork.

11 Q Gotcha. And then -- I know we talked about this  
12 at length earlier. Did you have any further  
13 discussion about the \$6,00 and \$9,031.49 checks that  
14 she received from Edward Jones?

15 A For 2007?

16 Q Yes.

17 A Nothing more than we talked about earlier.

18 Q Nothing more than you talked about earlier?  
19 Okay. And did you leave that that she was going to  
20 try, again, provide you with additional documentation?

21 A I wanted to get the statements, maybe there was a  
22 1099b if there were some stock sales. If there was  
23 one available, I wanted to get that.

24 Q Okay. And nothing further about the wire  
25 transfers or the -- the rental income from Walter

1 Tarbux?

2 A That's correct.

3 Q All right. And then let's take a look at the  
4 last year, which is 2008, which shows -- again, the  
5 income schedule prepared by the state shows income  
6 from the Town of Coventry and wire transfers, and the  
7 wire transfers in the amount of \$21,060 were not  
8 reported, correct?

9 A Were not reported and, according to Cynthia, not  
10 reportable --

11 Q Yeah.

12 A -- but, again, she was to check to see if she had  
13 any documentation that would help (inaudible).

14 Q Okay. And I'll mark the income schedule for 2008  
15 as state's 12. And I believe -- was there anything  
16 else you talked about for 2008?

17 A I -- I don't believe so.

18 Q Okay. And anything else -- did -- was -- how  
19 many times did you meet with her after you had  
20 prepared the taxes?

21 A Once.

22 Q Once.

23 A To discuss this. I met with her a couple of  
24 times on our audit of the school.

25 Q Yeah.

1 A -- but we didn't talk about (inaudible).

2 Q But as far as (inaudible).

3 A (inaudible) I asked her for stuff; you still owe  
4 me.

5 Q Okay. And so after this discussion did she ever  
6 send you any of the documentation you had requested?

7 A No.

8 Q Any further conversations with Cynthia after  
9 this?

10 A Well, again --

11 Q With respect to her filing of her taxes from the  
12 years 2003 to 2008?

13 A Limited to me reminding her she owed information,  
14 yes.

15 Q Okay. And that was it?

16 A Yes.

17 Q Okay. Anything else that we have not covered or  
18 that you think might be relevant to the years 2003 to  
19 2008 as far as filing of her taxes or taxable income  
20 might be concerned?

21 A I think it's premature for me to know anything  
22 because I never looked at any subsequent information.  
23 I do believe some of these amounts are probably  
24 taxable but not taxed and (inaudible) inane because we  
25 can change taxable income all day long, it doesn't



1 change the tax.

2 Q Yeah.

3 A Nobody cares.

4 Q Right. But, again, you can't -- without seeing  
5 the documentation you requested, you can't make any  
6 conclusions, is that correct?

7 A That's true, yeah.

8 MR. DOYLE: Okay. All right. I have  
9 nothing further.

10 MS. VINCENT: I have a couple.

11 MR. DOYLE: Sure.

12 MS. VINCENT: Just a couple though. Ultan  
13 has been so thorough.

14 THE WITNESS: Can I ask one?

15 MS. VINCENT: Yeah.

16 THE WITNESS: How long can you keep me  
17 here?

18 (inaudible conversations)

19 EXAMINATION BY MS. VINCENT:

20 Q But seriously. I'm sorry. Explain again the  
21 difference between taxable but not taxed. Do you mean  
22 it is reportable as taxable income, but it wouldn't  
23 incur additional tax?

24 A That is exactly what I mean.

25 Q Thank you. I just wanted to make sure. And you

1 -- and based on what you know, which is not complete,  
2 many of the items that are in dispute would have been  
3 to you taxable but not taxed?

4 A Both at the federal and state levels, that's  
5 correct.

6 Q Okay. What information could she have supplied  
7 to you with regard to the wire transfers that would  
8 have made that decision for you whether that was a  
9 gift or not?

10 A I don't know.

11 Q (inaudible).

12 A (inaudible) her house --

13 Q -- from her ex.

14 A Well, it's -- it's very complicated.

15 Q Uh-huh.

16 A You want a complete answer or want a short  
17 answer?

18 Q Well, short. It's lunchtime. (inaudible).

19 A If there were agreement between her and her  
20 husband in writing that indicated he would be giving  
21 her money as part of a divorce settlement and/or a  
22 business sale or -- or of some distribution of  
23 previously earned income that he or she or jointly  
24 (inaudible) would have helped come to some  
25 understanding.

1 Q And -- and those items that you had just -- that  
2 you just described, those would have been taxable? I  
3 mean tax --

4 A I don't know.

5 Q Okay.

6 A I don't know.

7 Q Okay. So, for instance, if it was something that  
8 was under their divorce, division of property?

9 A That likely would not have been taxable or even  
10 reportable.

11 Q Okay.

12 A It's certainly (inaudible) taxable.

13 Q But if it was a jointly owned business -- if it  
14 was proceeds from a jointly owned business --

15 A I understood that they -- I understood, this is  
16 just a vague rec -- understanding that she and her  
17 husband operated a business jointly for several years  
18 and that if that business was organized such that  
19 there were retained earnings that had not been  
20 properly or completely taxed in this country, that as  
21 those distributions occurred, they may have incurred  
22 some tax.

23 Q Okay.

24 A I don't know.

25 Q Don't know. Okay. Okay.

1 MS. VINCENT: That's all I have. I just  
2 was -- after Ultan's (inaudible) some lingering  
3 questions. (inaudible).

4 MR. DOYLE: Actually, I just -- I just  
5 have a couple of follow-ups.

6 EXAMINATION BY MR. DOYLE:

7 Q You said -- you mentioned something about she and  
8 her husband owning a business jointly, is --

9 A No.

10 Q No? (inaudible).

11 A No. What I said was, I understood that they  
12 worked together for several years on a business. I do  
13 not know the business structure, I don't know the  
14 ownership, which is why I don't know the taxability.  
15 I don't know the distributions. I don't really know  
16 anything about the business. I don't know if it was  
17 even organized in this country.

18 Q That was going to be one of my questions. Was it  
19 in -- in Panama or not. Was there ever any discussion  
20 of (inaudible) SA?

21 A I don't know what that is.

22 Q It's a company that's registered in Panama.

23 A Never heard of it.

24 Q It was one of the sources of the -- the wire  
25 transfers. And then there was another company -- I

1 just want to be sure. So you never heard of  
2 (inaudible) SA or that never came up in any  
3 discussions?

4 A I have an excellent memory, but you probably  
5 don't care about that. I don't recall (inaudible).

6 Q Okay. And my understanding is SA is kind of like  
7 LLC or whatever -- whatever the -- in Spanish.

8 A Yeah, I speak a few languages. Spanish is not  
9 one of them. I don't know what that --

10 MS. VINCENT: And Spanish is so useful.

11 THE WITNESS: I speak Japanese, I speak  
12 Korean, I speak some German, I'm pretty good in  
13 French, but (inaudible) French teacher, but  
14 Spanish is out of my (inaudible), I'm sorry.

15 MS. VINCENT: Well, Ultan (inaudible)  
16 anyways.

17 Q Okay. So there was never any discussion of where  
18 the -- you -- you said that she mentioned owning a  
19 company with her husband though, did I hear that  
20 correctly?

21 MS. VINCENT: No.

22 A No.

23 MS. VINCENT: He already -- that's been  
24 asked and answered but --

25 A (inaudible) she worked with her husband. I do

1 not know the ownership structure. I don't know the  
2 organization structure.

3 Q Okay.

4 MS. VINCENT: UItan, you ask; you don't  
5 listen.

6 MR. DOYLE: Okay. All right.

7 MS. VINCENT: (inaudible).

8 MR. DOYLE: That should do it. Is there  
9 anything else?

10 MS. VINCENT: No.

11 MR. DOYLE: Okay. We will go off the  
12 record.

13 MS. VINCENT: No. The --

14 (End of file)

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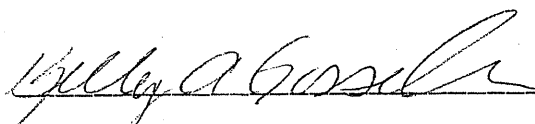
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CERTIFICATE

I, Kelly A. Gosselin, hereby certify that the foregoing pages are a complete and accurate transcription to the best of my ability utilizing generally accepted court reporting practices for an audio recording as presented to me for transcription.

Dated at Moretown, Vermont, this 24th day of May 2011.

  
\_\_\_\_\_  
Kelly A. Gosselin

10/30/2008  
13:39

Vermont Attorney General Office  
LAW Incident Table:

20346  
Page: 1

Incident Number: 05NP00910.

Nature: Fraud

Addr= EAST MAIN STREET

Area: 1015 NEWPORT CITY

City: Newport

ST: VT Zip: 05855

Contact:

+ - Complainant&	318440	-----	
Lst: redacted		Fst: redacted	Mid: redacted
DOB: redacted	SSN: - -	Adr: redacted	
Rac: redacted	Sx: redacted	Tel: redacted	Cty: Newport ST: VT Zip: 05855

Offense Codes: CITA Reported: 1130 Observed: CITA

Circumstances: LT25

Rspndg Officers: Gosselin, R

Rspnsbl Officer: Gosselin, R

Agency: 1015

CAD Call ID: 2856159

Received By: Myers, D.

Last RadLog:

How Received: T Telephone

Clearance: RBL Reviewed by Lt/Capt/C

When Reported: 14:21:40 05/24/2005

Disposition: COM Disp Date: 10/11/2005

Occurrd between: 14:21:40 05/24/2005

Judicial Sts:

and: 14:21:40 05/24/2005 Supervisor Apprl: chardy

MO:

Narrative: (See below)

Supplement: (See below)

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
AR	219773	03/02/2006	EMBEZZLEMENT	*Arrest/Offense
NM	12035	06/15/2005	Gray, Arnold Henry	victim
NM	318440	06/15/2005	redacted	witness
NM	359197	06/15/2005	redacted	witness
NM	643369	06/15/2005		offender
NM	851146	06/15/2005	redacted	witness
NM	318440	05/24/2005	redacted	*Complainant
CA	2856159	05/24/2005	14:21 05/24/2005 Fraud	*Initiating Call

LAW Incident Offenses Detail:

Offense Codes

Seq Code	Amount
1 CITA Citizen Assist	0.00

LAW Incident Circumstances:

Contributing Circumstances

Seq Code	Comments
1 LT25 Other/Unknown	



LAW Incident Responders Detail  
Responding Officers

Seq	Name	Unit
1	Gosselin, R	M1384

Narrative:

This investigator spoke to a *redacted* of Gene A Besaw & Associates, PC located on East Main St. in Newport Vermont about a possible embezzlement case. *redacted* stated that his office was contacted by a *redacted* who advised she believed that one of her clients (Gray's Paving and Sealing, Inc.) were the victims of a fraud. *redacted* further advised that subsequently Arnold Gray, president of Grays Paving and Sealing retained us to investigate and determine if a fraud had occurred at his company. The book keeper at the time of the suspected fraud was a Cynthia Diaz, book keeper since May 2000.

*redacted* staff accountant for Besaw and Associates, and Gray's bookkeeper *redacted* formulated a summarized a "background information" report for this investigator outlining the areas they have located that are fraudulent. They listed them as A, B, C, D, and E.

Section A refers to undeposited checks totaling approximately \$30,000.00 in QuickBooks and *redacted* discovered the bank accounts had not been reconciled since October 2003. Cynthia then reconciled the accounts. Cynthia brought in a new QuickBooks backup and *redacted* compared the checks written to Cash on the first backup to the second backup. It was noted that two checks were written to cash for \$1500.00 each in the original Quickbooks backup. In the second backup, the check payee was changed to Pike Industries for these two checks. After reviewing copies of the cashed checks from the bank, it was noted both checks were written to cash and endorsed by Cynthia Diaz.

Section B refers to hours work by Diaz. Gray had advised that Cynthia was to be working 20 hours a week for him. The report indicates that paychecks were written for 38.5-40 hours each. Some of the checks were written before she performed the work. It was also noted that duplicate checks were written for the same pay period. These amounts total *redacted*.

Section C refers to five possible forged items which include a check written to Cynthia Diaz for *redacted*, and four paychecks written to Cynthia Diaz. These paychecks total \$ *redacted* of which *redacted* is included in section B, and the remaining checks total \$ *redacted*.

Section D refers to six paychecks which include overtime pay, trucking commission and a cash advance amount. Per Arnie, Cynthia should not have received any of these amounts. These total \$ *redacted*

Section E refers to fifteen checks written either to cash or to Cynthia Diaz and endorsed by Cynthia Diaz or had no endorsement. Besaw and Associates received all invoices which could be located at the office of Gray's Paving and Sealing, Inc. and they were unable to find support in the form of invoices for any of these amounts. These identified amounts total \$ *redacted*

Arnold Gray stated to Besaw & associates and or *redacted* that he did not give Cynthia Diaz permission to write these checks to be cashed by her. He was often told she was in a hurry and he would leave signed blank checks for her to use to write and mail the accounts payable bills.

Based on the above, we identified unauthorized transactions totaling \$22,563.46.

Also received from Besaw and Associates are records of transactions by account,

which are a listing of checks issued by Gray's Paving, Employee Paystub for Cynthia Diaz, Copies of checks made out to Cynthia Diaz, or cash and endorsed by Cynthia Diaz or not endorsed at all.

This investigator received word on 6/3/2005 that Diaz wrote a check to Gray's Paving and sealing in the amount of \$ *redacted* This amount is an amount that Diaz and Gray have come to an agreement on. This deal was made on their own and not through the police department.

A copy of the check is attached to this report.

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives
1	: : / /	Narrative

Case # 05NP00910

A F F I D A V I T

STATE OF VERMONT

ORLEANS COUNTY S.S.

NOW COMES Det. R. L. Gosselin affiant, being duly sworn and on oath deposes and says he has

probable cause to believe that Cynthia Diaz DOB: 02/16/1968 has committed the

offense of EMBEZZLEMENT, a violation of TITLE 13 VSA sec. 2531

On 05/24/2005 this investigator spoke to Gene Besaw of Gene A. Besaw & Associates, P.C. located on East Main St. in Newport about a possible Embezzlement case they were involved with. Besaw advised that *redacted* under Gene Besaw's supervision was doing the review for Grays Paving and Sealing Inc. along with a *redacted* CPA for Grays Paving and Sealing Inc.

This investigator spoke to *redacted* and asked her to put together a report as to what the review of Grays Paving and Sealing Inc. revealed. The following is the report received from Gene A Besaw & Associates.

"In April 2005 *redacted* contacted our firm regarding a possible case of embezzlement with one of her clients, Grays Paving and Sealing, Inc. Subsequently Arnold Gray, president of Gray Paving and Sealing, retained us to investigate and determine if a fraud had occurred at his company. This investigation was prompted because *redacted* discovered undeposited checks totaling approximately \$30,000.00 in QuickBooks and she discovered the bank accounts had not been reconciled since October 2003. She spoke with Cynthia Diaz, bookkeeper since May 2000 and was told Cynthia would fix it. Cynthia then reconciled the bank accounts. Cynthia brought in a new QuickBooks backup and *redacted* compared the checks written to cash on the first backup to the second backup. She noted two checks which were written to cash for \$1,500.00 each in the original QuickBooks backup. In the second backup, the check payee was changed to Pike Industries for these two checks. After reviewing copies of the cashed checks from the bank, it was noted both checks were written to cash and endorsed by Cynthia Diaz. (section marked A)

The bookkeeping was in disarray. Accounts payable invoices were not filed, penalties were paid on late payroll return filings, bank accounts were not reconciled and deposits in the computer did not match deposits in the bank.

As part of our investigation, we reviewed all checks cashed by the bank between May 2004 thru April 2005. In addition, we reviewed various checks written to cash or Cynthia Diaz from 2003 thru 2005 and we reviewed her paychecks from 2003 thru 2005.

We noted fifteen checks written either to cash or Cynthia Diaz and endorsed by Cynthia Diaz or had no endorsement. We reviewed all invoices which could be located at the office of Gray's Paving and Sealing, Inc. and we were unable to find support in the form of invoices for any of these amounts. The identified amounts total \$ *redacted* . (section marked E)

We also noted six paychecks which included overtime pay, trucking commission and a cash advance amount. Per Arnie, Cynthia should not have received any of these amounts. These amounts total \$ *redacted* (section marked D)

We also noted paychecks which were written for 38.5-40 hours each. Some of these checks were written before she actually performed the work. It is Arnie's understanding that Cynthia did not work more than 20 hours per week and she was employed at several companies during this time frame. We also noted duplicate checks written for the same pay period. These amount total \$ *redacted* (section marked B)

We also noted five possible forged items which include a check written to Cynthia Diaz for *redacted* and four paychecks written to Cynthia Diaz. These paychecks total \$ *redacted* of which \$ *redacted* is included in the above amounts. The remaining checks total \$ *redacted* . (section marked C)

Arnold Gray stated he did not give Cynthia Diaz permission to write these checks to be cashed by her. He was often told she was in a hurry and he would leave signed blank checks for her to use to write and mail the accounts payable bills.

Based on the above, we identified unauthorized transactions totaling \$22,413.46.

On June 1, 2005 this investigator spoke to Cynthia Diaz about the embezzling from Arnold Gray and or Gray's Paving and Sealing Inc. I showed Diaz copies of the checks in question, copies of the payroll paychecks in question which included overtime pay, copies of the forged signatures and or checks made out to cash and signed by Diaz. On June 7, 2005 this investigator received a written statement from Diaz which states, in part: "I Cynthia Diaz deny the charges of embezzling from Arnold Gray. I was the bookkeeper for Gray's Paving and Sealing, Inc for four and a half years. I worked whenever, for as long as needed doing what ever was needed. The last year and a half the bookkeeping was not filed and kept as neat as it should have been. This I have no excuse other than I was working to many jobs and didn't have the time. But during this time I did not take money that did not belong to me either in a paycheck or reimbursement for expenses or supplies purchased.

There were times during the paving season that COD's arrived at the office or things that needed to be paid for and there was no one to sign checks for whatever reason. I would pay for them and was reimbursed.

Payroll items seem questionable for a bookkeeper but during that period Arnold had leased a truck to a driver and I was doing the bookkeeping for that driver. He was unable to pay me and Arnold told me that he would pay me and take it from the lessee.

I have spoken with Arnold Gray and explained this. There were some things that needed further explaining and we agreed that he would treat that amount as a loan for now until we could both sit down and go through paperwork and remember what caused that check to be written. At such time money owed back to me would be returned. This was done on my part to show that I have no reason to steal from him and that I want to resolve any question that he has.

The Grays have been very kind to my family and me over the past 4 years .

and I would not do anything to make them think other wise. If anything I went above and beyond to help them in the business and outside of that".

This investigator received a written statement from Arnold Gray, President of Gray's Paving & Sealing, Inc who stated, "On June 1, 2005 Cynthia Diaz, my former bookkeeper, presented me with a check for \$ redacted for what was found to be missing funds as a result of a recent fraud audit investigation. I consider myself paid in full and wish to drop any charges of embezzlement against her. It is my understanding from the fraud auditor, redacted, that I will not be held for any future liabilities against any forthcoming cases of embezzlement against Cynthia Diaz should they occur".

In going through the information supplied by Gene A. Besaw & Associates, PC it was noted that in section A, the two \$1,500.00 checks were written to Cash and endorsed by Cynthia Diaz, check # 10946 & 11059, written on 10/03/2004 and 12/15/2004.

Section B indicates pay stub for the week of 07/27/2003 through 08/02/2003 hours put in were 40 @ \$ redacted which equaled \$ redacted plus a cash advance of redacted. This was paid by check #10082 dated 08/05/2003 to Diaz. Check #10087 for the same pay period dated 08/07/2003 to Diaz showed 13 hours worked @ \$ redacted equaled an additional \$ redacted. Pay Period 08/10/2003 through 08/16/2003 indicated 40 hours pay (\$ redacted and 20 hours of overtime, @ \$ redacted equaled \$ redacted, paid on Check #10138 dated 08/19/2003. For this same pay period paid on check # 10147 dated 08/21/2003 the pay stub indicates another 30 hours work (\$ redacted). Pay period for 08/24/2003 through 08/30/2003 paid on check #10174 dated 08/29/2003 shows 40 hours pay (\$ redacted), 10 hours overtime @ \$ redacted per hour equal \$ redacted. For this same pay period paid on check # 10188, dated 09/04/2003, 28 hours work @ \$ redacted per hour equal \$ redacted. Pay period for 08/31/2003 through 09/06/2003 paid on check # 10210 dated 09/08/2003, shows 40 hours pay (\$ redacted), 20 hours overtime @ \$ redacted equal \$ redacted. For this same pay period paid on check # 10215 dated 09/11/2003 shows another 30 hours worked @ \$ redacted equals \$ redacted plus \$ redacted cash advance.

Section C shows five checks issued to Cynthia J Diaz, they are as follows: Check # 09997 dated 07/10/2003 for the amount of \$ redacted, Check # 10584 dated 04/22/2004 for the amount of \$ redacted, Check # 10585 dated 04/29/2004 for the amount of \$ redacted, Check # 10589 dated 05/06/2004 in the amount of \$ redacted, Check # 11056 dated 12/01/2004 in the amount of redacted. The signature on these checks is questionable if the signature was Grays.

Section D shows 6 pay checks which include overtime pay, trucking commission and cash advances that were included in section B.

Section E shows 15 checks written either to cash or to Cynthia Diaz and endorsed by Cynthia Diaz or had no endorsement. They are as follows; Date written 3/4/03 check # 9721 amount \$ redacted to Diaz endorsed by Diaz, 4/23/03 check #9788 amount \$ redacted to Diaz, no endorsement, 6/4/03 check #9852 amount \$1,500.00 to cash and endorsed by Diaz, 7/10/03 check #9967 amount \$ redacted to Diaz with no endorsement, 7/10/03 check #9997 amount \$ redacted to Diaz with no endorsement, 08/15/03 check # 10131 amount \$379.57 to cash and endorsed by Diaz, 8/18/03 check #10135 amount \$751.87 to cash and endorsed by Diaz, 6/2/04 check #10649 amount \$175.00 to cash endorsed by Diaz, 6/22/04 check #10675 amount \$1,273.00 to cash and endorsed by Diaz, 6/23/04 check #10676 amount \$ redacted to Diaz with no endorsement, 7/2/04 check # 10685 amount \$575.00 to cash and endorsed by Diaz, 7/21/04 check #10756 amount \$575.00 to cash and

endorsed by Diaz, 8/24/04 check #10829 amount \$526.34 to cash and endorsed by Diaz, 10/3/04 check #10946 amount \$1,500.00 to cash and endorsed by Diaz, 12/15/04 check #11059 amount \$1,500.00 to cash and endorsed by Diaz.

All invoices which could be located at the office of Gray's Paving and Sealing, Inc were reviewed and no support was found for any of these amounts. When Arnold Gray was asked about these checks by Gene A. Besaw & Associates, he stated he did not give Diaz permission to write these checks to be cashed by her.

Based on the documents supplied Gene A. Besaw & Associates, PC, they have identified \$22,413.46 in unauthorized transactions.

Based on the above information supplied by Arnold Gray, *redacted*, and Gene A. Besaw & Associates, PC, ( *redacted* ) staff accountant, this investigator feels that probable cause exists to charge Cynthia Diaz with Embezzlement.

Subscribed and sworn to before me on

This \_\_\_\_\_ day of \_\_\_\_\_ 2005

\_\_\_\_\_

Affiant

\_\_\_\_\_

(Notary Public)

date

11/03/2008  
12:49

Vermont State Police, B Troop-Derby  
LAW Incident Table:

2923  
Page: 1

Incident Number: 07B200203  
Nature: Embezzlement

Addr: City: Coventry ST: VT Zip: 05825 Area: 1005 COVENTRY  
Contact: Mike Marcotte

+ - Complainant &	128558	-----		
Lst: Davies		Fst: William	Mid: Boyd	
DOB: redacted	SSN: redacted	Adr: redacted		
Rac: W Sx: M Tel: redacted	redacted	Cty: Orleans	ST: VT Zip: 05860	

Offense Codes: 1210 Reported: Observed: 1210  
 Circumstances: LT11  
 Rspndg Officers: Clark, K. Agency: SPB2 CAD Call ID:  
 Rspnsbl Officer: Clark, K. Last RadLog:  
 Received By: Clark, K. Clearance: RBL Reviewed by Lt/Capt/C  
 How Received: T Telephone Disposition: ECP Disp Date: 11/03/2008  
 When Reported: 11:38:15 01/16/2007  
 Occurrd between: 08:00:00 01/16/2007 Judicial Sts:  
 and: 11:38:15 01/16/2007 Supervisor Apprl: JPS

MO:  
Narrative: See narrative in Supplement.  
Supplement: (See below) (See below)

=====

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	62164	03/22/2007	Town of Coventry,	Victim
NM	643369	03/22/2007	Diaz, Cynthia Jean	Offender
NM	128558	01/25/2007	Davies, William Boyd	*Complainant
PR	516886	03/22/2007	Money \$3,500	Property Stolen

LAW Incident Offenses Detail:

Seq Code	Offense Codes	Amount
1	1210 EMBEZZLEMENT	0.00

LAW Incident Circumstances:

Seq Code	Contributing Circumstances	Comments
1	LT11 Government/Public Bldg	

LAW Incident Responders Detail

Seq Name	Unit
1 Clark, K.	374



10/30/2008  
11:53

Vermont Attorney General Office  
LAW Incident Table:

20346  
Page: 1

Incident Number: 07B200203

Nature: Embezzlement

Addr:

City: Coventry

ST: VT Zip: 05825

Area: 1005 COVENTRY

Contact: Mike Marcotte

+-- Complainant& 128558

| Lst: Davies

Fst: William

Mid: Boyd

| DOB: redacted

SSN: redacted

Adr: redacted

| Rac: W Sx: M Tel: redacted

Cty: Orleans

ST: VT Zip: 05860

Offense Codes: 1210

Reported:

Observed: 1210

Circumstances: LT11

Rspndg Officers: Clark, K.

Rspnsbl Officer: Clark, K.

Agency: SPB2

CAD Call ID:

Received By: Clark, K.

Last RadLog:

How Received: T Telephone

Clearance: RBL Reviewed by Lt/Capt/C

When Reported: 11:38:15 01/16/2007

Disposition: ECP Disp Date: 04/24/2007

Occurrd between: 08:00:00 01/16/2007

Judicial Sts:

and: 11:38:15 01/16/2007 Supervisor Apprl: JPS

MO:

Narrative: See narrative in Supplement.

Supplement: (See below)

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	62164	03/22/2007	Town of Coventry,	Victim
NM	643369	03/22/2007	Diaz, Cynthia Jean	Offender
NM	128558	01/25/2007	Davies, William Boyd	*Complainant
PR	516886	03/22/2007	Money \$3,500	Property Stolen

LAW Incident Offenses Detail:

Offense Codes

Seq Code	Amount
1 1210 EMBEZZLEMENT	0.00

LAW Incident Circumstances:

Contributing Circumstances

Seq Code	Comments
1 LT11 Government/Public Bldg	

LAW Incident Responders Detail

Responding Officers

Seq Name	Unit
1 Clark, K.	374

Law Supplemental Narrative:

Supplemental Narratives

Seq Name	Date	Narrative
1 Clark, K.	15:16:45 01/23/2007	Vermont State Police Investigation

Case Number: 07B200203

Date and Time of Complaint: 12/18/06 at 1530 hours.

Complainant: Michael Marcotte DOB: 5/31/58  
106 Private Pond Road  
Newport Center, VT 05857  
334-6302

Victim: Town of Coventry  
Coventry, VT

Accused: Cynthia Diaz DOB: 2/16/68  
*redacted* Coventry Station Road  
Coventry, VT 05825  
*redacted*

Modus Operandi: Diaz is accused of stealing town funds from a period of 2004-2006 totaling approximately \$6000.00 to \$8000.00.

Narrative:

On 12/11/06, Lt. Ledo assigned me a possible Embezzlement Investigation involving the Town of Coventry. Lt. Ledo advised that Town Clerk and Treasurer, Cynthia Diaz, is accused of stealing between \$6000.00 and \$8000.00 from 2004 to 2006. Lt Ledo advised that in May, 2005, Diaz was investigated for Embezzlement involving Gray's Paving where Diaz was employed as their book keeper. Lt. Ledo advised that Diaz eventually wrote a check to Gray's Paving in the amount of \$ *redacted* . This amount is the amount that Diaz and Gray had come to an agreement on. Lt Ledo advised that there will be a meeting with the Auditors and the town Attorney, Bill Davies, on Monday, 12/18/06 at 1500 hours at Attorney Davies office in Barton. He requested that I attend.

On 12/18/06, I met with Attorney Bill Davies, Auditor Ann Marie Mooney, Auditor James Taylor, Chair of Select Board Mike Marcotte, Select Board Barry Allen and Select Board Brad Maxwell.

Mike Marcotte advised that in March, 2004, Cynthia Diaz, upset the existing town clerk and treasurer by one vote. He advised that Diaz handles everything at the Office. Marcotte advised that he learned in March, 2005, Diaz was investigated for Embezzlement at Gray's Paving, as she was employed as their book keeper. Marcotte learned that some type of agreement was made between Diaz and Gray, where Diaz wrote Gray's Paving a check in the amount of *redacted* . Marcotte advised that the Select Board of Coventry decided to conduct a Fraud Audit and hired Auditor Ann Marie Mooney.

Attorney Davies advised that on several occasions, he witnessed Diaz making copies for people who came into the Town Clerk's Office, and not charging them saying, "it's on me". Attorney Davies advised that he knows there is a charge for this. He advised this is one of the incidents that got the interest of having an audit. At this time, Attorney Bill Davies, suggested that I meet with the Auditors to discuss this further without everyone present. I privately met with Ann Marie Mooney and James Taylor.

Ann Marie Mooney advised that she and James Taylor are Certified Fraud Examiners. Mooney explained that they review internal control present or absent. Mooney advised that is a fraud control review of internal controls. Mooney advised in August, 2006, she and Taylor interviewed Cynthia Diaz. Mooney advised that there is a lack of internal control. She advised that Diaz runs the show independently. Mooney advised that Diaz keeps the records the way she wants to keep them.

Mooney advised they found that in 2004, 2005 and 2006, the accounting for property tax is inconsistent. In 2004, the property taxes Diaz accounts for being collected in cash, has not made it to the bank. When Diaz collects cash, she does not give the person a receipt unless they ask for one. Mooney advised that when Diaz takes in property taxes by check or cash, she has odd behavior. Mooney explained this as if someone pays their property tax with a portion of cash and a portion of check, Diaz deposits the checks in the bank, but the cash does not get deposited in the bank. They discovered that sometimes Diaz collects a lot of checks, some are deposited immediately and others don't get deposited for a couple of months. Mooney advised that when property taxes come in late, there should be a penalty and interest. Mooney advised that sometimes Diaz adds a penalty and interest and sometimes she doesn't.

Mooney advised that Diaz uses an Excel Spreadsheet which is her own creation. Mooney advised she found that by Diaz's record, she took in \$1500.00 from the Hinton Family around tax day, and they can't find the money going into the bank.

Mooney advised that the way the petty cash is kept sends up a big red flag. Mooney advises that when Diaz collects property tax in cash, she keeps the cash on hand to make change.

Mooney advised that there are tax receipts on the bottom of a tax statement. In 2005, she found that fifty-two tax receipts portions were missing.

Mooney advised that there are some other issues that came up. Mooney advised that there needs to be back up receipts. Diaz writes herself a check for \$500.00. and there is no backup receipt. Diaz also spells her last name wrong. Mooney advised that Diaz gets paid for duties as a Town Clerk, School Community and Board of Listers (Diaz said she spent time with them, but she does not have any record of this).

It has been made clear to Diaz that she needs to implement a new system. It would be in her best interest. Some of the changes needed are a new receipt system, collection of property taxes (don't collect year round, there should be a window), cash module NEMRC System (software system used by the town of Newport, Derby, etc.), which Diaz never followed up on.

Mooney advised that they aren't able to prove embezzlement yet. Mooney advised that they are going back to interview Diaz in the next couple of days.

On 1/2/07, I spoke to Ann Marie Mooney. Mooney advised that as of this date, there is about \$3500.00 still in question during 2004. Mooney advised that the last tax deposit was made on 11/6/04. As of 11/20/04, approximately \$3500.00 in cash had not been deposited. Diaz is claiming that on 5/31/05, the \$3500.00 was deposited. Mooney advised that the deposit made in May, 2005, had the tape attached to the deposit ticket indicating that around \$16,000.00 was deposited, including the \$3500.00. Mooney advised that she is still reviewing this to determine if in fact the \$3500.00 was deposited. Even if it was, it should not have been deposited seven months later.

Mooney advised that she found from Jan, 2005 to May, 2005, Diaz is still collecting cash and property taxes. The remainder of 2005, looks good. Mooney advised that Diaz cleaned up her act. She reminded me that Diaz lost her job with Grays in April, 2005.

Mooney advised that she is continuing the audit. Mooney advised that she will complete her findings and make contact with me.

On 3/6/07, I received reports from Anne Marie Mooney regarding the ongoing review of policies and procedures and record keeping for the town. Mooney advised that on 11/4/04 property taxes were due. If payments were delinquent, penalties and interest were owed until full payment or the property would go to tax sale.

Diaz was asked to examine a deposit ticket dated 8/19/04 for \$5883.21 comprised of \$1840.00 in cash and four items recorded as checks. Diaz's normal practice is to list currency without any explanation on the deposit ticket. On this ticket there was a \$597.61 check from Fred Webster towards his taxes. The deposit that went to the bank does not show the check from Webster as being deposited, but does show a town check written to Diaz for deposit for \$597.61. She explained this as she probably needed cash to make change for those tax payers that paid in cash. She also said that Webster never paid with a check, but paid all cash. See report of Ann Marie Mooney.

Diaz was asked to examine a copy of a Community National Bank deposit ticket dated 11/6/04 for \$14,300.78. This tickets list Diaz as paying her property taxes of \$3284.57 by check.

Diaz was then shown a copy and details of the 11/6/04 deposit ticket as retrieved from Community National Bank. Diaz was asked why her check did not appear in the deposit. Diaz rambled on to say that before she took the money/check bag to the bank, the contents spilled out in the towns vault. She picked up what she could and deposited the items with another deposit ticket. See report of Ann Marie Mooney.

Diaz was asked to review a copy of a deposit ticket dated 5/31/05 for \$16,124.02 for 12 checks.

Diaz was asked to examine the same deposit ticket that on 12/21/06 during there visit, She said the deposit was comprised of \$12,782.02 by checks and \$3246.00 in cash.

Diaz was asked to examine a copy of the ticket and details of the 5/31/05 ticket from Community National Bank. The deposit of \$3246.00 as cash and twelve checks for \$12,782.02, totaling \$16,124.02 was deposited on 6/6/05. She was asked to explain two personal checks drawn on Community National Bank for

\$200.00 dated 10/31/04 payable to "cash", and \$3284.57 dated 11/4/04 with notation "2004 taxes". Diaz hesitated "are you accusing me of not paying my property taxes?"

See Report of Ann Marie Mooney for further details.

On 3/9/07, I met with Keith Flynn regarding the above case. States Attorney Flynn advised that he can not prove embezzlement, as it can not be proven that Diaz took funds for her use. Diaz's bookkeeping practices were to benefit her. There is definitely a problem with Procedures that were detrimental to the town of Coventry. Diaz should not be the Tax Collector and the Treasurer. States Attorney Flynn and I had a conference call with Ann Marie Mooney. States Attorney Flynn advised Mooney of his finding. Mooney is continuing with the Audit, and should evidence of Embezzlement be found, she will contact us. States Attorney Flynn is contacting Mike Marcotte regarding his findings.

At this time, this case is considered closed.

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
2 Turner, M	13:31:58 04/24/2007	

Occurred: 0800 01012004 to 01162007

**DMV- CIU**  
**Investigation Close-Out Form**  
**Case Number: 5001-08-C-0178**

**Investigator:** Bottino, Peter C.

**Date:** 12/26/08

**Complainant:** Marina Jacobs, DMV

**Date Assigned:** 12//11/08

**Subject(s):** Cynthia Diaz

**Type of Case:** Registration

**Complaint:** Kyle Young went to register a snow mobile at the DMV in Newport, Vermont. On this particular registration, Young was claiming a tax credit on machine he had registered in January of 2008. Marina Jacobs, the DMV employee in Newport, tried looking up the registration for the tax claim vehicle, but found no registration records. Young said he had registered the first snowmobile at the Town Clerk's Office in Coventry, Vermont

**Action Taken:** Jacobs called the town clerk, Cynthia Diaz. Diaz told Jacobs she had collected all of the fees for the registration of the first snowmobile Young had, and had sent a packet off to VAST. Diaz told Jacobs she had received a packet from VAST some time ago, but never opened it. Diaz opened the packet with Jacobs still on the phone, and found the unprocessed registration in the packet. Diaz told Jacobs that Young could come to the Town clerk's Office for a refund of his registration fee's.

I later called Young and he told me the same story as listed above. He told me he was able to go to the town clerk's and get a refund of \$294.00. I saw on the snowmobile application that he had registered the machine in January of 2008, asked him why he did not notice he did not get registration stickers. Young said he had wrecked the machine a few weeks after he had it registered. Young told me he did register the new machine, but was not able to get a tax credit. The difference between what he was refunded and what he would have received as a tax credit was about \$200.00.

I called Cynthia Diaz and asked her why VAST had returned the registration and she was unsure why. She told me she was checking into this to make sure it did not happen again.

**Disposition:** Young has had his registration fees refunded. Diaz is checking to find out why VAST sent the registration back to her. There is no evidence of fraud and this case is considered closed.

**OFFICE OF THE ATTORNEY GENERAL  
CRIMINAL JUSTICE DIVISION  
CASE STATUS REVIEW**

**Case Number and Name: CR08-10244 State v. Cynthia Diaz**

**Investigator: Thomas E. Howell**

**A. Initial Complaint and Investigation**

- December 2008, Vermont Attorney General opened an investigation into the diversion of town funds and false claims by a public official from the Town of
- Coventry, Vermont.
- Request made by the Chairman of the Town of Coventry Select board, Mike Marcotte.
- Marcotte's request was the result of an initial investigation by the Vermont State Police (case 07B200203), along with an independent audit and findings by Anne Marie Mooney and James Taylor.
- Auditors were hired by the Town of Coventry in 2006 to determine what, if any, internal controls were present with regard to the activities of Town Clerk Cynthia Diaz.

**Investigation Focus**

- Cynthia Diaz was elected as Town Clerk and Town Treasurer on March 4, 2004.
- Peggy Ratcliffe had been the Town Clerk and Town Treasurer for the previous ten years.
- In 2005, Mike Marcotte discovered that Diaz had been investigated by the Newport Police for embezzlement from a former employer, Arnold Gray of Gray's Paving. It was determined that Diaz diverted to her own use \$22,413.46.
- Diaz was charged with Embezzlement in Orleans District Court. The prosecution efforts resulted in the charge being dismissed because the victim in the matter, Arnold Gray, did not want to pursue the matter further.
- In 2005, Diaz paid back \$ *redacted* to Arnold Gray from *redacted*.
- As the result of this information, Mike Marcotte and the Coventry Select board decided to hire professional auditors for the purposes of an accounting practice review and fraud audit of Cynthia Diaz and the town finance records.

**Audit-Initial Examination:**

- Initial examination by Mooney and Taylor, which included interviews with Cynthia Diaz, as well as the review of financial records for the years 2004 through 2007, it was determined that the accounting practice and internal controls were not present.
- Example: Inconsistency of the recording of property tax payments. For example, in 2004, they found that it appears when Diaz collected property tax payments in cash, this money did not get deposited into the bank.



- When Diaz collected cash, she would not provide a receipt of payment unless the payer asked for one specifically.
- When property taxes are collected in both cash and check denominations, Diaz would deposit the check and hold onto the cash. Mooney cited one example as a \$1500.00 in property taxes received, as recorded by Diaz, was never recorded on bank records as a deposit.
- Mooney also discovered when late property tax payments are made, sometimes Diaz would assess the required penalty and sometimes she would not.
- Conclusion reached by the audit included, but is not limited to the revelation that that the town financials could not be balanced, evidence that Diaz began issuing checks to herself without documentation (noted as in the matter with Arnold Gray), falsified deposit records (showing more cash collected than recorded on the bank records), falsified property tax recording of Diaz own property, to include property tax transfer records for this property, and failing to collect or record late tax payments and fees (through 2007).

#### **Accounting and Records Issues Discovered**

- Cynthia Diaz is the sole curator of the town financial records.
- The town of Coventry provides to Diaz a computer in order to create and maintain town records. This was subsequently seized and searched. AGO has the original hard drives.
- Diaz has single signing authority on town bank accounts. One of the steps the select board has taken to protect the interest of the town is to have a copy of the bank statements sent to Marcotte, in attempt to provide for some independent review and oversight.
- Marcotte revealed that Diaz has failed to implement recommended internal controls and policies with regard to accounting practices. Failure to act on these recommendations caused further concern for the Select Board with regard to the practices of Diaz. The audit and review revealed for each year examined records were kept inconsistently.
- None of the records could be balanced financially; a total transaction analysis of the records was performed to focus the attention on taxes paid/collected in cash.
- It was determined that Cynthia Diaz began issuing checks to herself (petty cash without documentation) upon taking office.
- In August 2004, Diaz began receiving property taxes in cash. She would record property taxes paid in cash in the official town records, and would falsify some records and bank deposit tickets, and ultimately these official records would show more cash collected than the records obtained from the bank.

#### **B. Seizure of Town Records**

- On January 27, 2009 AGO obtained a search warrant to gather town financial records held at the town clerk's office. This includes all banking, lending or all other financial institution account information, record of deposit, monthly statements, cancelled checks and accompanying ledgers, journals, spreadsheets,

notebooks, records of account receivable, records of account payable, records of payroll, records of purchases and disbursements.

- This search also included the seizure of those records stored on the town computer. A separate search warrant to search the computers was obtained April 15, 2009.
- AGO still reviewing all stored emails and documents (over 7000 emails and documents) to check for any information/evidence.
- All records seized were held at the AGO. Many of these records were transferred to the SAO for the purposes of an audit. The SAO has hired, in conjunction with the AGO, a private firm (Sullivan, Powers & Company) to conduct a forensic audit.

### **Property Taxes Not Paid**

- Diaz recorded that she paid her property taxes by check for two parcels of land and two homes in November 2004. In reality, she had not paid her taxes until June 6, 2005 (not including penalties and interest). Diaz falsified Vermont Property Transfer Tax Form to complete the sale of her home.

### **VAST and DMV Registrations**

- As town clerk, Cynthia Diaz was a registration agent and collecting fees for VAST and the Vermont Department of Motor Vehicles. Investigation revealed that Diaz failed to submit numerous DMV and VAST registrations where cash was involved for 2007-2008 registrations.

### **Bank Records Obtained/Tax Investigation**

- Banking records for Cynthia Diaz as well as the Town of Coventry obtained
- from Community National Bank.
- Discovery of wire transfers into Diaz account.
- Contact with Community National Bank for all wire transfer information.
- Review of bank records leads to tax investigation

### **State Tax Investigation**

- Cynthia J. Diaz has not filed a Vermont Individual Income Tax Return for the years 2003, 2004, 2005, 2006, 2007, and/or 2008. Cynthia J. Diaz was a Vermont resident for the tax years in question: 2003, 2004, 2005, 2006, 2007, and 2008. Ms. Diaz filed her 2007, 2008, and 2009 Vermont Declarations of Vermont Homestead *redacted*
- Ms. Diaz has had a Vermont driver's license since at least 2002.
- Diaz's tax preparer had submitted *redacted*
- Documents Diaz filed with the Vermont Department of Taxes, Diaz has owned and occupied her home at *redacted* Coventry Station / *redacted* Coventry Station Road (both addresses share the same property span number: *redacted* ), Coventry, Vermont since at least 2004.

- Diaz was employed at Gray's Paving and Sealing, Inc. at least during 2003, 2004, and 2005. Ms Diaz was employed at the Town of Coventry at least during 2004, 2005, 2006, 2007, and 2008. Ms. Diaz was self-employed in Vermont at least during 2003, 2004, 2005, 2006, and 2007. Ms. Diaz was a Vermont resident with Vermont income during the years in question. Through residence and earned income, Cynthia J. Diaz had a requirement to file 2003 through 2008 Vermont Individual Income Tax Returns.
- Diaz failed to file and pay her 2003, 2004, 2006, 2007, and 2008 Vermont Individual Income Tax Returns. Based upon the income information noted above, Diaz had a requirement to file all five returns and thus a requirement to pay the tax due on all five returns. Per the Summary of Income and Vermont Individual Income Tax Due the estimated assessment of income tax due for 2003 was \$2,035.36; 2004 was \$931.00; 2006 was \$2,444.79; 2007 was \$4,029.97; and 2008 was \$875.53. Interest, penalties, and late filing fees would also be due on each return.

## Supplemental Report of Det. Sgt. Jason Letourneau

On 02/02/09 at approximately 0900 hours I was asked to assist investigators from the Attorney General's Office in the execution of a search warrant at the Coventry Town Clerk's Office in the Town of Coventry, VT regarding a fraud they were investigating.

Prior to the execution of the search warrant Investigator Thomas Howell briefed those of us assisting on the case and gave us a copy of the search warrant to review.

At approximately 1045 hours we arrived at the Coventry Town Clerk's Office. At approximately 1100 hours I began searching the area I was assigned to search. I searched three file cabinets in the Clerk's Office and a desk (assistant clerk) in the same office. I seized several files containing documents regarding the money flow for the Town of Coventry. Refer to the property receipts completed by me for details of what I seized.

This ends my involvement in this case.

Det. Sgt. Jason Letourneau

**Investigator:** Det. Thomas E. Howell  
**Date of Report:** October 15, 2008

**OFFICE OF THE ATTORNEY GENERAL**

**CRIMINAL JUSTICE DIVISION**

**REPORT OF INVESTIGATION**

**Case Number and Name:** CR08-10244 State v. Cynthia Diaz

**Investigator:** Thomas E. Howell

**Investigation Summary**

**A. Initial Complaint and Investigation:** In December 2008, the Office of the Attorney General opened an investigation into the diversion of town funds and false claims by a public official from the Town of Coventry, Vermont. This investigation came as request by the Chairman of the Town of Coventry Select board, Mike Marcotte. Marcotte's request was the result of an initial investigation by the Vermont State Police Detective Sergeant Kelly Clark (case 07B200203 attached), along with an independent audit and findings by Anne Marie Mooney and James Taylor. Mooney and Taylor are both fraud examiners and auditors hired by the Town of Coventry in 2006 to determine what, if any, internal controls were present with regard to the activities of Town Clerk Cynthia Diaz. The contents of the investigation that follows will include the identification of all persons interviewed as a result of this investigation following investigation.

**B. Investigation Focus:** Cynthia Diaz was elected as Town Clerk and Town Treasurer on March 4, 2004. Diaz was elected by one vote over the incumbent Town Clerk at the time, Peggy Ratcliffe. Ratcliffe had been the Town Clerk and Town Treasurer for the previous ten years. In 2005, Mike Marcotte discovered that Diaz had been investigated by the Newport Police for embezzlement from a former employer, Arnold Gray of Gray's Paving. As a result of that investigation, it was determined by an auditor that Diaz had diverted to her own use \$22,413.46. Diaz was charged with Embezzlement in Orleans District Court. The prosecution efforts resulted in the charge being dismissed because the victim in the matter, Arnold Gray, did not want to pursue the matter further. In 2005, Diaz paid back \$ *redacted* to Arnold Gray from *redacted*. As the result of this information, Mike Marcotte and the Coventry Select board decided to hire professional auditors for the purposes of an accounting practice review and fraud audit of Cynthia Diaz and the town finance records.

**C. Initial Audit Result:** As a result of an initial examination by Mooney and Taylor, which included interviews with Cynthia Diaz, as well as the review of financial records for the years 2004 through 2007, it was determined that the accounting practice and internal controls were not present. An example of this was the inconsistency of the recording of property tax payments. For example, in 2004, they found that it appears when Diaz collected property tax payments in cash, this money did not get deposited into the bank. When Diaz collected cash, she would not provide a receipt of payment unless the payer asked for one specifically. Sometimes, when property taxes are collected in both cash and check denominations, Diaz would deposit the check and hold onto the cash. Mooney cited one example as a \$1500.00 in property taxes received, as recorded by Diaz, was never recorded on bank records as a deposit. Mooney also discovered when late property tax payments are made, sometimes Diaz would assess the required penalty and sometimes she would not. The conclusion reached by the fraud examination and audit included, but is not limited to the revelation that that the town financials could not be balanced, evidence that Diaz began issuing checks to herself without documentation (noted as in the matter with Arnold Gray), falsified deposit records (showing more cash collected than recorded on the bank records), falsified property tax recording of Diaz own property, to include property tax transfer records for this property, and failing to collect or record late tax payments and fees (through 2007).

**D. Accounting and Records Issues Discovered:** It has been determined that through her position of Town Clerk and Treasurer, Cynthia Diaz is the sole curator of the town financial records. According to Mike Marcotte, the town of Coventry provides to Diaz a computer in order to create and maintain town records. This computer can be found at the town offices. Also, Diaz has single signing authority on town bank accounts. One of the steps the select board has taken to protect the interest of the town is to have a copy of the bank statements sent to Marcotte, in attempt to provide for some independent review and oversight. Recent interviews with Marcotte revealed that Diaz has failed to implement recommended internal controls and policies with regard to accounting practices. Failure to act on these recommendations caused further concern for the Select Board with regard to the practices of Diaz. Further information provided by Mooney and Taylor through the audit and review revealed for each year examined records were kept inconsistently. None of the records could be balanced financially; a total transaction analysis of the records was performed to focus the attention on taxes paid/collected in cash. It was determined that Cynthia Diaz began issuing checks to herself (petty cash without documentation) upon taking office. For example, in August 2004, Diaz began receiving property taxes in cash. She would record property taxes paid in cash in the official town records, and would falsify some records and bank deposit tickets, and ultimately these official records would show more cash collected than the records obtained from the bank.

**E. Property Taxes Not Paid:** Diaz recorded that she paid her property taxes by check for two parcels of land and two homes in November 2004. In reality, she had not paid her taxes until June 6, 2005 (not including penalties and interest). She did not make any cash deposits for the town (including tax payments and late fees) collected after November 4, 2004 until June 6, 2005. This practice was also noted in 2006, and in 2007. The result of the initial audit and review concluded that the auditors could not account for the cash collected by her office. They also documented falsified records. It has been determined that the Town of Coventry maintains accounts at Chittenden Bank, Community National Bank and the Passumpsic Bank. It has also been determined that Cynthia Diaz maintains accounts at Community National Bank and *redacted* Bank.



## **Attorney General's Investigation**

**A. Seizure of Town Records:** It was determined that a search warrant would be required to obtain town financial records held at the town clerks office. This includes all banking, lending or all other financial institution account information, record of deposit, monthly statements, cancelled checks and accompanying ledgers, journals, spreadsheets, notebooks, records of account receivable, records of account payable, records of payroll, records of purchases and disbursements. This will also include seizure of those records stored on the town computer, and will include all computers, computer software, computer hardware, computer disks, computer disk drives, computer monitors, computer printers, computer modems, tape drives, disk application programs, data disks, system disk operating systems, magnetic media floppy disks, zip drives, CD-ROMs, DVD-ROMs, hardware and software operating manuals, digital cameras, computer scanners, and electronic storage data devices such as thumb drives and all other external storage devices. A separate search warrant to search the computers will be obtained at a later date.

**B. First Search Warrant:** On January 27, 2009, I applied for and received a search warrant to search the offices of the Town of Coventry Town Clerk and Treasurer from the Orleans District Court. With the assistance of the Vermont State Police and Investigators from the Office of the Attorney General, a search plan was developed and a search executed on February 2, 2009 with entry made at 10:42 am. The following law enforcement officers took part in the search; Investigators Thomas Howell, Darin Barber, Virginia Merriam and Jefferson Krauss from the Office of the Attorney General and Detective Sergeants Kelley Clark and Jason Letourneau from the Vermont State Police-Derby. Upon entry, a female sitting at the town clerk's desk identified herself as Cynthia Diaz. I advised her of the reason for our visit. She was cooperative as I asked her to show me the areas within the building where town clerk records are stored. Diaz identified a second room on the main floor as well as a storage room on the second floor. I explained to Diaz that I wished to speak with her regarding accounting practices and issues with her position as town clerk and treasurer. She was advised at that time she was free to leave at any time. Diaz advised me she was represented by counsel when she was charged in the Gray's Paving case and stated that she probably should talk with her. No interview took place and Diaz was allowed to leave.

As we began the search process, Investigator Darin Barber took pre-search photographs of the entire search area. Search assignments were issued. As a result of the search, a total of two computers and a memory stick as well as a listing totaling thirty-one pages (31) of records were seized. The listing of property seized along with the search warrant, were left on the town clerks desk. Investigator Darin Barber took post search photographs and we secured the office at 2:50 pm. All of the records seized were transported to the Office of the Attorney General for placement in the evidence room there.

**C. VAST and DMV Registrations:** On February 2, 2009, I spoke with Mike Marcotte after the search warrant execution was completed. During this search warrant, I made note of the finding of registration materials and decals for the Vermont Association of Snow Travelers (hereinafter called VAST). It was determined that Cynthia Diaz was a registration agent and collecting fees for VAST and the Vermont Department of Motor Vehicles (hereinafter called DMV). During the search, a book was located in the offices that contained VAST registration materials, outlining the number of registrations issued, amount paid and by whom. Since these materials were not the subject of the issued warrant, these materials were left at the offices.

While speaking with Marcotte, I mentioned the finding of the materials from DMV and VAST in the offices. Marcotte then advised me that he had information regarding questionable transactions involving a snowmobile registration. Marcotte stated that he learned from Marina Jacobs, an employee of the DMV, Newport office about at least two persons who registered their snowmobiles in early 2008 with Coventry Town Clerk Cynthia Diaz. In December 2008, these same persons attempted to renew the snowmobile registrations and were told by DMV that there was no record of the previous registration.

**D. Initial Interview of Marina Jacobs:** On February 4, 2009, I met with Marina Jacobs at the DMV Newport offices. I advised her I was there to discuss the issue involving the Coventry Town Clerk and the registrations. Jacobs recalled the situation and was able to retrieve copies of the two registration forms in question. Jacobs advised me that sometime in early December 2008, Kyle Young of Albany came in to register a new snowmobile and claim tax credit on one he had previously registered with the Town Clerk in Coventry in January 2008. At that time he presented a registration form, signed by Cynthia Diaz on January 28, 2008. This form showed that Young had given Diaz that day \$294.00 for tax and registration fees. When Jacobs went to check this registration in the system, there was no record of DMV receiving it. Jacobs called Town Clerk Cynthia Diaz on this day in early December and inquired about this registration. According to Jacobs, Diaz told her that she had received an envelope recently from VAST, but had not opened it. While on the telephone with Jacobs, Diaz stated she will open the envelope now. Diaz then told Jacobs that she had all of the registration materials there from the January transaction and that if Young came down, she would refund the money he gave to her. Jacobs found this highly suspicious.

**E. Initial Interview of Cyndy Jones:** On February 4, 2009, I spoke with Cyndy Jones, the registration agent for VAST. Jones is responsible for distribution of registration materials to registration agents and assisting in the processing of registrations of snowmobiles through VAST for DMV. Jones supplies these agents with VAST stickers for new registrations as well as "S" stickers for renewals. Jones advised that Coventry Town Clerk Cynthia Diaz is one of several registration agents in Vermont for snowmobiles. According to Jones, on September 27, 2007, she delivered to Diaz her supply of stickers for the 2007-2008 seasons. Upon checking her records, Jones found that of the 27 new registration stickers and 50 "S" stickers were delivered to Diaz. Of these, only 10 new registrations and 41 "S" stickers were listed as sold. Jones made the

determination that the remaining unsold stickers were not returned by Diaz. It was determined that a second search warrant will be needed to obtain these records left at the offices.

**F. Snowmobile Registration Log Sheet:** Upon reviewing the items seized in the initial search warrant, I was able to locate a Vermont Department of Motor Vehicles Snowmobile Registration Log Sheet (DMV Form TA-VD-47A). This sheet, located by Detective Sergeant Kelley Clark, was attached to a VAST Registration Report Form and found in the safe at the town clerk's office. On this sheet, it clearly identifies the Beginning Decal Number (marked THX2), Ending Decal Number (THX9), as well as Number of "S" stickers issued (marked 9). A total of seventeen (17) snowmobiles were listed as registered. The following interviews were conducted with those listed on the Log Sheet (DMV Form TA-VD-47A) seized;

- *redacted* - On February 8, 2008, *redacted* went to the Coventry Town Clerk to register two snowmobiles. At that time, *redacted* registered a 1998 Polaris that had a purchase price of \$1000.00. *redacted* paid registration renewal and tax on the snowmobile, totaling \$75.00. He also paid \$105.00 for a VAST TMA. *redacted* also registered a 2003 Polaris. *redacted* paid a registration renewal of \$15.00 and \$105.00 for a VAST TMA. All fees were paid in cash. Upon checking DMV records for both snowmobiles, records existed for one being registered. *redacted* had the pink copies of the forms he was given by the clerk. Both forms were signed by Cynthia Diaz. It is interesting to note that on January 23, 2009, *redacted* received a registration certificate for the 2003 Polaris with an expiration date of August 2009. *redacted* advised that he did not renew this snowmobile registration.
- **Kyle Young** - On January 10, 2008, Kyle Young purchased a 2007 Yamaha Phazer snowmobile in New York. On January 28, 2008, Young went to the Coventry town clerk's office to register the snowmobile. At that time, he paid for registration, tax and title with \$294.00 in cash to the town clerk. According to the snowmobile registration form obtained from Marina Jacobs at DMV, this form was completed and signed by Cynthia Diaz. Young was issued registration THX6. When young appeared at the DMV Newport office with his completed registration form in December 2008 to renew, DMV records indicated that they had never received this registration form. Young also paid \$105.00 in cash for a VAST TMA for the year.
- *redacted* - On February 14, 2008, *redacted* registered a 1980 Bombardier snowmobile at the Coventry town clerk's office. At that time, he paid for registration and tax with a check for \$21.00. The check never cleared the bank. The registration form was signed by Cynthia Diaz and dated February 15, 2009.
- *redacted* - On February 7, 2008, *redacted* registered a 2000 Polaris snowmobile at the town clerk's office on Coventry. At that time, he paid the registration fee of \$15.00 by check. According to *redacted* the check never

cleared the bank. *redacted* has since sold the snowmobile to all Around Power in Lyndonville for an ATV. He did not have any records. He also paid \$105.00 for a VAST TMA with a check. This check cleared the bank.

- *redacted* - On January 4, 2008, *redacted* went to the Coventry town clerk's office to register three snowmobiles. *redacted* met with town clerk Cynthia Diaz. *redacted* paid registration fees for all three snowmobiles with a check for \$45.00. In October 2008, *redacted* received a call from the VAST offices. The person (*redacted* did not know the name) stated that they had received copies of her snowmobile registrations and they did not need them. *redacted* did not know what they were talking about. VAST sent *redacted* copies of two snowmobile registration forms. Both were dated October 15, 2008. *redacted* advised that this was not her signature that appears on the forms. *redacted* stated that after she spoke with her on February 9, 2009, she called Cynthia Diaz. Diaz told her that she sent them in because she believed that *redacted* never got her registrations because the envelope and the registrations had been lost. *redacted* advised that her check never cleared the bank.
- *redacted* - I spoke with *redacted*. On January 17, 2008, *redacted* stated that she registered a 1999 Arctic Cat snowmobile. The snowmobile was purchased at Bill's Sales and Service. She paid the sales tax there. She stated that they registered the snowmobile and paid for a VAST TMA at the Coventry town clerk's office after calling the town clerk on January 17, 2009. This year when she went to renew the registration for the snowmobile she had registered at the town clerk's office, she was notified that there was no record of the previous year registration. She could not find any registration forms and was sure that she paid by check.
- *redacted* - On January 4, 2008, *redacted* advised that she registered two snowmobiles at the Coventry town clerk's office. She advised that she paid by check for both registrations. She could not find the registrations in her snowmobiles outside the house and could not find any cancelled checks for to account for what she paid the town clerk. She was sure that she paid by check and not cash. She said that she also paid for her VAST TMA's for each snowmobile.
- *redacted* - *redacted* registered his snowmobile on March 9, 2008. Upon speaking with *redacted* he advised that he registered the snowmobile at the Coventry town clerk's office with Cynthia Diaz. He paid cash for a registration and transfer fee of \$27.00. He advised that he tried to renew his registration online this year and was told by DMV that there was no record of his previous registration. When he called DMV, he was told that there was no paperwork ever sent in.

• *redacted* advised that he recently sold the snowmobile he registered with the Coventry town clerk. He stated that he would have paid with cash and had no paperwork for the snowmobile. He has since sold the snowmobile to a subject in Canada.

Several others on the list to include, *redacted*, *redacted*, *redacted*, *redacted* and *redacted*; were not easily located or interviewed at this time.

**G. Second Search Warrant:** On February 10, 2009, I applied for and received a second search warrant to search the offices of the Town of Coventry Town Clerk and Treasurer from the Orleans District Court. The scope of this warrant was to search for all Vermont Association of Snow Travelers and Vermont Department of Motor Vehicles registration manuals and forms, to include monthly statements, registration decals, journals, spreadsheets, and notebooks and records of payment. With the assistance of the Vermont State Police Detective Trooper Amy Borsari, a search plan was developed and a search executed on February 12, 2009 with entry made at 9:20 am. Upon arrival at the office, Detective Trooper Amy Borsari took photographs of the search area. Cynthia Diaz was present and not interviewed. She was given a copy of the warrant. Upon searching, the following items were located, photographed, seized and placed into evidence;

- One (1) Vermont snowmobile registration form completed with the name *redacted* dated 12-08-08 with check #427 attached and not cashed.
- One (1) Vermont snowmobile registration form completed with the name *redacted* dated 02-08-08 with check #4375 attached and not cashed. Old registration form also attached.
- One (1) Vermont snowmobile registration form completed with the name *redacted* dated 02-14-08 with check #1372 attached and not cashed. Also attached one (1) Vermont Tax Credit Form and bill of sale dated 12-3-07.
- One (1) Vermont snowmobile renewal form for registration GAW7 and one (1) snowmobile registration form completed with the name *redacted* dated 01-04-08 with check #2929 attached not cashed.
- One (1) Vermont snowmobile renewal form for registration FMA9 and one (1) snowmobile registration form completed with the name *redacted* dated 01-04-08.
- One (1) Vermont snowmobile renewal form for registration WYO1 and one (1) snowmobile registration form completed with the name *redacted* dated 01-04-08.
- One (1) Vermont snowmobile registration form completed with the name *redacted* dated 01-03-08.
- One (1) Vermont snowmobile registration form completed with the name *redacted* dated 01-25-08.
- One (1) Vermont snowmobile registration form for registration PAD8 completed with the name *redacted* dated 02-08-08.
- One (1) Vermont snowmobile odometer statement and bill of sale dated 11-09-07 and one (1) Vermont Use Tax Return dated 02-14-08

- One (1) Vermont snowmobile registration form completed with the name *redacted* and dated 02-08-08 and one (1) August 2003 registration card with the name *redacted*
- One (1) manila envelope marked Coventry Town Clerk with the following items inside; Agent Agreement dated 09-27-07, Registration Decal Disbursement Verification Form, Nine (9) VAST Stickers for registrations THY1 through THY9.
- One (1) manila envelope marked window signs with signs inside.
- One (1) manila envelope marked agent report forms with VAST forms inside.
- One (1) manila envelope marked tax forms with Vermont tax forms inside

While the search was being conducted, Diaz presented to me the following two documents;

- Five (5) pages of a State of Vermont Agency of Natural Resources dated February 2, 2009.
- One (1) page copy of two US Postal Service money order receipts (#93625414975 and # 50126321024) as well as a USPS mailing receipt in the amount of \$1.05.

Diaz stated that she wanted me to have copies of this to show there is no issue with the fishing licenses.

**H. State Tax Investigation:** The investigation, conducted in coordination with State Tax Investigator Frank Chapman, involved examination and analysis of a *redacted*, Vermont Homestead Declarations, Chittenden Bank Statements and Deposits, Community National Bank Statements and Deposits, Wire Transfers, Town of Coventry Payroll Check Warrant Reports, Town of Coventry Pay Stubs, and Gray's Paving & Sealing W-2's, Vermont Department of Labor data, Vermont Department of Motor Vehicle license and registration records, and Vermont Department of Taxes archives.

On or about June 17, 1998, Cynthia J. Diaz purchased 17.3 acres of land in Coventry, Vermont for \$ *redacted* from Tina Hancock of *redacted*, Colchester, Vt. Please see Book 35, page 123 of the town land records for details of this transaction.

On or about August 22, 2000 Cynthia J. Diaz purchased 10.1 acres of land in Coventry, Vermont for \$ *redacted* from Tina Hancock of *redacted*, Colchester, Vt. Please see Book 37, pages 335-336 of the town land records for details of this transaction.

On or about April 21, 2005 Cynthia J. Diaz sold 20.18 acres of land with residence (span number *redacted*) in Coventry, Vermont for \$ *redacted* to Sean A. Williams of *redacted*, Derby, Vermont. Please see Book 46, page 450 of the town land records for details of this transaction.

On or about February 22, 2007 Cynthia J. Diaz conveyed 20.18 acres of land with residence (span number *redacted*) in Coventry, Vermont to Sean A. Williams of

*red* . . . . ., Hollywood, Florida. Please see Book 49, page 404-05 of the town land records for details of this transaction.

On or about January 16, 2008 Cynthia J. Diaz conveyed 9.27 acres in Coventry, Vermont to Dana E. Biathlon of *redacted* , Irasburg, Vermont. Please see Book 51, page 119 of the town land records for details of this transaction.

On or about April 17, 2001 Cynthia J. Diaz *redacted*  
*redacted*

Please see the evidence section of the investigative file folder for a copy of *redacted* . *redacted* *redacted*

*redacted* . Please see the evidence section of the investigative file folder for a copy of *redacted* .

On or about April 15, 2004 Cynthia J. Diaz filed her 2004 Declaration of Vermont Homestead The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The completed declaration showed Coventry, Vermont to be Cynthia J. Diaz's legal residence. The declaration was hand written and signed by Cynthia J. Diaz. The mailing address shown on the declaration was *redacted* Newport, Vermont 05855. The location of the homestead was shown as *redact* Coventry Station, Coventry, Vermont. The span number of the property was shown as *redacted* . Please see the evidence section of the investigative file folder for a copy of the declaration.

On or about April 5, 2005, Cynthia J. Diaz filed her 2005 Declaration of Vermont Homestead. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia Diaz. The location of the property was shown as *redact* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted* . Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

On or about April 1, 2006 Cynthia J. Diaz filed her 2006 Declaration of Vermont Homestead. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia Diaz. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead oh April 1<sup>st</sup>. The location of the property was shown as *redact* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redact* . Please see the evidence section of the investigative file folder for a copy of *ed, f* the declaration transcript.

On or about February 1, 2007 Cynthia J. Diaz filed her 2007 Declaration of Vermont Homestead. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia J. Diaz. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont

homestead on April 1<sup>st</sup>. However, *redacted*. The location of the property was shown as *redact* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted*. Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

On or about April 9, 2008 Cynthia J. Diaz filed her 2008 Declaration of Vermont Homestead. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia J. Diaz. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The location of the property was shown as *redact* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted*. Ms. Diaz claimed *redacted*. Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

On or about February 20, 2009 Cynthia J. Diaz filed her 2009 Declaration of Vermont Homestead. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The declaration was filed *redacted* showed Coventry, Vermont to be the residence of Cynthia J. Diaz. The location of the property was shown as *redact* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted*. Ms. Diaz claimed *redacted*. Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

Prior to March 31, 2009 this office provided Frank Chapman, Tax Investigator, copies of Chittenden Bank Personal "Checking Account Number *redacted* statements and deposits and Community National Bank Personal Check Account Number *redacted* statements and deposits. Please see the evidence section of the investigative file folder for these records.

On or about March 31, 2009 I prepared a Schedule of Vermont Income for the Years 2003, 2004, 2005, and 2006 using bank deposits of the Chittenden Bank Personal Checking Account Number *redacted*. Originally this schedule was to be used to calculate the estimated Vermont Taxable Income of Ms. Diaz for the years in question. However, further investigation revealed that a significant amount of the deposits appeared to be the result of possible/probable non-taxable transactions, *i.e., redact*, another approach *ed* was developed to calculate the taxes due. Please see the evidence section of the investigative file folder for these records.

On or about April 2, 2009, Tax Investigator Frank Chapman prepared a Schedule of Vermont Income for the Years 2004, 2005, 2006, and 2007 using bank deposits of the Community National Bank Personal Checking Account Number *redacted*. However, further investigation revealed that a significant amount of the deposits appeared to be



the result of possible/probable non-taxable transactions, i.e., *redacted*  
another approach was developed to calculate the taxes due. Please see the evidence section of the investigative file folder for the summaries and the records.

On April 16, 2009 the Vermont Attorney General's Office provided Tax Investigator Frank Chapman with copies the 2009, 2008, 2007, and 2006 Town of Coventry Payroll Check Warrants. Please see the evidence section of the investigative file folder for these records.

On May 17, 2009 Tax Investigator Frank Chapman prepared Payroll Summaries of 2006, 2007, and 2008. The source documents for the summaries were the Town of Coventry Payroll Check Warrants. Please see the evidence section of the investigative file folder for the summaries and the records. On May 18, 2009 the Vermont Attorney General's Office provided me with copies Wire Transfers of Money to Cynthia J. Diaz. Please see the evidence section of the investigative file folder for these records.

On May 18, 2009 a Wire Transfer Income Summary was prepared for the years 2006, 2007, 2008, and 2009 (partial year). The source documents for the summary were copies of the wire transfers as provided by Vermont Attorney General Investigator Tom Howell. Please see the evidence section of the investigative file folder for the summaries and the records.

On May 19, 2009 the Vermont Attorney General's Office provided Tax Investigator Frank Chapman with copies of the October 2, October 14, November 6, November 13, and November 27, 2008 Town of Coventry Payroll Check Warrants as well as copies of Town of Coventry Individual Pay Stubs of Cynthia J. Diaz for the months of October, November, and December 2008. Please see the evidence section of the investigation file folder for these records. Investigator Chapman updated the Payroll Summary for 2008 based upon the records obtained from the Vermont Attorney General's Office on May 19<sup>th</sup>.

Investigator Chapman was able to obtain the 2003 Town of Coventry W-2's from the Department of Taxes archives. Ms. Diaz did not appear within the W-2's which had been submitted to the Department by the Town of Coventry prior to the employment of Ms. Diaz. The W-2 records revealed that Ms. Diaz had not been employed at the Town of Coventry during 2003.

Investigator Chapman also was able to obtain 2003 Gray's Paving and Sealing, Inc. W-2s from the Department of Taxes archives. The wages and withholdings of Ms. Diaz had been included and were entered on the Annual Income Summary for 2003.

As a result of this investigation, a summary of Income and Vermont Individual Income Tax Due. The source documents for this summary were: Payroll Summary Schedule, Schedule of Vermont Income and Wire Transfers. To calculate an estimate tax due for the years 2003 through 2008 the Taxpayer was assessed as single with no dependents. Because gross payroll amounts were not available, the Taxpayer was not given credit for Vermont Taxes Withheld for the years 2004 and 2005 as only the net

payroll amount was used to calculate the estimated Vermont Individual Income Tax Due for those years. Please see the evidence section of the investigative file folder to this summary. The estimated tax calculations for 2003 through 2008 are as follows:

The 2003 estimated assessment included a Vermont Adjusted Gross Income of \$56,826.71; a Standard Deduction of \$4,750.00; Exemption of \$3,050.00; Vermont Taxable Income of \$49,026.71; Vermont Income Tax of \$2,509.00; Credit for Vermont Taxes Withheld of \$473.64; and a Vermont Income Tax Due of \$2,035.36. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This estimated assessment may be revised when/if better information becomes available.

The 2004 estimated assessment included a Vermont Adjusted Gross Income of \$33,758.54; a Standard Deduction of \$4,850.00; Exemption of \$3,100.00; Vermont Taxable Income of \$25,808.54; Vermont Income Tax of \$931.00; No Credit for Vermont Taxes Withheld Tax; and a Vermont Income Tax Due of \$931.00. Because gross payroll amounts were not available for 2004, the Taxpayer was not given credit for Vermont Taxes Withheld as only the net payroll amount was used to calculate the estimated Vermont Individual Income Tax Due. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2005 estimated assessment included a Vermont Adjusted Gross Income of \$19,429.28; a Standard Deduction of \$5,000.00; Exemption of \$3,200.00; Vermont Taxable Income of \$ 11,229.28; Vermont Income Tax of \$405.00; No Credit for Vermont Taxes Withheld; and a Vermont Income Tax Due of \$405.00. Because gross payroll amounts were not available for 2005, the Taxpayer was not given credit for Vermont Taxes Withheld as only the net payroll amount was used to calculate the estimated Vermont Individual Income Tax Due. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2006 estimated assessment included a Vermont Adjusted Gross Income of \$68,644.33; a Standard Deduction of \$5,150.00; Exemption of \$3,300.00; Vermont Taxable Income of \$60,194.33; Vermont Income Tax of \$3,220.00; Credit for Vermont Taxes Withheld of \$775.21; and a Vermont Income Tax Due of \$2,444.79. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2007 estimated assessment included a Vermont Adjusted Gross Income of \$91,580.80; a Standard Deduction of \$5,350.00; Exemption of \$3,400.00; Vermont Taxable Income of \$82,830.80; Vermont Income Tax of \$4,893.00; Credit for Vermont Taxes Withheld of \$863.03; and a Vermont Income Tax Due of \$4,029.97. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2008 estimated assessment included a Vermont Adjusted Gross Income of \$51,791.90; a Standard Deduction of \$5,450.00; Exemption of \$3,500.00; Vermont Taxable Income of \$42,841.90; Vermont Income Tax of \$1,914.00; Credit for Vermont Taxes Withheld Tax of \$1,038.47; and a Vermont Income Tax Due of \$875.53. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

Tax Investigator Frank Chapman performed a diligent search of Vermont Department of Taxes records and archives. There is no record of Cynthia J. Diaz filing a Vermont Individual Income Tax Return for the years 2003, 2004, 2005, 2006, 2007, and/or 2008.

Cynthia J. Diaz has not filed a Vermont Individual Income Tax Return for the years 2003, 2004, 2005, 2006, 2007, and/or 2008. Cynthia J. Diaz was a Vermont resident for the tax years in question: 2003, 2004, 2005, 2006, 2007, and 2008. Ms. Diaz filed her 2007, 2008, and 2009 Vermont Declarations of Vermont Homestead claiming <sup>re</sup> ~~redacted~~. Ms. Diaz has <sup>da</sup> ~~redacted~~ had a Vermont driver's license since at least 2002. Ms. Diaz's tax preparer <sup>redac</sup> ~~redacted~~ <sup>MS.</sup> ~~redacted~~.

Diaz had earned Vermont income during the years 2003 through 2008 from self-employment and/or in the employment of others. From documents she had filed with the Vermont Department of Taxes, Ms. Diaz has owned and occupied her home at <sup>redacted</sup> ~~redacted~~ Coventry Station/ <sup>redact</sup> ~~redacted~~ Coventry Station Road (both addresses share the same property span number: <sup>redacted</sup> ~~redacted~~ ), Coventry, Vermont since at least 2004. Ms. Diaz <sup>redacted</sup> ~~redacted~~.

<sup>redacted</sup> ~~redacted~~, Ms. Diaz was employed at Gray's Paving and Sealing, Inc. at least during 2003, 2004, and 2005. Ms. Diaz was employed at the Town of Coventry at least during 2004, 2005, 2006, 2007, and 2008. Ms. Diaz was self-employed in Vermont at least during 2003, 2004, 2005, 2006, and 2007. Ms. Diaz was a Vermont resident with Vermont income during the years in question. Through residence and earned income, Cynthia J. Diaz had a requirement to file 2003 through 2008 Vermont Individual Income Tax Returns.

Ms. Diaz failed to file and pay her 2003, 2004, 2006, 2007, and 2008 Vermont Individual Income Tax Returns. Based upon the income information noted above, Ms. Diaz had a requirement to file all five returns and thus a requirement to pay the tax due on all five returns. Per the Summary of Income and Vermont Individual Income Tax Due the estimated assessment of income tax due for 2003 was \$2,035.36; 2004 was \$931.00; 2006 was \$2,444.79; 2007 was \$4,029.97; and 2008 was \$875.53. Interest, penalties, and late filing fees would also be due on each return.

**I. Audit of Town Records:** This matter is pending a forensic audit of town banking records and property tax records for evidence of embezzlement.

Investigator: Thomas E. Howell

Date: September 15, 2009

# CONFIDENTIAL

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## MEMORANDUM

## VERMONT DEPARTMENT OF TAXES

**TO:** Ultan Doyle  
Office of Attorney General  
Pavillion Building

**FROM:** Patti Palmer, Tax Examiner

**SUBJECT:** Cynthia J. Diaz  
Summary of Findings and Recommendations  
Case Number 162

**DATE:** October 29, 2010

**REVISED AS OF OCTOBER 29, 2010**

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On September 13, 2010, Brenda Vovakes, Director of Compliance, delivered to me 2003, 2004, 2005, 2006, 2007, 2008 and 2009 filed returns for Cynthia Diaz. On September 24, 2010, I requested copies of all source documents used to prepare these returns from Randall Northrop, CPA for Cynthia Diaz. On October 06, 2010, I received copies of the federal returns and W-2s as requested.

Review of the returns showed that Cynthia Diaz provided Randall Northrop, CPA, with only wage income for years 2003, 2004, 2006 and 2008. On her 2005 return, wages, interest, dividends and a capital gain were reported. On the 2007 return, wages and interest were reported. No other types of income were reported.

On October 14, 2010 I prepared a Summary of Income and Vermont Individual Income Tax Due. The source documents for this summary were: Federal returns and W-2s provided by Randall Northrop, CPA, Schedule of Vermont Income and Wire Transfers and Wage and Income transcripts from the Internal Revenue Service. To calculate an estimated tax due for the years 2003 through 2008 the Taxpayer was assessed as head of household with 2 dependents. Taxpayer has a Time Deposit account and a Savings account in the Pribanco International LTD Bank in the Bahamas. The investment income residing in these offshore accounts disqualifies Taxpayer from the Earned Income Tax Credit. The estimated tax calculations for 2003 through 2008 are as follows:

The 2003 estimated assessment included a Vermont Adjusted Gross Income of \$57,035.78; a Standard Deduction of \$7,000.00; Exemption of \$9,150.00; Vermont Taxable Income of \$40,885.78; Vermont Income Tax of \$1,572.00; Credit for Vermont Taxes Withheld of \$479.03; and a Vermont Income Tax Due of \$1,092.97. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This estimated assessment may be revised when/if better information becomes available.

The 2004 estimated assessment included a Vermont Adjusted Gross Income of \$35,425.34; a Standard Deduction of \$7,150.00; Exemption of \$9,300.00; Vermont Taxable Income of \$18,975.34; Vermont Income Tax of \$682; Credit for Vermont Taxes Withheld of \$86.22; and a Vermont Income Tax Due of \$595.78. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2005 estimated assessment included a Vermont Adjusted Gross Income of \$32,719.24; a Standard Deduction of \$7,300.00; Exemption of \$9,600.00; Vermont Taxable Income of \$15,819.24; Vermont Income Tax of \$574.00; Credit for Vermont Taxes Withheld of \$841.83; and an overpayment of \$267.83. This overpayment is not

refundable due to the statute requiring a return to be filed within 3 years of the due date of the return. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2006 estimated assessment included a Vermont Adjusted Gross Income of \$74,299.25; a Standard Deduction of \$7,550.00; Exemption of \$9,900.00; Vermont Taxable Income of \$56,849.25; Vermont Income Tax of \$2,616.00; Credit for Vermont Taxes Withheld of \$868.43 and a Vermont Income Tax Due of \$1,747.57. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2007 estimated assessment included a Vermont Adjusted Gross Income of \$94,453.63; a Standard Deduction of \$7,850.00; Exemption of \$10,200.00; Vermont Taxable Income of \$76,403.63; Vermont Income Tax of \$3,966.00; Credit for Vermont Taxes Withheld of \$922.71; and a Vermont Income Tax Due of \$3,043.29. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2008 estimated assessment included a Vermont Adjusted Gross Income of \$51,791.70; a Standard Deduction of \$8,000.00; Exemption of \$10,500.00; Vermont Taxable Income of \$33,291.70; Vermont Income Tax of \$1,197.00; Credit for Vermont Taxes Withheld of \$1,038.47; and a Vermont Income Tax Due of \$158.53. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

**Interviews:**

None.

**Conclusions:**

The 2003, 2004, 2005, 2006, 2007 and 2008 Vermont income tax returns, as filed, are inaccurate.

Taxpayer owes Vermont income tax for 2003, 2004, 2006, 2007 and 2008.

Vermont income tax due is over \$500.00 for 2003, 2004, 2006 and 2007. Tax due is under \$500.00 for 2008.

cc: Dan Cardozo  
Brenda Vovakes  
Frank Partsch

# CONFIDENTIAL

## MEMORANDUM

## VERMONT DEPARTMENT OF TAXES

**TO:** Ultan Doyle  
Office of Attorney General  
Pavillion Building

**FROM:** Patti Palmer, Tax Examiner

**SUBJECT:** Cynthia J. Diaz  
Supplemental Memo  
Income reported on Ms. Diaz's filed 2003-2008 Vermont Income Tax Returns  
Case Number 162

**DATE:** March 24, 2011

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Adjusted Gross Income reported on Ms. Diaz's 2003 Vermont Income Tax Return	\$ 15,811.00
Wages: Newport Car Wash & Mini Mart	\$ 302.75
Wages: Gray's Paving & Sealing	<u>15,508.00</u>
Total income shown on return	<u>\$15,810.75</u>

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Adjusted Gross Income reported on Ms. Diaz's 2004 Vermont Income Tax Return	\$ 4,100.00
Wages: Spates Construction	\$ 1,546.65
Wages: Shiva Retail Services	466.89
Wages: Newport Car Wash & Mini Mart	<u>2,086.52</u>
Total income shown on return	<u>\$ 4,100.06</u>

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Adjusted Gross Income reported on Ms. Diaz's 2005 Vermont Income Tax Return	\$ 27,319.00
Wages: Town of Coventry	\$ 24,639.24
Wages: Gray's Paving and Sealing, Inc.	1,600.00
Capital Gain	587.00
Interest	275.00
Dividends	<u>218.00</u>
Total income shown on return	<u>\$ 27,319.24</u>

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Adjusted Gross Income reported on Ms. Diaz's 2006 Vermont Income Tax Return	\$ 26,066.00
Wages: Town of Coventry	\$ 26,066.12
Total income shown on return	<u>\$26,066.12</u>

Adjusted Gross Income reported on Ms. Diaz's 2007 Vermont Income Tax Return	\$ 28,779.00
Wages: Town of Coventry	\$27,697.86
Interest	<u>1,081.00</u>
Total income shown on return	<u>\$ 28,778.86</u>

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Adjusted Gross Income reported on Ms. Diaz's 2008 Vermont Income Tax Return	\$ 30,732.00
Wages: Town of Coventry	\$ 30,941.96
Total income shown on return	<u>\$ 30,941.96</u>

# CONFIDENTIAL

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## MEMORANDUM

## VERMONT DEPARTMENT OF TAXES

**TO:** John Treadwell  
Assistant Attorney General

**FROM:** Frank W. Chapman, Investigator

**SUBJECT:** Cynthia J. Diaz  
Summary of Findings and Recommendations  
Case Number 162

**DATE:** July 1, 2009

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### Complaint:

The allegation is that Cynthia J. Diaz failed to file and pay her 2003, 2004, 2005, 2006, 2007, and 2008 Vermont Individual Income Tax Returns.

### Goals:

As the referral alleged potential criminal acts, an investigation was initiated to determine if, in fact, any criminal acts had been committed. Further, if the initial investigation revealed the commission of criminal acts, the investigation would continue to determine if evidence could be developed sufficient to support a criminal conviction of any individual or individuals involved.

### Lists of Interviews and Evidence:

The investigation involved examination and analysis of a Vermont Income Tax Extension Form, Vermont Homestead Declarations, Chittenden Bank Statements and Deposits, Community National Bank Statements and Deposits, Wire Transfers, Town of Coventry Payroll Check Warrant Reports, Town of Coventry Pay Stubs, and Gray's Paving & Sealing W-2's, Vermont Department of Labor data, Vermont Department of Motor Vehicle license and registration records, and Vermont Department of Taxes archive files.

### Background:

On or about June 17, 1998, Cynthia J. Diaz purchased 17.3 acres of land in Coventry, Vermont for \$ redacted from Tina Hancock of redacted Colchester, Vt. Please see Book 35, page 123 of the town land records for details of this transaction.

On or about August 22, 2000 Cynthia J. Diaz purchased 10.1 acres of land in Coventry, Vermont for \$ redacted from Tina Hancock of redacted Colchester, Vt. Please see Book 37, pages 335-336 of the town land records for details of this transaction.

On or about April 21, 2005 Cynthia J. Diaz sold 20.18 acres of land with residence (span number redacted ) in Coventry, Vermont for \$ redacted to Sean A. Williams of redacted Derby, Vermont. Please see Book 46, page 450 of the town land records for details of this transaction.



On or about February 22, 2007 Cynthia J. Diaz conveyed 20.18 acres of land with residence (span number *redacted*) in Coventry, Vermont to Sean A. Williams of *redacted*, Hollywood, Florida. Please see Book 49, page 404-05 of the town land records for details of this transaction.

On or about January 16, 2008 Cynthia J. Diaz conveyed 9.27 acres in Coventry, Vermont to Dana E. Bathalon of *redacted*, Irasburg, Vermont. Please see Book 51, page 119 of the town land records for details of this transaction.

*redacted*

*redacted* Please see the evidence section of the investigative file folder for a copy *redacted* *redacted* *red* *redacted* Please see the evidence section of the investigative file folder for a copy of this extension.

On or about April 15, 2004 Cynthia J. Diaz filed her 2004 Declaration of Vermont Homestead. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The completed declaration showed Coventry, Vermont to be Cynthia J. Diaz's legal residence. The declaration was hand written and signed by Cynthia J. Diaz. The mailing address shown on the declaration was *redacted* Newport, Vermont 05855. The location of the homestead was shown as *redacted* Coventry Station, Coventry, Vermont. The span number of the property was shown as *redacted*. Please see the evidence section of the investigative file folder for a copy of the declaration.

On or about April 5, 2005 Cynthia J. Diaz filed her 2005 Declaration of Vermont Homestead. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia Diaz. The location of the property was shown as *redacted* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted* *redacted*. Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

On or about April 1, 2006 Cynthia J. Diaz filed her 2006 Declaration of Vermont Homestead. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia Diaz. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The location of the property was shown as *redacted* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted*. Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

On or about February 1, 2007 Cynthia J. Diaz filed her 2007 Declaration of Vermont Homestead. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia J. Diaz. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. However, Ms. Diaz also checked the box indicating that she claimed not to be a Vermont resident. The location of the property was shown as *redacted* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted*. Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

On or about April 9, 2008 Cynthia J. Diaz filed her 2008 Declaration of Vermont Homestead. The declaration was filed on line by computer and showed Coventry, Vermont to be the legal residence of Cynthia J. Diaz. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The location of the property was shown as *redacted* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted*

Ms. Diaz claimed *redacted*

† Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

On or about February 20, 2009 Cynthia J. Diaz filed her 2009 Declaration of Vermont Homestead. The Declaration of Vermont Homestead Form must be filed by Vermont residents who own and occupy a Vermont homestead on April 1<sup>st</sup>. The declaration was filed on line by computer showed Coventry, Vermont to be the residence of Cynthia J. Diaz. The location of the property was shown as *reda* Coventry Station Road, Coventry, Vermont. The span number of the property was shown as *redacted* *red*  
*act*

Please see the evidence section of the investigative file folder for a copy of the declaration transcript.

Prior to March 31, 2009 Thomas Howell, Investigator for the Vermont Attorney General Office provided me with copies of Chittenden Bank Personal Checking Account Number *redacted* statements and deposits and Community National Bank Personal Check Account Number *redacted* statements and deposits. Please see the evidence section of the investigative file folder for these records.

On or about March 31, 2009 I prepared a Schedule of Vermont Income for the Years 2003, 2004, 2005, and 2006 using bank deposits of the Chittenden Bank Personal Checking Account Number *redacted*. Originally this schedule was to be used to calculate the estimated Vermont Taxable Income of Ms. Diaz for the years in question. However, further investigation revealed that a significant amount of the deposits appeared to be the result of possible/probable non-taxable transactions, i.e., child support, gifts, insurance claims, and sale of personal residence, another approach was developed to calculate the taxes due. Please see the evidence section of the investigative file folder for these records.

On or about April 2, 2009 I prepared a Schedule of Vermont Income for the Years 2004, 2005, 2006, and 2007 using bank deposits of the Community National Bank Personal Checking Account Number *redacted*. However, further investigation revealed that a significant amount of the deposits appeared to be the result of possible/probable non-taxable transactions, i.e., *redacted*, another approach was developed to calculate the taxes due, Please see the evidence section of the investigative file folder for the summaries and the records.

On April 16, 2009 Thomas Howell, Investigator for the Vermont Attorney General Office provided me with copies the 2009, 2008, 2007, and 2006 Town of Coventry Payroll Check Warrants. Please see the evidence section of the investigative file folder for these records.

On May 17, 2009 I prepared Payroll Summaries of 2006, 2007, and 2008. The source documents for the summaries were the Town of Coventry Payroll Check Warrants. Please see the evidence section of the investigative file folder for the summaries and the records.

On May 18, 2009 Thomas Howell Investigator for the Vermont Attorney General Office provided me with copies Wire Transfers of Money to Cynthia J. Diaz. Please see the evidence section of the investigative file folder for these records.

On May 18, 2009 I prepared a Wire Transfer Income Summary for the years 2006, 2007, 2008, and 2009 (partial year). The source documents for the summary were copies of the wire transfers as provided by Vermont Attorney General Investigator Tom Howell. Please see the evidence section of the investigative file folder for the summaries and the records.

On May 19, 2009 Thomas Howell, Investigator for the Vermont Attorney General Office provided me with copies of the October 2, October 14, November 6, November 13, and November 27, 2008 Town of Coventry Payroll Check Warrants as well as copies of Town of Coventry Individual Pay Stubs of Cynthia J. Diaz for the months of October, November, and December 2008. Please the evidence section of the investigation file folder for these records.

I updated the Payroll Summary for 2008 based upon the records obtained from Thomas Howell on May 19<sup>th</sup>.

I was able to obtain the 2003 Town of Coventry W-2's from the Department of Taxes archives. Ms. Diaz did not appear within the W-2's which had been submitted to the Department by the Town of Coventry prior to the employment of Ms. Diaz. The W-2 records revealed that Ms. Diaz had not been employed at the Town of Coventry during 2003.

I was also able to obtain 2003 Gray's Paving and Sealing, Inc. W-2s from the Department of Taxes archives. The wages and withholdings of Ms. Diaz had been included and were entered on the Annual Income Summary for 2003.

On June 17, 2009 I prepared a Summary of Income and Vermont Individual Income Tax Due. The source documents for this summary were: Payroll Summary Schedule, Schedule of Vermont Income and Wire Transfers. To calculate an estimate tax due for the years 2003 through 2008 the Taxpayer was assessed as single with no dependents. Because gross payroll amounts were not available, the Taxpayer was not given credit for Vermont Taxes Withheld for the years 2004 and 2005 as only the net payroll amount was used to calculate the estimated Vermont Individual Income Tax Due for those years. Please see the evidence section of the investigative file folder to this summary. The estimated tax calculations for 2003 through 2008 are as follows:

The 2003 estimated assessment included a Vermont Adjusted Gross Income of \$56,826.71; a Standard Deduction of \$4,750.00; Exemption of \$3,050.00; Vermont Taxable Income of \$49,026.71; Vermont Income Tax of \$2,509.00; Credit for Vermont Taxes Withheld of \$473.64; and a Vermont Income Tax Due of \$2,035.36. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This estimated assessment may be revised when/if better information becomes available.

The 2004 estimated assessment included a Vermont Adjusted Gross Income of \$33,758.54; a Standard Deduction of \$4,850.00; Exemption of \$3,100.00; Vermont Taxable Income of \$25,808.54; Vermont Income Tax of \$931.00; No Credit for Vermont Taxes Withheld Tax; and a Vermont Income Tax Due of \$931.00. Because gross payroll amounts were not available for 2004, the Taxpayer was not given credit for Vermont Taxes Withheld as only the net payroll amount was used to calculate the estimated Vermont Individual Income Tax Due. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2005 estimated assessment included a Vermont Adjusted Gross Income of \$19,429.28; a Standard Deduction of \$5,000.00; Exemption of \$3,200.00; Vermont Taxable Income of \$11,229.28; Vermont Income Tax of \$405.00; No Credit for Vermont Taxes Withheld; and a Vermont Income Tax Due of \$405.00. Because gross payroll amounts were not available for 2005, the Taxpayer was not given credit for Vermont Taxes Withheld as only the net payroll amount was used to calculate the estimated Vermont Individual Income Tax Due. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2006 estimated assessment included a Vermont Adjusted Gross Income of \$68,644.33; a Standard Deduction of \$5,150.00; Exemption of \$3,300.00; Vermont Taxable Income of \$60,194.33; Vermont Income Tax of \$3,220.00; Credit for Vermont Taxes Withheld of \$775.21; and a Vermont Income Tax Due of \$2,444.79. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2007 estimated assessment included a Vermont Adjusted Gross Income of \$91,580.80; a Standard Deduction of \$5,350.00; Exemption of \$3,400.00; Vermont Taxable Income of \$82,830.80; Vermont Income Tax of \$4,893.00; Credit for Vermont Taxes Withheld of \$863.03; and a Vermont Income Tax Due of \$4,029.97. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

The 2008 estimated assessment included a Vermont Adjusted Gross Income of \$51,791.90; a Standard Deduction of \$5,450.00; Exemption of \$3,500.00; Vermont Taxable Income of \$42,841.90; Vermont Income Tax of \$1,914.00; Credit for Vermont Taxes Withheld Tax of \$1,038.47; and a Vermont Income Tax Due of \$875.53. This estimated assessment may not include all Taxpayer income but it is based upon the best information available at this time. This assessment may be revised when/if better information becomes available.

I have performed a diligent search of Vermont Department of Taxes records and archives. There is no record of Cynthia J. Diaz filing a Vermont Individual Income Tax Return for the years 2003, 2004, 2005, 2006, 2007, and/or 2008.

**Interviews:**

None.

**Conclusions:**

*V.S.A., Title 32, Section 5861. Returns by individuals, trusts, and estates. Subsection (a) provides: Every individual, trust, or estate subject to taxation for any taxable year under section 5822 of this title shall file a Vermont personal income tax return for that taxable year if that person is required to file a United States income tax return for that year and (1) earned or received more than \$100.00 of Vermont income or (2) earned or received more than \$1,000.00 in gross income from the sources listed in subdivisions 5823 (b)(1) through (6) of this title whether or not a resident, in that year or has a tax liability under this chapter for that year.*

Cynthia J. Diaz has not filed a Vermont Individual Income Tax Return for the years 2003, 2004, 2005, 2006, 2007, and/or 2008. Cynthia J. Diaz was a Vermont resident for the tax years in question: 2003, 2004, 2005, 2006, 2007, and 2008. Ms. Diaz filed her 2007, 2008, and 2009 Vermont Declarations of Vermont Homestead claiming to be a non-resident of Vermont to evade Vermont Individual Income Tax. Ms. Diaz has had a Vermont driver's license since at least 2002. Ms. Diaz's tax preparer had redacted Ms. Diaz had earned Vermont income during the years 2003 through 2008 from self-employment and/or in the employment of others. From documents she had filed with the Vermont Department of Taxes, Ms. Diaz has owned and occupied her home at redacted Coventry Station/ redacted Coventry Station Road (both addresses share the same property span number: redacted ), Coventry, Vermont since at least 2004. redacted

Ms. Diaz was employed at Gray's Paving and Sealing, Inc. at least during 2003, 2004, and 2005. Ms. Diaz was employed at the Town of Coventry at least during 2004, 2005, 2006, 2007, and 2008. Ms. Diaz was self-employed in Vermont at least during 2003, 2004, 2005, 2006, and 2007. Ms. Diaz was a Vermont resident with Vermont income during the years in question. Through residence and earned income, Cynthia J. Diaz had a requirement to file 2003 through 2008 Vermont Individual Income Tax Returns.

*V.S.A., Title 32, Section 5894 Liability for failure or delinquency provides (d) Failure to file or failure to pay; in excess of \$500.00. An individual, fiduciary, or officer or employee of a corporation or partner or employee of a partnership, who with intent to evade a tax liability fails to file a tax return when required to do so or fails to pay a tax when due shall, if the amount of tax is in excess of \$500.00 in a single calendar year, be imprisoned not more than three years or fined not more than \$10,000.00, or both.*

Ms. Diaz failed to file and pay her 2003, 2004, 2006, 2007, and 2008 Vermont Individual Income Tax Returns. Based upon the income information noted above, Ms. Diaz had a requirement to file all five returns and thus a requirement to pay the tax due on all five returns. Per the Summary of Income and Vermont Individual Income Tax Due the estimated assessment of income tax due for 2003 was \$2,035.36; 2004 was \$931.00; 2006 was \$2,444.79; 2007 was \$4,029.97; and 2008 was \$875.53. Interest, penalties, and late filing fees would also be due on each return.



From Wire Transfers	\$ 21,060.00						
Totals	<u>\$51,791.90</u>	<u>\$ 1,038.47</u>					
Totals						<u>\$ 13,872.00</u>	<u>\$ 3,150.35</u>
							<u>\$ 10,721.65</u>

Calculations:

Taxpayer was assessed as Single with no dependents.

Taxpayer was not given credit for Vermont Withholding Tax for 2004 and 2005. She was also only taxed on net payroll earnings for both years.

# Cynthia Diaz

## Payroll Summary of 2004, 2005, 2006, 2007, and 2008

fwd: 5/17/09

2006					
Date	Gross	Vt. With.	Net	Check No.	
1/5/2006	\$ 318.67	\$ <i>redacted</i>	\$ <i>redacted</i>	8429	
1/9/2006	\$ 318.67	\$	\$	8460	
1/9/2006	\$ 318.67	\$	\$	8463	
1/23/2006	\$ 318.67	\$	\$	8466	
1/30/2006	\$ 318.67	\$	\$	8471	
2/8/2006	\$ 318.67	\$	\$	8473	
2/13/2006	\$ 318.67	\$	\$	8475	
2/23/2006	\$ 318.67	\$	\$	8505	
3/1/2006	\$ 318.67	\$	\$	8507	
3/9/2006	\$ 318.67	\$	\$	8509	
3/13/2006	\$ 318.67	\$	\$	8511	
3/20/2006	\$ 318.67	\$	\$	8542	
3/27/2006	\$ 318.67	\$	\$	8545	
4/3/2006	\$ 318.67	\$	\$	8549	
4/10/2006	\$ 318.67	\$	\$	8571	
4/17/2006	\$ 318.67	\$	\$	8576	
4/26/2006	\$ 318.67	\$	\$	8578	
4/26/2006	\$ 725.68	\$	\$	8579	
5/3/2006	\$ 318.67	\$	\$	8585	
5/8/2006	\$ 318.67	\$	\$	8587	
5/15/2006	\$ 318.67	\$	\$	8612	
5/22/2006	\$ 318.67	\$	\$	8614	
5/22/2006	\$ 725.68	\$	\$	8615	
5/30/2006	\$ 318.67	\$	\$	8618	
6/5/2006	\$ 318.67	\$	\$	8622	
6/13/2006	\$ 318.67	\$	\$	8626	
6/19/2006	\$ 318.67	\$	\$	8655	
6/22/2006	\$ 318.67	\$	\$	8658	
6/22/2006	\$ 725.68	\$	\$	8659	
7/3/2006	\$ 334.62	\$	\$	8663	
7/11/2006	\$ 334.62	\$	\$	8685	
7/17/2006	\$ 334.62	\$	\$	8721	
7/24/2006	\$ 334.62	\$	\$	8726	
7/24/2006	\$ 740.25	\$	\$	8727	
8/2/2006	\$ 334.62	\$	\$	8733	
8/8/2006	\$ 334.62	\$	\$	8739	
8/16/2006	\$ 334.62	\$	\$	8775	
8/23/2006	\$ 334.62	\$	\$	8777	
8/23/2006	\$ 334.62	\$	\$	8780	
8/23/2006	\$ 740.25	\$	\$	8781	

9/5/2006	\$	334.62	\$	<i>redacted</i>	\$	<i>redacted</i>	8786
9/11/2006	\$	334.62	\$		\$		8790
9/19/2006	\$	334.62	\$		\$		8832
9/25/2006	\$	334.62	\$		\$		8835
9/25/2006	\$	740.25	\$		\$		8836
10/2/2006	\$	334.62	\$		\$		8841
10/10/2006	\$	334.62	\$		\$		8843
10/15/2006	\$	334.62	\$		\$		8787
10/24/2006	\$	740.25	\$		\$		8881
10/24/2006	\$	334.62	\$		\$		8880
10/30/2006	\$	334.62	\$		\$		8883
11/6/2006	\$	334.62	\$		\$		8885
11/14/2006	\$	334.62	\$		\$		8887
11/20/2006	\$	334.62	\$		\$		8952
11/28/2006	\$	740.25	\$		\$		8955
11/28/2006	\$	334.62	\$		\$		8954
12/4/2006	\$	334.62	\$		\$		8957
12/11/2006	\$	740.25	\$		\$		8961
12/11/2006	\$	334.62	\$		\$		8960
12/19/2006	\$	334.62	\$		\$		9002
12/27/2006	\$	334.62	\$		\$		9004
<b>Totals</b>		<b>\$ 23,604.08</b>	<b>\$</b>	<b>775.21</b>	<b>\$</b>	<i>redacted</i>	

<b>2007</b>							
1/4/2007	\$	334.62	\$	<i>redacted</i>	\$	<i>redacted</i>	9006
1/8/2007	\$	334.62	\$		\$		9008
1/16/2007	\$	334.62	\$		\$		9040
1/24/2007	\$	740.25	\$		\$		9044
1/24/2007	\$	334.62	\$		\$		9043
1/28/2007	\$	334.62	\$		\$		9047
2/6/2007	\$	334.62	\$		\$		9050
2/27/2007	\$	334.62	\$		\$		9077
2/27/2007	\$	334.62	\$		\$		9074
2/27/2007	\$	334.62	\$		\$		9080
2/27/2007	\$	740.25	\$		\$		9081
3/5/2007	\$	334.62	\$		\$		9084
3/12/2007	\$	334.62	\$		\$		9105
3/19/2007	\$	334.62	\$		\$		9115
3/27/2007	\$	740.25	\$		\$		9118
3/27/2007	\$	334.62	\$		\$		9117
4/2/2007	\$	334.62	\$		\$		9120
4/9/2007	\$	334.62	\$		\$		9154
4/16/2007	\$	334.62	\$		\$		9159
4/23/2007	\$	740.25	\$		\$		9162
4/23/2007	\$	334.62	\$		\$		9161
5/3/2007	\$	334.62	\$		\$		9164



5/12/2007	\$ 334.62	\$	<i>redacted</i>	\$	<i>redacted</i>	9174
5/24/2007	\$ 334.62	\$		\$		9212
5/25/2007	\$ 334.62	\$		\$		9214
6/3/2007	\$ 334.62	\$		\$		9218
6/12/2007	\$ 334.62	\$		\$		9255
6/19/2007	\$ 627.12	\$		\$		9259
6/26/2007	\$ 334.38	\$		\$		9263
6/26/2007	\$ 740.25	\$		\$		9264
7/5/2007	\$ 343.98	\$		\$		9266
7/16/2007	\$ 343.98	\$		\$		9333
7/23/2007	\$ 343.98	\$		\$		9340
7/23/2007	\$ 773.50	\$		\$		9341
7/31/2007	\$ 343.98	\$		\$		9344
7/31/2007	\$ 284.50	\$		\$		9345
8/6/2007	\$ 343.98	\$		\$		9349
8/11/2007	\$ 343.98	\$	<i>redacted</i>	\$		9355
8/21/2007	\$ 343.98	\$		\$		9360
8/23/2007	\$ 343.98	\$		\$		9400
8/23/2007	\$ 773.50	\$		\$		9401
9/6/2007	\$ 343.98	\$		\$		9404
9/11/2007	\$ 343.98	\$		\$		9409
9/17/2007	\$ 343.98	\$		\$		9438
9/17/2007	\$ 80.00	\$		\$		9439
9/24/2007	\$ 343.98	\$		\$		9441
9/24/2007	\$ 773.50	\$		\$		9442
10/2/2007	\$ 343.98	\$		\$	<i>redacted</i>	9444
10/9/2007	\$ 343.98	\$		\$		9480
10/22/2007	\$ 343.98	\$		\$		9489
10/22/2007	\$ 773.50	\$		\$		9490
10/30/2007	\$ 343.98	\$		\$		9492
11/5/2007	\$ 343.98	\$	<i>redacted</i>	\$		9495
11/13/2007	\$ 343.98	\$		\$		9499
11/21/2007	\$ 343.98	\$		\$		9538
11/21/2007	\$ 315.00	\$		\$		9539
11/21/2007	\$ 773.50	\$		\$		9540
11/26/2007	\$ 343.98	\$		\$		9542
12/3/2007	\$ 343.98	\$		\$		9544
12/13/2007	\$ 343.98	\$		\$		9596
12/17/2007	\$ 343.98	\$		\$		9608
12/17/2007	\$ 343.98	\$		\$		9601
12/17/2007	\$ 773.50	\$		\$		9602
<b>Totals</b>	<b>\$ 25,935.03</b>	<b>\$</b>	<b>863.03</b>	<b>\$</b>	<i>redacted</i>	

**2008**

1/2/2008	\$ 343.98	\$	<i>redacted</i>	\$	<i>redacted</i>	9610
1/9/2008	\$ 343.98	\$		\$		9612

1/21/2008	\$ 343.98	\$	<i>redacted</i>	\$	<i>redacted</i>	9654
1/21/2008	\$ 773.50	\$		\$		9655
1/28/2008	\$ 343.98	\$		\$		9657
2/4/2008	\$ 343.98	\$		\$		9659
2/11/2008	\$ 636.48	\$		\$		9689
2/19/2008	\$ 343.98	\$		\$		9723
2/25/2008	\$ 343.98	\$		\$		9726
2/25/2008	\$ 773.50	\$		\$		9726
3/10/2008	\$ 343.98	\$		\$		9755
3/10/2008	\$ 400.00	\$		\$		9756
3/23/2008	\$ 343.98	\$		\$		9763
3/23/2008	\$ 773.50	\$		\$		9764
3/23/2008	\$ 343.98	\$		\$		9763
3/23/2008	\$ 773.50	\$		\$		9764
3/31/2008	\$ 343.98	\$		\$		9766
4/7/2008	\$ 343.98	\$		\$		9769
4/14/2008	\$ 598.98	\$		\$		9773
4/21/2008	\$ 343.98	\$		\$		9803
4/21/2008	\$ 773.50	\$		\$		9804
4/29/2008	\$ 343.98	\$		\$		9811
5/5/2008	\$ 343.98	\$		\$		9813
5/12/2008	\$ 343.98	\$		\$		9853
5/19/2008	\$ 471.48	\$		\$		9862
5/19/2008	\$ 773.50	\$		\$		9863
5/27/2008	\$ 343.98	\$	<i>redacted</i>	\$	<i>redacted</i>	9866
6/3/2008	\$ 343.98	\$		\$		9870
6/9/2008	\$ 343.98	\$		\$		9916
6/9/2008	\$ 773.50	\$		\$		9917
6/17/2008	\$ 343.98	\$		\$		9920
6/25/2008	\$ 344.02	\$		\$		9923
6/30/2008	\$ 361.18	\$		\$		9926
7/14/2008	\$ 361.18	\$		\$		9979
7/21/2008	\$ 361.18	\$		\$		9989
7/21/2008	\$ 812.50	\$		\$		9989
7/28/2008	\$ 361.18	\$		\$		9992
8/4/2008	\$ 405.18	\$		\$		9995
8/4/2008	\$ 390.00	\$		\$		9996
8/12/2008	\$ 361.18	\$		\$		9999
8/12/2008	\$ 812.50	\$		\$		10000
8/16/2008	\$ 361.18	\$		\$		10040
8/25/2008	\$ 361.18	\$		\$		10043
9/2/2008	\$ 361.18	\$		\$		10046
9/2/2008	\$ 315.00	\$		\$		10047
9/9/2008	\$ 361.18	\$		\$		10078
9/15/2008	\$ 361.18	\$		\$		10084
9/15/2008	\$ 812.50	\$		\$		10085
9/20/2008	\$ 361.18	\$		\$		10088

9/27/2008	\$ 361.18	\$ <i>redacted</i>	\$ <i>redacted</i>	10094
9/27/2008	\$ 322.50	\$	\$	10095
10/6/2008	\$ 361.18	\$	\$	10100
10/6/2008	\$ 285.00	\$	\$	10101
10/14/2008	\$ 361.18	\$	\$	10105
10/14/2008	\$ 812.50	\$	\$	10106
10/20/2008	\$ 361.18	\$	\$	10147
10/27/2008	\$ 361.18	\$	\$	10149
11/1/2008	\$ 361.18	\$	\$	10156
11/11/2008	\$ 481.18	\$	\$	10162
11/11/2008	\$ 812.50	\$	\$	10163
11/17/2008	\$ 361.18	\$	\$	10265
11/24/2008	\$ 361.18	\$	\$	10267
12/1/2008	\$ 361.18	\$	\$	10269
12/8/2008	\$ 361.18	\$	\$	10300
12/8/2008	\$ 812.50	\$	\$	10301
12/15/2008	\$ 361.18	\$	\$	10307
12/22/2008	\$ 361.18	\$	\$	10309
12/29/2008	\$ 361.18	\$	\$	10312
<b>Totals</b>	<b>\$ 30,487.24</b>	<b>\$ <i>redacted</i></b>	<b>\$ <i>redacted</i></b>	
<b>Per PayStub</b>	<b>\$ 30,731.90</b>	<b>\$ 1,038.47</b>	<b><i>redacted</i></b>	

1/6/2005	\$	<i>redacted</i>	7825 Town of Coventry
1/20/2005	\$		7867 Town of Coventry
1/26/2005	\$		7872 Town of Coventry
1/27/2005	\$		7870 Town of Coventry
1/7/2005	\$		11110 Gray's Paving & Sealing, Inc.
2/3/2005	\$		7873 Town of Coventry
1/14/2005	\$		11111 Gray's Paving & Sealing, Inc.
2/17/2005	\$		7910 Gray's Paving & Sealing, Inc.
1/28/2005	\$		11113 Gray's Paving & Sealing, Inc.
2/24/2005	\$		7915 Gray's Paving & Sealing, Inc.
2/24/2005	\$		7916 Town of Coventry
3/3/2005	\$		7919 Town of Coventry
3/10/2005	\$		7922 Town of Coventry
3/15/2005	\$		7952 Town of Coventry
3/23/2005	\$		7956 Town of Coventry
3/23/2005	\$		7957 Town of Coventry
4/5/2005	\$		7962 Town of Coventry
4/11/2005	\$		7992 Town of Coventry
5/4/2005	\$		8005 Town of Coventry
5/26/2005	\$		8038 Town of Coventry
5/26/2005	\$		8039 Town of Coventry
6/2/2005	\$		8042 Town of Coventry
6/16/2005	\$		8048 Town of Coventry
6/23/2005	\$		8093 Town of Coventry

6/23/2005	\$	<i>redacted</i>	8094 Town of Coventry
7/7/2005	\$		8101 Town of Coventry
7/13/2005	\$		8144 Town of Coventry
7/14/2005	\$		8105 Town of Coventry
7/21/2005	\$		8154 Town of Coventry
8/9/2005	\$		8163 Town of Coventry
8/10/2005	\$		8179 Town of Coventry
8/4/2005	\$		8160 Town of Coventry
7/28/2005	\$		8156 Town of Coventry
8/15/2005	\$		8197 Town of Coventry
8/30/2005	\$		8203 Town of Coventry
8/30/2005	\$		8204 Town of Coventry
9/15/2005	\$		8214 Town of Coventry
9/23/2005	\$		8254 Town of Coventry
9/28/2005	\$		8259 Town of Coventry
9/28/2005	\$		8260 Town of Coventry
10/12/2005	\$		8277 Town of Coventry
10/12/2005	\$		8266 Town of Coventry
10/25/2005	\$		8330 Town of Coventry
10/25/2005	\$		8331 Town of Coventry
11/1/2005	\$		8347 Town of Coventry
11/9/2005	\$		8377 Town of Coventry
11/23/2005	\$		8384 Town of Coventry
11/23/2005	\$		8385 Town of Coventry
11/17/2005	\$		8382 Town of Coventry
12/1/2005	\$		8387 Town of Coventry
12/8/2005	\$	<i>redacted</i>	8390 Town of Coventry
12/20/2005	\$		8424 Town of Coventry
12/20/2005	\$		8425 Town of Coventry
12/28/2005	\$		8427 Town of Coventry
<b>Total 2005</b>	<b>\$</b>	<b><i>redacted</i></b>	

3/9/2004	\$	<i>redacted</i>	7244 Town of Coventry
3/18/2004	\$		7249 Town of Coventry
3/30/2004	\$		7256 Town of Coventry
4/5/2004	\$		10576 Gray's Paving & Sealing, Inc.
4/7/2004	\$		7286 Town of Coventry
4/12/2004	\$		10576 Gray's Paving & Sealing, Inc.
4/15/2004	\$		7321 Town of Coventry
4/29/2004	\$		7327 Town of Coventry
4/22/2004	\$		10584 Gray's Paving & Sealing, Inc.
4/28/2004	\$		10585 Gray's Paving & Sealing, Inc.
5/6/2004	\$		7334 Town of Coventry
5/6/2004	\$		10589 Gray's Paving & Sealing, Inc.
5/27/2004	\$		10642 Gray's Paving & Sealing, Inc.

6/10/2004	\$	<i>redacted</i>	7386 Town of Coventry
6/17/2004	\$		7426 Town of Coventry
6/17/2004	\$		10668 Gray's Paving & Sealing, Inc.
6/25/2004	\$		10678 Gray's Paving & Sealing, Inc.
7/1/2004	\$		7436 Town of Coventry
7/21/2004	\$		10756 Gray's Paving & Sealing, Inc.
7/22/2004	\$		7496 Town of Coventry
7/29/2004	\$		7499 Town of Coventry
7/29/2004	\$		10761 Gray's Paving & Sealing, Inc.
8/4/2004	\$		7505 Town of Coventry
8/10/2004	\$		7516 Town of Coventry
8/18/2004	\$		7561 Town of Coventry
9/2/2004	\$		7566 Town of Coventry
9/2/2004	\$		7567 Town of Coventry
9/9/2004	\$		7604 Town of Coventry
9/1/2004	\$		7572 Town of Coventry
9/1/2004	\$		7573 Town of Coventry
9/7/2004	\$		10870 Gray's Paving & Sealing, Inc.
9/23/2004	\$		7615 Town of Coventry
9/30/2004	\$		7629 Town of Coventry
9/30/2004	\$		10923 Gray's Paving & Sealing, Inc.
10/6/2004	\$		7636 Town of Coventry
10/7/2004	\$		7639 Town of Coventry
10/8/2004	\$		10962 Gray's Paving & Sealing, Inc.
10/14/2004	\$		7707 Town of Coventry
10/21/2004	\$	<i>redacted</i>	7709 Town of Coventry
10/26/2004	\$		11005 Gray's Paving & Sealing, Inc.
10/28/2004	\$		7711 Town of Coventry
11/1/2004	\$		7713 Town of Coventry
11/4/2004	\$		7715 Town of Coventry
11/9/2004	\$		7719 Town of Coventry
11/13/2004	\$		11000 Gray's Paving & Sealing, Inc.
11/17/2004	\$		7764 Town of Coventry
11/24/2004	\$		7766 Town of Coventry
12/1/2004	\$		11056 Gray's Paving & Sealing, Inc.
12/1/2004	\$		7769 Town of Coventry
12/1/2004	\$		7768 Town of Coventry
12/10/2004	\$		11057 Gray's Paving & Sealing, Inc.
12/14/2004	\$		7812 Town of Coventry
12/15/2004	\$		11058 Gray's Paving & Sealing, Inc.
12/22/2004	\$		7819 Town of Coventry
12/22/2004	\$		7820 Town of Coventry
12/24/2004	\$		11088 Gray's Paving & Sealing, Inc.
12/30/2004	\$		7823 Town of Coventry
12/31/2004	\$		11089 Gray's Paving & Sealing, Inc.
<b>Total 2004</b>	<b>\$</b>	<b><i>redacted</i></b>	

Cynthia J. Diaz

Schedule of Vermont Income for the Years 2003, 2004, 2005, 2006, 2007, 2008

Source: Community National Bank Personal Checking Account No. *redacted*

Chittenden Bank Personal Checking Account No. *redacted*

And Wire Transfers

fvc:6/4/09

Date	Payor	Amount
04/10/2008	<i>redacted</i>	\$ <i>redacted</i>
04/25/2008	<i>redacted</i>	\$ <i>redacted</i>
06/02/2008	<i>redacted</i>	\$ <i>redacted</i>
11/12/2008	<i>redacted</i>	\$ <i>redacted</i>
12/10/2008	<i>redacted</i>	\$ <i>redacted</i>
12/19/2008	<i>redacted</i>	\$ <i>redacted</i>
<b>Total 2008 Wire Transfers</b>		<b><u>\$ 21,060.00</u></b>
01/05/2007	Closing USA, LLC Escrow Account	\$ 38,333.88
01/09/2007	North Country Mountaineers, Inc.	\$ 75.00
04/11/2007	<i>redacted</i>	\$ <i>redacted</i>
08/06/2007	Edward Jones	\$ 6,000.00
10/02/2007	Lisa Marie Desroches	\$ 20.00
10/22/2007	Don W. Bowen	\$ 10.00
11/19/2007	Walter Tarbox	\$ 100.00
12/03/2007	Edward Jones	\$ 9,031.89
12/03/2007	North Country Mountaineers, Inc.	\$ 50.00
12/24/2007	<i>redacted</i>	\$ <i>redacted</i>
<b>Total 2007</b>		<b><u>\$</u></b>
08/24/2007	<i>redacted</i>	\$ <i>redacted</i>
09/20/2007	<i>redacted</i>	\$ <i>redacted</i>
12/14/2007	<i>redacted</i>	\$ <i>redacted</i>
<b>Total 2007 Wire Transfers</b>		<b><u>\$ 11,980.00</u></b>
01/06/2006	<i>redacted</i>	\$ <i>redacted</i>
01/07/2006		\$
01/09/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
01/10/2006		\$
03/14/2006		\$
03/24/2006		\$
04/10/2006		\$
05/30/2006		\$

06/09/2006	<i>redacted</i>	\$ <i>redacted</i>
07/06/2006		\$
11/10/2006		\$
12/04/2006		\$
12/20/2006		\$
<b>Total 2006</b>		<u>\$ <i>redacted</i></u>

01/12/2006	<i>redacted</i>	\$ <i>redacted</i>
02/06/2006		\$
10/25/2006		\$
11/30/2006		\$
12/12/2006		\$
12/21/2006		\$
<b>Total 2006 Wiretransfers</b>		<u>\$ <b>12,185.00</b></u>

01/14/2005	<i>redacted</i>	\$ <i>redacted</i>
02/01/2005		\$
03/18/2005		\$
05/03/2005		\$
07/07/2005		\$
11/29/2005		\$
12/21/2005		\$
12/27/2005		\$
<b>Total 2005</b>		<u>\$ <i>redacted</i></u>

01/02/2004	Newport Car Wash & Mini-mart	\$ 70.28
01/07/2004	Spates Contstruction, Inc.	\$ 92.25
01/19/2004	Sonya Curtis	\$ 50.00
01/19/2004	<i>redacted</i>	\$ <i>redacted</i>
01/19/2004	<i>redacted</i>	\$ <i>redacted</i>
01/23/2004	Newport Car Wash & Mini-mart	\$ 174.88
01/30/2004	<i>redacted</i>	\$ <i>redacted</i>
02/07/2004	<i>redacted</i>	\$ <i>redacted</i>
02/11/2004	Spates Contstruction, Inc.	\$ 70.72
02/18/2004	Spates Contstruction, Inc.	\$ 83.12
03/03/2004	Spates Contstruction, Inc.	\$ 166.26
01/14/2004	Spates Contstruction, Inc.	\$ 87.38
03/26/2004	<i>redacted</i>	\$ <i>redacted</i>
03/10/2004	Spates Contstruction, Inc.	\$ 140.88
02/25/2004	Spates Contstruction, Inc.	\$ 84.90
03/31/2004	Spates Contstruction, Inc.	\$ 77.80
04/07/2004	Spates Contstruction, Inc.	\$ 109.71
04/30/2004	<i>redacted</i>	\$ <i>redacted</i>
04/14/2004	Spates Contstruction, Inc.	\$ 60.09
05/13/2004	<i>redacted</i>	\$ <i>redacted</i>
06/11/2004	Cash (Chittenden)	\$ 300.00
07/25/2004	<i>redacted</i>	\$ <i>redacted</i>
09/02/2004	Coventry Village School	\$ 500.00
09/10/2004	Newport Car Wash & Mini-mart	\$ 106.33
10/08/2004	Newport Car Wash & Mini-Mart	\$ 108.66
11/06/2004	<i>redacted</i>	\$ <i>redacted</i>

12/22/2004 Newport Harbor Club Condo Assoc.	\$	r
<b>Total 2004</b>	\$	<i>redacted</i>
01/07/2004 Wire Transfer (Chittenden)	\$	<i>redacted</i>
01/27/2004 Wire Transfer (Chittenden)	\$	<i>redacted</i>
<b>Total 2004 Wire Transfers</b>	\$	<b>9,220.00</b>

07/12/2003	<i>redacted</i>	\$	<i>redacte</i>
08/06/2003		\$	<i>redacte</i>
08/19/2003	Cash (Chittenden)	\$	560.00
08/21/02	Cash (Chittenden)	\$	120.00
08/21/2003	<i>redacted</i>	\$	<i>redac</i>
08/22/2003	Cash (Chittenden)	\$	450.00
09/02/2003	Cash (Chittenden)	\$	397.80
09/02/2003	<i>redacted</i>	\$	<i>redact</i>
09/05/2003	Cash (Chittenden)	\$	250.00
09/16/2003	<i>redacted</i>	\$	<i>redacte</i>
09/12/2003	<i>redacted</i>	\$	<i>redacte</i>
09/19/2003	<i>redacted</i>	\$	<i>redacte</i>
10/01/2003	Sonya Curtis	\$	100.00
10/14/2003	<i>redacted</i>	\$	<i>redac</i>
10/22/2003	<i>redact</i>	\$	<i>redacte</i>
10/12/2003		\$	<i>redacte</i>
11/07/2003	Sonya Curtis	\$	50.00
11/12/2003		\$	<i>redacte</i>
11/13/2003	Cash (Chittenden)	\$	300.00
12/12/2003	Newport Car Wash & Mini-mart	\$	93.68
12/26/2003	Cash (Chittenden)	\$	400.00
12/26/2003	<i>redacted</i>	\$	<i>redac</i>
<b>Total 2003</b>		\$	<i>redacted</i>
09/19/2003	Wire Transfer (Chittenden)	\$	<i>redacted</i>
10/29/2003	Wire Transfer (Chittenden)	\$	<i>redacted</i>
11/05/2003	Wire Transfer (Chittenden)	\$	<i>redacted</i>
12/03/2003	Wire Transfer (Chittenden)	\$	<i>redacted</i>
12/19/2003	Wire Transfer (Chittenden)	\$	<i>redacted</i>
<b>Total 2003 Wire Transfers</b>		\$	<b>35,940.00</b>



**Cynthia J. Diaz**  
**Annual Income Summary**

fwd: 4/17/09

<b>2003</b>	<b>Gross</b>	<b>Vermont</b>
<b>Description</b>	<b>Wages</b>	<b>Withholdings</b>
W-2: Gray's Paving & Sealing, Inc.	\$ 15,508.00	\$ 473.64

Cynthia J. Diaz

Wire Transfer Income Summary

fwd: 05/18/09

Date	To Account	Originator	Amount
1/12/2006		redacted	\$ redacted
2/6/2006			\$
10/25/2006			\$
11/30/2006			\$
12/12/2006			\$
12/21/2006			\$
<b>Total</b>			<b><u>\$ 12,185.00</u></b>
8/24/2007		redacted	\$ redacted
9/20/2007		redacted	\$ redacted
12/14/2007		redacted	\$re
<b>Total</b>			<b><u>\$ 11,980.00</u></b>
4/10/2008		redacted	\$ redacted
4/25/2008			\$
6/2/2008			\$
11/12/2008			\$
12/10/2008			\$
12/19/2008			\$
<b>Total</b>			<b><u>\$ 21,060.00</u></b>
4/14/2009		redacted	<u>redac</u>
<b>Grand Total</b>			<b><u>\$ 50,225.00</u></b>

*redacted*

*redacted*

*redacted*



*redacted*

*redacted*



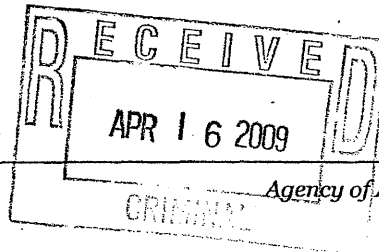
*redacted*

*redacted*

*redacted*



State of Vermont  
Department of Taxes  
133 State Street  
Montpelier, VT 05633-1401



April 15, 2009

John Treadwell, Assistant Attorney General  
Attorney General Office  
109 State Street  
Montpelier, Vermont 05609-1001

Re: Cynthia Diaz, DOB: 0216-1968  
*redacted* Newport, VT 05855  
SSN# *redacted*

Dear Mr. Treadwell:

The following information is being provided you pursuant to 32 V.S.A. Section 3102 in furtherance of an ongoing investigation of a tax-related crime involving the above-named individual.

1. For the tax years 2003, 2004, 2005, 2006, and 2007 Cynthia Diaz did not file any individual or business tax income tax returns, declaration of estimated tax, or license applications with the State of Vermont. Ms. Diaz has filed Vermont Homestead Declaration Forms for the tax years 2004, 2005, 2006, 2007, and 2008. Please find copies enclosed.
2. Based upon the information provided and the best information available, it is my determination that Ms. Diaz had a requirement to file 2003, 2004, 2005, 2006, and 2007 Vermont Individual Income Tax Returns.

Through our exchange agreement with the Internal Revenue Service, I have requested Federal Individual Income Tax Returns as well as wage and income information and data. When the information and data is received, I will make it available to you. If you have any questions or concerns, please notify.

Sincerely,

Frank W. Chapman  
Investigator  
802-828-2821





*redacted*

*redacted*

*redacted*



*redacted*

*redacted*

*redacted*



*redacted*

*redacted*



*redacted*



*redacted*

*redacted*



*redacted*

*redacted*

*redacted*







*redacted*

*redacted*

THOMAS M. SALMON, CPA  
STATE AUDITOR



STATE OF VERMONT  
OFFICE OF THE STATE AUDITOR

March 18, 2008

Rep. Michael Marcotte  
106 Private Pond Road  
Newport, VT 05855

Re: Coventry, VT

Dear Rep. Marcotte,

I have spoken with Ms. Anne Marie Mooney and reviewed the document prepared by her and Mr. James Taylor. The situation is one that has challenged many selectboards north and south; How do you create solid financial practices in your town that provide readable, regular and most importantly, reliable reports?

The situation is problematic. My Principal Assistant, Joe Juhasz, who is a selectman in Townshend, and myself, a former selectman, would like to sit down with the selectboard in private to discuss this matter in further detail. I would also be available for your April 14, 2008, meeting if that may prove productive.

It is imperative that in such a sensitive matter, that we all consider the path which ultimately returns public confidence and effective financial reporting which aids the selectboard's mission to provide excellent general management of the town.

Sincerely,

A handwritten signature in cursive script that reads "Thomas M. Salmon CPA".

Thomas M. Salmon, CPA  
Vermont State Auditor

Juhasz, Joe

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**From:** Juhasz, Joe  
**Sent:** Thursday, July 24, 2008 11:34 AM  
**To:** *redacted*  
**Subject:** FW: Town issue

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**From:** Juhasz, Joe  
**Sent:** Wednesday, July 23, 2008 2:50 PM  
**To:** Salmon, Tom  
**Subject:** FW: Town issue

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**From:** Juhasz, Joe  
**Sent:** Wednesday, July 23, 2008 2:50 PM  
**To:** 'mmarcotte@leg.state.vt.us'  
**Subject:** Town issue

Hi Michael,

I have not heard from you for some time, so would you bring me up to date on where the board is on the treasurer issue.

I reviewed the audit with some of our staff and it is clear from the audit that, at a minimum, the treasurer did not pay her property tax when due, paid it more than six months late, and fabricated deposit slips and records to hide that fact. There are other questionable transactions too.

I just spoke to Jim Barlow at the VLCT to run this suggested advise by him before sending it on to you. The recommendations are as follows:

1. Read the audit report and consult you attorney concerning possible courses of action before you take any action.
2. Call the states attorney and ask for a formal response/report to you request for them to investigate and take action.
3. Call the AG's office and ask them to investigate
4. Call Jim Barlow at VLCT if you have any questions.

We are happy to assist in any way that would be productive, but we recommend that the board get legal advise, decide what it is you really want to happen, and plan a course to achieve that goal.

Regards,  
Joe

**Joe Juhasz**  
Office of the Vermont State Auditor  
132 State Street  
Montpelier, VT 05633-5101  
802-828-2281 office  
802-828-1094 direct  
802-828-2198 fax  
joe.juhasz@state.vt.us

*Bill Davies - Town Attorney*

**Sullivan, Powers & Co.**  
CERTIFIED PUBLIC ACCOUNTANTS

A PROFESSIONAL CORPORATION

77 Barre Street  
P.O. Box 947  
Montpelier, VT 05601  
802/223-2352  
802/223-3578 FAX

**Independent Accountant's Report on  
Applying Agreed-Upon Procedures**

Fred Duplessis, CPA  
Richard J. Brigham, CPA  
Chad A. Hewitt, CPA  
Wendy C. Gilwee, CPA  
VT Lic. #92-000180

Office of the State Auditor  
State of Vermont  
133 State Street  
Montpelier, VT 05633-5101

We have performed the procedures enumerated below, which were agreed to by you, solely to assist you in the State of Vermont's investigation related to the Town of Coventry, Vermont. This agreed-upon procedures engagement was conducted in accordance with the attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings are as follows:

1. We compared the deposit slips maintained by the Town to the bank receipts received from the bank and then to the corresponding bank statements for deposits made in fiscal year 2004 through 2007.

Based on our procedures performed, we did not note any variances.

2. We compared the cash collected as documented in the "Tax Book" for fiscal year 2004, to deposit slips maintained by the Town and to bank statements provided from the bank and to the property tax revenue recorded in the Town Report to create a base year for a trend of tax collections.

Based on our procedures performed, we noted a variance of \$4,674. The amount collected was less than the amount recorded as revenue in the Town Report. This base year was then used as a basis for the testing done for fiscal year 2005 through 2008.

3. We compared the amount collected in revenue for property taxes from records from the bank to the amounts listed in the Town Report for fiscal years 2005 through 2008.

Based on our procedures performed, we noted the following variances:

2005	\$(19,240)
2006	(8,264)
2007	4,849
2008	<u>(11,890)</u>
Net Variance	<u>\$(34,545)</u>

A negative variance indicates collections are less than the amount of revenue reported in the Town Report. A positive variance indicates collections are more than the amount of revenue reported in the Town Report.

4. We compared the payments from Casella for Waste U.S.A fees per the bank records to the Town Reports for fiscal years 2004 through 2008.

Based on our procedures performed, we noted the following variances:

2004	\$(187,978)
2005	50,377
2006	(43,096)
2007	22,676
2008	<u>327,589</u>
Net Variance	<u>\$ 169,568</u>

A negative variance indicates the amount collected per the bank records was less than the amount recorded in the Town Report. A positive variance indicates the amount collected per the bank records was more than the amount recorded in the Town Report.

5. We compared the total amount of deposits per the bank records, which includes property taxes, State of Vermont payments and Waste U.S.A payment and compared them to the total revenue per the Town Report for fiscal years 2008 and 2007. We then categorized the variance by type of revenue (i.e., property taxes, Waste U.S.A, and Other Revenue).

Based on our procedures performed, we noted the following:

2008

	<u>Property Taxes</u>	<u>Waste USA</u>	<u>Other Revenue</u>	<u>Total</u>
Per Town Report	\$ 960,998	\$ 447,008	\$ 175,146	\$ 1,583,152
Per Bank Records	949,108	774,597	139,640	1,863,345
Variance	<u>\$ (11,890)</u>	<u>\$ 327,589</u>	<u>\$ (35,506)</u>	<u>\$ 280,193</u>

2007

	<u>Property Taxes</u>	<u>Waste USA</u>	<u>Other Revenue</u>	<u>Total</u>
Per Town Report	\$ 921,145	\$ 717,597	\$ 215,388	\$ 1,854,130
Per Bank Records	925,994	740,273	188,657	1,854,924
Variance	<u>\$ 4,849</u>	<u>\$ 22,676</u>	<u>\$ (26,731)</u>	<u>\$ 794</u>

A positive variance indicates the amount collected per the bank records was more than the amount reported in the Town Report.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion on property tax revenue or Waste U.S.A fees of the Town of Coventry, Vermont. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Office of the State Auditor of the State of Vermont and is not intended to be and should not be used by anyone other than this specified party.

December 14, 2009  
Montpelier, Vermont  
Vt Lic. #92-000180

*Sullivan, Powers & Company*



December 22, 2010

William Sorrell, Esquire  
Vermont Attorney General  
109 State Street  
Montpelier, VT 05609-1001

RE: Cynthia Diaz

Dear Attorney Sorrell

On February 18, 2010 Ms. Cynthia Diaz was arraigned for five felony counts in Washington County District Court for failure to file and pay taxes and was released on the standard conditions set by the Court. The Northeast Kingdom Elementary School Teachers Association, representing *redacted*, ask that conditions of release be reviewed to assure that Ms. Diaz would not be allowed to continue as bookkeeper for the Coventry School District.

In her capacity as the hired bookkeeper of the Board of School Directors, Ms. Diaz has the responsibility to issue payroll, submit employee taxes to the IRS, submit employee FICA contributions, submit employee contributions to the VTSRS as well as other financial matters. She is privy to employee social security numbers as well as bank account numbers.

*redacted* do not take this request lightly. The following are merely a "short list" of the questionable errors that have occurred and cause the employees to be highly concerned about the continued opportunity for Ms. Diaz to have access to financial accounts.

- The December 10, 2010 payroll was not received by *redacted* causing financial hardship, fines, and failure to have automatic deductions.
- Frequent errors in the amount of *redacted* paychecks with significant fluctuations in pay from one payroll period to the next. Ms. Diaz was either unwilling or unable to adequately address the reasons for the fluctuation.
- Social Security payments were not made on behalf *redacted*
- When asked by *redacted* to correct the mistake with the Office of Social Security, Ms. Diaz responded, "If only you *redacted* were as concerned with teaching our students as you are with your paychecks." This statement was made at a public meeting.
- Ms. Diaz as had her young son elementary school son deliver to *redacted* paychecks thus jeopardizing security and confidentiality.
- Employee payments to the IRS have either not been made or they have been incorrect on multiple occasions. As a result, the School District has had to pay the fines levied. *redacted* were told by the School Board Chairperson that they were responsible for their individual fines which were levied by the IRS. (This was later addressed by the Superintendent of Schools.)
- The IRS issued a levy on the Town of Coventry School District which was forwarded to, including but not limited to, the Community Nation Bank (10/19/2010) to withhold as a levy monies deposited to this bank. The amount of the levy was \$77,961.05.



- The IRS violations are not limited to the above levy. Please refer to the following violations regarding the Town of Coventry School District:
- May 17, 2010 Diaz reply did not explain or correct the difference between the amounts on your forms 941 and the forms W2 for the December 31, 2005 returns.
- April 15, 2010 Diaz reply did not meet the deposit requirements for the tax reported on form 941 for the period ended December 31, 2009.
- Late payments resulting in fines or potential harm to the Town of Coventry School and therefore *redacted* :
- Many late payments to Fair Point Communications
- Several payments not made in a timely manner to Toshiba Financial Services resulting in fines to the school district.
- *redacted* subscriptions were not timely paid and *redacted* received multiple notices.
- Disconnect notices from Vermont Electric Cooperative, Inc., for non-payment of debt.
- Two notices, August and May from the Coventry Fire District #2 for non-payment of water account debt.
- Non-payments to Turning Points in the amount of \$1,647.50 for psychological services were not timely paid.
- Deer Creek Psychological services were not paid in a timely manner.
- 4/12/2010 Speech and Language services were not paid in a timely manner: amount \$10,973.50.
- At least one bill for \$2,966 was paid to the vendor twice resulting in the request for the return of the check.
- The Board of School Directors report reflects that they do not always receive a financial statement from Ms. Diaz as requested and per general audit practice.
- The Board of School Directors report reflected that the financial statements are always accurate.
- Special Education expenditures and paperwork are routinely in error.

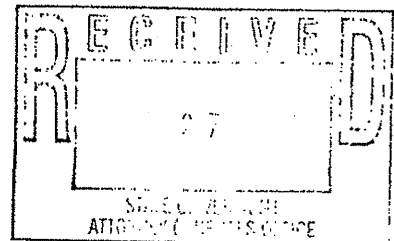
*redacted* have no confidence in the ability of Ms. Diaz to have access to *redacted*.  
 The above errors are but a few of those affecting *redacted*

Please consider a review of the conditions of release for Ms. Cynthia Diaz. We request that the conditions be adjusted to prohibit her from involvement with any financial transaction or financial information for the Town of Coventry School District. *redacted* have made this request to the Board of School Directors several times and no action was taken. Therefore, we request that you review this complaint and that you take the action requested.

Filed on behalf of NEKETA and *redacted* :  
 Joyce E. Foster, Director  
 Vermont NEA Northeast Kingdom District

CC: Viola Poirier, Chairperson Coventry Board of School Directors  
 Robert Kearns, Superintendent of Schools, North Country SU  
 NEKETA Executive Board  
 Dirk Anderson, Esq., Vermont Department of Labor

w/encl





December 22, 2010

Robert Kern, Superintendent of Schools  
North Country Supervisory Union  
338 Highland Street; Suit 4  
Newport, Vermont 05855-4897

Via Email and US Mail

RE: Cynthia Diaz

Dear Dr. Kern:

The Northeast Kingdom Elementary School Teachers Association, representing *redacted* have formally asked Attorney General William Sorrell, Vermont Attorney General's Office, and Attorney Dirk Anderson, General Counsel to take action regarding the continued assignment of employee payroll matters to Ms. Cynthia Diaz.

A letter to the same was sent to the Chairman of the Coventry School Board asking, again, the that the Coventry Board of School Directors employ a bookkeeper that is bonded and a member of a reputable accounting firm or afford themselves of the North Country Supervisory Union payroll personnel.

*redacted* have no confidence in the ability of Ms. Diaz to have access to *redacted* and have little or no confidence that the Board of School Directors can rehabilitate the *redacted* practices of Ms. Diaz.

I have attached the letters for your perusal. Attorney General William Sorrell has been asked to modify the conditions of release that were set by the Washington County District Court to prohibit Ms. Diaz to continue in her role as bookkeeper by the Coventry School Board. Attorney Dirk Anderson, General Counsel for the Department of Labor and Industry received a formal complaint regarding the payment of employee earned income including the payment of fines and penalties.

21 Section 342-347 provides for twice the payment of payroll that is not properly filed and a penalty of not more than \$500 per Board member and/or not more than one year of imprisonment. The Association alleges that subsection 347 applies as the Board members have had repeated knowledge of the errors and omissions of the bookkeeper as well as the harm that results to *redacted*. As the Board members enabled the actions of the bookkeeper by allowing the negligent behavior to continue over a long period of time, this constitutes fraudulent behavior as defined by Black's Law Dictionary. *redacted* have been subject to dishonesty, perfidy, and unfairness over time *redacted*. Moreover, *redacted* have asked, to no avail, to have these problems rectified.

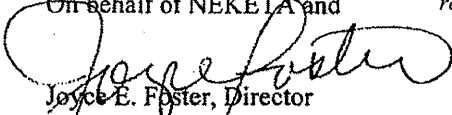
For several years, Ms Diaz has exhibited behaviors in her capacity as Coventry Town School Bookkeeper that are consistent with the charges made on February 18, 2010. On February 18, 2010 Ms. Cynthia Diaz was arraigned for five felony counts in Washington County District Court for failure to file and pay taxes and was released on the standard conditions set by the Court.

Since that time, Ms. Diaz has continued to make critical errors that impact *redacted*  
*redacted* allege that these are violations of law and are subject to any and all fines  
and penalties.

Again, Mrs. Poirier, Chairperson of the Board was sent an official copy of all of the correspondence.  
Please forward to the other members of the Board of School Directors a copy of this packet of  
correspondence.

Thank you for your consideration of this matter.

On behalf of NEKETA and *redacted* :



Joyce E. Foster, Director  
Vermont NEA Northeast Kingdom District

CC: Viola Poirier, Chairperson Coventry Board of School Directors  
Robert Kearn, Superintendent of Schools, North Country SU  
NEKETA Executive Board  
Dirk Anderson, Esq., Vermont Department of Labor

W/encl

Letter: William Sorrell  
Letter: Dirk Anderson  
Letter: Robert Kearn  
21 VSA 342-347  
Definition of Fraud: Black's Law Dictionary



December 22, 2010

Viola Poirier  
Chairperson Coventry School Board  
2198 Coventry Station Road  
Newport, Vermont 05855-9192

RE: Cynthia Diaz

Dear Mrs. Poirier:

The Northeast Kingdom Elementary School Teachers Association, representing *redacted* have formally asked Attorney General William Sorrel, Vermont Attorney General's Office, and Attorney Dirk Anderson, General Counsel to take action regarding the continued assignment of employee payroll matters to Ms. Cynthia Diaz.

I have attached the letters for your perusal. Attorney General William Sorrell has been asked to modify the conditions of release that were set by the Washington County District Court to prohibit Ms. Diaz to continue in her role as bookkeeper by the Coventry School Board. Attorney Dirk Anderson, General Counsel for the Department of Labor and Industry received a formal complaint regarding the payment of employee earned income including the payment of fines and penalties.

21 Section 342-347 provides for twice the payment of payroll that is not properly filed and a penalty of not more than \$500 per Board member and/or not more than one year of imprisonment. The Association alleges that subsection 347 applies as the Board members have had repeated knowledge of the errors and omissions of the bookkeeper as well as the harm that results to *redacted*. As the Board members enabled the actions of the bookkeeper by allowing the negligent behavior to continue over a long period of time, this constitutes fraudulent behavior as defined by Black's Law Dictionary. *redacted* have been subject to dishonesty, perfidy, and unfairness over time *redacted*. Moreover, *redacted* have asked, to no avail, to have these problems rectified.

For several years, Ms Diaz has exhibited behaviors in her capacity as Coventry Town School Bookkeeper that are consistent with the charges made on February 18, 2010. On February 18, 2010 Ms. Cynthia Diaz was arraigned for five felony counts in Washington County District Court for failure to file and pay taxes and was released on the standard conditions set by the Court.

Since that time, Ms. Diaz has continued to make critical errors that impact *redacted*. *redacted* allege that these are violations of law and are subject to any and all fines and penalties.

Again, *redacted* ask that the Coventry Board of School Directors employ a bookkeeper that is bonded and a member of a reputable accounting firm or afford themselves of the North Country Supervisory Union payroll personnel.

*redacted* have no confidence in the ability of Ms. Diaz to have access to *redacted* and have little or no confidence that the Board of School Directors can rehabilitate the *redacted* practices of Ms. Diaz.

Filed on behalf of NEKETA and

*redacted*

*Joyce Foster*  
Joyce E. Foster, Director

Vermont NEA Northeast Kingdom District

CC: Viola Poirier, Chairperson Coventry Board of School Directors  
Robert Kearn, Superintendent of Schools, North Country SU  
NEKETA Executive Board  
Dirk Anderson, Esq., Vermont Department of Labor

W/encl

- Letter to William Sorrell, Esq.



December 22, 2010

Dirk Anderson, Esquire  
General Counsel, VT Department of Labor  
POB 488  
Montpelier, VT 05609-1001

RE: Cynthia Diaz

Dear Attorney Anderson:

The North East Kingdom Elementary School Association represent: *redacted*  
On behalf of *redacted* I would like to file a formal complaint with your office regarding repeated violations of 21VSA 342-347. *redacted* attempted to seek redress with the Coventry Board of School Directors on several occasions to no avail. Referenced below are multiple examples of either a delays in payment of wages, failure to file accurate IRS and FICA payments which are earned money of the employees.

Background: On February 18, 2010 Ms. Cynthia Diaz was arraigned for five felony counts of failure to file and pay taxes in Washington County District Court and was released on the standard conditions set by the Court.

The Northeast Kingdom Elementary School Teachers Association, representing *redacted*, asked that William Sorrell, VT Attorney general, review the conditions of release of Ms. Diaz to assure that she would not be allowed to continue as bookkeeper for the Coventry School District.

I respectfully request that the Vermont Department of Labor and Industry investigate the errors and omissions regarding the failure to properly transmit *redacted* according to 21 VSA 432-437 and to assess the penalties and fines associated with the repeated failure to comply with the law.

In her capacity as the hired bookkeeper of the Board of School Directors, Ms. Diaz has the responsibility to issue payroll, submit employee taxes to the IRS, submit employee FICA contributions, and submit employee contributions to the VTSRS as well as other financial matters. She is privy to employee social security numbers as well as bank account numbers.

*redacted* do not take this request lightly. The following are merely a "short list" of the questionable errors that have occurred and cause the employees to be highly concerned about the continued opportunity for Ms. Diaz to have access to financial accounts.

- The December 10, 2010 payroll was not received by *redacted* causing financial hardship, fines, and failure to have automatic deductions.
- Frequent errors in the amount of *redacted* paychecks with significant fluctuations in pay from one payroll period to the next. Ms. Diaz was either unwilling or unable to adequately address the reasons for the fluctuation.

- Social Security payments were not made on behalf with *redacted* learning that they had a record of \$0.00 earnings recorded over a five year time span.
- When asked by *redacted* to correct the mistake with the Office of Social Security, Ms. Diaz responded, "If only you *redacted* were as concerned with teaching our students as you are with your paychecks." This statement was made at a public meeting.
- Ms. Diaz as had her young son elementary school son deliver to *redacted* their paychecks thus jeopardizing security and confidentiality.
- *redacted* payments to the IRS have either not been made or they have been incorrect on multiple occasions. As a result, the School District has had to pay the fines levied. *redacted* were told by the School Board Chairperson that they were responsible for their individual fines which were levied by the IRS. (This was later addressed by the Superintendent of Schools.)
- The IRS issued a levy on the Town of Coventry School District which was forwarded to, including but not limited to, the Community Nation Bank (10/19/2010) to withhold as a levy monies deposited to this bank. The amount of the levy was \$77,961.05.
- The IRS violations are not limited to the above levy. Please refer to the following violations regarding the Town of Coventry School District:
- May 17, 2010 Diaz reply did not explain or correct the difference between the amounts on your forms 941 and the forms W2 for the December 31, 2005 returns.
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- Late payments resulting in fines or potential harm to the Town of Coventry School and therefore *redacted* ::
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- The Board of School Directors report reflects that they do not always receive a financial statement from Ms. Diaz as requested and per general audit practice.
- The Board of School Directors report reflected that the financial statements are always accurate.
- Special Education expenditures and paperwork are routinely in error.

*redacted* have no confidence in the ability of Ms. Diaz to have access to their *redacted*

• The above errors are but a few of those affecting employees.

Please initiate an investigation of the financial transactions of the Town of Coventry School District. To date, *redacted* have received no factual information from the IRS or the Social Security Administration that the errors have been rectified. *redacted* have made this request to the Board of School Directors several times and no action was taken. Therefore, we request that you review this complaint and that you take the action requested.

Filed on behalf of NEKETA and *redacted*

Joyce E. Foster, Director  
Vermont NEA Northeast Kingdom District

CC: Viola Poirier, Chairperson Coventry Board of School Directors  
Robert Kearns, Superintendent of Schools, North Country SU  
NEKETA Executive Board  
Dirk Anderson, Esq., Vermont Department of Labor

W/encl

Letter: William Sorrell

Letter: Dirk Anderson

Letter: Robert Kearns

21 VSA 342-347

Definition of Fraud: Black's Law Dictionary



WILLIAM H. SORRELL  
ATTORNEY GENERAL  
JANET C. MURNANE  
DEPUTY ATTORNEY GENERAL  
WILLIAM E. GRIFFIN  
CHIEF ASST. ATTORNEY  
GENERAL



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<http://www.atg.state.vt.us>

STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

January 14, 2011

Joyce E. Foster  
Vermont NEA Northeast Kingdom District  
10 Wheelock Street  
Montpelier, VT 05602-3737

Re: *Cynthia Diaz*, 171-2-10 Wncr

Dear Ms. Foster:

Please be advised that I am the prosecutor assigned to investigate the above captioned case. As you are aware, Ms. Diaz has been charged with ten felony counts of failing to file taxes in that case.

I am in receipt of your letter, dated December 22, 2010, in which you requested that this office make a motion that Ms. Diaz's conditions of release be amended to include a condition that she no longer be permitted to work as a bookkeeper for the Coventry School District. Unfortunately, our office is unable to comply with your request. 13 V.S.A. 7554, the Vermont Statute that governs the conditions that apply to pre-trial release, provides that conditions of release are imposed to assure the appearance of a person at future judicial proceedings and, in certain circumstances, to protect the public. Your request is unrelated to Ms. Diaz's appearance at future judicial proceedings. Furthermore, the crimes with which she has been charged do not constitute a danger to the public and therefore, would not justify the condition of release that you are requesting.

If you have any questions, or I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ultan Doyle".

Ultan Doyle  
Assistant Attorney General

cc: Dirk Anderson, Esq.