IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHICAGO TRANSIT AUTHORITY RETIREE HEALTH CARE TRUST and THE BOARD OF TRUSTEES FOR THE CHICAGO TRANSIT AUTHORITY RETIREE HEALTH CARE TRUST,	)	
Plaintiffs,	)	Case No. 1:19-cv-07570
v.	)	Hon. Mary M. Rowland
DILWORTH PAXSON, LLP; TIMOTHY ANDERSON; and GREENBERG TRAURIG, LLP;	)	
Defendants.	)	

PLAINTIFFS' OPPOSITION BRIEF TO
DEFENDANTS DILWORTH PAXSON, LLP'S AND TIMOTHY
ANDERSON'S RULE 12(b)(2) MOTION TO DISMISS FOR LACK OF JURISDICTION

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This case arises from the sale of over $40,000,000 in fraudulent Native American bonds to public pension funds that were specifically targeted as victims, including the Chicago Transit Authority ("CTA") Retiree Health Care Trust ("RHCT"), which provides health care benefits to CTA retirees and which was created and partially funded by an Illinois statute. The fraudsters who targeted RHCT and stole its public pension funds did so with the assistance and knowledge of Defendants, Timothy Anderson and Dilworth Paxson, LLP (collectively, "Dilworth" or "Defendants"). Anderson, a municipal bond partner at Dilworth Paxson, who represented the bond placement agent: (1) knew that RHCT was located in Chicago and was one of the purchasers; (2) knew (or should have known) that the persons running the bond issuance were well-known fraudsters with prior criminal securities fraud convictions; and (3) knew that there were several issues with the bond issuance that were atypical from the many previous bond offerings Anderson had worked on during his 15-year legal career, including that the majority of the bond proceeds were slated to be wired off-shore to purchase an annuity from a shell-company in the British Virgin Islands, not having a private placement memorandum, and the actual pension fund/buyers not signing off on the purchase. [*Infra* at 3–4.] Ignoring these clear warning signs, Anderson/Dilworth, who reaped substantial fees paid from the fraudulent bond proceeds, took actions to complete the bond issuance, resulting in the theft of over $4 million from RHCT in Chicago, including the following actions purposefully directed at Illinois: (1) drafting key transaction documents that referenced RHCT; (2) hiring and working with U.S. Bank (including one employee in Chicago, Illinois, who Anderson repeatedly called and emailed) to act as the indentured trustee for the bonds; and (3) emailing and calling RHCT's custodian bank, Northern Trust in Chicago, Illinois, to confirm that it had wired $4,079,433 from the RHCT to purchase the fraudulent bonds, so that Anderson could close the transaction. [*Infra* at 4–5.]

Defendants do not contest RHCT's allegations, which this Court must construe as true and in favor of RHCT. Instead, Dilworth, which characterizes itself as a national law firm, seeks to escape jurisdiction in Illinois by arguing that Defendants can only be sued in the state (Pennsylvania) where Anderson was physically located and that any contact that Dilworth/Anderson had with Illinois was "incidental." [Dkt. 23 at 4.] Defendants' contention ignores the controlling law, which holds that a defendant need not be physically present for specific jurisdiction to apply [*infra* at 11] and RHCT's allegations detailing: (1) how Dilworth reached into Illinois to carry out the transaction and target RHCT, which Dilworth knew was an Illinois public pension plan located in Chicago, as was its custodian bank – Northern Trust – and, therefore, would result in injury in Illinois; and (2) Dilworth's multiple telephone calls and emails to employees of U.S. Bank and Northern Trust located in Chicago to facilitate the theft of the RHCT's funds from Illinois. [*Infra* at 4–5.] Because these uncontested allegations make out a *prima facie* case for jurisdiction, this Court should therefore deny Dilworth's Motion.

ALLEGATIONS

RHCT was created by the Illinois Pension Code (40 ILCS § 5/22-101B) to provide healthcare benefits to CTA retirees and is governed by the Board of Trustees, who are Illinois residents. It operates from and administers benefits from its Chicago office. [Compl., ¶¶ 7, 8, 10.]

The fraudulent tribal bond sale that resulted in loss of over $40,000,000 from public pension funds required many players. Dilworth (via its former partner Anderson) was a key player. Anderson, an experienced bond lawyer with experience working with Native American tribes [*id.*, ¶¶35-36, 74], met the mastermind of the fraud – John Galanis– in March of 2013 in Las Vegas. [*Id.*, ¶¶ 39-40.] Because John had a well-documented public history of fraud [*id.*, ¶¶ 23-32], he needed established professionals, such as Anderson/Dilworth, to legitimize his scheme. [*Id.*, ¶ 34.]

At this meeting, John explained to Anderson that they intended to have a Native American tribe, which Anderson had previously worked with, issue millions of dollars in bonds, with the majority of the proceeds to be used to purchase an annuity from an obscure "offshore" insurance company. [*Id.*, ¶ 41.] John also explained that the targeted buyers would be pension funds. [*Id.*, ¶ 43.]

Anderson, at the criminal trial of John Galanis, admitted that using the proceeds from a bond offering to purchase an "offshore" annuity was "novel" and "something new" that he had not seen [*id.*, ¶ 42], and that he would have performed his own background research of the entities affiliated with Jason and John Galanis, [*id.*, ¶ 49], which would have given revealed their criminal history. [*Id.*, ¶¶ 23-32.] Ignoring the unique structure and the criminal history of the Galanis, Anderson signed on as counsel, not for the tribal bond issuer, but as counsel for the bond placement agent affiliated with the Galanises, because it would allow him/Dilworth to earn more fees. [*Id.*, ¶ 54.] During the next several months leading up to the bond issuance, Anderson, who owed duties to the transaction participants as bond counsel [*id.*, ¶¶ 69-76], intentionally ignored a number of other serious warning signs.

- Anderson had received a memorandum from John Galanis in June, 2014 stating that this bond issuance presented several challenges including finding "willing buyers" to purchase an "unrated bond" and earning enough from the "investment strategy" to repay the bonds. [*Id.*, ¶¶87–90.]

- To avoid disclosure of the "unique" features of the bond purchase to the actual purchasers, no private placement memorandum ("PPM") was prepared, which was "highly unusual" and not "customary" and would have required RHCT to sign off on the transaction. [*Id.*, ¶¶81-83, 92-93.] To avoid having to disclose this bond sale to willing investors, the fraudsters instead "found" investors by buying an investment management firm, Hughes Capital Management, Inc. ("HCM"), that directed pension fund investments [*id.*, ¶¶ 143-47], including investments for RHCT. [*Id.*, ¶ 19.]

- To avoid having to register the bonds as securities, Anderson/Dilworth drafted what is known as a "big boy" placement letter that affirmed that the purchasers of the bonds were accredited investors. Anderson, however, did not draft these letters for the individual purchasers to sign, as is customary in the industry. Instead, HCM signed on behalf of the identified investors, including RHCT. [*Id.*, ¶¶155-170]

- John Galanis, who had no official role in the transaction or position with the annuity provider [*id.*, ¶ 99], drafted the basic terms of the transaction memorandum and annuity contract, which he then sent to Anderson to forward on to other transaction participants, including a U.S. Bank representative in Illinois. In his communications with U.S. Bank in Illinois, Anderson took care to conceal John Galanis's involvement, as he was a widely recognized financial criminal. [*Id.*, ¶¶ 87, 95–99, 105, 107.]

- Anderson, at the direction of Jason and John Galanis, changed the name of the offshore annuity provider in the indenture several times, and provided comments to the annuity contract to Jared Galanis (another of John's sons), who was purporting to act as the annuity provider's counsel, reflecting that the annuity company was not real and just a shell set up by the Galanises. [*Id.*, ¶¶94-99, 129-134, 214-237.]

- Even though the indenture agreement stated that the annuity provider would be an offshore insurance company, Anderson, at the direction of Jason Galanis, emailed U.S. Bank (as the indentured trustee) wire instructions for a bank in California to an account of a Florida limited liability company. [*Id.*, ¶¶226-230.]

- Dilworth (as the placement agent's counsel) issued an opinion letter blessing the transaction, which was unusual and inaccurate in several respects. [*Id.*, ¶¶67-68.]

Not surprisingly, there never was an annuity. [*Id.*, ¶ 238.] The fraudsters stole the money, using these proceed to pay Dilworth/Anderson's substantial fees. [*Id.*, ¶ 299.]

Anderson/Dilworth's Purposefully Directed Contacts with Illinois were essential to the fraudulent bond issuance and the theft of over $4 million from the RHCT's bank account at Northern Trust in Chicago. Anderson's contacts with Illinois fall into three categories. **First**, Anderson, at all times, knew that RHCT was an Illinois public pension fund and whose funds would be used to purchase the fraudulent bond. Galanis provided Anderson a spreadsheet that specifically identified RHCT (whose full name includes "**Chicago**") as a purchaser of the fraudulent bonds and identified its custodian bank as Northern Trust with a street address in **Chicago**. [*Id.*, ¶¶ 175-179.] Using this information, Anderson prepared the face pages for the bonds, including one for the "**Chicago** Transit Authority," which Anderson knew would be

physically delivered to a pension fund in Illinois. [*Id.*, ¶¶ 152, 170, 176, 179, 236.] Thus, Anderson knowingly directed his conduct in facilitating the fraudulent bond sale to RHCT in Chicago.

Second, to facilitate the bond sale, Anderson had numerous emails and telephone calls with an employee, located in **Chicago**, of U.S. Bank, which was the indentured trustee for the bond sale, which could not have proceeded without U.S. Bank.

- On July 1, 2014, Anderson sent Employee G in Chicago an email providing a draft indenture, rough timeline for closing and request for a call to discuss the structure of the transaction. [*Id.*, ¶ 101.]

- On July 1, 2014, Anderson sent Employee G in Chicago an email providing an updated bond term sheet (which had been forwarded to Anderson by John Galanis. [*Id.*, ¶ 102.]

- On July 7, 2014, Anderson sent Employee G in Chicago a copy of the "Annuity Contract" (that Anderson had also received from Galanis). [*Id.*, ¶ 103.]

- On July 8, 2014, Anderson and Employee G in Chicago participated in a conference call discussing the transaction. [*Id.*, ¶ 110.]

- On July 9, 2014, Employee G in Chicago prepared a fee schedule for U.S. Bank and emailed it to Anderson, the approval of which was necessary for the bond transaction to proceed. [*Id.*, ¶ 111.]

- On or about November 11, 2014, Dilworth/Anderson compiled the bond transcript from the bond issuance and delivered physical copies to the key participants. Dilworth mailed U.S. Bank's copy to U.S. Bank's office in Chicago. [*Id.*, ¶ 237.]

Third, Anderson also had several emails and telephone calls with RHCT's custodian bank – Northern Trust in Chicago – to ensure that RHCT's funds were wired from its Illinois account.

- On August 25, 2014, Anderson, per Galanis's instructions, telephoned a Northern Trust employee in Chicago at a 312 area code, in a recorded call, to ensure that Northern Trust was wiring RHCT's funds and to obtain a Fedwire reference number and sent this same Chicago employee several follow-up emails. [*Id.*, ¶¶ 181-184.]

- In response, the Northern Trust employee in Chicago provided Anderson with the Fedwire reference numbers for the funds being transferred from accounts in Chicago, including $4,073,499 transferred from the RHCT's custodial account at Northern to the indentured trustee, which allowed Anderson to direct U.S. Bank to close the transaction. [*Id.*, ¶ 185.]

Like Anderson's other purposeful contacts with Illinois, his pushing Northern Trust in Chicago to confirm that $4,073,499 was being wired from RHCT's custodial account in Chicago was directed to Illinois and an essential part of the fraud and injury to RHCT in Chicago.

LEGAL STANDARD

Where personal jurisdiction "is raised by a motion to dismiss and decided on the basis of written material rather than an evidentiary hearing, the plaintiff need only make a *prima facie* showing of jurisdictional facts." *Tamburo v. Dworkin*, 601 F.3d 693, 700 (7th Cir. 2010). The court should construe plaintiff's allegations as true and in favor of plaintiff, *Felland v. Clifton*, 682 F.3d 665, 672 (7th Cir. 2012), "unless controverted by defendants' affidavits," *Turnock v. Cope*, 816 F.2d 332, 333 (7th Cir. 1987), which must contain more than conclusory allegations. *Purdue Research Found. v. Sanofi-Synthelabo, S.A.*, 338 F.3d 773, 783, n. 13 (7th Cir. 2003).

The Illinois long-arm statute "permits the exercise of jurisdiction to the full extent permitted by the Fourteenth Amendment's Due Process Clause[,]" *Tamburo*, 601 F.3d at 700, which provides that courts may exercise personal jurisdiction over an out-of-state defendant when that defendant has "sufficient 'minimum contacts' with Illinois such that the maintenance of the suit 'does not offend traditional notions of fair play and substantial justice.'" *Id*. Specific personal jurisdiction has three essential requirements:

> **First** the defendant's contacts with the forum state must show that it 'purposefully availed [itself] of the privilege of conducting business in the form state or purposefully directed [its] activities at the state.' **Second**, the plaintiff's alleged injury must have arisen out of the defendant's forum related activities. And **finally**, any exercise of personal jurisdiction must comport with traditional notions of fair play and substantial justice.

Curry v. Revolution Laboratories, LLC, 949 F. 3d 385, 398 (7th Cir. **Feb. 10, 2020**) (emp. added) (reversing dismissal for lack of personal jurisdiction based on purposeful direction analysis).

ARGUMENT

I. Plaintiffs Sufficiently Allege A *Prima Facie* Showing Of Specific Jurisdiction.

As an initial matter, this Court should deny Dilworth's Motion because RHCT has established a *prima facie* case for jurisdiction by identifying Anderson's "suit related conduct" in Illinois through his "contacts that [he] himself creates with the forum state." *Walden v. Fiori*, 571 U.S. 277, 284 (2014). As detailed above, Anderson knew that he was preparing a bond to be sold to a public pension fund located in Chicago and, in furtherance of this sale, purposefully and repeatedly communicated with U.S. Bank and Northern Trust employees in Chicago. These actions, which were not "fortuitous," resulted in RHCT's injury to RHCT and the State of Illinois.

Once RHCT's meets its burden of establishing a *prima facie* case for specific jurisdiction, the inquiry ends unless the defendant can put forth evidence to controvert the facts. *See Walls v. VRE Chicago Eleven, LLC*, 344 F. Supp. 3d 932, 943 (N.D. Ill. 2018) (citing N. *Grain Mktg., LLC v. Greving*, 743 F.3d 487, 491 (7th Cir. 2014) ("where there has been no hearing on the matter, the plaintiff must make only a *prima facie* showing of jurisdiction."). Defendants fail to contradict any of RHCT's allegations. Defendants' affidavits attached to the Motion largely involve facts aimed at refuting "general jurisdiction" (something RHCT is not contesting), such as where Dilworth and Anderson do their banking, own property, and pay taxes. With respect to specific jurisdiction, however, these witnesses do not controvert the relevant allegations about Anderson's Illinois contacts alleged in the Complaint. Conclusory statements that Defendants did not "commit a tortious act" or a "tortious injury" in Illinois are not sufficient to shift the evidentiary burden back to RHCT. *See Greene v. Karpeles*, No. 14 C 1437, 2019 WL 1125796, at *2 (N.D. Ill. Mar. 12, 2019) (plaintiffs are not required to submit evidence to refute such conclusions where the salient facts in the complaint are not contested). For this reason alone, this Court should deny the Motion.

II. This Court May Properly Exercise Specific Jurisdiction Over Dilworth.

As Dilworth acknowledges [Dkt. No. 23, at 8], the jurisdictional analysis stems from RHCT's intentional tort claims and therefore focuses on whether the Defendants: (A) purposely directed their conduct at Illinois; and (2) knew that the effects of their conduct would be felt in Illinois (RHCT's injury). *Tamburo*, 601 F.3d at 702; *Walls v. VRE Chicago Eleven, LLC*, 344 F. Supp. 3d 932, 944 (N.D. Ill. 2018). The purposeful direction analysis looks to the totality of the circumstances, *Inland Bank & Tr. v. Oracle Flexible Packaging, Inc.*, No. 17 C 604, 2017 WL 3521166, at *5 (N.D. Ill. Aug. 15, 2017), and turns on whether the Defendants' contacts with the forum state were purposeful or 'random, fortuitous, or attenuated.'" *Curry*, 949 F.3d at 398.

A. Defendants' Purposefully Directed Their Conduct At/To Illinois.

As detailed above at pg. 4, Anderson knew that he was preparing a bond to be placed with a public pension fund located in Chicago that was related to the Chicago Transit Authority, and that the bond would be physically delivered to its custodian in Illinois in exchange for over $4,073,499 in retirement funds. As a result, Anderson knew that this transaction was substantially connected to, and in fact targeted, an important body politic connected to the State of Illinois.

In *Walls*, the district court considered claims for fraud, negligent misrepresentation, aiding and abetting and conspiracy against out-of-state lawyers accused of facilitating a fraudulent transaction to sell real property in Illinois. 344 F. Supp. 3d at 943–44. The out-of-state lawyers contended they were not subject to jurisdiction because they never entered Illinois or contacted any person or entity located in Illinois – rather their activities occurred outside of the State. Rejecting this contention, and relying on *Walden*, 571 U.S. at 283, *Calder v. Jones*, 465 U.S. 783, 789 (1984), and *Tamburo*, 601 F.3d at 702, *Walls* found personal jurisdiction over the out-of-state lawyers. 344 F. Supp. 3d at 944–45. In so holding, the court did not limit its analysis to whether the out-of-state lawyers "contacted" Illinois itself, but rather whether they "engag[ed] in a

fraudulent scheme regarding Illinois." *Id.* at 944. Noting that the transaction involved the sale of real property here, the court found the plaintiffs met the "express aiming" requirement of the "purposeful direction" prong. *Id.* at 944. Similar to *Walls*, RHCT alleges that Anderson knew that the bond transaction would involve the sale and physical delivery of $4 million bond to RHCT in Chicago and that the public retirement funds to purchase the bond would come from Chicago. [*Supra* at 4-5.] Much like the out-of-state lawyers in *Walls*, Anderson could have foreseen that helping to prepare and place a fraudulent bond for sale to an Illinois public pension fund (at the direction of a known felon) could subject him to suit here. *See also Curry*, 949 F.3d at 396 ("it is sufficient that the defendant reasonably could foresee that its product would be sold in the forum").

While Dilworth argues that RHCT's location in Illinois cannot be the *only* connection to this forum [Dkt. No. 23, at 12], they cite no case that suggests that the plaintiff's presence in the forum at the time of the transaction, and the forum's own connection to that transaction, are not still relevant considerations the "purposeful direction" analysis. Indeed, recent cases from within this circuit indicate otherwise. *See, e.g., Tamburo*, 601 F.3d at 706 ("This case involves both a forum-state injury and tortious conduct specifically directed at the forum, making the forum state the focal point of the tort"); *IPOX Schuster, LLC v. Nikko Asset Mgmt. Co.*, 191 F. Supp. 3d 790, 800 (N.D. Ill. 2016) (personal jurisdiction in Illinois where defendant knew plaintiff was located in Illinois and took advantage of plaintiff's goodwill created in this state).

RHCT's connection to Illinois, however, is *not* the only connection between Defendants and Illinois. As detailed above at 5, Anderson, in furtherance of the bond sale, purposefully and repeatedly communicated with U.S. Bank Employee G in Chicago and a Northern Trust employee in Chicago for the purpose of targeting RHCT in Chicago and completing the bond sale. Thus, if

there were sufficient grounds to exercise jurisdiction in *Walls*, where there were no contacts with Illinois, there are even stronger grounds here.

Ignoring RHCT's well-pled allegations, Dilworth contends that *Walden* and a prior South Carolina lawsuit against Dilworth, *Michelin Ret. Plan v. Chicago Transit Auth. Retiree Health Care Trust* [sic],[1] No. 616CV03604DCCJDA, 2019 WL 2781432 (D.S.C. June 6, 2019), report and recommendation adopted, 2019 WL 2771073 (D.S.C. July 2, 2019) (Def. Mem., p. 12) control. This is wrong. The plaintiff in *Michelin* (the Michelin pension plan located in South Carolina) was the only connection to the forum state. In fact, there were no allegations that Anderson had, himself, contacted South Carolina and, as RHCT learned during discovery, the South Carolina bondholder's custodian was not located in South Carolina, but rather, ***in Chicago***. [Compl., ¶ 177.] Defendants also ignore that RHCT was not, itself, located in South Carolina at the time of the transaction. Here, in contrast to the South Carolina case, RHCT has alleged Anderson/Dilworth's purposeful activities (including, emails and telephone calls) were aimed at Illinois in furtherance of the sale to RHCT. In any event, the South Carolina decision did not resolve whether Illinois or any other state had jurisdiction over RHCT's claims.

Defendants attempt to minimize their contacts with Illinois with **six different contentions**. **First**, Defendants contend they never physically entered Illinois. [Dkt. 23, at 9.] This argument has been repeatedly rejected, including by the Seventh Circuit, which in reversing dismissal held:

> Our cases make clear, however, that **physical presence is not necessary** for a defendant to have sufficient minimum contacts with a forum state. Indeed, we have noted that the "purposeful-direction inquiry 'can appear in different guises.'" *Tamburo*, 601 F.3d at 702 (quoting *Dudnikov v. Chalk & Vermilion Fine Arts, Inc.*, 514 F.3d 1063, 1071 (10th Cir. 2008)).

[1] The Westlaw reported decision incorrectly suggests that RHCT was the defendant in this case, rather than an intervening plaintiff. The correct identification of the plaintiff and defendant would be *Michelin Ret. Plan v. Dilworth Paxson LLP*.

Curry, 949 F.3d at 398. Contrary to Defendants' contentions, phone calls and emails to Illinois and injury in Illinois are sufficient to establish specific jurisdiction. *Felland*, 682 F.3d at 676, n. 3.[2]

Second, Defendants contend that their communications with the U.S. Bank employee in Chicago were not intended to target Illinois. Rather, they only "wanted to talk to an employee who could assist with matters related to tribal bonds" and that it was "incidental" that the employee was in Illinois. [Dkt. No. 23 at 9-10.] This contention, which is not supported by Defendants' affidavits, contradicts RHCT's allegations, which this Court must construe in its favor [*supra* at 6-7], that the U.S. Bank employee that Anderson communicated with was "*in Chicago.*" [*Compl.*, ¶¶ 101, 104-06, 110 (emp. added).] This argument is also legally misguided. Whether Defendants intentionally put the state of Illinois in their crosshairs does not determine whether they purposefully directed their activities here. Rather, it is the fact that Defendants acted intentionally, and those intentional contacts impacted Illinois, that supports personal jurisdiction. *See Greene*, 2019 WL 1125796 at *6, *8 (defendant's indifference to Illinois contacts "does not deprive" those Illinois contacts "of their jurisdictional significance"). "[I]t is the defendant's actions, not his expectations, that empower a State's courts to subject him to judgment." *Id.*, at *8 (*quoting J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 883 (2011); *see also Campbell*, 262 F. Supp. 3d at 706 (defendant's contact with Illinois "was not fortuitous and was entirely within his control" where defamatory messages were sent to Illinois supervisor, regardless of where supervisor actually read emails).

Third, Dilworth attempts to downplay Anderson's important communications with Northern Trust in Chicago, by suggesting he was not aware the employee was in Chicago. [Dkt. 23, at 10–11.] However, RHCT's allegations about the location of the Northern Trust employee

[2] *See also Campbell*, 262 F. Supp. 3d at 704 (purposeful direction met where defendant acted intentionally in composing and sending emails directly to a company located in Illinois); *Walls*, 344 F. Supp. 3d at 944 (finding personal jurisdiction against out of state lawyers even though lawyers never contacted anyone in the state or entered state).

and the funds used to purchase the bonds *are not* "based solely" on a (312) area code. [Dkt. 23, at 10.] RHCT expressly alleges that Anderson received a spreadsheet identifying Northern Trust at "801 S. Canal, Chicago, Illinois," and alleges that Northern Trust, its employee, and RHCT's custodial account were "*in Chicago*." [Compl. ¶¶ 176–78; 181, 184–86.] RHCT alleges that Anderson even referenced the "Transit Authority" to the employee, and no other bondholder, suggesting that he was aware that the employee was in Chicago. [Compl., ¶ 182.]

Fourth, Dilworth appears to argue that Anderson's communications with employees of Northern Trust and U.S. Bank in Chicago are not significant because the bond transaction touched many states. This does defeat specific jurisdiction in Illinois. *See Chamberlain Group, Inc. v. Techtronic Industries Co., Ltd*., No. 16 C 6097, 2017 WL 3394741, at *6 (N.D. Ill. Aug. 8, 2017) (rejecting defendants' argument "that actions in Illinois must be the exclusive ground of the complaint" or that when activity occurs in many states, it cannot lie in any of them). Moreover, suggesting that "Hughes Capital Management, Inc." (which is not the Oklahoma LLC identified in Anderson's affidavit) was the "buyer" of the bonds [Dkt. 23, at 10] contradicts the allegations that the bonds were registered and delivered to the bondholders. [Compl., ¶ 170, 236.]

Fifth, Defendants [Dkt. 23 at 11] argue that their contacts with RHCT's custodial bank are insufficient to establish jurisdiction under *Medline Indus., Inc. v. Strategic Commercial Solutions, Inc.*, 553, F. Supp. 2d 979, 986-89 (N.D. Ill. 2008). *Medline,* which predates the Seventh Circuit's discussion of the "effects test" in *Tamburo v. Dworkin*, 601 F.3d 693, 700 (7th Cir. 2010), does not hold that a contact with an Illinois bank is not still a relevant contact. Moreover, *Medline* mainly involved banks in Illinois contacting the out-of-state defendants, and not vice versa.

Sixth, Defendants contend that an economic injury in the forum state cannot support personal jurisdiction under Illinois's long arm statute. [Dkt. 23, at 11], but neither case cited by

Defendants is on point. In *Magnus v. Groner Apartments*, the court relied on the fact that the defendants had no contact with Illinois and that the real estate transaction at issue – including plaintiff's purchase – occurred in Louisiana. , No. 86 C 734, 1986 WL 8970 (N.D. Ill. Aug. 14, 1986). *Mangus* also relied on *R.W. Sawant & Co. v. Allied Programs Corp.*, 111 Ill. 2d 304, 312 (1986), which had considered Illinois's long arm statute before it was amended to allow jurisdiction to the full extent authorized by the due process clause. *Zazove v. Pelikan*, Inc., 326 Ill. App. 3d 798, 807, 761 N.E.2d 256, 263 (2001) (recognizing abrogation of *R.W. Sawant & Co.*). In *Allman v. McGann*, which involved whether an Illinois employee could sue a supervisor located in Mississippi under the Illinois Wage Act, the court found that the only contact the defendant had with Illinois was attending a conference where he had no contact with the plaintiff and which was unrelated to the payment of wages. No. 02 C 7442, 2003 WL 1811531, at *5 (N.D. Ill. Apr. 4, 2003). In contrast, RHCT alleges contacts to Illinois directly related to the bond transaction.

Accordingly, Dilworth cannot distance itself from its actions that were directed to Illinois, nor the impact those actions have had on this State. The Motion to Dismiss should be denied.

B. Defendants Knew That Their Illinois Contacts Could Result In RHCT's Injury In Illinois – The Loss Of Over $4 Million From Its Chicago Bank Account.

Dilworth does not specifically argue that their Illinois contacts are unrelated to RHCT's injury, as to defeat the "arising out of or related to" element of specific jurisdiction. [Dkt. 23, at 8–13.] For this element, RHCT does not need to establish that Dilworth's Illinois contacts rose to the level of the "proximate cause" of RHCT's injury. *uBID, Inc. v. GoDaddy Grp., Inc.*, 623 F.3d 421, 430 (7th Cir. 2010). Instead, the Seventh Circuit has described the inquiry as the "'tacit quid pro quo that makes litigation in the forum reasonably foreseeable:' out-of-state residents may avail themselves of the benefits and protections of doing business in a forum state, but they do so in

exchange for submitting to jurisdiction in that state for claims arising from or relating to those activities." *Id.* (citing *O'Connor v. Sandy Lane Hotel Co.*, 496 F.3d 312, 322 (3d Cir. 2007)).

Based on the facts, Anderson/Dilworth could have expected that their actions might subject them to suit here. As detailed above at 4–5, RHCT sufficiently alleges that Defendants' Illinois contacts gave rise to its injury, because without these contacts, the bond transaction would not have closed by the trade deadline. Defendants were on notice of this by virtue of the fact that Anderson (1) repeatedly called and emailed a Northern Trust employee in Chicago so he could convey wire reference information to U.S. Bank and close the transaction on time; and (2) prepared a private placement letter and a bond face page bearing RHCT's name and location (Chicago), which allowed the transaction to go forward. Anderson also knew that hiring U.S. Bank to serve as indenture trustee was a necessary step and delivered information to U.S. Bank's Chicago employee that made the transaction possible. Here, Dilworth received the "quid pro quo" of serving as bond counsel in a national private placement and was paid hundreds of thousands of dollars as a result. In return, Dilworth subjected itself to suit in those jurisdictions where it was placing private bonds, particularly those jurisdictions where it had contacted transaction counterparts to complete the deal. Dilworth is a sophisticated law firm and, better than anyone, could have anticipated being sued in other states. The relatedness test is thus met.

C. The Exercise of Specific Personal Jurisdiction Is Consistent With Traditional Notions of Fair Play and Substantial Justice.

Defendants do not contend that it would be unconstitutional to require them to defend RHCT's claims in Illinois. The constitutional reasonableness inquiry involves consideration of "[1] the burden on the defendant, [2] the forum State's interest in adjudicating the dispute, [3] the plaintiff's interest in obtaining convenient and effective relief, [4] the interstate judicial system's interest in obtaining the most efficient resolution of controversies, and [5] the shared interest of

the several States in furthering fundamental substantive social policies." *Tamburo*, 601 F.3d at 709, quoting *Burger King*, 471 U.S. at 477. These factors are met here. **First**, Defendants point to no burden to them in their Motion, as required. *Virgin Enterprises Ltd. v. Jai Mundi, Inc.*, No. 13 C 8339, 2014 WL 3605541, at *6 (N.D. Ill. July 18, 2014) (exercise of jurisdiction met fairness test, where defendant did not establish burden of defending in Illinois and had already retained counsel and engaged in motion practice in Illinois). **Second**, "Illinois has a strong interest in providing a forum for its residents and local businesses to seek redress for tort injuries suffered within the state and inflicted by out-of-state actors." *Tamburo*, 601 F. 3d at 709. That interest is even more pronounced with RHCT's claims, which relate to the theft of over $4,000,000 held in a public trust to provide health care benefits for CTA retirees. [Compl., ¶¶ 7, 185.] **Third**, RHCT has a significant interest in obtaining convenient and effective relief in its home state. **Fourth**, interstate interest considerations support resolution of RHCT's claims in Illinois. It is unreasonable to expect RHCT to file suit in Pennsylvania, to give Defendants the privilege of defending in their home state, when Dilworth's multiple intentional contacts with Illinois, combined with its targeting of RHCT in Illinois and injury to RHCT, make jurisdiction foreseeable. *See Walls*, 344 F. Supp. 3d at 945. Accordingly, there is no constitutional hurdle to exercising specific jurisdiction over Defendants.

CONCLUSION

For the reasons set forth above, the constitutional factors, combined with Defendants' repeated purposeful contacts with Illinois, their knowing targeting of RHCT in Illinois, and injury to RHCT and this State, all support the exercise of specific jurisdiction and the denial of Defendants' Motion to Dismiss for Lack of Jurisdiction.

Dated: March 6, 2020

Respectfully submitted,

By: /s/ Aaron H. Stanton

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Health Care Trust and The Board of Trustees for the Chicago
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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2020, I electronically filed the foregoing **PLAINTIFFS' OPPOSITION BRIEF TO DEFENDANTS DILWORTH PAXSON, LLP'S AND TIMOTHY ANDERSON'S RULE 12(b)(2) MOTION TO DISMISS FOR LACK OF JURISDICTION**, using the Court's CM/ECF system, which will send notification of such filing to the following attorneys of record.

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