

STATE OF NEW YORK:

AFFIDAVIT

ss:

COUNTY OF ALBANY:

ALAN G. HEVESI, being duly sworn, deposes and says:

1. I am the Comptroller of the State of New York and have been since January 1, 2003, and I make this affidavit in my official capacity as the Comptroller. The allegations contained herein are based upon either my personal knowledge or information provided to me by my staff in the exercise and performance of their duties.

2. On November 22, 2002 at a public board meeting, the Metropolitan Transportation Authority ("MTA") announced it would end 2002 with a budget surplus of \$24.6 million and that it faced a two-year budget gap of \$2.8 billion for 2003 and 2004. A copy of the November 22, 2002 board presentation is annexed hereto as Exhibit "A".

3. On December 18, 2002, the MTA Board approved a Financial Plan for 2003-2004 that included \$1.8 billion of MTA internal actions that reduced the combined budget gaps for 2003 and 2004 to \$951 million, and called for a subway, bus, and commuter railroad fare increase of up to 33% beginning in 2003 and a total increase of up to \$.50 on its largest bridges to close the remaining gap. A copy of the December 18, 2002 Financial Plan is annexed hereto as Exhibit "B".

4. In the past, the New York State Comptroller has reviewed and commented on the financial plans and budget proposals of the MTA. Consistent with that practice,

on January 3, 2003, members of my staff met with MTA budget officials. At that meeting, many of my staff's questions were not answered and instead they were referred to public documents. However, MTA officials did agree to provide some information at that time, which was received by my office on January 9, 2003. A copy of the MTA's January 9, 2003 letter, together with attachments, is annexed hereto as Exhibit "C".

5. In its January 9, 2003 submission, the MTA again referred my office to public documents. Although the MTA did include some new information, that information raised many more questions than it actually answered. Accordingly, on February 7, 2003, I wrote to the Chairman of the MTA demanding, within 7 days, a written response to 30 specific questions and that the MTA file a five-year financial plan pursuant to Public Authorities Law, §1269-d. The last time that the MTA had produced such a five-year plan was in September 1999, and pursuant to statute the MTA is required to do so annually on or before July 1 of each year. A copy of my February 7, 2003 letter, together with the 30 specific questions, is annexed hereto as Exhibit "D".

6. The MTA Chairman responded to my February 7, 2003 demands by letter dated February 14, 2003, together with attachments, copies of which are annexed hereto as Exhibit "E". Although the information provided was of some use, it once again made vague references to public documents and to the MTA Website. Additionally, answers to specific questions concerning debt, collective bargaining and the MTA's revenue and expenditure estimates were unsatisfactory. As for the five-year plan, the Chairman espoused MTA's commitment to multi-year planning, but gave no specific date as to when a five-year plan would be produced.

7. As a result of the foregoing, pursuant to my constitutional authority to supervise the accounts of public authorities under Article 10, Section 5 of the New York State Constitution, on February 19, 2003 I issued subpoenas for records and testimony from MTA officials concerning specific elements of its December 2002 Financial Plan. Copies of the subpoenas are annexed hereto as Exhibit "F". At the same time, by letter dated February 19, 2003, I demanded that the MTA produce within 10 days a five-year plan as required by law. A copy of that letter is annexed hereto as Exhibit "G".

8. The five-year plan was received by my Office on or about February 28, 2003, a copy of which is annexed hereto as Exhibit "H".

9. On February 26, 2003, the MTA delivered 18 boxes of documents to my Office, and my staff commenced an examination of the MTA officials. Copies of the transcripts of that examination, redacted in accordance with a confidentiality agreement negotiated between the MTA and my office, are annexed as Exhibit "I".

10. In the course of that examination, the MTA officials identified what they referred to as their "super spreadsheet", the MTA's internal version of its December, 2002 Financial Plan. A copy of that super spreadsheet, redacted in accordance with the above-referenced confidentiality agreement, is annexed hereto as Exhibit "J".


11. The examination of the internal records and testimony of the MTA officials revealed that the MTA essentially had two versions of its December 2002 Financial Plan, the one it showed the public (Exhibit B) and the one that it did not show the public (the super spreadsheet, Exhibit J). A review of the non-public super spreadsheet revealed previously undisclosed material transactions that moved resources off budget and from one year to another, that had the effect of grossly reducing the

projected size of the 2002 surplus from \$537.1 million to \$24.6 million. A copy of my April 2003 report of the examination of the finances of the MTA is annexed hereto as Exhibit "K".

12. My April 1, 2003 report contains many other findings and conclusions, such as a pattern of transferring resources off budget, undisclosed reserves and failure to maintain proper working papers. These findings and conclusions are discussed in detail in my report.


ALAN G. HEVESI
State Comptroller

Sworn to me this 29th
day of April, 2003


Notary Public

PAMELA A. McMAHON
Notary Public, State of New York
Qualified in All Any County
Commission Expires ~~March 30, 2004~~
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