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Chicago Teachers' Pension Fund Files Suit against Prologue, Inc., for Failure to Report Teachers and to Make Pension Contributions

Board of Trustees takes action to protect members after audit reveals damaging fiduciary violation

CHICAGO -December 5, 2017 - The Chicago Teachers' Pension Fund (CTPF) today filed a [lawsuit in Cook County Circuit Court](#) against Prologue, Inc., the operator of the now-closed Joshua Johnston Charter School for Fine Art and Design (Johnston). The suit alleges that between at least January 2013 and June 2016, Prologue failed to report the employment of licensed teachers and to pay pension contributions to CTPF as required by the Illinois Pension Code on behalf of those teachers. As shown in the audit, Prologue reported only 6 out of 16 Johnston licensees in Fiscal Year 2014 and, despite Johnston having 17 licensees in Fiscal Year 2015 and 14 licensees in Fiscal Year 2016, Prologue reported no teachers or other licensed employees to CTPF for either of those fiscal years. The suit also names the organization's Chief Executive Officer Nancy E. Jackson and Chief Financial Officer and Pension Officer Jack Robertson, asking the court to hold them personally accountable for their actions.

"This is an egregious example of an employer taking advantage of its employees," said Jay C. Rehak, President of the CTPF Board of Trustees. "This wasn't just sloppy bookkeeping. This was fraud. The employer collected contributions from teachers, but did not turn over all of those contributions to the Fund. They also concealed teachers who were entitled to pension benefits. These unconscionable actions allowed Prologue's leaders to take advantage of our members. Our Trustees put our members first and will do everything we can to protect them."

The action seeks to compel an accounting of Prologue's earlier pension reporting on behalf of Johnston to determine if there was additional non-reporting of licensed teachers and non-payment of pension contributions on their behalf. In addition to seeking an accounting and delinquent contributions, the accompanying statutory late fees, interest and attorneys' fees and costs, the lawsuit also alleges breach of fiduciary duty, fraud, unjust enrichment, trover and conversion, and violation of the Illinois Wage Payment and Collection Act in connection with the defendants' failure to accurately report and pay contributions on behalf of teachers.

CTPF filed the suit after an audit of Prologue's finances by a CTPF-engaged outside accounting firm, for the period January 1, 2013, through June 30, 2016, revealed widespread underreporting of pensionable wages and a failure to pay required contributions on behalf of licensed personnel at Johnston. The school received more than \$9.3 million in public funds from the Board of Education between 2013 and 2016. The audit found more than \$1.4 million in underreported wages and more than \$130,000 in unpaid pension contributions during the audited period.

Chicago's licensed teachers do not participate in Social Security. Instead, the Illinois Pension Code requires a payment of 9% of salary to fund pensions. Prologue agreed to pay 6.2% of the required employee contribution (the same as the required contribution for employees participating in Social Security), and the employees were to pay the remaining 2.8% of the contribution. Prologue violated the Illinois Pension Code by failing to report the employment of licensed teachers, and failing to report and remit employee contributions deducted from salaries of teachers or to pay its 6.2% employer share.

The Board of Education rescinded its charter agreement with Prologue to operate Johnston in August 2016. The Chicago Board of Education filed a separate lawsuit against Prologue on March 3, 2017, (*City of Chicago v. Prologue Inc.*, [No. 2017-CH-03181](#) in the Circuit Court of Cook County) alleging breach of contract and demanding financial accountability after Prologue refused to provide adequate financial records and information following the termination of its contracts with CPS.

ABOUT CTPF

Established by the Illinois state legislature in 1895, the Chicago Teachers' Pension Fund manages members' assets and administers benefits. The \$10.5 billion pension fund serves more than 63,000 active and retired educators, and provides pension and health insurance benefits to approximately 28,298 beneficiaries.

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