

1 ASSEMBLY TRANSPORTATION COMMITTEE

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3 In re: : TRANSCRIPT OF
4 E-ZPass : PROCEEDINGS

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6 MAY 13, 2002

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9 B E F O R E:

- 10 Chairman John S. Wisniewski
- 11 Vice-Chairman Reed Gusciora
- 12 Assemblyman Francis L. Bodine
- 13 Assemblyman Alex DeCroce
- 14 Assemblyman Anthony Impreveduto
- 15 Assemblywoman Linda Stender
- 16 Assemblyman John J. Burzichelli
- 17 Assemblyman Gordon M. Johnson

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23 Waga and Spinelli - Arthur J. Frannicola, CSR
24 25 B Vreeland Road, Suite 301
25 Florham Park, New Jersey 07932
Tel: (973) 410-4040 Fax: (973) 410-1313

24

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2 before CORINNE J. BLAIR, a Certified Shorthand Reporter,
3 Registered Professional Reporters, and Notary Public of
the
4 State of New Jersey, at the State House Annex, State
Street,
5 Committee Room 16, Trenton, New Jersey, on Monday, May
13,
6 2002, commencing at 10:05 in the forenoon.

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1 ASSEMBLY TRANSPORTATION COMMITTEE

2 MONDAY, MAY 13, 2002

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4 CHAIRMAN WISNIEWSKI: Good morning, ladies
5 and gentlemen. Welcome to another meeting of
6 the Assembly Transportation Committee.

7 I'm John Wisniewski, the Chairman. Nancy,
8 would you please take a roll?

9 MS. LIPPER: Assemblyman Bodine.

10 ASSEMBLYMAN BODINE: Here.

11 MS. LIPPER: Assemblyman DeCroce.

12 ASSEMBLYMAN DeCROCE: Here.

13 MS. LIPPER: Assemblyman Johnson.

14 ASSEMBLYMAN JOHNSON: Here.

15 MS. LIPPER: Assemblyman Burzichelli.

16 ASSEMBLYMAN BURZICHELLI: Here.

17 MS. LIPPER: Assemblywoman Stender.

18 ASSEMBLYWOMAN STENDER: Here.

19 MS. LIPPER: Assemblyman Impreveduto.

20 Vice-Chairman Gusciora.

21 VICE-CHAIRMAN GUSCIORA: Here.

22 MS. LIPPER: Chairman Wisniewski.

23 CHAIRMAN WISNIEWSKI: Here. Thank you.

24 As usual, our proceedings today are
25 broadcast on the Internet. Not only are they

1 able to be listened to as the meeting takes
2 place but they're also archived. If you want
3 to go back and listen to them tomorrow, you
4 can. And the proceedings for the portion in
5 which we take testimony from the Economic
6 Development Authority will be transcribed by
7 our reporter here, and I would just ask that
8 during that portion we try to take pains to
9 speak one at a time so that our reporter can
10 accurately transcribe the proceedings. With
11 that, I would like to ask Caren Franzini and
12 Larry Ciero from the New Jersey EDA to come
13 forward. And I believe there's an opening
14 statement that they will read first.

15 Good morning, Caren.

16 MS. FRANZINI: Good morning, Chairman.
17 Thank you.

18 CHAIRMAN WISNIEWSKI: Just make sure your
19 red light's on.

20 MS. FRANZINI: It's on now. Thank you.

21 Good morning, Chairman, and members of the
22 committee. I'm Caren Franzini, Executive
23 Director of the New Jersey Economic Development
24 Authority.

25 The EDA is a self-supporting, independent

1 state financing and development agency that,
2 since 1974, has arranged for more than 15
3 billion dollars in financing assistance to
4 promote economic development and create jobs in
5 New Jersey. Much of this assistance has been
6 in the form of conduit bond financing.

7 My purpose here this morning is to briefly
8 explain to you the EDA's role in the issuance
9 of 300 million dollars of conduit taxable bonds
10 to finance services associated with the design,
11 construction, operation and the maintenance of
12 the E-ZPass Electronic Toll Collection System.
13 This is a role the EDA was asked to assume by
14 the Department of the Treasury in January
15 of 1998, more than two-and-a-half years after
16 plans for the statewide electronic toll
17 collection system were first announced.

18 EDA does not pledge its own or state
19 resources as security for these issuances.
20 Rather it serves as a bridge to public or
21 private markets arranging bond issues to be
22 sold. This means that investors rely on the
23 ability for business or not-for-profit borrower
24 to repay the bonds.

25 It is a role that the EDA typically plays

1 and is a principal reason why the Authority was
2 called upon by Treasury to assist in the
3 financing of the project.

4 The conduit bond project consisted of 150
5 million dollar Fixed Interest Rate Series and a
6 150 million dollar Variable Rate Series, both
7 having a term not to exceed ten years, with
8 interest only payments until maturity.

9 As per the agreement, amounts borrowed
10 were to be paid exclusively from proceeds
11 derived from leases with third parties for
12 fiber-optic system capacity and administrative
13 fees payable under the applicable Toll
14 Violations Enforcement Statutes of the
15 participating toll roads.

16 If these revenues were insufficient to
17 fully repay the financing during the 10-year
18 term following the closing of the financing,
19 the obligations of the participating members to
20 pay the amount of the deficiency were specified
21 in a True-Up Agreement between the EDA and the
22 members, which consisted of the New Jersey
23 Turnpike Authority, New Jersey Highway
24 Authority, the South Jersey Transportation
25 Authority, the Delaware Department of

1 Transportation, and the Port Authority of New
2 York and New Jersey.

3 Prior to approving the project, we did our
4 usual due diligence as to the public purpose of
5 the bonds, and were assured of the project's
6 benefits by those groups we considered to be
7 the transportation experts, the participating
8 major toll roads themselves. Our other concern
9 was to be sure that the purchasers of the bonds
10 were sophisticated investors who understood the
11 risk factors involved in a complicated bond
12 issue. With both these considerations
13 satisfied, the EDA Board approved financing on
14 March 10, 1998.

15 In summary, our involvement was requested
16 by Treasury late in the process and was limited
17 to serving as conduit bond issuer on behalf of
18 the various state transportation authorities.

19 Thank you. I'll be happy to answer any
20 questions.

21 CHAIRMAN WISNIEWSKI: Thank you,
22 Ms. Franzini, for coming and providing an
23 opening statement.

24 A lot of the questions that many of the
25 members of the committee have about the E-ZPass

1 situation focus on the financing, the natural
2 implication being that but for the issuance of
3 these bonds, we would not be in the situation
4 where we are today where a proposed
5 self-financing system is clearly not
6 self-financing and now that the -- that's not
7 happening, the True-Up Agreement is essentially
8 the document that's going to control how this
9 is paid.

10 So, to really go to the heart of this,
11 your statement said that the EDA was asked to
12 assume the financing of this in 1988 -- '98, by
13 the Treasurer's office. I'd like to start at
14 that point in time and, if you could, inform
15 the committee what were the circumstances that
16 surrounded the EDA getting involved because,
17 for my recollection, the EDA is not an entity
18 that traditionally finances government
19 projects. It's a school of economic
20 development for private projects. So this
21 seems to be a departure from its own course.
22 And I want to understand exactly how that came
23 to pass.

24 MS. FRANZINI: Let me address that
25 question, Chairman.

1 There were two issues at hand. One is
2 there was a consortium of several toll roads
3 that wanted to utilize the E-ZPass system. And
4 they needed to have someone issue the bonds on
5 behalf of several entities. No one entity by
6 themselves could issue bonds on behalf of other
7 entities due to their own bond indentures. So
8 they needed to find a single purpose entity to
9 issue on behalf of the team. It wasn't till
10 late in the process that they realized this and
11 EDA was asked to do it.

12 The question was then sent to the Attorney
13 General's Office whether or not the EDA under
14 our enabling legislation could provide this
15 type of financing. And it was determined by
16 the Attorney General's Office that we could.
17 So we were the only state entity that had the
18 ability to issue conduit bonds on behalf of
19 several toll routes.

20 CHAIRMAN WISNIEWSKI: Who was the Attorney
21 General at that time?

22 MS. FRANZINI: It was in the fall of 1997.
23 And I apologize, Chairman, I --

24 CHAIRMAN WISNIEWSKI: Well, let me ask
25 this question: There was apparently an opinion

1 rendered authorizing the EDA's financing on
2 behalf of the consortium, correct?

3 MS. FRANZINI: I know there was a written
4 opinion, but we could not go to our Board
5 unless the Attorney General's Office signed off
6 on us issuing the bond. So probably the bond
7 document, if there is such an opinion, from the
8 Attorney General's Office. We'll be sure to
9 get a copy of that to you.

10 CHAIRMAN WISNIEWSKI: Okay. Thank you.

11 You said that there had to be a single
12 purpose entity for the financing. Now, I
13 understand that you were not involved in the
14 discussions behind closed doors for the
15 consortium, but doesn't it seem to you rather
16 unusual that the EDA, an entity that at -- in
17 my mind, associates with helping promote
18 business in private interests, is promoting a
19 state infrastructure improvement?

20 MS. FRANZINI: We -- we have, Chairman,
21 had to issue bonds for the State and other
22 avenues.

23 Let me just explain. We have, for
24 instance, built state office buildings, in
25 Trenton and Asbury Park and other cities. So

1 we both build the state office buildings and
2 issue bonds. So we have been utilized by the
3 State in the past to issue bonds on behalf of a
4 State entity.

5 CHAIRMAN WISNIEWSKI: Those were for
6 buildings that the State owned?

7 MS. FRANZINI: Those were for buildings
8 that we owned, and then we turn them over to
9 the State of New Jersey at the end of the bond
10 term.

11 We also, in the past, had issued the
12 market transition facilities bonds, which is a
13 bond issue. We again were asked by Treasury to
14 issue bonds and that was the bad insurance
15 driver pool bonds. So this is not something
16 that EDA went out and asked for. We were asked
17 to do the financing.

18 CHAIRMAN WISNIEWSKI: Who did the asking?

19 MS. FRANZINI: Um, again, I believe the
20 Treasurer's office was asked by the Department
21 of Transportation to help finalize the
22 financing at the end. We were asked by the
23 Treasurer's office to do the financing.

24 CHAIRMAN WISNIEWSKI: Do you recall who at
25 the treasurer's office was the person who came

1 to EDA who said, "You're being asked to finance
2 this"?

3 MS. FRANZINI: The treasurer at the time,
4 I believe in the fall, they started looking at
5 the issue of -- I believe it was Brian Timiner
6 (ph) and then Jimmy D'Tilitario (ph) was the
7 state treasurer when we actually issued bonds.

8 CHAIRMAN WISNIEWSKI: Okay. One of the
9 statements made -- one of the remarks made in
10 your opening statement was that you -- your
11 concern was to be sure that the purchasers of
12 the bonds were sophisticated investors who
13 understood the risks. I'm not an expert in
14 public financing. Maybe you can help us
15 through this. My understanding is that very
16 often times bonds that are issued by the EDA or
17 other entities are sold at auction, where the
18 interest rate has been down by competing
19 investors; is that correct?

20 MS. FRANZINI: Actually, the majority of
21 our bond issues are for small businesses, so
22 often times our bonds are privately placed with
23 the financial institution, often the bank, to
24 cut down the cost of borrowing.

25 For large financing, however, that often

1 can be sold in the public marketplace. We
2 would then issue a public bond in the public
3 marketplace and it's sold as if it's in private
4 placement. This was sold as a private
5 placement.

6 CHAIRMAN WISNIEWSKI: But this is such a
7 large issue, this is one that would, perhaps,
8 under normal circumstances, be sold in the
9 public market?

10 MS. FRANZINI: Based on its size you would
11 think that it should be sold in the public
12 marketplace. Based on its complexity, it was
13 privately placed.

14 CHAIRMAN WISNIEWSKI: I'd like you to
15 explain that to the committee, what exactly is
16 meant by, "Based on its complexity, it was
17 privately placed." Because my own suspicion
18 is, is that based on the fact that the
19 projections of toll revenue were less than
20 stellar and that it was privately placed
21 because the public market wouldn't buy into it.

22 MS. FRANZINI: When we -- when I go back
23 to the example we issue bonds on behalf of the
24 state office -- the state office building, and
25 those are publicly traded, because everyone can

1 understand the State of New Jersey is going to
2 pay back the lease payment for a state office
3 building. And so those are publicly traded and
4 you get a very good rate on those bonds.
5 Because the security, the different revenue
6 sources to pay back the bonds were different.
7 They come from three sources and the third
8 source being the True-Up Agreement, is coming
9 from four different toll roads --

10 MR. CIER: I believe five.

11 MS. FRANZINI: Five toll roads. So when
12 you go to the public marketplace -- it is not
13 something you can easily describe. You have to
14 have one-on-one conversations with the bond
15 purchasers. So it's a more complicated
16 structure. And that the repayment, although
17 it's not from one source. It's from several
18 sources.

19 CHAIRMAN WISNIEWSKI: So your testimony is
20 that it was privately placed because of the
21 True-Up Agreement between five toll roads and
22 not because there was a doubt as to whether it
23 would be sufficient toll violation revenue?

24 MS. FRANZINI: My testimony from -- one,
25 the structure came to us, Mr. Chairman. We did

1 not develop the structure for the financing.

2 CHAIRMAN WISNIEWSKI: No. I --

3 MS. FRANZINI: Just so we're clear again.

4 The structure came to us. It was already in
5 place, and it is my opinion that because --
6 because the revenue sources were from several
7 different sources of revenue, the True-Up
8 Agreement being one of three, that it may be
9 more complicated financing, yes, and it had to
10 be privately placed.

11 CHAIRMAN WISNIEWSKI: And this is my last
12 question. I'll let the other members of the
13 committee have an opportunity to ask questions.

14 What would be the difference, generally,
15 in the interest cost of a publicly-auctioned
16 bond issue versus a privately placed; talking
17 about one percent difference, two percent
18 difference?

19 MR. CIER: Mr. Chairman, that's difficult
20 to answer, because many times the actual
21 pricing on a debt, a bond, is determined by not
22 only the credit of the borrower of the
23 transaction, but the timing, when you go out to
24 the market, the general market conditions,
25 whether the transaction is rated versus

1 non-rated. So there typically is a difference
2 or spread between the different types of debt.
3 It's hard, I think, to give you an exact
4 number.

5 CHAIRMAN WISNIEWSKI: It's higher, though?

6 MR. CIER: Yes. It typically would be
7 higher going in on an unrated basis versus
8 apropros the market.

9 CHAIRMAN WISNIEWSKI: So this is an
10 unrated issue?

11 MR. CIER: Yes. It is unrated and
12 privately placed.

13 CHAIRMAN WISNIEWSKI: Thank you. Any
14 other members of the committee?

15 Assemblyman DeCroce.

16 ASSEMBLYMAN DeCROCE: Thank you very much,
17 Chairman.

18 Director, are the investors presently
19 being paid now on the bond investments?

20 MS. FRANZINI: Yes, they are.

21 ASSEMBLYMAN DeCROCE: Is there any reason
22 to worry that they won't be paid?

23 MS. FRANZINI: I can't make -- I believe
24 the True-Up Agreement is very clear that they
25 have to be paid. So I don't -- I don't think

1 there is a problem right now.

2 ASSEMBLYMAN DeCROCE: So the bonds have
3 not in any way been recalled by anyone?

4 MR. CIER: No. We're not aware of bonds
5 being in default or any interest payments not
6 being made to bondholders.

7 ASSEMBLYMAN DeCROCE: My understanding is
8 that bonds have been sold even to off-shore
9 island holders. It can't be too bad if that's
10 happening.

11 MS. FRANZINI: No. I mean, bonds are
12 placed with private investors, which are
13 sophisticated investors. They'll hold the
14 bond. And you're correct, Assemblyman. They
15 are being paid, the interest that's due, but
16 I'm not aware of any default situation --

17 ASSEMBLYMAN DeCROCE: Thank you.

18 CHAIRMAN WISNIEWSKI: Assemblywoman
19 Stender.

20 ASSEMBLYWOMAN STENDER: Thank you,
21 Mr. Chairman.

22 You said that you didn't create the
23 structure. Who did?

24 MS. FRANZINI: The structure was created,
25 a combination as part of the organization that

1 bid on the bonds and that as they came in with
2 each structure, and then it was finalized with
3 the Department of Transportation and the
4 Department of Treasury and the consortium.

5 ASSEMBLYWOMAN STENDER: So that means that
6 each of those groups -- and we're really
7 talking about the administration at that point.
8 So the administration through the Treasurer's
9 office and the Department of Transportation,
10 and the contractor that's got the project, they
11 created a structure that would make sure this
12 would all be paid no matter what?

13 MS. FRANZINI: That's correct.

14 ASSEMBLYWOMAN STENDER: What would
15 actually trigger a default? I mean, if these,
16 -- these are revenue bonds, correct?

17 MS. FRANZINI: Correct.

18 ASSEMBLYWOMAN STENDER: Which are a higher
19 risk than a general obligation bond?

20 MS. FRANZINI: Correct.

21 ASSEMBLYWOMAN STENDER: So what would ever
22 trigger -- it's my -- and I have limited
23 knowledge on this, but the revenue bond is
24 considered a riskier bond, per se, because it
25 is based on a revenue stream, except in this

1 case the True-Up stepped up in front and said,
2 "We don't really care whether the revenue
3 stream works or not, because in the end,
4 through this consortium, you get paid."

5 MS. FRANZINI: The difference is, the only
6 way you can default is if you don't pay the
7 debt service on the bonds, and the difference
8 is under a general obligation. For instance,
9 the Turnpike's obligation, they have to raise
10 tolls. This does not directly relate to a
11 general obligation of the Turnpike to directly
12 enforce them to raise tolls. It's an indirect
13 revenue obligation for them to make the
14 payments on the bonds.

15 ASSEMBLYWOMAN STENDER: But where else
16 would they get their revenue from if it's not
17 from tolls?

18 MS. FRANZINI: They could actually trigger
19 a default. They're not mandated by the bond
20 documents to say you have to raise rates. They
21 could go into default; versus a general
22 obligation of the toll road, says you have to
23 raise your tolls no matter what.

24 ASSEMBLYWOMAN STENDER: So somebody must
25 have sat and figured out that one way to make

1 sure this could be sold would be to say, "We'll
2 never have to raise our tolls to pay for this."

3 MS. FRANZINI: I was not part of that --
4 someone that could answer that.

5 The True-Up Agreement does require -- each
6 of the five entities requires then to
7 differently make their payment on the bonds
8 under different resources. Each five toll
9 roads set forth their own obligation towards
10 the repayment of the bonds.

11 ASSEMBLYWOMAN STENDER: Okay. And so at
12 this point in time, if we have a system that
13 doesn't work, that isn't completed, that's got
14 all kind of problems --

15 ASSEMBLYMAN DeCROCE: Who says it doesn't
16 work? It does work.

17 CHAIRMAN WISNIEWSKI: Assemblyman, let
18 Assemblywoman Stender ask her question.

19 ASSEMBLYWOMAN STENDER: Thank you,
20 Chairman.

21 ASSEMBLYWOMAN STENDER: And that there's
22 no way that these people are not going to get
23 their money back out of it because of how it
24 was set up. I'm sorry. I lost my train of
25 where I was going with this.

1 The -- I'm sorry. Go ahead, Mr. Chairman.
2 I'll defer to you.

3 CHAIRMAN WISNIEWSKI: Thank you.

4 What I don't understand, Mrs Franzini, is
5 that these -- these are termed, "revenue
6 bonds," correct?

7 MS. FRANZINI: Correct.

8 CHAIRMAN WISNIEWSKI: But the ultimate
9 back stop is an obligation of each of the
10 constituent members of the consortium to pay
11 should the revenues not be sufficient?

12 MS. FRANZINI: Correct, which is the
13 revenue bonds side of it. I was just trying to
14 make the distinction -- and again, I'm not the
15 bond attorney for any -- for any of these toll
16 roads, but there's a distinction made between
17 them being general obligation bonds of the toll
18 road, and the general obligation where they had
19 to increase the toll, versus a revenue bond
20 where they could go in, in theory -- in theory,
21 they could go in default, Chairman, and not
22 raise the revenue.

23 CHAIRMAN WISNIEWSKI: Right. And I
24 understand that.

25 MS. FRANZINI: And I'm just making a

1 legal -- I'm not a lawyer but -- I'm just trying
2 to make that fine-tune distinction between the
3 different types of bonds.

4 CHAIRMAN WISNIEWSKI: These bonds are
5 different because should the toll roads decide
6 not to raise tolls, they could choose to go
7 into default on them.

8 MS. FRANZINI: Correct.

9 CHAIRMAN WISNIEWSKI: And you and I both
10 know that that is not likely to happen.

11 MS. FRANZINI: I wouldn't think it's --
12 but that's their decision to make, not --

13 CHAIRMAN WISNIEWSKI: Obviously. It's
14 just troubling that it seems that in certain
15 financings we allowed to be created a picture
16 that, well, since they don't have an obligation
17 to raise tolls and they could choose to
18 default, that these are not general obligations
19 of the toll road because everybody understands
20 that the toll road is not going to default and
21 the State of New Jersey is not going to allow
22 the toll road to default. And I'm just
23 troubled by what clearly is a legalistic
24 distinction that you did not create but
25 obviously is utilized, and the body of law in

1 the State of New Jersey clearly allows it to be
2 utilized, but maybe that's something that needs
3 to be changed, because no one is going to allow
4 these to be defaulted, but the fiction that's
5 created for the purpose of the sale of the
6 bonds -- call them revenue bonds -- is that
7 well theoretically they could be defaulted on,
8 and that's very troubling to me.

9 Assemblyman Burzichelli, did you have any
10 questions?

11 ASSEMBLYMAN BURZICHELLI: No. The
12 question I had was asked and answered.

13 CHAIRMAN WISNIEWSKI: Assemblyman Johnson?

14 ASSEMBLYMAN JOHNSON: I have nothing
15 further. Thank you.

16 CHAIRMAN WISNIEWSKI: Assemblyman DeCroce?

17 ASSEMBLYMAN DeCROCE: It just seemed to me
18 that the assemblywoman is on a witch hunt here.

19 First of all, there is some question with
20 regard to the way in which the bonds were
21 bridged. But they were bridged. People are
22 paying their bonds, are receiving their monies.
23 We're not in default. You're going to scare
24 the hell out of the public. And there's no
25 reason to do that. Right now, everything is

1 working well. And frankly, if there's a need
2 for any additional revenues, I'm not sure if he
3 said there wouldn't, but I believe there might
4 be -- it may happen that the Turnpike
5 Authority -- the Turnpike Authority or maybe
6 even the Highway Authority might have to raise
7 revenue should that be necessary at some later
8 date. That could happen. We don't know that.
9 That's going to happen years down the line. So
10 we can't forecast as to what may happen. We're
11 not here looking for an accident that may
12 happen. We're trying to find out what's going
13 to happen now.

14 CHAIRMAN WISNIEWSKI: Thank you,
15 Assemblyman.

16 The problem here is that the accident's
17 already happened.

18 ASSEMBLYMAN DeCROCE: It hasn't happened.

19 CHAIRMAN WISNIEWSKI: With all due
20 respect, Assemblyman. We have a situation
21 where the revenue projected for this particular
22 bond indebtedness from the two to three revenue
23 sources clearly not coming up to what was
24 projected, which makes it very clear that the
25 third revenue source, which is the True-Up

1 Agreement, is going to be relied upon to a
2 greater degree than had been anticipated.

3 ASSEMBLYMAN DeCROCE: But there is --

4 CHAIRMAN WISNIEWSKI: Well -- but the
5 troubling aspect is, is that money has to come
6 from somewhere, and if it's not from a toll
7 increase, it's going to come from a
8 reallocation of resources within that toll road
9 agency.

10 They've got a fixed pot of money based on
11 toll revenues today and tomorrow and five years
12 from now and the desire is, is, well, we don't
13 want to raise tolls. That's a laudable goal.
14 But that means that if we're going to not
15 default and abide by the True-Up Agreement,
16 then they've got to decide, well, the dollars
17 that we were going to use to fix this road or
18 put up this guardrail or do whatever are going
19 to be now reallocated to the True-Up Agreement.
20 And I think that's the troubling aspect of this
21 financing scheme, is that it -- it is really
22 putting off to a very late date the
23 responsibility for financing the system which,
24 quite frankly, should have been paid on an
25 ongoing basis as opposed to a balloon payment

1 ten years down the road. And obviously the EDA
2 was not the designer of the financing scheme,
3 but it was the implementor of the financing
4 scheme. And I'm, quite frankly, troubled that
5 there's an Attorney General opinion, either
6 verbal or written, that says this is
7 permissible for the EDA because, in my mind,
8 this is not what the EDA should be doing,
9 because this is not what it was designed for.
10 But let me just ask questions about the private
11 purchasers. You have a list of the purchasers
12 of the bonds.

13 MR. CIER: Yes, we do.

14 CHAIRMAN WISNIEWSKI: Now, was there any
15 investigation or inquiry or due diligence done
16 as to who's buying the bonds?

17 MS. FRANZINI: There's a two step -- there
18 were the initial purchasers of the bonds. And
19 I'm going to ask Larry Ciero to tell you who
20 the current holders of the bonds are. They're
21 in the bond documents. It's clear that the
22 trustee must approve who the current holders of
23 the bonds are and they must be -- the
24 terminology are, "sophisticated purchasers";
25 meaning, that they're not my grandmother or my

1 great Aunt Tillie's bonds, but they're
2 sophisticated purchasers that could understand
3 the financing transactions. So I'm going to
4 ask Mr. Ciero, if you're interested now or we
5 can speak to you separately.

6 CHAIRMAN WISNIEWSKI: Yes.

7 MR. CIER: Mr. Chairman, originally, the
8 time of the issuance of the bonds, the lender
9 or the agent for the syndicate of investors who
10 purchased the bonds was Newcourt Capital, which
11 originally was in the documents the lender.

12 CHAIRMAN WISNIEWSKI: And what was
13 Newcourt Capital's specific role?

14 MR. CIER: Newcourt Capital's role, as I
15 understand it, was to negotiate and put
16 together a financing package of investors who
17 would purchase the bonds issued by the
18 authority.

19 CHAIRMAN WISNIEWSKI: And who did Newcourt
20 work for, the EDA or for the contractor or --

21 MR. CIER: Newcourt was the lender that
22 MFS Technologies had identified and brought
23 into the transaction, is my understanding.

24 CHAIRMAN WISNIEWSKI: So this Newcourt was
25 an entity that was identified and brought into

1 it by MFS, whoever was the contractor on the
2 system?

3 MR. CIER: Correct.

4 CHAIRMAN WISNIEWSKI: And are they still
5 in business today?

6 MR. CIER: MFS?

7 CHAIRMAN WISNIEWSKI: No, no. Newcourt.

8 MR. CIER: Newcourt Capital. I am not
9 aware of their current status. I do not know
10 whether they exist today or not.

11 CHAIRMAN WISNIEWSKI: Do we have an
12 address for them, or location for them?

13 MR. CIER: I have the location.

14 MS. FRANZINI: We can provide that to you,
15 as well.

16 CHAIRMAN WISNIEWSKI: Anyway, you started
17 explaining the process by which sophisticated
18 investors were identified.

19 MR. CIER: Sure. So, Newcourt Capital had
20 put together, through negotiation with MFS and
21 the consortium, a term sheet which outlined the
22 purchase of the bonds and the terms under which
23 they would purchase the bonds, which included
24 as was discussed earlier and the three sources
25 of revenue. And that was a term sheet that was

1 agreed upon by MFS and the consortium and
2 became the basis for the Authority's bond
3 documents. The current -- the current owners
4 of the bonds -- the holders of the bonds are
5 generally institution investors, based on the
6 information I have from the trustee. They
7 include -- um, would you like me to go through
8 the list?

9 CHAIRMAN WISNIEWSKI: No. I don't want to
10 go through the current owners. My curiosity --
11 who purchased them, and was there any
12 relationship to MFS, WorldCom or the
13 contractor?

14 MS. FRANZINI: We were not notified of any
15 relationship other than MFS brought them as
16 part of the financing structure. So we can't
17 comment on if there was any kind of
18 relationship between them and Newcourt Capital.

19 CHAIRMAN WISNIEWSKI: They brought
20 Newcourt in --

21 MS. FRANZINI: And Newcourt.

22 CHAIRMAN WISNIEWSKI: -- and Newcourt
23 brought in the investors who would buy all the
24 bonds --

25 MR. CIER: Correct.

1 CHAIRMAN WISNIEWSKI: -- and raise the
2 amount of money necessary for the installation?

3 MS. FRANZINI: Correct.

4 CHAIRMAN WISNIEWSKI: So Newcourt
5 essentially made sure they were the, quote,
6 unquote, sophisticated investors?

7 MR. CIER: Correct. Newcourt identified
8 the investors and acted as their agent.

9 MS. FRANZINI: Newcourt served as a
10 placement agent for the bonds.

11 CHAIRMAN WISNIEWSKI: Is there any degree
12 of diligence or inquiry done by the EDA in
13 terms of making sure what Newcourt's doing is
14 correct, since they are sophisticated
15 investors; that they're not interested parties,
16 and that there's -- there's no improper
17 dealings?

18 MR. CIER: Typically, the documents
19 require that they meet the definition of a
20 private placement under the Securities Exchange
21 Commission Laws, the SEC Rules and Regulations.

22 MS. FRANZINI: And the SEC monitors in
23 that part of their role and responsibilities is
24 to make sure that the people that are licensed
25 under them are, in fact, following the rules.

1 And it's very clear in the bond documents that
2 what were the private placements responsibility
3 to find a soph -- only to sell to sophisticated
4 investors.

5 CHAIRMAN WISNIEWSKI: But I guess the
6 question is there's no oversight by the EDA in
7 terms of what Newcourt did?

8 MR. CIER: There's not any continuing
9 oversight, no.

10 CHAIRMAN WISNIEWSKI: I'm sorry. I missed
11 the answer.

12 MR. CIER: I just said, there's no
13 continuing oversight by the EDA.

14 CHAIRMAN WISNIEWSKI: What are the
15 restrictions or the requirements of the EDA in
16 accepting somebody like a Newcourt? Would you
17 have MFS come to the EDA because the
18 administration wants this financed through the
19 EDA, and Newcourt -- and MFS says, "We've got
20 this company, Newcourt, that could put together
21 purchasers. Here you go." What is the EDA's
22 responsibility to make sure that they're honest
23 brokers; that they're not in violation of any
24 SEC orders or anything like that?

25 MS. FRANZINI: We were provided as part of

1 the application information about -- about
2 Newcourt Capital that they were a real entity,
3 that had assets under management and they were
4 in the business of placing bonds.

5 MR. CIER: Again, as Caren testified
6 earlier, this transtransaction, this placement
7 agency was brought to the Authority by the five
8 members of the consortium as --

9 CHAIRMAN WISNIEWSKI: I just want to stop
10 you there, because you now said they were
11 brought by the five members of the consortium.
12 That's different than MFS.

13 MR. CIER: Well, perhaps I'm mixing the
14 two, Chairman. I misspoke. MFS was the
15 applicant to the Authority. They negotiate the
16 transaction.

17 MS. FRANZINI: They brought --

18 MR. CIER: Newcourt Capital.

19 CHAIRMAN WISNIEWSKI: What's troubling
20 me -- the reason I ask where they're at today,
21 because we heard testimony from Mr. Gross last
22 week. In his opening statement he mentioned
23 Newcourt Financial and he mentioned Coopers
24 Lybrand as being two entities that were
25 involved in the financing, and my staff has

1 made an attempt to try to find where Newcourt
2 Capital is and we can't find that. So, again,
3 was this an entity that was created by MFS
4 simply to get the financing done? Because
5 clearly it was in their interest since they
6 were the bid winner, and they won the award of
7 the contract. They needed to find people to
8 buy their bonds so they could get the work done
9 and, quite frankly, they've done a terrible job
10 getting work done. And they went out to find
11 people to buy these bonds. I'm troubled by who
12 bought them. Were these people who were
13 interested in this contract and now, long story
14 made short, bonds that were supposed to be
15 self-financing, but had this little clause that
16 nobody paid attention to; that the State,
17 through the toll roads, were going to pay these
18 bonds should the financing not work out?

19 The job's done horribly. It's
20 mis-installed. We've looked at the Mark Four
21 analysis of the -- all the tolls lanes, and
22 just about every toll lane in the State has the
23 problem.

24 These people are still going to get paid.
25 And I'm troubled as if these were people who

1 were affiliated with MFS to begin with, and
2 what level of inquiry does the EDA do to make
3 sure there's not some type of self-dilly here?

4 MS. FRANZINI: Again, Chairman, this was a
5 structure that was put together and we were
6 asked to issue the bonds. Our due diligence
7 was in two primary areas; rely on information
8 from the transportation toll roads that this
9 was a good thing. They are the experts, not
10 EDA. And secondly, that the bonds would only
11 be sold to sophisticated investors. We wanted
12 to make sure that these were not being sold in
13 the general public marketplace to anyone off
14 the street buying the bonds. Those
15 requirements were met. The current bond
16 holders -- and we can provide the committee
17 with a list of them again -- are institutional
18 investors -- again, it's not really --

19 CHAIRMAN WISNIEWSKI: I'm not interested
20 in the current ones. I'm interested in who
21 initially bought them.

22 MR. CIER: Yeah. I cannot tell you if
23 there's any relationship between Newcourt and
24 MFS.

25 CHAIRMAN WISNIEWSKI: But you also are

1 saying that there was no inquiry done as to
2 whether there was or was not. Newcourt was
3 presented to the EDA --

4 MS. FRANZINI: The whole structure,
5 Chairman, again was presented to the EDA. We
6 were asked by the Treasury Department to be the
7 conduit issue for these bonds and that's
8 exactly what we did.

9 CHAIRMAN WISNIEWSKI: And, I don't want
10 you to get the wrong impression from my
11 questioning. I'm not trying to imply anything
12 by -- other than, what is the current structure
13 of the law that allows these type of financing
14 mechanisms? And it could be very well that EDA
15 acted entirely within the law, and from what
16 you're telling me, it seems that way. I want
17 to understand what it is that we, perhaps, may
18 need to change in those laws. And what you're
19 telling me is that the way this operates is the
20 borrower comes to the EDA and says, "We've got
21 Newcourt Financial, who's going to find
22 investors for these bonds and make sure they're
23 sophisticated investors, and that the law
24 allows the EDA to rely on that because these
25 are companies that are registered with the SEC,

1 and the assumption is that if they maintain
2 that registration and behave themselves,
3 they're good and you would know otherwise, and
4 that they go ahead and find investors; is that
5 correct?

6 MS. FRANZINI: For this particular
7 transaction. But, again, I just want to state
8 that this was an unusual transaction. This was
9 not a normal transaction for EDA.

10 EDA, our primary existence is financing
11 business and not-for-profits in New Jersey.
12 And we finance them usually in the range of,
13 you know, five, ten million dollars in
14 financing. And sometimes we do large
15 financings for a major company or a utility
16 company. But again, this was a different kind
17 of transaction.

18 A team was brought together and we were
19 asked to issue the bonds. So it's -- I
20 wouldn't want to overstate that EDA didn't --
21 we have a whole internal process for our
22 day-to-day transactions in helping businesses
23 and not-for-profits grow in New Jersey and
24 issue taxes and bonds, and I think it's a good
25 structure.

1 CHAIRMAN WISNIEWSKI: But this particular
2 transaction operated outside of this?

3 MS. FRANZINI: Yes, it did.

4 CHAIRMAN WISNIEWSKI: And that operated
5 outside of that because of direction from the
6 State Treasurer.

7 MS. FRANZINI: The package was already put
8 together. We were the conduit issue to sell
9 the bonds.

10 CHAIRMAN WISNIEWSKI: The package was put
11 together by MFS and the State Treasurer, by the
12 State Treasurer, by --

13 MS. FRANZINI: Well, MFS was the
14 contractor to the consortium, and when the
15 consortium -- when they were trying to finalize
16 the bond issue, it's my understanding the
17 Department of Transportation asked the Treasury
18 to get involved and help with the financing
19 structure. And once they worked on it, we were
20 asked late in the game, in January, to -- after
21 almost two years, I believe, to issue bonds.

22 CHAIRMAN WISNIEWSKI: So everything was
23 presented to you and you just executed what was
24 presented.

25 MS. FRANZINI: That's correct.

1 CHAIRMAN WISNIEWSKI: It seems to me that
2 much of it was outside what you normally do in
3 terms of these type -- any type of bond issue?

4 MR. CIER: Yes. I would say so, Chairman,
5 yes.

6 CHAIRMAN WISNIEWSKI: Does that mean that
7 you were outside -- operating outside the EDA's
8 normal scope of authority?

9 MS. FRANZINI: No. It's -- we still
10 did -- our basic due diligence was to ensure
11 and then our public policy of, you know,
12 creating of jobs was the creating of
13 construction jobs on building it. And the
14 issue to ensure, again, that sophisticated
15 buyers were buying it.

16 What we were most concerned about and --
17 was that the purchaser of the bonds knew the
18 type of bonds they were buying.

19 CHAIRMAN WISNIEWSKI: We seem to be going
20 around a little bit on this.

21 Your job is to make sure sophisticated
22 investors are buying the bonds. And in
23 response to my question about what you did to
24 make sure they were sophisticated investors,
25 you said, "Well, Newcourt brought us the

1 investors."

2 MS. FRANZINI: And also in the bond
3 documents themselves, we ensure that the
4 language was placed in the bond documents; that
5 only could sophisticated buyers buy them and
6 that the trustee, who has a responsibility,
7 ongoing responsibility once the bonds are sold,
8 the trustee has to ensure at all times that the
9 bonds, once they're resold, as they often are,
10 can only be resold to sophisticated buyers.

11 So we ensure in our process when we did
12 get into it that certain key things did happen
13 in terms of the structure of the bonds.

14 CHAIRMAN WISNIEWSKI: But in terms of
15 actually looking at a list of potential
16 investors to make sure that we had a list of
17 ten investors; we didn't go down it and say,
18 "Well, these first six are sophisticated, and
19 these last four aren't." Nothing like that
20 happened?

21 MS. FRANZINI: No, it did not. Because,
22 again, that is the role and the responsibility
23 of the placement agent of --

24 CHAIRMAN WISNIEWSKI: Which was Newcourt.

25 MS. FRANZINI: Correct.

1 CHAIRMAN WISNIEWSKI: So the EDA had to
2 place a lot of trust and confidence in
3 Newcourt?

4 MS. FRANZINI: I guess we did.

5 CHAIRMAN WISNIEWSKI: And upon what basis
6 was that trust founded? Was there a list of
7 their prior experience provided to the EDA?
8 Was there some resume that they had? Was there
9 some documentation that allowed you to place
10 that trust in Newcourt?

11 MS. FRANZINI: Again, Newcourt was --
12 they had responsibilities under the SEC to
13 ensure as a private placement agent that they
14 follow the rules of the SEC to only sell to
15 sophisticated investors. If not, they are in
16 violation and they could be fined and be in a
17 lot of trouble. So our role is to put that on
18 the private placement agent.

19 MS. FRANZINI: And you're right, Chairman.
20 We did not do a second tier of due diligence
21 because the team and the financing structure
22 again was all brought to us as a fait accompli.

23 CHAIRMAN WISNIEWSKI: So you relied upon
24 SEC regulations and the whole regulatory scheme
25 that exist in the public finance market that if

1 Newcourt was an entity that apparently was
2 licensed and authorized to do this type of
3 stuff, that that was sufficient in the EDA's
4 eyes; that they would be able to find
5 sophisticated investors and comply to the terms
6 of the bond agreements, because if they didn't
7 they would suffer penalties and consequences?

8 MS. FRANZINI: That's correct. That's
9 half of it. And the other half is that there
10 was the Treasury, the Department of
11 Transportation, and the consortium of the toll
12 roads, which are bond issuers themselves, have
13 the responsibilities. It was their project.
14 They asked us to issue on their behalf. And
15 they had a degree of due diligence to ensure
16 that they were bringing to us a package that
17 were asking us to amend on their behalf.

18 CHAIRMAN WISNIEWSKI: Do you know whether
19 or not any of these constituent toll roads did
20 any due diligence on the sophistication level
21 of the investors?

22 MS. FRANZINI: I cannot answer that.

23 CHAIRMAN WISNIEWSKI: Assemblyman
24 Gusciora, do you have any questions?

25 VICE-CHAIRMAN GUSCIORA: I was just

1 wondering if you did any due diligence to find
2 out the financial soundness of the plans before
3 issuing the bonds?

4 MS. FRANZINI: First, we wanted to make
5 sure that EDA wasn't on the hook, to be quite
6 honest, because we were doing this as -- on
7 behalf of other State Authorities. And
8 EDA's -- small businesses. So the first due
9 diligence was to ensure that they were, in
10 fact, conduit bonds and not backed by EDA or
11 the State of New Jersey.

12 And, in terms of the financing structure,
13 we were told it had these three elements for
14 payment of the bonds, and they seem like good
15 for repayment sources to us, in terms of a
16 financing structure. And again, the financing
17 structure was placed to us. When you have the
18 Treasury Department and the Department of
19 Transportation and it's their structure saying
20 that this makes sense; it's the structure we
21 want, we rely on that to an extent, as well.

22 VICE-CHAIRMAN GUSCIORA: But my question
23 is, do you ever look into the soundness of the
24 object that the bond neediness (sic) is being
25 issued? Did you ever look at the E-ZPass

1 system itself and say, "This is a crazy
2 scheme," or you don't -- that's not your
3 concern or EDA's concern to actually look at
4 the project itself and say, "You know,
5 Governor, this is a crazy financing scheme. It
6 will never --" Do you ever use your financial
7 expertise to look at the project itself?

8 MS. FRANZINI: From a pure financing
9 perspective, look at the numbers, the financing
10 structure, I can't comment on whether or not
11 the toll road will -- install that element.

12 From a pure financing structure, this
13 makes perfect sense to us. You had three
14 sources of revenues that were going to pay the
15 bond holders. So from pure financing, not
16 implementation, it did make sense.

17 VICE-CHAIRMAN GUSCIORA: What expertise
18 did you use to do the aspect that toll
19 violators would pay off much of the bond
20 indebtedness?

21 MS. FRANZINI: It was not -- we were going
22 on, in fact, on a percentage. It was looking
23 at the whole -- the three elements.

24 VICE-CHAIRMAN GUSCIORA: I'm just talking
25 about the aspect of toll violators would pay

1 for this system. The system would pay for
2 itself. What expertise did you use to
3 determine that that was sound?

4 MS. FRANZINI: I did not -- we did not
5 have -- look specifically at expertise. Again,
6 we're going back to, we were -- we were given
7 the structure. The structure, as a big
8 picture, makes sense to us because there were
9 three revenue sources to pay back the bonds.
10 We were doing this on behalf of the toll roads.
11 It's their obligation to pay back the bonds.
12 We were the conduit for it. It's their
13 obligation to determine if it makes sense for
14 them to pay back these bonds. And -- but from
15 a bond holder perspective, again, which is what
16 our concern was overall, were there -- in
17 total, were there revenues to pay back the bond
18 holders and were they known that they really
19 had to analyze the bond documents to make sure
20 they have revenues to pay them back. That was
21 our job.

22 Again, this was a structure put together
23 for us, and we were asked to implement it. It
24 wasn't -- we weren't asked to think about it.
25 We were asked to issue the bonds.

1 VICE-CHAIRMAN GUSCIORA: Thank you. I
2 think for -- we should look at this, because
3 for safeguards in the future, from what you're
4 telling me, EDA just -- someone comes up with a
5 scheme or a project and you just say, "Well,
6 we'll just get the bonds." You don't really
7 delve into whether the state should be involved
8 in this project or not?

9 MS. FRANZINI: Again, this is a rare --
10 EDA issues bonds everyday. We issue around 70
11 transactions a year. We look at each of those
12 bond transactions from a business point of view
13 and do they make sense.

14 Again, this was a transaction that the EDA
15 was given by -- and the Department of
16 Transportation and Treasury, um, as a structure
17 that they worked on for two years before it
18 came to us, Assemblyman. We were asked in
19 January to issue the bonds. So it was
20 something that was -- a lot of people worked
21 for a long time on, um, and putting and
22 analyzing the various financial aspects of it.

23 VICE-CHAIRMAN GUSCIORA: Well, I hope in
24 the future we look a little closer, because in
25 the end, the taxpayers are on the hook for

1 paying this thing off and that there were no
2 red flags. It just seemed to be given the
3 green light all throughout its implementation,
4 and now we're stuck with this big debacle and
5 we have to figure out what safeguards to put in
6 in the future to prevent this from happening
7 again.

8 CHAIRMAN WISNIEWSKI: Thank you,
9 Assemblyman.

10 I'm going to call Assemblywoman Stender in
11 a second.

12 Just to follow-up, just so I'm clear, in a
13 normal EDA financing, somebody wants to build
14 a -- a retail facility and they come to the
15 EDA, EDA does analyze the business plan?

16 MS. FRANZINI: Yes, we do.

17 CHAIRMAN WISNIEWSKI: Where the revenue is
18 going to come from, timing of that revenue in
19 terms of the bond payment and so on and so
20 forth. So that's a normal precept of EDA
21 financing?

22 MS. FRANZINI: That's correct, Chairman.

23 CHAIRMAN WISNIEWSKI: You're saying in
24 this case, that business plan, in your opinion,
25 was analyzed and created by Treasury and

1 Transportation and other agencies, and the EDA
2 accepted that plan on face value because others
3 have worked on it?

4 MS. FRANZINI: That's correct, Chairman.

5 CHAIRMAN WISNIEWSKI: And that's a
6 departure from what you normally do?

7 MS. FRANZINI: That's correct.

8 CHAIRMAN WISNIEWSKI: Assemblywoman
9 Stender.

10 ASSEMBLYWOMAN STENDER: Thank you,
11 Mr. Chairman.

12 You mention -- you keep referring to the
13 fact that the bonds had to be purchased by
14 sophisticated buyers, that that was the
15 determination. Why was it so important to have
16 sophisticated buyers when in the end they were
17 getting paid? Why would you care that Aunt
18 Tillie couldn't buy that if, in fact, they're
19 getting paid anyway?

20 MS. FRANZINI: It goes back to the
21 legalistics between a general obligation bond
22 and a pure revenue bond; whereas, Aunt Tillie
23 can buy them if they're general obligation
24 bonds because you have to raise taxes or raise
25 tolls by the nature of the bond indenture. But

1 this was a revenue bond, and there was several
2 revenue sources for the repayment of the bonds.

3 ASSEMBLYWOMAN STENDER: Okay. But they
4 still -- I mean, we've all agreed that
5 essentially they're assured of being repaid;
6 that there's a very small likelihood of them
7 ever defaulting. And my next question on that
8 is: By making it a sophisticated buyer
9 requirement, did that allow them to proceed
10 with less scrutiny?

11 MS. FRANZINI: No. That was just -- in
12 terms of just selling the bond to ensure that
13 it was to a distinct group.

14 ASSEMBLYWOMAN STENDER: But a distinct
15 group -- I mean, I understand what you're
16 saying; that there's -- there's a difference
17 there between the two forums, but is there less
18 public oversight when they're sold privately?

19 MS. FRANZINI: There's -- it's not in the
20 public marketplace, so you have less public
21 oversight, and that it's privately placed. So
22 you're not issuing bonds in a public
23 marketplace with like a public issuing
24 statement. That's the difference. You're
25 doing it privately to investors who are only

1 going to buy those bonds.

2 ASSEMBLYWOMAN STENDER: So it does sound
3 like there is a difference. I mean, if you had
4 public oversight, then you would have had other
5 rating agencies looking at this scheme that was
6 put together and how to repay that, correct?

7 MS. FRANZINI: It never went to the rating
8 agencies for a bond rating, so people who were
9 buying it knew that the rating agencies had not
10 reviewed it, had not given it a bond rating and
11 then really had to look at the pure revenues of
12 the transaction.

13 ASSEMBLYWOMAN STENDER: Because if the
14 rating agencies had ever looked at this, would
15 they have questioned, as we are now, how this
16 was being done?

17 MS. FRANZINI: I'm sure they would have
18 analyzed each of the revenue sources.

19 MR. CIER: Yes. I would say, definitely
20 they would have done a further analysis,
21 because they -- transaction to police their
22 credit while applying to bond holders.

23 ASSEMBLYWOMAN STENDER: Well, I guess I
24 would conclude that that was probably a very
25 good way to escape scrutiny is to place them

1 privately as opposed to have created them as a
2 general obligation.

3 Mr. Chairman, I just want to respond.
4 Earlier, my colleague here on the Board accused
5 me of being on a witch hunt, and I just want to
6 say that, historically, you know, that women
7 were burned at the stake for a lot of crimes
8 that they didn't necessarily commit. But in
9 this case, I think that E-ZPass was, in fact,
10 a crime that was perpetrated on the State and
11 the more that we listen to, the less we know
12 about who did that. And I think we still have
13 more questions to ask of other groups, and I
14 would put Newcourt Capital at the top of that
15 list.

16 CHAIRMAN WISNIEWSKI: If we can find them.

17 ASSEMBLYWOMAN STENDER: Thank you.

18 CHAIRMAN WISNIEWSKI: Thank you,
19 Assemblywoman.

20 I know Assemblyman Bodine has a question.
21 I just wanted to do a follow-up on two issues.
22 One, which was, this was a departure from the
23 normal way EDA scrutinizes transactions, which
24 you had responded to my question just before
25 Assemblywoman Stender started her questioning.

1 How many times or how rare is that for EDA to
2 make that kind of departure where somebody
3 comes with a package from the Administration or
4 from the State agency and says, "Here, we've
5 done the analysis. Take it and run with it."

6 MS. FRANZINI: When the issue is for a
7 business or not-for-profit company coming to
8 us, then it's our responsibility to do the due
9 diligence to ensure that that project makes
10 sense.

11 When the State of New Jersey is involved
12 in the transaction and the State Treasurer's
13 Office is involved, we're often relying on
14 their understanding of -- their review of it,
15 their structuring of it, and they take the lead
16 in any transaction that we issue on behalf of
17 Treasury because that -- we're an agency on
18 their behalf doing this, and we really rely on
19 if it's Treasury at the time to take the lead
20 on that transaction and we're the implementor.

21 CHAIRMAN WISNIEWSKI: If they say it's so,
22 it's so.

23 MS. FRANZINI: We'll discuss it, but if
24 they say it's so --

25 CHAIRMAN WISNIEWSKI: But the question

1 was: You have a hundred percent of finances
2 done by the EDA. What percentage of those
3 financings fall into this category where the
4 administration says, "It's so," so you say,
5 "Okay, it's so"?

6 MS. FRANZINI: Very small.

7 CHAIRMAN WISNIEWSKI: Less than
8 one percent?

9 MS. FRANZINI: Around one percent.

10 CHAIRMAN WISNIEWSKI: And just one last
11 question then we'll go to Assemblyman Bodine.

12 These bonds have been passed around from
13 the original purchasers, correct?

14 MS. FRANZINI: That's correct.

15 CHAIRMAN WISNIEWSKI: Have they been
16 passed around in a greater degree or frequency
17 than other bonds? Has it been a musical chairs
18 type of deal, or are they pretty stayed?

19 MR. CIER: I can't answer your question in
20 terms of the frequency of the trades with bonds
21 in the secondary market.

22 CHAIRMAN WISNIEWSKI: Is there a way to
23 find that out?

24 MR. CIER: We could -- yes, we could ask
25 the trustee if there is a record of trades.

1 CHAIRMAN WISNIEWSKI: Who is the trustee?

2 MR. CIER: The trustee is the Bank of New
3 York.

4 CHAIRMAN WISNIEWSKI: Has that been
5 consistent since the bonds have been issued?

6 MR. CIER: Yes.

7 CHAIRMAN WISNIEWSKI: If we could find
8 that out that would be helpful.

9 ASSEMBLYMAN BODINE: Thank you,
10 Mr. Chairman.

11 Director, you made a statement earlier in
12 your due diligence you wanted to make certain
13 that the EDA, State of New Jersey, had no
14 responsibility if this thing collapsed, fell
15 apart; is that true? The State of New Jersey
16 does not have any responsibility; the bridges
17 and the toll roads do, but the State's good
18 faith is not placed behind it?

19 MS. FRANZINI: That's correct,
20 Assemblyman.

21 ASSEMBLYMAN BODINE: Okay. If -- if there
22 would be a problem, and there was a default and
23 these bridges and toll roads had to increase
24 their tolls, then that would fall to the toll
25 users; is that correct, and not the taxpayers

1 of the State of New Jersey? I want to clarify
2 that.

3 MS. FRANZINI: You're right, Assemblyman.
4 The tolls would increase and be paid by the
5 people utilizing the tolls.

6 ASSEMBLYMAN BODINE: By the toll users,
7 whether they be from New Jersey or California,
8 it would not -- it would not exactly fall on
9 the taxpayers of the State of New Jersey?

10 MS. FRANZINI: By the toll users.

11 ASSEMBLYMAN BODINE: Thank you. That's
12 all I wanted to make a point. Thank you.

13 MS. FRANZINI: Thank you.

14 VICE-CHAIRMAN GUSCIORA: Assemblyman, I
15 believe that the person who pays tolls are also
16 taxpayers themselves and if it does go into
17 debt, somebody's going to have to bail it out
18 to pay off the rest of the system; isn't that
19 correct?

20 MS. FRANZINI: The -- each of the toll
21 roads has an obligation under the True-Up
22 Agreement that, again, each separately, but it
23 is strictly a revenue-based repayment. It does
24 not fall back to the general agents, State of
25 New Jersey nor to EDA. Each toll road has its

1 own obligation.

2 VICE-CHAIRMAN GUSCIORA: But the E-ZPass
3 kiddies were running out of money; is that
4 correct? There's only about 30 million dollars
5 left?

6 ASSEMBLYMAN DeCROCE: I don't know how
7 much is left now, but I can tell you when the
8 last administration left there was 161 million
9 dollars in that pocket.

10 VICE-CHAIRMAN GUSCIORA: Mr. Chairman.

11 CHAIRMAN WISNIEWSKI: Yes, Mr.
12 Vice-Chairman.

13 VICE-CHAIRMAN GUSCIORA: We had testimony
14 from Diane Suketti (ph), who is the Deputy
15 Executive Director, but at the time was the
16 Acting Executive Director of the Turnpike
17 Authority, who had said that in the pot of
18 money raised from the bond issue to implement
19 E-ZPass, it was approximately \$30 million left
20 for the final installation of what's not done,
21 and -- for construction, and that the estimate
22 is about 40 to \$50 million to do that work. So
23 the question is, is where that difference gets
24 made up. And I guess that's a dispute, not
25 with EDA, but between the State and whoever the

1 ultimate contractor is.

2 CHAIRMAN WISNIEWSKI: Any other questions
3 from the committee?

4 No. I think that you've articulated that
5 very well, Mr. Vice-Chairman.

6 Well, Mrs Franzini, we thank you for
7 coming. We appreciate your testimony.

8 There was some documents that we had asked
9 to be supplied. If you could supply those to
10 us.

11 I just want to make clear on behalf of the
12 committee that we're trying to understand
13 E-ZPass. And in so going, we're trying to
14 understand how it happened that this level of
15 debt could be incurred ultimately by agencies
16 of the State of New Jersey with a financing
17 underpinning that a lot of people today say,
18 "How could you ever could collect that much
19 money from toll violators?" And I think what's
20 troubling to many is that the premise on how
21 this was sold.

22 We saw a press release from the Turnpike
23 Authority saying that this was not going to
24 cost the people of New Jersey a penny, and all
25 along subrosa in that was, well, unless it

1 doesn't work out, then it will cost us money.

2 And that's the troubling part, is that
3 that part wasn't brought out, and now
4 ultimately it looks like the money will have to
5 come from the toll roads. The toll roads
6 certainly won't default, but the concern is --
7 and we heard again from Ed Rose last week, who
8 said the reason this was done is the Parkway
9 didn't have money to do it. Well, if they
10 didn't have money to do it then, they certainly
11 don't have money to do it now. And what is
12 that going to mean, ultimately? How does it
13 get paid? Well, tolls may go up. Projects may
14 not get done. And that's not what anybody
15 bargained for when this was installed.

16 When the administration said we're going
17 to put in E-ZPass and we're going to defer
18 maintenance. I mean, that wasn't the
19 statement. We were going to put it in. It's
20 not going to cost anything.

21 So what this committee is looking at is
22 how do we prevent future E-ZPasses from
23 happening? And maybe some of that is based on
24 how the financing happened. Because clearly,
25 if there were perhaps different checks and

1 balances in place that required different
2 levels of review, maybe it may not have been so
3 easy to finance, or maybe it would have been
4 brought to light that this was ultimately an
5 obligation of the toll roads and then there
6 would not have been this great letdown now
7 that, "Oh, wait a minute. We now have to pay
8 for it when we thought we did."

9 That's why we have you here today, and
10 that's why we're looking at this. We can't put
11 the toothpaste back in the tube, but we can
12 prevent these types of things from happening
13 again. So I want to thank you for your
14 testimony.

15 MS. FRANZINI: Thank you, Chairman. If
16 there's anything more the EDA can do to be of
17 assistance to the committee and to yourself,
18 please let us know.

19 CHAIRMAN WISNIEWSKI: Thank you.

20 MS. FRANZINI: Thank you.

21 (Witness excused.)

22 (The deposition is concluded at 11:05 a.m.)

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1 C E R T I F I C A T I O N

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4 I, Corinne J. Citron-Blair, a Certified
5 Shorthand Reporter and Certified Professional
6 Reporter and Notary Public, do hereby certify that
7 the foregoing is a true and accurate transcript of
8 the proceedings before me on the date and place
9 hereinbefore set forth.

10

11 I FURTHER CERTIFY that I am neither
12 attorney nor counsel for, nor related to or employed
13 by, any of the parties to the action in which this
14 proceeding was taken, and further that I am not a
15 relative or employee of any attorney or counsel
16 employed in this action, nor am I financially
17 interested in this case.

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