

01-711-CD
IN RE: APPRAISAL OF REPORT OF BOARD OF AUDITORS OF MORRIS
TOWNSHIP, CLEARFIELD COUNTY, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA

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* No. 01- 711- C.D

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TYPE OF CASE:
Civil

TYPE OF PLEADING:
Petition for Appeal of Report
of Auditors

FILED ON BEHALF OF:
Morris Township Supervisors

COUNSEL OF RECORD
FOR THIS PARTY:
David R. Thompson, Esquire
Attorney at Law
Supreme Court I.D. 73053
308 Walton Street, Suite 4
P.O. Box 587
Philipsburg PA 16866
(814) 342-4100

FILED

MAY 11 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
CIVIL DIVISION - LAW

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA

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No. 01-

NOW, this 15th day of May, 2001, upon consideration of the Petition for Appeal of Report of Auditors, a Rule is hereby issued upon the Board of Auditors to file a written response to the Petition. Rule Returnable for written response on the 4th day of June, 2001.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION FOR FINAL JUDGMENT BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield PA 16830
(814) 765-2641

BY THE COURT:

President Judge

FILED

MAY 15 2001

William A. Shaw
Prothonotary

FILED
MAY 16 1934 2 PM
5th Dist Atty

William A. Shaw
Prothonotary
C. Thompson

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP, *
CLEARFIELD COUNTY, PA * No. 01-
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ORDER

On this the _____ day of _____, 2001, upon consideration of the annexed Petition for Appeal of Report of Auditors, it is hereby ORDERED AND DECREED that a hearing is scheduled the _____ day of _____, 2001 at _____ a.m./p.m. in Courtroom No. _____ of the Clearfield County Courthouse, Clearfield, Pennsylvania, to show cause as to why said Petition should not be granted.

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA * * * * *

No. 01-

PETITION FOR APPEAL OF REPORT OF AUDITORS

AND NOW, comes the Petitioners, **JOHN SAGGESE, HAROLD MOSLAK, and RICHARD H. O'DELL**, comprising the Board of Supervisors of Morris Township, Clearfield County, by and through their solicitor David R. Thompson, Esquire, and file the following appeal to the Report of the Board of Auditors for the 2000 calendar/fiscal year:

1. The Petitioners are the duly elected supervisors of Morris Township, Clearfield County, which has a business address of R.R. 2 Box 157 A, Morrisdale, Pennsylvania 16858.
2. The Respondents are **A. THOMAS YONTOSH, BONITA FETCENKO and SHARON MARTIN**, who comprise the duly elected Board of Auditors for Morris Township, Clearfield County, who also has a business address of R.R. 2 Box 157 A, Morrisdale, Pennsylvania 16858.
3. The auditors conducted an audit for the calendar/fiscal year beginning January 1, 2000 and ending December 31, 2000 on behalf of the Township, and prepared and signed a Report dated March 27, 2001. (A true and correct copy of the Report of Auditors

is attached hereto as Exhibit "A").

4. Pursuant to Title 53 P.S. § 65904 (b), the Board of Auditors of a Township shall make a report of the affairs of the Township, which shall be filed with the Court of Common Pleas of Clearfield County within ninety (90) days of the close of the fiscal year, or April 1, 2001.

5. The Board of Auditors prepared and presumably filed said Report within that time period.

6. In its Report, the Board of Auditors made fourteen (14) findings and recommendations with regard to the affairs of Morris Township.

7. Your Petitioners disagree with some or all of the findings raised in the Report of Auditors, and believe that said findings and requested surcharge is erroneous and unfounded.

8. Pursuant to Title 53 P.S. § 65909, the Board of Supervisors hereby appeals the findings contained within the Report of the Auditors for the calendar/fiscal year of 2000, made on behalf of Morris Township.

WHEREFORE, your Petitioners respectfully request this Honorable Court to schedule a hearing in this matter so that Petitioner's appeal and objections to said Report can be heard.

Respectfully submitted,



David R. Thompson, Esquire

VERIFICATION

David R. Thompson, Solicitor for Morris Township verifies that the statements made in this **PETITION FOR APPEAL OF REPORT OF AUDITORS** are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

DATE: 5-11-01



David R. Thompson, Esquire

FILED

RECEIVED
MAY 11 2001
ON 5/13/01
William A. Shaw
Prothonotary
\$8000

Deccatty Thompson

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION-LAW

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA

* * * * *

* TYPE OF CASE:
* Civil

* TYPE OF PLEADING:
* Certificate of Service

* FILED ON BEHALF OF:
* Morris Township Supervisors

* COUNSEL OF RECORD FOR
* THIS PARTY:

* David R. Thompson, Esquire
* Attorney at Law
* Supreme Court 73053
* P.O. Box 587
* 308 Walton Street, Suite 4
* Philipsburg PA 16866
* (814) 342-4100

FILED

MAY 21 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA * No. 01-711-CD

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CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct copy of **PETITION FOR APPEAL OF REPORT OF AUDITORS**, in the above captioned matter on the following by Prepaid, First Class, United States Mail:

Kimberly Kubista, Esquire
15 North Front Street
Clearfield, PA 16830

DATE: May 16, 2001

BY: 

David R. Thompson, Esquire

FILED

MAY 21 2001

07330645

William A. Shaw

Prothonotary

No 466

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RJ

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA

No. 01- 711 - C

TYPE OF CASE
Civil Division

TYPE OF PLEADING:

FILED ON BEHALF OF:
Morris Township

COUNSEL OF RECORD FOR
THIS PARTY:
David R. Thompson, Esq.
Attorney at Law
Supreme Court I.D. 73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100

FILED

MAY 22 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA

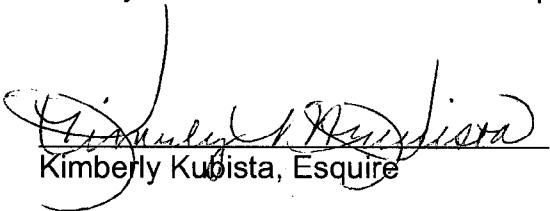
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No. 01-

ACCEPTANCE OF SERVICE

I, Kimberly Kubista, attorney for Board of Auditors, hereby accept service of the
Petition for Appeal of Report of Auditors filed by the Solicitor for the Township of Morris.

DATE: 5-17-01



Kimberly Kubista, Esquire

FILED

MAY 22 2001

0/22/01 wms

William A. Shaw
Prothonotary

1 copy to WMS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF : No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, PA :
:

ANSWER TO PETITION

File on behalf of
Respondents

Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED
MAY 31 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF : No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, PA :
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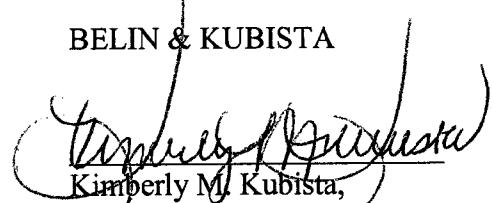
ANSWER TO PETITION
FOR APPEAL OF REPORT OF AUDITORS

NOW COMES the Respondents, A. THOMAS YONTOSH, BONITA FETCENKO and SHARON MARTIN, by and through their attorneys, Belin & Kubista, and sets forth the following Answer to Petition for Appeal of Report of Auditors:

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted in part and denied in part. This paragraph is admitted with the exception that it is denied that the Report of Auditors is attached to the Complaint as Exhibit "A".
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted that Petitioners disagree with the findings raised in the Report of Auditors; however, it is denied that the findings and requested surcharge is erroneous and unfounded.
8. Paragraph 8 sets forth a conclusion of law to which no answer is required.

WHEREFORE, your Respondents request Your Honorable Court to schedule a hearing in this matter.

BELIN & KUBISTA



Kimberly M. Kubista,
Attorney for Respondents

We verify that the statements made in this Answer are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date

A. Thomas Conner

Bonita Fletcher

Sharon Meiten

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

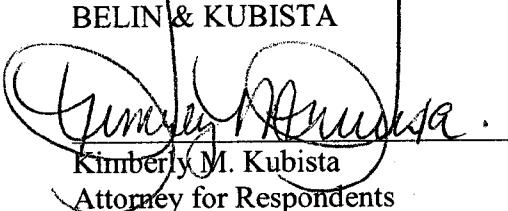
IN RE: APPEAL OF REPORT OF BOARD OF : No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, PA :
:

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of Answer to Petition
in the above captioned matter to the following party by first-class, postage prepaid mail on the
31st
30th day of May, 2001:

David Thompson, Esquire
308 Walton Street
Philipsburg, PA 16866

BELIN & KUBISTA


Kimberly M. Kubista
Attorney for Respondents

CLEARFIELD, PENNSYLVANIA 16830
P. O. BOX 1
15 NORTH FRONT STREET
ATTORNEYS AT LAW
BELIN & KUBISTA

1034 2001 No CC
William A. Shaw
Pittsburgh

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

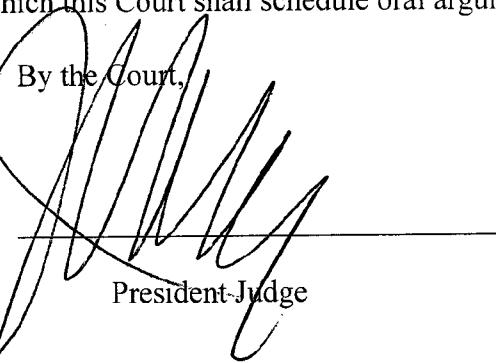
APPEAL OF REPORT OF BOARD OF :

AUDITORS OF MORRIS TOWNSHIP, : No. 01 - 711 - CD

CLEARFIELD COUNTY, PA :

ORDER

NOW, this 27th day of September, 2001, this being the day and date set for hearing into Petition for Appeal of Report of Auditors filed on behalf of the Morris Township Supervisors, upon agreement of the parties, it is the ORDER of this Court that of the 14 findings appealed from by the Supervisors, all but No. 2 shall be resolved upon agreement of the parties. It is the further ORDER of this Court that within 30 days from date hereof counsel for each party shall submit to this Court a stipulation of facts and brief with regards to their position on finding No. 2, following which this Court shall schedule oral argument.

By the Court,

President Judge

FILED

SEP 27 2001

William A. Shaw
Prothonotary

FILED

SEP 27 2001

CO 23411cc atty tubok
William A. Shaw
prothonotary
EAS cc atty Thompson
KES

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF : No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, PA :
:

STIPULATION

Filed on behalf of
Morris Township Auditors
Counsel of Record for
this Party:

Kimberly M. Kubista
Attorney-At-Law
Pa. I.D. 52782

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

OCT 24 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF : : No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, : :
CLEARFIELD COUNTY, PA : :

STIPULATION

NOW THIS 24th day of October, 2001, the Morris Township Supervisors (“Supervisors”) and the Morris Township Auditors (“Auditors”) hereby stipulate to the following facts:

1. That Morris Township Road District is a second class township located in Clearfield County in the Commonwealth of Pennsylvania.
2. That the Auditors performed an audit and submitted an Audit Report for fiscal year 2000 for the Morris Township Road District.
3. That the Audit Report was submitted as of March 27, 2001.
4. That the Auditors made the following finding and recommendation as set forth as No. 2 on the Auditor’s Report:

“Finding”

The Board of Supervisors approved payment of hospitalization, dental, eye, drug, and cancer insurance benefits for a non-working supervisor in the amount of \$6,668.287.

This action was taken:

Without auditors approval.

Without a letter from the non-working supervisors requesting participation.

Recommendation

Municipal officials should require an employee to be full time (40 hrs/week) in order to receive benefit of paid hospitalization, dental, eye, drug, and cancer

insurance as this adds undo expense to the township. Municipal officials should secure the return of said \$6,668.28 in hospitalization, dental, eye, drug, and cancer insurance benefits paid to the non-working supervisors within 30 days. Failure to secure return of said benefits will result in a surcharge being issued for the benefit amount paid plus any interest accrued.”

5. That the Supervisors and the Auditors stipulate that payment of the hospitalization does not need Auditors' approval.

6. That the non-working supervisor to which the Auditors refer is John Saggese (“Saggese”).

7. That the statute governing the payment of hospitalization for second class townships is 53 P.S. Section 65606, et seq.

8. That Saggese has served two (2) terms as a non-working township supervisor as follows:

1992 through 1997 First Term

1998 through 2003 Second Term

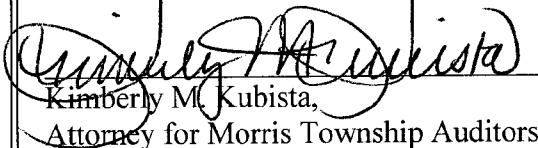
9. That on or about April 26, 1996, Saggese submitted a letter requesting that he be placed on the township hospitalization policy.

10. A Motion was made by Supervisor, Sonny Moslak, and seconded by Tony O'Dell to grant the request on or about April 26, 1996.

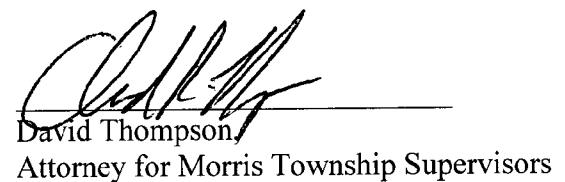
11. That the only letter submitted by Saggese was the April 22, 1996 letter which pertained to hospitalization coverage during his first term.

12. That no further requests were made by Saggese in letter form requesting participation for hospitalization coverage for Saggese's second term.

13. That the main issue for the Court to review in this matter is whether the statutory requirements were met by Saggese to receive hospitalization coverage for the fiscal year 2000.



Kimberly M. Kubista,
Attorney for Morris Township Auditors



David Thompson,
Attorney for Morris Township Supervisors

CLEARFIELD, PENNSYLVANIA 16830
P. O. BOX 1
15 NORTH FRONT STREET
ATTORNEYS AT LAW
BELLIN & KUBISTA

FILED

OCT 24 2001
O 3:22 PM
William A. Shaw
Prothonotary

GCW

33 - 2001, Kubista

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF
AUDITORS OF MORRIS TOWNSHIP,
CLEARFIELD COUNTY, PA

No. 01-711-CD

* TYPE OF CASE:
* Civil Division

* TYPE OF PLEADING:
* Certificate of Service

* FILED ON BEHALF OF:
* Supervisors

* COUNSEL OF RECORD FOR
* THIS PARTY:
* David R. Thompson, Esquire
* Attorney at Law
* Supreme Court 73053
* P.O. Box 587
* 308 Walton Street, Suite 4
* Philipsburg PA 16866
* (814) 342-4100

FILED

BS
gk OCT 29 2001
012141 NOCC
A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF : No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, PA :
:

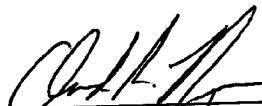
CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct copy of the **PETITIONER'S BRIEF IN SUPPORT OF APPEAL OF REPORT OF BOARD OF AUDITORS**, in the above captioned matter on the following by fax and by depositing the same in the U.S. First Class Mail, postage prepaid, addressed as follows:

Kimberly M. Kubista, Esquire
BELIN & KUBISTA
15 N Front Street
P.O. Box 1
Clearfield PA 16830

DATE: 10/29/01

BY: 

David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF * No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, *
CLEARFIELD COUNTY, PA *

* TYPE OF CASE:
* Civil Division *

* TYPE OF PLEADING:
* Certificate of Service *

* FILED ON BEHALF OF:
* Supervisors *

* COUNSEL OF RECORD FOR
* THIS PARTY:
* David R. Thompson, Esquire
* Attorney at Law
* Supreme Court 73053
* P.O. Box 587
* 308 Walton Street, Suite 4
* Philipsburg PA 16866
* (814) 342-4100

FILED

OCT 3 2001
018551 NOCC
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

IN RE: APPEAL OF REPORT OF BOARD OF : No. 01-711-CD
AUDITORS OF MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, PA :
:

CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

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Kimberly M. Kubista, Esquire
BELIN & KUBISTA
15 N Front Street
P.O. Box 1
Clearfield PA 16830

DATE: 10/29/01

BY: 

David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

APPEAL OF REPORT OF BOARD OF :
AUDITORS OF MORRIS TOWNSHIP, : No. 01 - 711 - CD
CLEARFIELD COUNTY, PA :
:

OPINION AND ORDER

The Board of Auditors of Morris Township, Clearfield County, Pennsylvania, submitted their report for fiscal year 2000 for the Morris Township Road District on March 27, 2000. The second finding and recommendation set forth therein was as follows:

"Finding

The Board of Supervisors approved payment of hospitalization, dental, eye, drug, and cancer insurance benefits for a non-working supervisor in the amount of \$6,668.287. (sic)

This action was taken:

Without auditors approval.

Without a letter from the non-working supervisors requesting participation.

Recommendation

Municipal official should require an employee to be full time (40 hrs/week) in order to receive benefit of paid hospitalization, dental, eye, drug, and cancer insurance as this adds undo expense to the township. Municipal officials should secure the return of said \$6,668.28 in hospitalization, dental, eye, drug, and cancer insurance benefits paid to the non-working supervisors within 30 days. Failure to secure return of said benefits will result in a surcharge being issued for the benefit amount paid plus any interest accrued."

By stipulation, the parties have agreed to the following pertinent facts: The non-working supervisor who received the benefits relevant to the above is one John Saggese whose term as Supervisor was from 1992 to 1997. Upon re-election he continued to serve from 1998 through 2003. On April 26, 1996, Mr. Saggese submitted a letter requesting that he receive hospitalization coverage through the Township, which was granted by resolution at a

FILED

JAN 21 2002

**William A. Shaw
Prothonotary**

Township meeting on April 26, 1996. The appeal alleges the auditors were incorrect in this determination.

The Court initially notes that the issue is controlled by 53 P.S. 65606 of which paragraph (c)(1) states as follows:

“Supervisors, whether or not they are employed by the township, and their dependents are eligible for inclusion in group life, health, hospitalization, medical service and accident insurance plans paid in whole or in part by the township. Their inclusion in those plans does not require auditor approval, but does require submission of a letter requesting participation at a regularly scheduled meeting of the board of supervisors before commencing participation.”

65606(a) states:

“A decision by the township to pay, in whole or in part, to include supervisors not employed by township in insurance plans, as authorized in subsection (c), shall not be implemented with regard to any nonemployee supervisor until the beginning of the next term of that supervisor.”

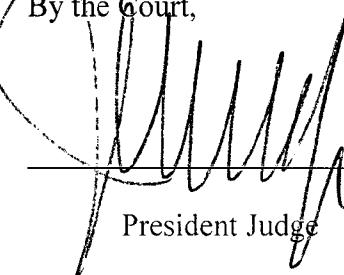
In view of these statutes, the letter submitted by Mr. Saggese and the action by the Supervisors granting his request on April 26, 1996, would therefore not take effect until the commencement of his next term in January, 1998. Therefore, Mr. Saggese was properly covered by medical insurance by the Township for fiscal year 2000, the subject of the auditor's report leading to this appeal. Whether Mr. Saggese was entitled to medical coverage through the Township for the years prior to 1998 is an issue not before this Court and will not be discussed.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 18th day of January, 2002, upon consideration of stipulation of facts and briefs into the above matter, it is the ORDER of this Court that appeal from the Report of

Auditors of Morris Township, Clearfield County, Pennsylvania, filed by the Supervisors of that municipality shall be and is hereby sustained and that portion of the Auditor's Report set forth above vacated.

By the Court,

President Judge

FILED

JAN 21 2002

1/11:30 a.m
William A. Shaw

Prothonotary

2 cc to Atty Kubista
1 cc to Atty Dave Thompson

Atty