

because this amendment, although I believe we could go back and show misfeasance of the Department of Banking prior to the closing of Commonwealth, this amendment addresses the loss of funds and the theft of funds and the misappropriation of funds and the insider transactions that took place from the time that the state took over. The previous tort claim, Senator Nelson, addressed the loss of funds prior to the closing. So I guess we are both right. But the point I want to make is this. The eight point, whatever it was, addressed the time up to the closing but this tort claim that has been filed addresses that point...that period of time from the closing of Commonwealth when the state actually took over, we were involved with the appointment of the receiverships and the Department of Banking played an actual physical and judgmental rule in the manner in which the funds were handled and the receipts that were handled and accounted for and the assets that were disposed of. And so I think it's that basis for which the \$100 million claim was filed. What I have proposed is that the...the tort claim include an amount not to exceed \$30,000 total per depositor and that would be based upon the losses from the time that we were actually in charge. We knew...we knew at the time that we closed the place that there were probably going to be a shortage of assets.

SENATOR NELSON: You're going to run me out of time but go ahead. I guess you're answering my questions. Go ahead.

SENATOR SCHMIT: What we did not...what we did not do, in my opinion, is to guarantee that the receivers who were in charge, Mr. Badami, Mr. Queen and Mr. Johnson, would absolutely act in a fiscally responsible manner and guarantee that the maximum amount of return be realized on those assets that were there.

SENATOR NELSON: I realize that but I'm not so sure that we can expect, you know, everyone in the state to pick up a problem and I'm not saying that we don't have problems, be it insurance, savings and loan, NIFA, we can all go down the line, FHA loans a few years ago, and so on that we can continually come in and say, well, one department didn't do maybe as they should or the oversight. This, to me, separates two issues. One is the \$63 million, the original...the original amount we're talking about now if I get from your conversation, we're talking about the mis...maybe misappropriation or use of funds selling real estate in not necessarily the most feasible manner and so on. Is that what we're talking about now? In other words, we're