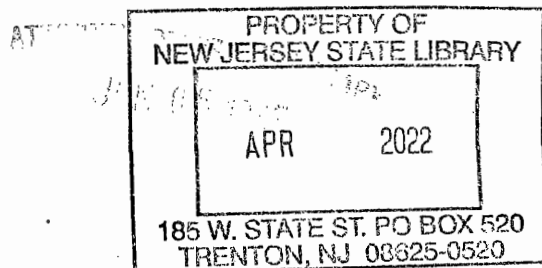
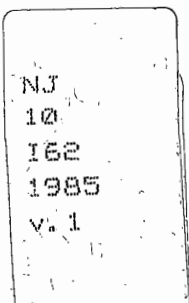




REPORT
on the
DIVISION OF MOTOR VEHICLES
HANDLING OF THE
SEARS-TAGGART
PHOTO LICENSE PROPOSAL

by the
NEW JERSEY
STATE COMMISSION OF INVESTIGATION
JUNE 3, 1985



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New Jersey State Commission
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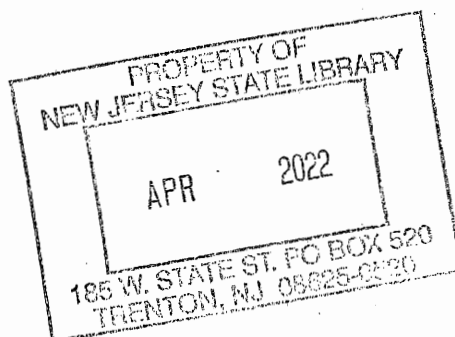
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JUNE 3, 1985

TO: The Governor and the Legislature

The New Jersey State Commission of Investigation herewith submits this report on the handling of the Sears-Taggart Photo License Proposal by the Division of Motor Vehicles, in accordance with Assembly Concurrent Resolution #180, enacted on May 2, 1985. This transmittal is made under Section 10 of L. 1979, Chapter 254 (N.J.S.A. 52:9M-10), the Act creating the Commission.

Respectfully submitted,

Henry S. Patterson, II, Chairman
William S. Greenberg, Commissioner
James R. Zazzali, Commissioner
Paul Alongi, Commissioner

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New Jersey State Commission of Investigation
Report on the Handling of the
Sears-Taggart Photo License Proposal

INTRODUCTION

This report is the result of an inquiry requested by the Legislature in Assembly Concurrent Resolution #180, which was passed by the Assembly on April 15 and by the Senate on May 2. The resolution ordered the State Commission of Investigation (SCI) "to conduct an investigation into the recent awarding of a State contract for photo drivers licenses to Sears, Roebuck & Co., William F. Taggart, or a corporation acting for or on their behalf." The resolution stipulated eight areas of legislative concern for SCI examination. These included the "method used to select" Sears and Taggart and the "basis for contracting" with them, the "capability" of the Division of Motor Vehicles (DMV) agency system to process photo licenses "in lieu of special contractors," the need for a concessionaire to operate the program, how the license processing fee and the "division of monies between Sears and Taggart" were determined, the difference in the cost of processing photo licenses by a private contractor or by the State, the "propriety of the concealment of William F. Taggart's participation in the contract," and possible violations of the State's "bidding laws and procedures." The resolution specified that the SCI must file its findings with the Legislature and Governor Thomas H. Kean within 30 days. That necessitated submission of the SCI report on or before June 3, 1985.

On April 30, while ACR 180 was still pending, the Commission announced that it would undertake immediately an investigation of DMV's motor vehicle agency system whether or not the Legislature enacted the resolution. The Commission declared that the agency system "warrants a more extensive investigation than the legislative resolution contemplates." The Commission stressed that the selection of motor vehicle agents is based on politics rather than on ability and, "as a result, the system has achieved frequent notoriety for reputed inefficiency, carelessness, discourtesy and perhaps even worse conduct" in dealing with New Jersey's 5.2 million motorists.

The Commission also stated that if ACR 180 cleared the Legislature (concurrent resolutions do not require gubernatorial approval to become effective), it would include the issues posed by the resolution in its probe and attempt to meet the 30-day deadline for examining those issues.

The Commission believes that its findings with respect to the limited ACR 180 mandate confirm the correctness of its decision to conduct a full inquiry into the overall agency system. The Commission also feels that the Sears-Taggart episode demonstrated the inability of the politically oriented motor

vehicle system to function adequately at a time when its services were most urgently needed by the public. For this reason, the Commission reiterates the following portion of its April 30 statement:

It appears to the Commission that the current political controversy over a photo license processing contract may have its origins in the underlying deficiencies of operating an agency system strictly on a political basis, with little or no regard for sound business practice and, seemingly, with even less concern for the system's public credibility. No public institution can long survive if the citizens and taxpayers it is mandated to serve become convinced that it lacks integrity and candor in its public dealings. The Commission's investigative objectives will be to assure that this essential integrity of public service is strengthened and preserved and that the many citizens with whom the Division of Motor Vehicles makes such close and constant contact receive a response to their varying motoring needs that is not only efficient and courteous but also clean-cut and straightforward.

Format of the Report

The Commission wishes to make a final prefatory observation. Because of the limitations the Legislature's 30-day deadline imposed on SCI personnel and facilities, the Commission has authorized the release of all transcripts of Executive Session testimony, as well as all exhibits, in order to fully supplement this report. Of course, the investigative summary that follows will include abridged portions of the testimony that are pertinent to the various issues that arose during the inquiry as well as essential extracts from exhibits. However, the Commission believes that the Legislature and the Executive should have the complete file at their disposal.

SUMMARY OF THE INVESTIGATION

The Photo License Law

The color photograph drivers license law was enacted in two stages. In 1979 Title 39, the motor vehicle code, was amended to require all motorists under age 21 to obtain such a license. All other applicants for initial licenses were given the option of obtaining a license with a color photograph on it. Motorists also had an option of obtaining color photograph licenses at renewal time, effective two years after enactment. In 1980 a Senate bill was introduced to make mandatory all of the option provisions of the 1979 enactment, setting effective dates which occurred primarily during 1981. This bill was sent to then-Governor Brenden T. Byrne in mid-1981, and was re-enacted in December, 1981, with changes recommended by Byrne in a conditional veto message. These changes postponed all effective dates to 1982 or later in order to give the new Governor and Legislature taking office in 1982, Byrne said, "an opportunity to reconsider the wisdom of this program." Thus, the full force of the mandatory photo license law took effect after the administration of Governor Thomas H. Kean took office in January, 1982.

In his conditional veto message, Byrne expressed "great misgivings" about the mandate, saying he was concerned that requiring photo licenses for everyone "may cause inconvenience for the driving public and burden the Division of Motor Vehicles." Later events demonstrated that his fear was well grounded. The statute's more difficult mandates required 1 million motorists a year over a four-year period to switch from licensure by mail to licensure by local agencies. The issuance of photo credentials to all new drivers 21 years old or older was required by May 1, 1982, and all license renewals had to be photo-processed by January 2, 1984.

DMV did not begin requiring the photo licensing of these categories of drivers until January, 1984. This delay was necessary, according to Division Director Clifford W. Snedeker, "in order to provide for an orderly implementation" of the law. As Snedeker acknowledged in a memo to Gregory C. Stevens, the Governor's chief of staff: "No photo licenses were issued as renewals in 1982 and 1983 as was provided for in the law because only eight motor vehicle agencies were computerized."

The Commission believes there are harsh lessons to be learned from the enactment of a program that would force millions of citizens into individual confrontation with their government and from the subsequent bureaucratic bumbling and public discontent that ensued. For one, the Commission cannot find any evidence that the Legislature, before approving the photo licensing law, first determined whether the massive proposal could be activated within a reasonable time and without unreasonably disrupting the DMV's outmoded licensure procedures. Second, as was emphasized in the introduction to this report, the misjudgments that marked the photo licensing effort can primarily

be attributed to the bureaucratic paralysis that sets in when political influence replaces sound business judgment.

"The System Sprang a Leak"

So far behind was DMV's automation effort that about half of its 50 agencies still lacked computers when the Division finally decided to implement the major requirements of the program in early 1984. Indeed, at the outset individual motorists requiring license renewals were even given the option of continuing with their two-year paper licenses if they so desired and drivers 60 and over were exempted. According to Snedeker's testimony, in response to questions by Executive Director James J. Morley:

Q. In the early stages of the phase-in, was there any option given to persons who were having their licenses renewed as to whether or not they were going to get a photo license or simply go with the paper license?

A. When we first started, yes, because not all of the motor vehicle agencies were computerized, and we were only going to do the photo ID's in those agencies that were computerized. So we were limiting the number of photo ID's that were going to be issued, yes.

Q. Was it the intention of the Division that that option for renewals was going to continue until you had all the agencies computerized?

A. It was going to continue until we either had all the agents computerized or came up with a better plan to get additional agencies that we could computerize, yes.

Q. At any point in your tenure as director of the Division did you get to a point where either all the agencies were computerized or you had a better plan?

A. Yes.

Q. All right. What point was that?

A. We started about the beginning of 1984 to look into some other procedures and it was suggested to our staff at that time that they might consider going outside the Division into the commercial end and securing with someone to do the photo ID's for us and appoint them as agents.

Q. Did you ever get, actually get to a point where you were able to eliminate the option for renewals?

A. No.

Hold-up on Leases

One problem in the computerization program was the acquisition of agency office sites that met DMV's technical requirements, including enough space to install enough computer terminals to service each agency's anticipated business volume. The search for offices that could meet automation demands became so difficult that Division employees were assigned to "look for empty stores," according to Snedeker. He testified that he joined the hunt: "I personally called assemblymen and senators and said we were looking for areas in your town..."

However, the problem of finding suitable agency sites was compounded by an inability to expedite the political process for approval of leases. According to Snedeker's testimony:

- A. Once a lease was secured, which took a considerable amount of time, that lease would then have to be processed through the state in that the President of the Senate would have to sign it, the Speaker of the House would have to sign it, and then [the Bureau of] Real Estate would have to agree to it. Then the individual in that lease was given a period of time to put in the necessary power and air conditioning, handicapped facilities that were required, and then our people would go in from the Division and install the computers and operate the agency.
- Q. Did any problem arise in that process of securing the leases which you just described?
- A. About two years ago we, the Division got, in budget time, into a debate with the Speaker of the House on leases. These leases were being held up and there was a question on the cost of leases compared to the area and what was required in certain towns. That got, frankly, into a political debate at that time and we were held up on a number of leases. They were finally broken loose, I guess, in 1982 and '83, right after the budget went through.
- Q. If you recall, approximately how many of those leases for agencies which you hoped to computerize were held up during that dispute?
- A. I can't give you an exact number. Again, I can only guess to you and say approximately maybe seven to ten at any one time, because we only tried to secure a limited number until they were in and then, once they were started to be

installed, then the people would go out and secure other locations. Real Estate didn't have the personnel to go out and secure the whole 50 at one time and we certainly couldn't install 50 at any one time. We could install approximately one to three a month once they were approved, so we tried to gear it on that basis to get anywhere from one to three a month, at least, installed and up on line.

Q. For about how long a period of time were the leases being held up?

A. I would say, for a year or longer.

Q. And what was it that finally broke the log jam on it?

A. After the budget hearing, I think the leases were looked into by Real Estate and comparisons were made and they were signed by the Speaker and processed through the system.

Assistant Director Rudolph L. Torlini, whose responsibilities included the conduct of the Division's motor vehicle agencies, and H. Arthur Smith, III, the Division's public information officer, described the magnitude of the photo licensure burden that confronted DMV once it decided to act. They pointed out that in order to accomplish the DMV's four-year objective, one quarter of the pool of 5.2 million driver licensees had to be photo processed each year. Since most of the 1.3 million motorists that would be involved in the drive each year were presently obtaining licenses by mail, the campaign meant a sudden diversion of and invasion by tens of thousands of motorists each month at local motor vehicle agencies.

Smith described at the SCI how swiftly chaos set in as the agency system fell apart under the pressure:

A. The first two months in January and February of that year [1984] we had not called any current license holders for photo licenses. We switched over and were just having new applicants get photo licenses and we issued about 20,000 in each of those two months. In March was the first month we began a call. We decided, because we had a limited number of computerized agencies, to begin on a slow basis, called ten percent and gradually increased it.

In July and August we called 30 and 35 percent, respectively. That brought into our agencies somewhere in the neighborhood of 110,000 photo license applicants in

July and about ninety-some thousand in August.

The system simply sprang a leak. It just couldn't handle that kind of volume. That's about the time when we started to look for another delivery system. It was also at that point of time the director asked me to generate an advertising campaign to try to alert the public in New Jersey to the effect that we had now expanded the hours of our agencies. For the first time we were open Saturdays from eight till twelve and every agency now had extended till 8:00 p.m. so you could go in the evening, [but] they were not being utilized. So we invested about a hundred thousand dollars in an advertising campaign.

At that point we also began looking around for some other vehicle to open up more agencies. We knew if we went through the standard state process of leasing, we were talking anywhere from two to three years before we get a facility available to us.

MV Agents Wouldn't Cooperate

Of all the factors contributing to the failure of the Division to implement the photo license program as required by law, one of the most vexing to Snedeker and his colleagues was the inability -- even unwillingness -- of many politically appointed agents to shoulder their obligations in a responsible and efficient manner. The agents lobbied constantly for increased compensation while balking at the extent to which DMV was requesting them to open earlier, to remain open later, and to operate on Saturdays. By July, 1984, the number of photo licenses issued had increased sharply -- by about 19,000 in January, 20,000 in February, 28,000 in March, 52,000 in April, 61,000 in May, 76,000 in June and 110,000 in July. As the office computerization program slowly progressed, the number of automated agencies participating in the program rose from 31 to 39.

By mid-summer, Torlini said, the newspapers headlined the "lines at the agencies" and DMV made "policy decisions" to cut back on the number of monthly "invitations" -- the Division's term for notices to motorists to get their photo licenses. The pressure on the Division to rescue its program and on the agencies to keep up with the work load led to a "tail wagging the dog" situation. According to a memo written by Torlini on July 12, 1984, when the agents "lobbied for less hours," the DMV agreed. When the agents asked for double commissions, "DMV also agreed." So many agents were refusing to maintain "full staffs at all times as required by contractual agreement" that Torlini recommended termination and replacement of the culprits.

Deputy Director Robert S. Kline told the SCI that the DMV, as its crisis peaked, "was not getting the support we thought we should be getting from the agents." He complained about their failure to cooperate in his testimony at the SCI:

- Q. Did anyone in the course of this process express the opinion that if all agencies were computerized and had expanded hours, that is, stayed open full day Saturday, three nights a week, and opened eight o'clock in the morning, that the agencies alone, under those conditions, could handle the entire photo license program?
- A. Well, we implemented such a program and they weren't handling the photo license transactions properly.

We did expand the hours and we did have the Saturday hours and we made other types of arrangements, including a receptionist and various other things as a result of a July meeting that I had with Rudy Torlini's staff. None of these things seemed to alleviate inconvenience to the public.

- Q. How many nights a week were the agencies open?
- A. The agencies were opened an additional evening a week and they were also open half a day on Saturdays.
- Q. Additional evening adding up to a total of two or one?
- A. No, one. We originally wanted two evenings. We had difficulty getting that type of concession from the agents. Part of our problem was the fact that the agents were not as cooperative in this venture as they should be and by that I meant that in Rudy's discussions with various agents, and as result of agents meetings that were held, the feedback from the agents was that they really did not want to be opened nights, they didn't want to be open on Saturdays, and as a result, we had to deal in the context of the current system that we had. So we were not getting the support that we thought we should be getting from the agents.

How Agents were Compensated

Snedeker described the system of increased agency fees that DMV ratified after he took office in 1982. This "sliding scale"

system will be detailed here because it relates to the subsequent fee structure that was devised for the Sears-Taggart deal. An agent is compensated on a per-item basis, he pointed out, beginning at 90 cents per item for the first 50,000 items of agency work, 70 cents for the next 50,000 items, 55 cents for the next 50,000 items, and 40 cents thereafter. Because the photo license process required two steps -- typing the license and then the photography work -- the DMV decided to double the regular per-item rate for such activity. Thus, depending where an agency might be on its sliding fee scale, it could earn from a \$1.80 down to 80 cents for each photo license processed. Snedeker, who estimated that agents made from \$20,000 to \$90,000 yearly, depending on basic costs, also noted that, as required by the 1981 law, the DMV assessed motorists an additional \$1.50 for a "photo ID." The customary two-year paper license cost \$8, for example, while the four-year photo license cost \$17.50.

Commissioner Paul Alongi, during Torlini's testimony at the SCI, suggested that agency cooperation may have faded as the rush for photo licenses peaked in June and July because the agents by then were operating at reduced per-item rates:

COMMISSIONER ALONGI: But they could get as much as a dollar eighty or as [little] as eighty cents, is that correct?

THE WITNESS: That's correct.

COMMISSIONER ALONGI: Did that completely satisfy them?

THE WITNESS: No, sir.

COMMISSIONER ALONGI: Would it be safe to say in the period of July, and around that time, they are all beyond the first 50,000 and second 50,000 [and] they were into the lower scale?

THE WITNESS: After March, historically, January, February, March, are the biggest months in the agency because we have the commercial renewal period during that time.

COMMISSIONER ALONGI: So they weren't [at] the dollar eighty?

THE WITNESS: Dollar forty in some agencies, some agencies at a dollar ten, depends where they were in the scale.

COMMISSIONER ALONGI: When the agencies were complaining about the extended hours, I assume they were complaining about the profit picture, also?

THE WITNESS: Naturally.

By mid-July, even the DEK Identification Systems Company, which supplied the photo equipment, was complaining about the attitude and the conduct of some DMV agents. On July 16, Torlini received a three-page letter from DEK in which a company spokesman declared: "...the one thing that should not be condoned or allowed to continue is the lack of concern [by] some agents for the operation of the photo equipment and the poor quality of licenses...These are the same offices that complain the loudest about lack of service response, chemistry problems, down time and unmanageable waiting lines...we must identify the problem agencies and turn them around."

DMV Seeks Private Vendor

Torlini told the SCI that, even during the peak of the photo license crisis, he was convinced that DMV could weather the storm -- if the Division maintained firmer control over a somewhat increased number of agencies. He testified:

Q. Did you have an opinion, say, in July of 1984, as to the necessity for an outside contractor?

A. Well, I personally felt that if the agents were mandated to extend hours we could handle the photo driver program, and anything else that we had to do out there, with 50 to 55 agencies.

Q. Without the necessity of going to an outside contractor?

A. That's correct.

Q. And the extended hours that you're talking about, were all day Saturday, three nights a week and a half-hour earlier every day?

A. That's correct.

Q. But you never expressed that point of view to anyone like Mr. Kline or Mr. Snedeker?

A. Oh, yes, we discussed that.

Q. That it was unnecessary to go to an outside contractor?

A. We felt it was unnecessary. We felt the reason behind not following that suggestion was that the agents would have to expend more money for overtime. They claimed they found it difficult to hire employees to a second shift and train them and basically they would have to come up with more money for commissions, and I don't believe that's what they wanted to do.

Q. When you say "We felt that it was unnecessary" --

- A. I'm talking about my immediate staff.
- Q. Your immediate staff. Okay. But you're certain in your mind that you made it clear to Mr. Kline that if the agents were made to stay open more hours, that they alone were capable of doing the job.
- A. Yes, sir.
- Q. Did that opinion presuppose that all the agencies would eventually be computerized?
- A. Yes.
- Q. Was that a factor in that judgment?
- A. We were moving very quickly to automate the agencies.

Deputy Director Kline's testimony indicated he was convinced that an outside contractor was DMV's only means of escape from its dilemma. Kline insisted he had no recollection of Torlini telling him that, with a more cooperative agency force, the DMV itself could have completed the photo licensing effort. Kline's testimony:

- Q. In the course of reaching the decision to go to an outside contractor, did the staff, and more particularly, Mr. Torlini and his staff, express to you an opinion that it was unnecessary to go to outside contractors and that with certain assumptions, they believed that the photo license program could be implemented with motor vehicle agencies alone?
- A. I don't recall if there was ever the expressed statement by anyone on the staff, and I assume you're talking about Rudy Torlini's staff, to either myself or the director, that we should not go, there was no need to go to an outside contractor.

What was expressed to us repeatedly, and was evident to us, was the fact that based on the current agency system that we had at the time that we engaged in this type of discussion, that it was not able to serve the public conveniently to process photo licenses.

And I think that was made abundantly clear by everyone present and there was no other discussion concerning the ability to handle it with the current number of agencies. I think everyone agreed that it was not possible to do so.

Torlini subsequently changed his mind. He also decided that the agency system could not be reformed soon enough and that only an outside contractor could salvage the photo license project. In fact, among other problems he listed in a memo prepared for a showdown meeting at DMV on July 12, [1984], Torlini demonstrated that an uncooperative agency system and the delayed agency automation program weren't the only reasons for the logjam. He also cited the "late mailing" of all June and July license renewal applications, "continuous problems with data lines and computer systems," and the unexpected impact of a large increase in car sales in 1984. His figures showed that new car sales during the January-June period doubled and used car sales rose by one-third. He also indicated during his SCI testimony that he no longer felt the motor vehicle agents could be persuaded to remain open for the extended hours necessary to assure the program's success.

AAA Rejects Proposal

Torlini's memo suggested, in a "long range action" projection, that DMV should "consider adding satellite photo license centers" through such organization as AAA or MCA (Motor Club of America). Torlini was instructed to check out his own proposal. He made contact personally and by mail with AAA but ultimately learned that its system did not lend itself to DMV's photo processing needs. He was told that AAA regional offices were individually operated, that each would have to be dealt with personally. On October 2, 1984, Torlini recommended abandonment of his AAA effort. He never did contact MCA because, he said, he understood it had only one New Jersey office.

Even while Torlini was dickering unsuccessfully with AAA, other possible alternatives were on his mind. In fact, sometime in September came the vision that eventually led to the Sears-Taggart transaction.

Torlini: Why not Sears?

The idea of utilizing the Sears chain's numerous stores as photo license processing centers struck Torlini while on a shopping tour. His testimony:

- Q. What was your next step in pursuing this outside contractor concept?
- A. Well, I happened to be at Quaker Bridge Mall one weekend and -- just walking through, I recognized they have vendors doing other kinds of business there and it sort of dawned on me this would probably be the ideal way to go, the convenience and so on.

So I mentioned that to the deputy director. I said "What do you feel about us considering something like Sears"?

- Q. When you said that Sears had vendors, what do you mean?
- A. Well, if you walk through the Quaker Bridge Mall, on the top level they have a row of vendors, they sell photo supplies, they got an accounting operation and so on.
- Q. Prior to that trip to the mall that caused you to think of Sears, had anybody in the Division of Motor Vehicles mentioned Sears as a potential outlet?
- A. No, sir.
- Q. What was the deputy director's response when you mentioned this to him?
- A. "I'll get back to you." I think the following day he said "I think it's a good idea, pursue it."
- Q. Did he tell you whether he discussed the idea with anybody?
- A. No, he didn't.
- Q. Did you eventually meet with somebody from Sears, I take it?
- A. Well, I started making calls.

Torlini's idea was quickly endorsed by his beleaguered bosses. Snedeker's testimony on his reactions:

- Q. Prior to the time that Mr. Torlini recommended contacting Sears, had anybody else mentioned the Sears name to you?
- A. No.
- Q. At the time that Mr. Torlini suggested Sears, did he mention the possibility of any other commercial concern?
- A. No.
- Q. Prior to the time that Mr. Torlini suggested Sears, had he or any other member of the staff suggested department stores generally?
- A. No.
- Q. Would you expand on Mr. Torlini's reasoning for suggesting Sears as opposed to any other entity, if he expressed any reasons to you?
- A. There were no reasons expressed except that, when Sears was suggested to us, we thought it was a major concern and didn't really care if it were Sears or any other major concern as long as we could secure some prime locations in a number of them.

Q. Did you personally take any steps to pursue this idea with Sears officials?

A. Yes.

Meanwhile, Snedeker said, DMV cancelled the mandatory phase of its photo license campaign and restricted the process to voluntary applications "until we could see what happens with Sears."

"The lines just backed up so far," Snedeker told the SCI, "that Kline, Torlini and I met and decided to scrap the photo ID until we came up with additional locations."

Attorney General Was Updated

Snedeker stated that about every two weeks he and Kline met with Attorney General Irwin I. Kimmelman, adding that he was certain that "at one of those meetings we discussed the photo ID program and the problems we were having." He pointed out that DMV also asked for an attorney general's opinion on the validity of contracting with a commercial firm such as Sears to act in a motor vehicle agency capacity for photo license processing. He confirmed that he received a favorable decision on December 13, 1984, authored by Deputy Attorney General John P. Bender.

Snedeker was also asked if he was being subjected to any political pressures and whether the attorney general or the Governor's office had expressed any concern over the photo licensing problem:

Q. ...Had anybody in the Governor's office or the attorney general's office expressed to you a concern that the...implementation of the photo driver license program was causing, or had the potential of causing, political problems for the administration?

A. I can't tell you a date or time, but I'm sure in a meeting with Mr. Stevens, when we started to issue the requirement that you get your photo ID in our computerized agencies, that they were -- he was concerned that we would have a backup and that the backup would cause a lot of problems for the administration; that people would be standing in line for long periods of time at agencies.

Q. All right. At any time during the period in which you were dealing with this problem or attempting to deal with the problem, were any of your decisions, particularly your decision not to try to work out the problem with the agencies alone, motivated by a sense that the administration wanted the problem solved

as quickly as possible by whatever means?
A. No.

Q. You didn't feel any political pressure to solve the problem?

A. Yes, but not from the administration as much as from Senator Graves, who was the sponsor of the photo ID bill, who would call the deputy almost on a weekly basis to find out what we were doing about implementing photo IDs. He was the one that was majorly concerned.

Senator Graves also happens to be chairman of the Senate Law and Public Safety Committee, which oversees Motor Vehicles, so we wanted to keep the Senator happy to come up with some way to implement this program.

COMMISSIONER ZAZZALI: Who would he call? Mr. Kline?

THE WITNESS: Mr. Kline. I didn't always agree with the senator, Mr. Zazzali, so he thought he could get better service from Mr. Kline, so he would call him on a weekly basis, I'm sure Mr. Kline will tell you.

COMMISSIONER ALONGI: Well, was it ever discussed at that time with the senator or someone from his office that the agency system relevant to photo ID was going to be scrapped and you were going to commercial?

THE WITNESS: It was discussed with him that we were looking at a commercial concern, yes. In fact, the senator knew that Sears was the concern and never said a word about it. We asked the senator, don't say anything because nothing was firm at that point and we didn't want to get it out that we were going with Sears. Yes, the senator knew that. He knew that we delayed the photo ID's. Yes, he did. We told him we started on a limited basis and then told him we had to stop it because we had too many letters and complaints coming in of people waiting for long periods of time in agencies.

Might I say to you that with the photo ID system, this is the first time that everyone in New Jersey is required to go to a motor vehicle agency. Of the five-million-plus people, about a million each year wait little till the last minute and go to an agency to have things done. So it meant we were putting into those

agencies an additional five million people that never had to go before.

After Snedeker and Kline directed Torlini to pursue the Sears proposition, his initial efforts were not fruitful. At one point DMV officials even contacted the K-Mart chain and Jefferson Ward, also without success. Finally a relatively minor Sears official told Snedeker and Torlini they would have to negotiate through two regional managers for New Jersey -- C. James Curran for Pennsylvania and South Jersey and Russ G. Munzer for New York and North Jersey. Snedeker said these individuals "had to give the blessing before anything could be done." At this point, Snedeker said, no one in DMV had told either Attorney General Kimmelman or Chief of Staff Stevens about the effort to enlist Sears. From the outset, Snedeker insisted, he never knew that a driving school concession was attached to Sears.

Torlini said he finally arranged a three-way telephone discussion with Curran and Munzer, on November 19, 1984. At first he was disappointed, he said, because these officials said Sears "would not consider running an operation of that type" and that normally such an activity would be handled through a Sears concessionaire. Nonetheless, they said Sears might be interested in photo licensing as a vendor proposition.

Taggart Becomes Involved

DMV officials were questioned closely on the initial development of the Sears concessionaire angle because it immediately involved them with William F. Taggart of Bedminster, head of Taggart International, a widely known driving school operator and a driving school concessionaire for Sears as well. Taggart was also known to be a substantial Republican Party contributor and a supporter of Governor Kean.

Torlini described at the SCI how Taggart's name first came up:

Q. Did they tell you that Sears might be interested in developing this program if DMV could find a concessionaire?

A. They told me -- yes, they did.

Q. Did they suggest possible concessionaires that you could contact?

A. Yes. They gave me Taggart's name and DES Tobacco. And at that time I mentioned to them that I am aware of the Taggart name as in the Northeast [a] very large corporation and that it sounds more of the kind of person we would deal with, because he is in the auto business. One of the gentlemen told me he was meeting with Mr. Taggart the following day and that he would discuss it with him.

- Q. Did you make any attempts to contact the DES Tobacco people?
- A. I didn't have to. They contacted me in a couple of days.
- Q. So, presumably, one of the people at Sears got in contact with DES and they contacted you?
- A. Yes.
- Q. And is it true that for some period of time you dealt with DES on helping them to --
- A. I had one meeting with the gentlemen.
- Q. And had some conversations or exchange of correspondence?
- A. I also had some exchange of correspondence, yes, I did, sir.
- Q. Do you know how far DES took the concept?
- A. I believe right to Chicago.
- Q. Did you ever hear from anybody representing Taggart?
- A. No, I didn't.

Taggart Offered to Help

Snedeker received a personal offer of help with the Sears proposal from Taggart prior to Torlini suggesting him as a prospective photo license concessionaire at Sears. The testimony:

- Q. A few moments ago you testified that you had a meeting with Mr. Taggart and he suggested to you that he might be of assistance in dealing with Sears?
- A. He indicated he knew Sears officials.
- Q. Now, was that before or after Mr. Torlini suggested Taggart to you?
- A. Before.
- Q. All right. At the time Mr. Taggart said that he might be of assistance in dealing with Sears, did you know at that time that Mr. Taggart was a Sears concessionaire?
- A. No. We did after he said that, though. That's why he knew the people at Sears.
- Q. All right. He told you at that same time that he was the concessionaire for the driving school?
- A. He told us that he knew the officials at Sears? I'm not sure it was the exact same date he said he had the driving schools there.

- Q. When you met with Taggart and he suggested that he might be of some assistance with Sears, at that time did he tell you that he was a concessionaire for the Sears Driving School?
- A. I'm not sure he did at that time.
- Q. Okay. Just that he knew Sears?
- A. He knew some people at Sears and if he could be of any help to us, he'd do whatever he could.
- Q. At that time did you know you were going to have to deal with a concessionaire?
- A. I don't think right at that time we knew we were going to have to deal with a concessionaire. I don't know the exact date without going through my files as to when we knew it was a concessionaire. Mr. Torlini was the first to know it was a concessionaire.
- Q. When Mr. Torlini told you that a concessionaire was necessary and that Taggart was a possibility, did it surprise you that Mr. Taggart hadn't mentioned his relationship with Sears when he was talking to you?
- A. Not really. It could have happened right around the same time, I believe, because he probably came back and talked to Torlini about, you know Mr. Taggart offered services to us and if he could help with anyone down there, he'd be happy to do it.

Kline Contacted Taggart

When Torlini suggested Taggart to Kline, the deputy MV director indicated he knew Taggart and would make the Taggart contacts. Kline, in his SCI testimony, recalled that the other concessionaire mentioned by the Sears regional officials -- D.E.S. Tobacco of Pennsylvania -- was described by Torlini as "too small" to conduct a statewide photo license network while Taggart represented a big company that could handle such a problem.

Kline said he knew Taggart even before he joined DMV, that he dealt with Taggart on legislation relating to the driving school industry. He knew Taggart as a Republican but he had "no way of knowing" that Taggart was reputed to be a major GOP contributor.

Kline testified about his initial contact with Taggart on the prospects of a Sears-Taggart photo license concession:

- Q. Did you in fact contact Mr. Taggart after your conversation with Mr. Torlini?
- A. Yeah. I made a phone call, I think sometime that afternoon, and I explained to him what had transpired with the call to Torlini. He did not express any great interest. As a matter of fact, he didn't have any interest in it. I told him that Torlini had told me that Munzer would be contacting him. Munzer being the North Jersey representative. And that's what Rudy Torlini had told me.

And subsequent to that Mr. Munzer did contact him, I believe the following day. It wasn't until after the contact from Munzer that any real type of interest was established, I think, by Taggart.

- Q. How did you become aware of Taggart's interest?
- A. Well, subsequent to his meetings with Munzer he got back to me and he wanted to get all information available concerning the agency system and the commission schedule and photo licensing. And I provided him with all the information that we had.
- Q. Between the time that Mr. Torlini first mentioned Mr. Taggart's name and the second contact that you had with Mr. Taggart following his conversation with Mr. Munzer--
- did you discuss Mr. Taggart and his potential involvement in the photo license system with anybody else in the Division of Motor Vehicles?
- A. I'm sure I discussed it with the director and Rudy was made aware of everything that was going on, because, you know, his involvement was obvious to the program.
- Q. Did you discuss, during that same time frame, did you discuss Mr. Taggart's potential involvement with anybody in the attorney general's office?
- A. No, not at that initial point.
- Q. During that same period of time did you discuss Mr. Taggart's potential involvement with anybody in the governor's office?
- A. No, not at that time.

DMV's Initial Contacts With Taggart

Having reached the point in this narrative where Taggart will become a dominant figure, the Commission makes the following observation. Whatever the objections might be to the manner in which the Sears photo licensing program was announced, without revealing Taggart's role, the SCI believes that Taggart was a victim of circumstances that others initiated. Although the Commission questioned his inability to recall certain events, in general his involvement should in no way reflect adversely on his reputation as an individual or as a businessman.

About a month after he offered to help DMV in its discussions with Sears, Taggart testified he talked with either Snedeker or Kline, or both, on the subject of becoming a Sears photo licensing concessionaire:

- Q. When did you first discuss with anyone your taking an active role in the photo license program?
- A. I don't recall exactly, but I would assume it would be after they asked me if I would be interested in participating.
- Q. When were you first asked if you would be interested in actively participating?
- A. I would say it was somewhere around a month or so after the first contact by the Motor Vehicle.
- Q. Do you recall who it was who first asked you if you would be interested in actively participating?
- A. It was again Bob Kline or Cliff Snedeker. Or it could have been both of them.
- Q. Can you tell me, if you know, what prompted whomever it was to contact you to ask you if you would be interested in participating actively?
- A. Well, I, I believe that they were told by Sears that they would have to go the concession route, and that's why they asked me to participate.
- Q. Did whomever it was from DMV that talked to you about it say anything to you to suggest that anybody at Sears had dropped your name as a possible concessionaire?
- A. That's, that's very possible, but I can't recall exactly.

COMMISSIONER GREENBERG: And coming back to the period between the initial contact from Motor Vehicle and this second contact or meeting

approximately a month later, whenever that was, did you discuss with anybody in state government your interest in this program?

THE WITNESS: No, I don't recall any, any conversation with any state government person.

COMMISSIONER GREENBERG: Talking about that one-month period.

THE WITNESS: Yes.

COMMISSIONER GREENBERG: But your recollection is that the idea for the photo licening program came from either Snedeker or Kline, or both?

THE WITNESS: Correct.

COMMISSIONER GREENBERG: It wasn't your idea and it wasn't anybody else's idea in state government as far as you know?

THE WITNESS: Definitely not.

Taggart told the SCI that at first he was not interested in handling photo licenses at Sears outlets because his own business needed his time. However, his attitude changed when he learned that Sears was "very, very enthusiastic about the program." He pointed out that he was trying to contract with Sears to operate driving schools in their North Jersey stores. It was while discussing this proposition with the Sears regional manager, Munzer, that his prospective role as a photo licensing concessionaire came up. According to Taggart's testimony:

Q. Is it fair to say that it was Mr. Munzer's desire to see the program started up at Sears that changed your interest?

A. Yes. And I -- participating with the New York group in the Sears Driving School was very, very important to our business and that would -- having Russ Munzer, you know, supporting that effort was very important to us.

Q. Is it fair to say that you became interested in the photo license program because you believed that it might help you to get the northern New Jersey driving concessions?

A. That is correct.

Taggart's Competitor

Assistant DMV Director Torlini's last contact with Sears was his November 19, 1984, telephone hook-up with the chain's regional concession managers. That was when the possible use of Taggart or Edwin Lichtig of D.E.S. Tobacco as Sears photo license

concessionaires was suggested. As noted, Kline took over the negotiations with Taggart. During this period Lichtig also pressed his case, to the point of flying to Chicago to make a presentation to Sears corporate officers on January 7, 1985. Lichtig told the SCI in an interview he informed Sears that he would expand his tobacco concession operations to as many stores as Sears desired in order to obtain the photo licensing contract. His quest was unsuccessful.

The futility of his Chicago trip was signalled to Lichtig in advance, by means of a telephone call Lichtig received from Torlini. How he came to telephone Lichtig on Kline's orders was described by Torlini at the SCI:

Q. When you spoke to Mr. Lichtig did you tell him or suggest to him that he was probably wasting his time going out to Chicago --

A. I was called by the deputy director that Lichtig was going, they had already gotten a commitment from Sears, that Mr. Taggart was going to probably be the gentleman that they were going to select.

Q. When you told Mr. Lichtig that his trip to Chicago was probably pointless and that Taggart was in all likelihood going to get the contract, was that based on conversations you had with Mr. Kline?

A. Yes. Half-hour before, I was told to call Mr. Lichtig and tell him that they were aware that Sears had already agreed to a contract with Mr. Taggart.

Q. Mr. Kline specifically directed you to call Mr. Lichtig and tell him that?

A. Yes, sir.

Q. Can you place that conversation with Kline and your call to Lichtig in time?

A. It would have to be the Friday afternoon before Mr. Lichtig went to Chicago. Because he notified me by mail he was going to Chicago. I sent a letter -- I sent a copy of that letter upstairs and I was told that I should make him aware that the division felt that Taggart/Sears deal had already been struck. When I advised him that, Mr. Lichtig said: "Plans are all ready to go and I'm going."

Taggart, Kline Also Go To Chicago

Taggart also arranged a presentation in Chicago in December, 1984, accompanied by Deputy DMV Director Kline and Barry Schrenk, a former Taggart employee in New Jersey who runs a driving school concession for Sears in Georgia. A video display was prepared in

advance as part of the Chicago presentation, for which DMV supplied photo licensing equipment, cameras and operators. The video taping took place in the Sears store in Wayne. The presentation in Chicago was made to John J. Wurmlinger, Sears national merchandise manager, and Michael L. Campbell, sales manager-concessions.

Taggart was asked to explain why Kline accompanied him to Chicago:

- Q. What was the reason for Mr. Kline going out to Chicago with you?
- A. Again, this was a joint effort and to, to sell Sears on the idea.
- Q. At any time during your meetings in Chicago with any representative of Sears did Mr. Kline express or in any way suggest that the division preferred that the concession go to Taggart rather than to D.E.S.
- A. Yes, he did.
- Q. Can you tell us how he expressed that?
- A. He just told them that he would prefer Taggart.
- Q. Did you tell them why he preferred Taggart?
- A. Because we had a good reputation and that -- you know, basically that.
- Q. Did he say anything at the meeting about any opinion he might have about D.E.S., why he might not want D.E.S. to get the concession?
- A. No, I don't recall him saying that.
- Q. Is it correct to say that, as far as you knew, at the time of that meeting D.E.S. was still in the ball game?
- A. Yes.

Why Kline Went With Taggart

Kline also was questioned about the Chicago trip with Taggart:

- Q. Did you go to Chicago with Mr. Taggart for the purpose of making a presentation to Sears on behalf of Mr. Taggart?
- A. Not on a behalf of Mr. Taggart, on behalf of the Division. Taggart was, I think, helping the Division in a sense that he was providing us with a sales tool that we, you know, didn't even think of or have

available to us, and also opened the door for us with Sears.

Q. When you became aware that D.E.S. -- that Mr. Lichtig from D.E.S. was also going out to Chicago to make a presentation, did you consider accompanying him out to Chicago?

A. My reason for going out to Chicago was to make contact with hopefully the appropriate people at Sears in Chicago, and that's who I was meeting with, had in charge of concessions, just to tell them what the state would like to do and we'd like to get them involved. Once I accomplished that fact, you know, my mission, so to speak, was fulfilled.

Q. Were you present at the time Mr. Taggart was making his presentation?

A. Oh, yeah.

Q. Did it concern you at all that your presence out there with Mr. Taggart for his presentation, but not for Mr. Lichtig with his presentation, might convey to the Sears people the notion that Mr. Taggart was the favored concessionaire, at least as far as the State of New Jersey was concerned?

A. My main concern was selling the program to Sears. If in fact that's the appearance it gave, that's the appearance that it gave.

Again, I think Mr. Taggart was invaluable in helping sell the program to Sears. And, you know, that's what the facts are.

Q. Do you think it was fair to a competitor, a good faith competitor of Mr. Taggart, for you to accompany Mr. Taggart to Chicago, but leave Mr. Lichtig to go out there without any -- at least the appearance of any official support?

A. I think you're aware under Title 19 we're not under a bidding situation here.

Q. I understand. The question only asked if you think it was fair.

A. I think that my role was one of selling this program that we were desirous of getting. I don't think, you know, my fairness, as you put it, to two private contractors was, you know, the issue. The

issue and my job was to try to get this thing firmed up with Sears.

- Q. But you wanted it firmed up with Sears and from your point of view, at least all other things being equal, it didn't matter who the concessionaire was; is that correct?
- A. Well, as far as we were concerned, I think Taggart was a known quantity. Taggart is, you know, a business, it's been in existence for a long time. It's a big operation. Their business acumen, their ability to handle a statewide program like this was significant to us. I think if you say did we favor Taggart, I think it was our opinion, based upon our knowledge, that Taggart could do this type of operation, as opposed to Joe Blow or DES Tobacco ...

Kimmelman Was Informed About Taggart

Snedeker told the SCI that he and Kline had been keeping Attorney General Kimmelman informed about the Sears-Taggart negotiations:

- Q. Until the time, up until the time that Mr. Kline and Mr. Taggart returned from Chicago and their meetings with the Sears people, did you have any discussions with anybody in the attorney general's office, including the attorney general himself, about the possibility of appointing Mr. Taggart as a concessionaire?
- A. Oh, yes, yes. I can't tell you the dates again. About every two weeks, if you want to look on the attorney general's calendar, we met with the attorney general, Mr. Kline and I met with the attorney general, and usually the first assistant, to tell him of things that were going on in the Division and answering any questions that he may have, and we did this as every other director did, and discussed at that time that we were, you know, talking to Bill Taggart about doing the photo ID's, knowing that the attorney general knew Mr. Taggart because they served together on the Sports Authority.
- Q. Did the attorney general express at any of those meetings or at any time in any conversation or any communication, prior to Kline's return from Chicago, express any opinion regarding the advisability of

- appointing Mr. Taggart as an agent?
- A. He thought there was nothing wrong with it. We never had any negative remarks from him that it would not be good to do it.
- Q. Did he ever encourage you to appoint Mr. Taggart?
- A. No, he did not.
- Q. During the same time period did you have any discussions with anybody in the Governor's office about the potential appointment of Mr. Taggart?
- A. I'm not sure that we did. I can't say that we did, no; that we actually said that Mr. Taggart would be the concessionaire to do that, no.

COMMISSIONER ZAZZALI: Different words have different meanings. Aside from whether the attorney general encouraged you in connection with Taggart, did he ever recommend Taggart in any way, directly or indirectly?

THE WITNESS: No, not to my knowledge, no.

Deputy Director Kline also testified that Kimmelman was kept posted on the transaction, except for the "nitty-gritty" details:

- Q. Did you at any time during your dealings with Sears and Taggart have any discussions with, at any time during your negotiations, have any discussions with the attorney general about the progress of those negotiations?
- A. Yeah. The attorney general was made aware periodically. I remember one time we had lunch with him in February, you know, told him, I think at that time, that's when Sears, I think, had finally said that there was a go.

Other times, we met with him and we made him aware of what was going on. We didn't give him all the nitty-gritty details, but he knew of Taggart, he knew of Sears.

- Q. Did he ever know of D.E.S.?
- A. No. Again, he was not given the details, other than basically the principal players we were dealing with.
- Q. Did the attorney general at any time express to you his desire or his preference that Taggart should get the

Sears contract?

A. Never.

Kline said the negotiations, prior to Sears' approval, were not discussed with the Governor's office, although there may have been "casual" conversations:

Q. How about anybody from the Governor's office? Did you discuss the negotiations with anybody from the governor's office?

A. No, we didn't discuss negotiations. There may have been conversations over a period of time, Ed McGlynn or with Greg Stevens, that we're trying to get the Sears program going and it looks promising.

Q. Did you mention--

A. And that Taggart may or may not be involved. Again, that would be very casual and, again, it was not firmed up at that point.

Q. Did either Mr. McGlynn or Mr. Stevens at any time express to you the view that it would be a good thing if Mr. Taggart could get this contract?

A. No. Again, I don't think I've ever -- I had one conversation, I believe, over that period of time, with Mr. McGlynn. I never spoke to Greg Stevens, I believe maybe the director had mentioned it to him. But in my conversation, and I know from what the director relayed to me, and of course you have to ask him, no one, neither the attorney general, Greg Stevens or Ed McGlynn, said yeah, you have to give it to Taggart.

Sometime after February, according to Kline, the fee Taggart was going to be paid as a Sears photo license processor was established. The rate was to be \$2.20 per license. Taggart was to pay Sears 15 percent, or 33 cents per license, according to the terms finally agreed upon by the store. This would have left him with \$1.87 per license, compared with the maximum \$1.80 rate for the regular motor vehicle agents.

Snedeker was asked how the fee was determined and why Taggart's net fee was seven cents higher than the top rate paid to the agents:

Q. Can you tell me, first of all, can you tell me who sat down and worked out the fee before it came to you for your approval?

A. Mr. Kline and Mr. Taggart.

- Q. Okay. Could you tell us what considerations went into fixing the fee at \$2.20?
- A. Yes. We looked at the price of what major department stores would charge for space and area and looked at our figures as to what we were paying in the shopping areas and in some of the private stores that we were in, and came up with a guesstimate as to what he would have to get in there to pay employees if you're talking about a hundred employees, and that's what we guessed the number of employees that you would have to have to operate the days and hours that the Sears stores were going to be open, because he would be open the exact time the Sears were open, and came up with a two-dollar-twenty-cent figure from there figuring that would be fair.
- Q. To your knowledge, was Mr. Taggart going to incur any expenses in connection with the photo license processing that a regular motor vehicle agency would not incur?
- A. Yes. He would have to, he would have to compensate Sears some monies for space. The Motor Vehicle Department and all the other agencies pay for the space area, pay for the improvements in the area if there are any that have to be paid for air conditioning, pay for clean-up and maintenance, and have some sort of security, in other words, in a particular area, because we would normally put in our other agencies a burglar alarm system, and I guess that would be the things that other agencies would not be picking up that Mr. Taggart would be picking up.
- Q. All right. Were you aware at the time that the fee was settled upon that Taggart was going to pay fifteen percent of his fee to Sears to cover those things?
- A. Yes.
- Q. But other than having to pay that fifteen percent to Sears, in effect, for his rent, utilities and security, Mr. Taggart wouldn't have any other expenses that an ordinary Motor Vehicle agency would incur, would he?
- A. No, he would have no additional. He would have their normal expenses; the salaries to employees, the insurance we require.

- Q. In spite of that, he was making a -- well, in spite of that, at least at the outset, he was going to obtain a fee seven cents higher than any motor vehicle agency?
- A. Yes.
- Q. Was there a reason why that advantage was being given to Mr. Taggart?
- A. Only in the sense that he would have, he would be in prime areas that we normally would not be able to lease and we felt that was fair. We didn't sit down and negotiate with Sears what he would have to pay and knew other things that he would have to pay Sears. We didn't know if he would have to pay anything else to Sears or they would have to up it later on. That would be strictly between him and Sears, not us.
- Q. All right. I'm not sure I understand the rationale. He was going to make seven cents more than any other agent for the same process, at least at the outset?
- A. Yes, yes.
- Q. And the reason for that was because he was offering you desirable locations?
- A. We were getting the Sears locations. And if they wanted more out of him later on, our contract would have read \$2.20 and that was it.
- Q. All right.
- A. We guesstimated what the Sears cost would be if we had to rent it.
- Q. All right. Let me see if I understand the reason for the seven-cent differential. The seven-cent differential over the normal \$1.80 was built into the fee as a cushion for Mr. Taggart in case that Sears was going to increase?
- A. It was, that was the maximum fee that we would pay him. It was not considered that, you know, the 33 cents [\$2.20 multiplied by 15 percent] would be the only thing he would have to do with Sears. If there was anything else he would have to do with Sears, that would be entirely between him and them.
- Q. Was it anticipated by either party in the negotiations, if you know, that Sears would come along with additional requirements other than the fifteen percent?

A. I had no idea. I did no negotiations with Sears at all.

Q. Not negotiating with Sears. In the negotiations with Mr. Taggart, was there any expectation, either on Mr. Taggart's part or on the part of the division, that Sears might come in at some point and make demands of Mr. Taggart in excess of the fifteen percent?

A. Yes, there could have been, really. There was -- we didn't know exactly how the operation was going to work to start with. And, in fact, when we first talked to Sears, I think the figure that they thought we needed was a hundred square feet, and we needed a lot more than a hundred square feet when they looked at the equipment. And whether or not they were going to ask Mr. Taggart for more money would be entirely between him and them, not us.

Q. Okay. Was there a particular reason why Mr. Taggart -- you may have answered this, but I want the record to be clear. Any reason why Mr. Taggart was not put on a scale, like the ordinary Motor Vehicle agents?

A. No.

Q. When Mr. Kline came in to you with a recommendation, did you raise with Mr. Kline the question, well, why are we paying a constant 90-cent times two items there instead of going into the decreasing scale?

A. No, only in the sense that we thought that Mr. Taggart would have to have more employees than the normal agent would because he would be open more hours, so we would assume that he would have a lot more expenses than the normal agent would have in that the agent would be open the hours that we are open in the division, which were normally from eight-thirty in the morning until four in the evening. four-thirty, one night a week, where Mr. Taggart would be open the six nights a week and half a day on Sunday. So we assumed that he would pay more money certainly for employees.

Who Knew What, and When

By March, 1985, the Sears-Taggart transaction had become a contractual reality. Indeed, by February 25 Taggart

International (of which the driving school company was a subsidiary) and Sears had signed a "state photo licensing" contract requiring payment to the chain of 15 percent of net sales. By this time also Taggart had estimated he would be processing 500,000 color photo licenses during the first year in at least 15 of the 18 Sears stores in New Jersey. Taggart had also on April 1 created a new company, Driver License Service, Inc., for the purpose of contracting with DMV as a Motor Vehicle "agent at large." The SCI sought to compile as full a record as possible on how much information on the Sears-Taggart development was being passed along to other high officials in the Kean administration by either DMV personnel or Taggart. Following are some of these recollections.

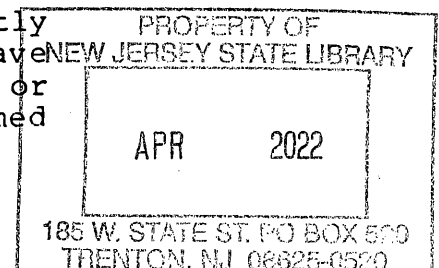
Kimmelman Apprised of Taggart Role

Attorney General Kimmelman knew Taggart as a commissioner on the New Jersey Sports and Exposition Authority, of which Kimmelman became an ex officio member in early 1982. Although he regarded Taggart as an "identifiable Republican" and thus would have assumed that he was a GOP contributor, Kimmelman testified at the SCI that "I had no knowledge that he was a contributor." Further, Kimmelman said that the only time he "socialized" with Taggart was at a party at Taggart's home in 1982.

During questioning at the SCI, Kimmelman was asked at the outset to describe when he knew that DMV was seeking an outside contractor to operate its photo license program and what he was told as the Sears and Taggart negotiations progressed:

- Q. Sir, when did you first become aware that the Division of Motor Vehicles was considering going to an outside entity other than the traditional motor vehicle agents as a means of dealing with the backlogs which had occurred in implementing the photo driver license program?
- A. Sometime during the latter part of the year 1984 Director Snedeker, at one of the periodic meetings that I have with my division heads, informed me that the Motor Vehicle Division was backlogged with respect to the photo license program, certainly behind the time period indicated by the applicable legislation, and that the Division was thinking of looking for an outside contractor to undertake that program in conjunction with the existing motor vehicle agents located around the state.

Either at that meeting or shortly thereafter, at the next meeting -- I have these meetings once every two weeks or once a month -- Director Snedeker informed



me that the Division was interested in communicating with the Sears, Roebuck company, and there was no other discussion other than I've indicated.

Do you want me to relate what I know rather than respond to specific questions?

COMMISSIONER GREENBERG: Go ahead General.

A. At one of our subsequent meetings, and it still could have been in the latter part of '84 or the very early part of '85, Director Snedeker indicated to me at one of our regular meetings that the Division was interested in approaching William Taggart to undertake the photo licensing at the Sears, Roebuck stores, and I nodded or indicated to him my approval with the program as he was outlining it. We didn't get into specifics as to what locations would be used, how many, or what the fee would be.

Q. Let me ask you this, General: At that time was there any discussion between yourself and Mr. Taggart -- between yourself and Mr. Snedeker as to why Taggart or Taggart Driving Schools were being injected into the equation between DMV and Sears?

A. None that I recall specifically other than that the indication was, from Snedeker, and these meetings were attended by Bob Kline, who was the assistant director who is now the acting director, other than that it was felt that Taggart was qualified. I don't know whether it was brought to my attention that Taggart handled the Sears driving schools at that point. I know now. It's an obvious fact. But I just can't put it in my mind that I knew initially.

Q. Was it brought to your attention that Sears required that, in order for Sears to get involved in the program at all, there had to be a concessionaire?

A. Yes. That was brought to my attention at the second such meeting. Remember, I indicated that the first meeting with Director Snedeker was that they would have to use an outfit like Sears, and he was going to approach Sears. At a subsequent meeting he told me it was Taggart, because Sears did not undertake this function

themselves; they used concessionaires with respect to many of their departments for the purpose of generating customer traffic in their store. So that's how I became aware of the fact that the Motor Vehicle [Division] was behind schedule in this program and that they were going to look to Sears and William Taggart to undertake this program.

Q. General, at whatever meeting you were first made aware of the Taggart involvement in this program, was it simply presented to you as Taggart Driving Schools or was the name of William Taggart?

A. William Taggart. The driving school name was not used at all.

Q. At the time that Mr. Taggart's name was first mentioned to you in connection with the Sears photo license program, did you express any encouragement to Mr. Snedeker or Mr. Kline, encouragement for the ultimate selection of Mr. Taggart?

A. I didn't voice any negative comment concerning the selection of Mr. Taggart. I knew that the sole discretion was Director Snedeker's under the statute. I, I don't know, I can't recall what I said. But it, it wasn't negative and it wasn't an expression of displeasure.

Q. All right.

A. But I can't say affirmatively that I said, well, do this, by all means. It certainly didn't go that far.

Chicago Trip Recalled

When Kimmelman was asked if he and Taggart had any discussions of the photo licensing project prior to March, 1985, he recalled "a phone call or a personal conversation" during which Taggart reported he and Deputy Director Kline had discussed the subject with Sears executives in Chicago. Taggart, according to Kimmelman, "wanted me to know that Bob Kline did an excellent job." Kimmelman testified as follows about the Chicago trip:

Q. What was your understanding as to the purpose of the visit of Kline and Taggart to Chicago?

A. Well, my understanding, and I can't tell you whether my understanding occurred prior to the meeting or after, was that Sears, Roebuck was interested in a undertaking such as this but would only consent to it through one of their

approved concessionaires. That was the purpose of the meeting, to have the -- to outline the program to the upper echelon Sears executives at their main office, and to secure their approval.

Q. Did you get the impression that Mr. Kline's participation in the meeting in Chicago was calculated to assist Mr. Taggart in getting the appointment from Sears as the concessionaire to handle the program?

A. No, I can't say that I understood that to be the case. I understood that Kline was there to indicate the position of the Motor Vehicle Division that this was a program which would be desire -- necessary and desirable, and my impression is that Kline went with Taggart because the Motor Vehicle [Division] had settled upon Mr. Taggart as the agent who they would be comfortable with in performing this service at the Sears locations.

Q. Did you have any knowledge, any information about whether other potential agents, any potential [concessionaires] other than Taggart had been considered by DMV?

A. None.

Since Taggart had mentioned in his SCI testimony that he met with the attorney general at breakfast during the 1984-85 Winter, SCI Counsel Morley asked Kimmelman about that meeting:

A. You just brought something to my mind. I did have breakfast with him, and I think it was at a Holiday Inn on Route 1 near the Brunswick traffic circle. He may have mentioned this, and I think he did, but I can't recall the specifics of the conversation.

Q. All right.

A. And I can't recall what was specifically said, although he may have mentioned that the Motor Vehicle Division was interested in him, and that I guess he wanted me as the department head to know. But you'd have to -- he'd have to tell you that.

Q. Okay.

A. And I'm sure that he wanted -- if he wanted me as department head to know, he wanted to make sure that the department head wasn't against him or against the

program, which I wasn't.

Q. Do you have any specific recollection of Mr. Taggart ever asking you to put in a good word for him at DMV or with the people at Sears?

A. I have no recollection of that. I never met with anybody connected with Sears.

Q. Okay.

A. He may -- you know, there may have been a casual discussion at a Sports Authority meeting, not even a discussion, a statement that "I'm, I'm meeting with Snedeker," or "I'm going to Chicago," or "I'm interested in the photo license program." But I don't recall ever discussing details with him other than to indicate that there was no objection and, in fact, approval on my part as the department head for this plan by the Division of Motor Vehicles.

Taggart in his SCI testimony confirmed his breakfast meeting with the attorney general. He couldn't recall who initiated it but it followed a discussion with Kimmelman after a Sports Authority meeting. Taggart said Kimmelman expressed a desire to meet on the subject of the photo licensing plan "so that I could explain it to him:"

Q. Other than your explaining the concession arrangement at the breakfast meeting --

A. Yes.

Q. -- did you discuss any other aspect of the program?

A. No, except he expressed he thought it was a good idea and would be received very well.

Governor's Office Contact Was Minimal

Greg Stevens, Governor Kean's chief of staff, testified at the SCI that he had no discussions prior to March, 1985, with anyone in the attorney general's office or DMV about any problems or activities in connection with the photo drivers license system. Indeed, he said "the first time I really found out about Sears and Taggart" was early in March when a meeting was requested and scheduled to discuss how to handle the public announcement of the Sears-Taggart program. The Governor's deputy chief of staff, Edward R. McGlynn, also testified that he had no knowledge of DMV's Sears-Taggart project until early March.

Carl Golden, the Governor's press secretary, learned about the program during its development stage by accident. He recalled the circumstances during his testimony at the SCI:

Q. When was the first time that you became aware, either officially or otherwise, that Motor Vehicles was going to enter into some sort of an arrangement with Sears for photo license processing?

A. I would guess, between four and five months ago.

Q. How was it that you became aware of that?

A. It was during a conversation with the former director, Clifford Snedeker. He mentioned to me that they were negotiating with Sears as a potential outlet for the photo license program.

Q. Do you recall the context of that conversation?

A. I think it was simply, I believe, I called him and asked about where I should go to have a photo license taken, and during the course of that conversation he volunteered that one of the things that they were contemplating doing to avoid long lines and so on was to come to an arrangement with a large retail outlet, and he specifically mentioned the Sears outlet.

Q. Did he say to you that negotiations were actively in process or did you get into that much detail?

A. No, he almost mentioned in passing. I think he just said something like "We're talking to Sears." That was kind of about it.

Q. At that time did he make any mention of the involvement of Taggart Driving Schools or William Taggart?

A. No, he did not. Not that I can recall.

Q. When did you first become aware that William Taggart or Taggart Driving Schools had any connection with the Sears-DMV negotiations or deal?

A. I think maybe a month or so prior to its announcement.

Q. Can you recall what the context of your becoming aware of the Taggart involvement was?

A. Again, it was a telephone conversation with former Director Snedeker, and I obviously cannot recall exactly, but I believe he mentioned that there was a possibility that Mr. Taggart would become

involved as the agent for the photo license outlets.

Q. Do you recall the context of that conversation, how Sears or, more particularly, the Taggart connection may have come up in the conversation?

A. I believe the conversation was that Mr. Snedeker informed me that they had reached an agreement with Sears, that Sears had agreed to become involved in the program, and during the course of that conversation he mentioned Mr. Taggart's name as a possible agent.

Q. All right. Did he mention Mr. Taggart or Taggart Driving Schools?

A. My recollection is he mentioned Bill Taggart like that, Bill Taggart.

CHAIRMAN PATTERSON: This is February of this year, approximately?

THE WITNESS: I think so, yeah, I could be off by a few weeks, but I believe it was February.

BY MR. MORLEY:

Q. At the time that Mr. Snedeker first mentioned the involvement of Mr. Taggart in this program, were you aware of anything about Mr. Taggart other than the fact that he was involved with the Taggart Driving Schools?

A. I had known Mr. Taggart prior to, that, and his political involvement.

Q. Were you aware that he was a member of the Sports and Exposition Authority?

A. Yes.

Q. Were you aware that he is a significant contributor to the Republican Party and to the Governor's campaign?

A. I know that Mr. Taggart contributed. I was not aware of significance, of dollar amounts. I knew he had been a contributor.

Q. Had you met with Mr. Taggart at any time prior to your becoming aware that he was involved in the Sears program?

A. Oh, I believe I first met Bill Taggart four or five years ago. I had seen him occasionally since then, but more social events than anything else.

- Q. Do you maintain a social relationship with Mr. Taggart in any way?
- A. No. It's during the course of my employment there are times when it's necessary for me to attend either political or social functions, and on several occasions he's been at the same function.
- Q. At the time that Mr. Snedeker informed you of Mr. Taggart's involvement in the proposed Sears program, did you, knowing who Mr. Taggart was and what he was involved in politically and as a quasi-public official, did you form in your own mind any concerns about potential political fallout if Mr. Taggart were awarded a contract for the photo licenses?
- A. The thought crossed my mind, certainly.
- Q. Okay. Did you discuss that thought with anybody?
- A. No. I suggested to former Director Snedeker that this was something that should be decided by the governor's staff and the governor, if necessary; that it was not my call, so to speak.
- Q. Okay. Did you take it upon yourself to discuss it with anybody, any of your colleagues on the governor's staff?
- A. I may have at some point or other during that period, sure.
- Q. You say you may have. Do you have any recollection of whom you may have mentioned it to?
- A. It may have been Greg Stevens. It may have been Ed McGlynn. It was something that just -- it was just something I didn't discuss.
- Q. Okay.
- A. Not for any other reason than I just had other things on my mind.

The First March 11 Meeting

Whatever the upper echelons of the Kean administration knew officially or unofficially about DMV's Sears-Taggart proposal, the Governor's staff was directly confronted with it on March 11, 1985. This meeting had been requested by DMV Director Snedeker in a memo to Chief of Staff Stevens on March 6. This memo included Snedeker's version of the photo licensing "problem" and of interim and long term solutions. Under the heading, "Policy

Questions," the memo stated:

The administration must determine the manner in which they want to announce the implementation of this program. The Division is now in the process of getting the 18 Sears centers on-line by May 1, in order to begin issuing photo licenses for the June driver license renewals.

At this point, many individuals are working on this project and the need for a public announcement is obvious. A decision must be made as to how this type of program should be announced in order to avoid the likelihood of it being discovered by the press prior to its going on-line in May.

Snedeker's memo concluded by noting that Senator Frank X. Graves, Jr., of Paterson, remained critical of implementation of the photo license law, of which he was the prime sponsor. Snedeker said that "there is still criticism of the photo licensing program by Senator Graves and other critics" but that their objections have been based on the inconvenience of the process rather than the process itself. Nonetheless, he predicted that the Sears plan would be successful to the point of becoming a model for other states to copy. The memo described the plan to utilize the 18 Sears stores in New Jersey, at major malls where parking facilities would be ample and where the public would have access to the license centers seven days (and six nights) a week. He also reported that the Sears plan would cost the State less per outlet than the regular State agencies because the requirements for rent, insurance and other costs associated with a leased facility would be nonexistent.

The three-page memo contained only this reference to Taggart's association with the program:

After discussions with Sears, it was learned that they would handle this type of transaction as they do with various other services they provide -- through [a] concession. The logical choice for implementing the photo licensing program at Sears was determined, by both the Division and Sears executives, to be the Sears Driving Schools.

The Sears Driving Schools are operated in New Jersey by Taggart International which is a commercial driving school. Both Sears and the Division agree that Taggart's reputation and performance record is one that would guarantee the success of this program. Accordingly, it was determined, after discussions with

Sears and Taggart International, that initially, the Division would place photo licensing centers in 18 of the Sears stores throughout the State. This will result in a total of 67 locations that the public will have to obtain their photo license.

Snedeker explained at the SCI why he felt the Governor's office rather than DMV should decide how to announce the program:

Q. Was it the normal practice that whenever a release or announcement of an event was anticipated, that you had to run it through the Governor's office to decide whether the Governor would do the announcing or the Division would do it?

A. No, not normally.

Q. All right. What was it about this particular subject that motivated you to run it past Mr. Stevens?

A. We felt in the Division that Sears doing the photo ID's was the first in the nation. It was a rather unique program, and that we felt that PR-wise, frankly, the administration could get a lot of PR out of announcing that you didn't have to stand in line at a motor vehicle agency any longer to get a photo ID, you could go at a certain date to a Sears store. We felt it was -- certainly that would happen nationwide if it worked in New Jersey and that Jersey would be the first and it would be a major announcement.

Q. Was it in any way your intention...to suggest that a decision had to be made as to whether the name of Mr. Taggart should be included in any public announcement?

A. No, sir.

Q. Okay. I would like to direct you to the same section, but the second paragraph, and the second sentence of that paragraph. "A decision must be made as to how this type of program should be announced in order to avoid the likelihood of it being discovered by the press prior to its going on line by May." Could you explain to us precisely what your concern was there?

A. Again, getting back to my first answer, it was a major program and a number of people in our Division and Mr. Torlini's section knew about this on our staff. In fact, an

outsider, I understand, even knew about this, who wasn't on our staff. We were working on this for over a year's time and felt that if we didn't announce it or the Governor's office didn't make the announcement, that we would lose the impact of a good program that Motor Vehicles was going to do.

When asked to elaborate, Snedeker responded:

A newspaper editor knew about this beforehand, one of the editors of a major large newspaper knew about this, and, also, a number of staff people outside of the Division knew about this in the attorney general's office because correspondence was going, conversations were going back and forth with them. And I understand one of the lobbyists knew that Sears was going to do this. This was only hearsay.

Q. Prior to the time that you sent DMV-24, that would be March 6, 1985, did you discuss with anybody in either the Governor's office or the attorney general's office the possible political repercussions that would follow from the appointment of Mr. Taggart as the concessionaire?

A. We discussed Mr. Taggart's name with the attorney general's office, with the attorney general and the first assistant a number of times, but didn't get into any political implications of Mr. Taggart, no.

Q. When you finally decided on Mr. Taggart, I presume you notified the attorney general?

A. Yes, I did.

Snedeker said he customarily notifies the attorney general when he appoints motor vehicle agents but only after an appointment letter is issued. He had not given such a notice to Kimmelman on Taggart, who was to become an agent-at-large, because Taggart "had not had an appointment letter up to this date."

Kimmelman Invites Himself to Stevens Meeting

The March 11 meeting in the chief of staff's office was attended by Stevens, his deputy McGlynn, Snedeker, his deputy Kline and Kimmelman. Kimmelman had not been invited to the conference when it was scheduled. In fact, he only learned about it by happenstance while attending a football game the day before. Why he was not scheduled to participate has remained

unexplained. Kimmelman's testimony on this incident:

- Q. How did you first become aware of the meeting, that the meeting was going to take place?
- A. I was -- this I thought about. I was at a football game at Giants Stadium on the day before. That would be Sunday, the 10th. I can't tell you the name of the team playing, but it was the Generals for New Jersey. And I believe Mr. Taggart said to me that Snedeker, Director Snedeker, is presenting the Sears, Roebuck photo license program to the chief of staff tomorrow. Extent of conversation.

But the next day when I went in to work I called Director Snedeker, and I can't recall the exact words, but I can give you the gist. How come a meeting is taking place with the Governor's staff concerning a departmental matter, even though it's a Division of Motor Vehicle matter, without the department head knowing? And I can't recall exactly what Director Snedeker said, but he said, by all means, you should come to the meeting. And I said, well, if it affects the ongoing operations of this Department, I ought to know about it and I will go to the meeting. And I did.

- Q. Sure.
- A. I went to the meeting and I learned at the meeting that there was a March 6 memo, rather detailed memo, prepared by Director Snedeker, directed to Greg Stevens. I didn't know what was on the memo at the time of the meeting. But following the meeting I asked Director Snedeker for a copy of the memo and he did send me a copy.
- Q. Is that [Exhibit G-1] the document?
- A. Yeah, when I got that memo, I made a copy and gave it to Tom Cannon because I told him that at this meeting it was agreed that the -- that when and if there would be an announcement of the Sears project, the announcement would be made by the department head, and that's why I gave it to Mr. Cannon. Two days later or so Cannon came in, you know, with a draft and we went over the draft and he may have made changes, and ultimately, I think it was the 13th, the draft was

finalized, and it was issued under my name. Now, I learned subsequently that, sure, Mr. Cannon collaborated with Art Smith of, the public information officer of DMV to get up the final draft. I didn't -- I wasn't a part of that. I just saw the papers when it got to my desk.

COMMISSIONER ALONGI: In the ordinary course of business of your department, should not have the March 6 letter from Snedeker, the director, shouldn't that come to you rather than gone to Greg Stevens?

THE WITNESS: I would think that. I would, I would prefer that my division directors, when they have a matter to bring to the attention of the Governor or his chief of staff, and bringing it to the attention of the chief of staff is fairly tantamount to bringing it to the attention of the governor, that they would work through the department head. So that when I, number one, I found out there was going to be a meeting that I was never informed about, that concerned me; and, number two, I found out that there was a memo that was sent outlining the entire project in much more detail than I knew about it. I didn't even know these details. It concerned me.

Stevens' Testimony on This Meeting

Each participant at the meeting with Stevens was questioned on whether a discussion took place about the political repercussions of associating Taggart's name with the Sears photo license center plan and certain other issues that were to arise soon after the public announcement -- excluding any reference to Taggart -- was made on March 13. Following are excerpts from Steven's testimony about the meeting:

- Q. Was there any discussion other than that narrow issue of who was going to make the announcement?
- A. The meeting was dominated by an outline of the program to me, and a series of questions that I asked, excuse me, regarding the program, and it was only in the last few moments of the meeting [that] the issue of who announces the program arose.
- Q. Other than the discussion, the presentation to you about what the program was all about and the discussion of where the announcement was going to come from, was there any other discussion of any

other issues related to the program?

- A. Well, as I indicated, my recollection is the meeting was essentially two-tiered; the first -- it was approximately a twenty-minute meeting. The first ten minutes or so consisted of the director, and the deputy director, and the attorney general outlining the program and the merits of the program, and then my asking a series of questions about whether it was ethical, legal, and so forth, and being given very strong assurances by both the director and the attorney general that that was the case.

COMMISSONER GREENBERG: I take it, Mr. Stevens, that you asked the questions because it was your normal practice to ask the questions, not because you had any particular doubt about this enterprise?

THE WITNESS: No, I simply -- I always, particularly when there's a question of going outside of a bidding process, I ask those questions, and I ask those questions several times a week.

BY MR. MORLEY:

- Q. Was there anything peculiar to this situation arising from who Mr. Taggart was or what other activities Mr. Taggart might be involved in which prompted you to any degree to ask the question is this arrangement ethical?

- A. No, no. I think I've only met Mr. Taggart twice. I don't know him.

I do know that, you know, as I indicated in the memo and was indicated at the beginning of the meeting, that he was, according to Sears and the Division, the best person for the job.

- Q. At the time of the meeting were you aware that Mr. Taggart was a member of the Sports Authority?

- A. Yes.

- Q. Did that fact have anything to do with your question as to whether the arrangement was ethical?

- A. No.

- Q. At the time of the meeting were you aware that Mr. Taggart was the operator of a

major driving school in New Jersey?

A. Yes.

Q. Did that fact have anything to do with your asking the question was the arrangement ethical?

A. It may have come into my mind. But, as I said earlier, I think those questions are questions I normally ask, you know.

Q. Did you at any time in the meeting express to anyone, and especially the attorney general, that you had any concern about the ethics of the arrangement given the fact that Mr. Taggart operated a driving school?

A. I don't think so. I, I began -- you know, essentially what I have said to you is what I said to them. That was, you know, is this legal? The answer was yes. I said, is this ethical? And the answer was yes. You know, personally I have no -- subsequently I have gained a great deal of knowledge, but had no particular, there was no particular reason that Mr. Taggart's name would ring any bells with me at that point.

Q. All right. You have no recollection of talking to anybody at the meeting about his involvement with the driving school?

A. I may have asked, you know, I may have asked is this right that he have, you know -- my understanding, it's one of the largest driving schools in the state, if not the largest -- is this right that he being the guy who operates a driving school be the one in charge of this program.

Q. You may have asked that?

A. Yes.

Q. Did you, at the time of the meeting, have any knowledge regarding Mr. Taggart's being a contributor to the governor's campaign or to the state Republican Party?

A. Yes.

Q. Okay. Was there any discussion or any comment at the meeting about possible bad press or political fallout that might result from the fact that Mr. Taggart was known to be a contributor?

A. No.

Q. All right. It's been reported in the press, I believe, and if not in the press it's been testified here, that you said words to the effect that, well, we're going to take some flak because of Bill Taggart's involvement, but it will only last for a few days and we can withstand it.

A. That's not my recollection.

Q. Okay. Was there any --

A. I'm not saying that someone else might not have said that.

Q. Okay.

A. In fact, it may have been, it may have been Cliff Snedeker's concern that Taggart's, you know, political, political connections might have been a problem. I don't think I raised that.

Q. Okay.

A. I don't remember it. Let's put it that way.

Q. Was it a concern -- and I appreciate the difficulty of answering a question like this. Was it a concern which entered your mind during the meeting?

A. Probably, yes.

The decision to omit Taggart's name from the public announcement was not discussed at the meeting, Stevens testified:

Q. Was there any discussion at the meeting as to whether Mr. Taggart's name should be included or not included in the public announcement?

A. No.

Q. Was there any discussion at the meeting concerning the alleged preference by the Sears corporation that the name of its concessionaires not be generally made known to the public?

A. I'm not sure that I knew that at that point. I subsequently got that in the second memorandum from Cliff when I asked for an explanation as to why Taggart's name was left out of the original announcement.

Q. You have no recollection of that being raised at the March 11th meeting?

A. No.

Q. What was the decision, if any, which was

reached as a result of the March 11th meeting?

A. Essentially, the decision was to go forward with the program.

Q. Okay.

A. And subsequently that the Governor's office would not be involved in the announcement.

Q. Was the final go-ahead given to make the announcement or was there any condition that had to be satisfied before the announcement could be made?

A. I indicated to Director Snedeker that I would get back to him, and I believe I got back to him within a day or so.

Q. What did you have to do, if anything, before you got back to him on it?

A. I felt obligated to brief the Governor on the situation.

Q. And you did, in fact, brief the Governor?

A. Correct.

Q. Why did you feel it necessary to brief the Governor on this particular issue?

A. I generally brief the Governor on most programs, particularly an eighteen-million-dollar or whatever it is program. And he, to be honest with you, he's been very much opposed to photo licensing since he's been Governor. I knew that and I wanted to make sure he was in accord with the decision.

Q. All right. In the course of discussing the concept with the Governor, did you have any discussion with the Governor about possible political bad press?

A. No.

Q. Political fallout --

A. No.

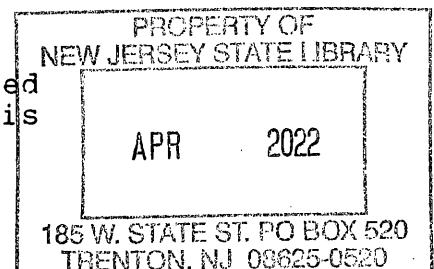
Q. -- because of the Taggart connection?

A. No.

Q. Did you have any discussion with the Governor, when briefing him on the concept, as to whether the Taggart name should be left in or out of the release?

A. No.

Q. And I assume from what transpired afterwards that the Governor gave his



- approval for the program?
- A. Correct.
- Q. Did you, while briefing the Governor, make the Governor aware that, although it was going to be a Sears program, that Mr. Taggart was going to have the concession?
- A. Yes, yes.
- Q. Did the Governor express to you any reservations or fears about reaction to the Taggart involvement?
- A. No.
- Q. Now, I take it that you then got back to somebody to advise them that the Governor has signed off?
- A. I got back to Director Snedeker.
- Q. In the course of that conversation was there any discussion or any comment by either yourself or Mr. Snedeker regarding the issue of whether to include Mr. Taggart's name in the release.
- A. No. I think the conversation lasted probably approximately 30 seconds in which I said go ahead.
- Q. Okay. Between March 11th, when you had the meeting in your office, and the actual announcement of the program did you have any further discussions, other than the short call to Mr. Snedeker, any further discussions with anyone at the Division of Motor Vehicles about any aspect of the program or the announcement of the program?
- A. No.
- Q. How about with anybody, same period of time, with anybody in the attorney general's office, including the attorney general?
- A. No.
- Q. Did you have any conversations with anybody during that same period of time about the program or the public announcement of the program?
- A. No.

Deputy Chief of Staff McGlynn's depiction of the March 11 meeting was similar to Stevens'.

How Taggart Learned of the Stevens Meeting

Snedeker's recollection of Stevens' meeting did not vary

particularly from the testimony of others who participated. However, he was questioned about how Taggart was able to inform Kimmelman at a Giants Stadium football game that such a meeting was going to be held the following day:

- Q. Do you know how Mr. Taggart was aware that you were meeting with the chief of staff that morning?
- A. Yes. We told, we had told Mr. Taggart that we were going to meet with the chief of staff on that Friday because we were contemplating on getting the program moving as quickly as possible and hoped that on Monday we could get the go-ahead to issue the release and would like to set up immediately a meeting with Sears people who were standing by [to] discuss how to operate in a Sears store and look at a sample store.
- Q. What was the result of the meeting you had with Mr. Stevens and the others on the morning of the 11th?
- A. It was decided that the press release would be issued by the attorney general's office jointly with the Division of Motor Vehicle and there would not be a public press conference; it would just be done on a release basis, but the release could be made up but would have to be held until the Governor finally gave the approval, and Mr. Stevens would talk to the Governor on that.

Deputy DMV Director Kline, reviewing the Stevens meeting, said Stevens addressed his questions mainly to Snedeker and Kimmelman. Kline said Stevens was concerned "about, number one, the need for Sears-Taggart, the current situation with the agencies, and if this was "the best way to go, if this was the only way to go, if this was the proper way to go." He also confirmed that it was agreed the Sears-Taggart proposal would be announced jointly by Attorney General Kimmelman and DMV's Snedeker.

Kimmelman didn't recall any questions about an ethical problem in connection with the Sears-Taggart plan being raised, although he recalled Stevens testified to that effect at a legislative hearing. Kimmelman said, on that issue: "Had it come up, I didn't know of any ethical problem."

The Second March 11 Meeting

The most crucial sit-down on March 11 was the conference held after the Stevens meeting in Snedeker's DMV office. Present were Kline, Taggart, William J. Kohm of Oradell, a public relations consultant and a lobbyist, and, during part of the

session, DMV's press officer, Art Smith. Taggart said he had invited Kohm, who also is a personal friend, "to advise me on public relations."

The question whether both Sears and Taggart should be identified in the press release, or just Sears alone, dominated the Snedeker meeting -- and produced sharply conflicting sworn testimony at the SCI. Essentially Snedeker, Kline and Smith testified that Kohm and Taggart argued against including Taggart in the announcement, and that Smith felt it should be a part of the press release. Kohm testified at the SCI that he did not argue against identifying Taggart with the program. Taggart said Kohm wanted to "emphasize Sears and de-emphasize Taggart" but he did not recall hearing Kohm say Taggart's name should be left out of the press release. Further, the DMV officials testified that Kohm said something to the effect that "you don't have to tell the press everything," which Kohm denied. Taggart said he didn't hear such a statement being made.

The conflicting testimony was compounded by conflicting evidence submitted to the SCI by DMV and by Kohm. The draft of the press release which Smith said he submitted to the meeting for review contained on its last page references to the participation of Taggart in the Sears photo licensing program and the \$2.20 fee per license. However, Kohm brought to the SCI hearing a draft release copy which contained no such references on its final page but which he insisted was the draft copy given to him at the Snedeker meeting.

The Commission agrees with the Governor's observation that omitting any mention of Taggart in the press announcement on March 13 was "stupid" and with the reaction of the media in general that the omission was highly improper and the result of gross misjudgment. Further, the legislative resolution requiring the SCI to investigate the entire matter emphasized that this was an issue to be addressed by the SCI probe. Therefore it will be considered here as fully as the time restraints imposed on the inquiry permit.

Should Taggart's Role Be Revealed?

The SCI's probe exhibits included several press release exhibits, ranging from the initial drafts by DMV's Smith to one of the final drafts of the release issued on March 13 by Attorney General Kimmelman. One draft (DMV-30) was reviewed at the March 11 meeting, according to Smith. This draft identified Taggart with the Sears project while the final Kimmelman release did not. The subject of linking Taggart with the proposal in the official public announcement was one of the topics the SCI reviewed with Snedeker in connection with his March 11 meeting. Snedeker indicated that he and Deputy Director Kline were amenable to the deletion of Taggart's name from the press announcement. He said one reason for that was their understanding that Sears, with some exceptions, preferred, not to publicly identify their concessionaires. Another reason, he said, was the objection to identifying Taggart expressed by Kohm,

Taggart's friend and advisor. Following the meeting, Smith redrafted the press release, omitting not only the reference to Taggart, but also the mention of the \$2.20 fee. This second draft, DMV-31, was forwarded to the Attorney General's office. Excerpts from Snedeker's testimony follow:

- Q. Can you now, realizing that you have never seen DMV-31 before, do you have any explanation of why those deletions were made?
- A. I have seen DMV-31 before this meeting. I did not see it on that date [March 11]. The reason that the name was not in there is because during the discussion with Mr. Taggart and Mr. Kohm, Mr. Kohm expressed a concern that why put everything in the release and mention Mr. Taggart's name. You didn't have to tell the press everything. I believe he said something similar to that.

COMMISSIONER ZAZZALI: Let's go through that again. What is your best recollection as to what he said, bearing in mind that it's extremely difficult to remember it verbatim?

THE WITNESS: Something to the effect that you didn't have to tell the press everything and why put his name in there, it was not needed. And Mr. Taggart sort of agreed with him at that time. And since both his PR man and Mr. Taggart didn't want it in, it was immaterial to the Division of Motor Vehicles since we have instructed, I had instructed Mr. Smith at that meeting that if the press called, they were to tell them, and if there were any questions on who the concessionaire was, they were to tell them the concessionaire was Mr. Taggart, and that was specifically instructed to Mr. Smith.

- Q. Mr. Snedeker, other than relying on the rationale that you don't have to tell the press everything, did Mr. Kohm or Mr. Taggart give you any other reason why they believed you should take out the references to Taggart and the amount of the fee?
- A. There was a discussion at the time at that meeting that Sears does their things through concessionaires, but they don't like to be known that they do things through concessionaires; that Sears likes to indicate, when you go to the Sears, it's a Sears product or Sears service that you're handling. And our main impact was Sears as far as we were concerned. That's where you were going to be sent and that's the

only reason Mr. Taggart's name was taken out.

COMMISSIONER ZAZZALI: Mr. Snedeker, you have been very open here this morning. Let me ask you a very subjective question. Do you think there was any other reason for their taking that position?

THE WITNESS: No, sir. Mr. Zazzali, if I had known what has happened up to today, Mr. Taggart's name would have been in the headlines in the release, after thirty years in politics.

If I may, if you want me to go on, we had assumed that was one of the major things the press would ask and they would go to Sears, and Sears had a PR person who would say we do it through a concessionaire. That's what everybody had assumed and thought that they would frankly do, and that the PR man at Sears would say it's through a concessionaire and they would come back to Mr. Smith and ask the questions.

Snedeker added that he knew that the press was anticipating a "major announcement," that even his press spokesman, Smith, "was under the impression the papers knew about this or at least one major paper knew that Mr. Taggart was involved." He also said the DMV was prepared to respond fully about Taggart's involvement if any questions were asked about it, as was anticipated, after the press release was issued. Snedeker's testimony continued:

BY MR. MORLEY:

Q. Mr. Snedeker, was this the first time that you had any inkling that Sears had a concern about keeping the fact of some of its business being done by concession under wraps?

A. Yes, really. I mean, that was expressed by Mr. Taggart at that time that they don't like to announce that other people are doing their services for them.

Q. You never heard that from anybody connected with Sears, did you?

A. No, I never talked to anybody from Sears at all.

Q. Was there discussion among the group about Mr. Kohm and Mr. Taggart's suggestion to delete certain portions of the release?

A. Yes. Mr. Smith is an old PR man, an old

newspaper reporter, and said that's probably one of the questions they're going to ask you. We said, fine, if they ask, go ahead and answer. Tell them Mr. Taggart is involved, tell them what you're paying and tell them exactly what's going on. He thought we should put the name in. We thought since Mr. Taggart didn't want it in, Sears' concern, from at least Mr. Taggart's impression to us, was that they didn't want people to know that they were working through concessionaires, that we would take it out.

If he had no objection to leaving it in, I can assure you, Counsellor, his name would be in there. There would be no reason to take it out.

Q. Did Mr. Kline express an opinion as to whether the references to Taggart and the fee should stay in or go out?

A. He agreed with me that if that's what I wanted to do as director, that's the way we go.

Q. Prior to your expressing your decision, after Taggart and Kohm said one thing and Smith said another thing, did Mr. Kline express an opinion that you recall?

A. He really didn't care either, the same way I did.

Q. Is it fair to say that your decision to leave the references to Taggart and the fee out were motivated solely by your understanding of Sears' concern about revealing its concession arrangements?

A. No, not solely, but that was one of the reasons. And also the gentleman that Mr. Taggart had brought with him, Mr. Kohm, was a professional PR man, indicated the same thing, that that would come out and why put it in there. They were the two reasons: Mr. Kohm and the Sears concern.

Q. It was the concern about Sears' sensitivities? And simply Mr. Kohm's professional opinion?

A. Yes, that's all.

Q. It's been reported in the press, Mr. Kohm has been quoted in the press as saying that at the March 11th meeting he insisted or, at least, suggested that Mr. Taggart's name be added to the release. Do you disagree with -- if Mr. Kohm has said

that, I take it that you disagree with that?

- A. Yes, I would disagree with that statement.
- Q. And that statement, if made, would be untrue?
- A. Yes, Counsellor, it would be untrue.

Kline also was questioned at the SCI about the March 11 conference in Snedeker's office. Kline's testimony, in part:

- Q. What was the purpose of that meeting?
- A. Well, that meeting was to, one, to determine...how best to announce this program. Mr. Smith, who is the public information officer of the Division, had previously prepared a draft press release. Mr. Kohm accompanied Mr. Taggart, I assume as a PR consultant, that's his business. There was a discussion concerning the press release, I think everybody looked at the press release.

There was concern, I think, how best to do this, since we were all very excited about the program. You know, we worked long and hard on it, we wanted to announce it and, you know, get the benefits of announcing what was felt to be a very positive and beneficial program for the motoring public, and I think this was the context of the discussion.

And at that meeting it was determined that the thrust of the announcement should be Sears and that, you know, a press release, that Smith had drafted had Taggart in it, had the 2.20 in it and based upon, I think everyone, except for Smith's opinion, that really, you know, Sears was what the public would identify with and Taggart was essentially invisible, because there's no understanding of the concession arrangement. And I think that that was a feeling shared by everybody, but for Art Smith, and I specifically made sure Art Smith was there, because we wanted his input into that.

- Q. Let me show you an exhibit marked DMV-30, something we obtained from your office.
- A. Right.
- Q. Is that the draft of the release that Mr. Smith prepared for the meeting that we have been talking about?

A. Yes.

Q. Was a copy of that provided or made available to everybody who participated?

A. Yes. I specifically went out to get that for all the participants at the meeting and brought Mr. Smith into the meeting. And everyone had a copy of that release and they then proceeded to read it.

Q. Who was the first person to suggest that the references to Mr. Taggart and the \$2.20 fee should be deleted?

A. I don't know who the first person was. I think everyone voiced their opinion. And Mr. Kohm stated his opinion, something to the effect that you don't have to tell everything to the press, to the press release, you give certain information, that's why you have for further information contact Art Smith or Tom Cannon or whoever is the reference there.

Taggart didn't especially want his name in, I think his concern was there is an agreement with Sears that concessionaires can't advertise, I have never seen the contract, but I've been so told that's part of the concession arrangement.

Kline said it was assumed questions about Taggart would be asked because he and Snedeker had been informed that at least one newspaper had advance knowledge of the program. He insisted that "there was no attempt, as has been alleged, to deceive or mislead the public or the press" and that neither he nor Snedeker cared whether Taggart was mentioned because the "thrust was Sears." He added: "The prime reason was that Sears was the program and we wanted to give credit to Sears and we didn't want to undercut Sears."

Kline was questioned about Kohm's contention that the draft release he, Kohm, saw at the meeting didn't mention Taggart and that Kohm said Taggart's involvement should be disclosed:

Q. ...Mr. Kohm has been quoted in the press as saying that at the later meeting on March 11, he was presented with a draft release that did not contain Mr. Taggart's name, and he urged that either Taggart's name be included or that a follow-up release be made soon thereafter to reveal the Taggart involvement. I take it from what you said, that that does not comport with your recollection of the meeting?

A. No. I've read those accounts also and it's not what happened.

DMV's Smith Versus Kohm

DMV's press officer, Smith, told the SCI he had prepared a draft press release on Sears-Taggart over the March 9-10 weekend, that he brought it to the March 11 meeting in Snedeker's office and that a copy was made available at the meeting. He said Taggart and Kohm reviewed the release and that a discussion ensued about its contents, which he said included the identification of Taggart. Excerpts from Smith's testimony follow:

Q. Would you tell us what discussion there was?

A. Mr. Taggart and Mr. Kohm both expressed concern at the use of Taggart's name in the press release. They also expressed concern about the two-dollar-and-twenty-cent fee being noted.

Q. Did either Mr. Taggart or Mr. Kohm give a reason for concern about the inclusion of those items?

A. They expressed some concern on how Sears would react in light of the fact that concessionaires in Sears operate under the veil of Sears and not under their own names; that the photo center would not be the Taggart Photo Licensing Center, it would be the Sears Photo Licensing Center.

COMMISSIONER GREENBERG: Did you think that was the real reason they had in mind?

THE WITNESS: I saw no other reason at that stage of the game.

BY MR. MORLEY:

Q. That was the reason articulated for their objection to the inclusion of the Taggart name?

A. Yes.

Q. Did they articulate a reason for their objection to the inclusion of the two-dollar-twenty-cent fee?

A. No. I think it -- I think most of the discussion sort of came to an end when Bill Kohm told me you don't have to tell the press everything and that he felt both of those items should be stricken.

Q. Did you --

A. The meeting sort of broke up at that stage

of the game.

Q. Did you express any point of view as to the suggestion that the fee and the name of Taggart be deleted from the release.

A. Yes, I did.

Q. What was that?

A. That they should be there. They were obvious questions that would be asked. The fee particularly was going to be an obvious question. You were not going to do a project of this nature without somebody getting something, and I felt that Taggart would have to be in there; that a later revelation of Taggart would be embarrassing. There were a lot of people that already knew it about Taggart's involvement. A number of our own agents knew about the Sears and the Taggart arrangement. So it was something that could not be very well left out because it's going to come to the surface eventually anyway.

Commissioner Greenberg questioned why Taggart and Kohm were present at a DMV meeting to discuss a DMV press release:

COMMISSIONER GREENBERG: Well, I'm not talking about them taking a different point of view than you. I'm talking about them having any say at all in terms of what the content of the press release would be. This was going to be your agency's press release. Is that correct?

THE WITNESS: As long as they were involved in, as Taggart was involved in the negotiations, there was nothing wrong with him looking at it to make sure the information I'm embodying in my press release is, in fact, factual.

Q. No one expressed any support for your position?

A. No.

Q. Did Mr. Kline express a view contrary to your position?

A. Whether verbal or not, I felt he had in the look he gave me at what I was arguing. I can't say whether he verbally expressed one way or the other.

Q. How about Mr. Snedeker?

A. I think after the -- as I commented, after the remark from Kohm on you don't have to tell the press everything, I think the

director said, all right, we'll take it out. The meeting broke up. I walked up to Cliff's desk and asked him what in hell I was supposed to do when I put this release out when the questions came. I was positive we would have a question. I knew we would have a question about what the fee would be. I was strongly confident there would be a question about Taggart.

He told me at that point, "We'll put it out without those items in there. However, if anyone asks you any questions, direct question on either item, you can answer the question."

I can't say I felt comfortable with it. I was rather comfortable with that based on some information that the deputy director had previously given me that Bill Taggart had, in fact, had at least one, maybe two meetings with an editorial writer at the Newark Star-Ledger by the name of Bob Kalter in which he had discussed the Sears-DMV-Taggart arrangement. I felt that information would probably, although given in confidence, would still be passed on to Mike Piserchia, who is the Star-Ledger State House reporter, covers DMV affairs, so I felt that there was no problem that the first person I was going to be talking to whenever the release went out would probably be Mike Piserchia and at that point in the conversation he would ask the question. [Piserchia, in an affidavit, states that he had no knowledge of any Taggart role in whatever plan DMV was preparing to announce prior to its announcement on March 13.]

- Q. As a result of the meeting and the instructions from Director Snedeker, did you redraft the press release?
- A. Yes, I did.
- Q. And that draft [Exhibit DMV-31] deletes references to Taggart and the two-dollar-twenty-cent fee. Right?
- A. Yes, it does.

Kohm's Testimony

The SCI of course also questioned Kohm and Taggart, in that order, about their recollections of the March 11 meeting at DMV.

Kohm testified that he has known Taggart for perhaps 12 years and sees him at least monthly, either socially or at the Sports Authority, which is a client of his advertising and public relations firm. Kohm said his first knowledge of the DMV's activities in connection with the photo licensing program was through his company's contacts with the AAA auto clubs, another Kohm client. Kohm said that prior to Snedeker's March 11 meeting he never talked to anyone in state government about what SCI Counsel Morley characterized as the "commercialization" of the photo license program. Taggart, said Kohm, asked him to attend the Snedeker meeting "as his friend whose advice and counsel he respected."

The highlight of Kohm's testimony was his contention that a different draft press release was reviewed at the Snedeker meeting than the one DMV officials said had been reviewed. Kohm said the one he insisted was reviewed did not mention Taggart, contrary to the DMV copy which the SCI included in its exhibits. Indeed, Kohm, during the discussion of this issue, produced what he claimed was the release that was distributed to the group.

Exhibit DMV-30, which Counsel Morley first discussed with Kohm, was a four-page release that DMV officials said was reviewed at their meeting with Taggart and Kohm. This exhibit contained a paragraph on the last page stating that Taggart would operate the Sears photo license centers and explaining why DMV felt there was no conflict of interest involved in such centers being run by a driving school operator. Excerpts from Kohm's testimony follow:

- Q. And I take it that you did, in fact, discuss the public announcement of the program at that meeting?
- A. Yes, we did.
- Q. Who else was at the meeting?
- A. Initially it was myself, Bill Taggart, Mr. Snedeker, and Mr. Kline.
- Q. At any time in that meeting was there discussion of whether or not Mr. Taggart's name should be included in the public announcement?
- A. There was a general discussion about the handling of the announcement. There was a concern by Mr. Snedeker that the announcement deal with the program, and there was a lengthy discussion as to how I thought the press and the public would react to the announcement.

This is a meeting that took all of about 20 to 25 minutes. At one point, at that point, I believe, Mr. Snedeker suggested that a draft release had been prepared by Mr. Smith and at that point Mr. Smith joined the meeting with a draft release.

Q. I would like to show you what's been marked as Exhibit DMV-30. It's a document on the news letterhead of the Division of Motor Vehicles. There are certain overlappings on there which were added by this Commission, but that document was obtained from the Division of Motor Vehicles.

Would you look at that and tell me if that is the draft or copy of the draft release that Mr. Smith circulated?

A. No.

Q. Could you tell me --

A. It is not.

Q. Could you tell me in what respect it differs from the draft that was circulated?

A. The draft that you have shown me, Counsellor, deals specifically with the mention of Taggart's Auto Driving School. This was not the draft that was shown to me at the meeting on March 11th.

Q. All right.

THE CHAIRMAN: You're saying that the draft that was shown to you didn't mention Taggart?

THE WITNESS: The draft that was shown to me did not mention Taggart, Mr. Patterson.

Conflicting Press Release Drafts

Kohm had brought with him what he described as the actual press release given to him on March 11. He gave it to the Commission so it could be marked as an exhibit, WJK-1. This exhibit did not mention Taggart and the \$2.20 fee he was to get. The questioning of Kohm proceeded:

Q. Is there any doubt in your mind, Mr. Kohm, that this, what I have now marked WJK-1, is the release that was given to you at the meeting at the offices of the Division of Motor Vehicles?

A. No, that is the only release that I was shown that day.

Q. And you're certain that the release that was shown to you on that day did not include a reference to Mr. Taggart's participation in the photo license program with Sears?

A. There's no reference to Mr. Taggart's name in the release that was shown to me.

Q. Having been shown that release, can you tell us how the conversation proceeded about including Mr. Taggart's name?

A. Let me make a couple of general comments about my reaction to the release as it was shown to me. My first reaction was, as a former editor, I thought it was too long. It was too long a release, A.

B. I would like to emphasize that I was there to give my advice to Bill Taggart, and my advice to Bill Taggart at that meeting and after that meeting was that his name should be included in the release. If his name was not going to be included in the release, it was my recommendation that Sears, Roebuck be asked to put out a companion release or a follow-up release naming Bill Taggart. Those were the comments that I made to Mr. Taggart at that meeting.

At the end of that meeting he walked me out to the elevator. I repeated that advice to him and he went back into the meeting and I left.

THE CHAIRMAN: Just to make sure that I understand what you're saying. Before you walked out of the meeting with Mr. Taggart, at the time that you said you gave Mr. Taggart advice that his name should be included in the press release or, if it is not to be included, Sears should put out a companion release mentioning Mr. Taggart, did you give that advice to Mr. Taggart in such a way that the other people at the meeting could hear?

THE WITNESS: It was a question about that in my own mind, Commissioner. There were four people at that point in the meeting. I was seated next to Mr. Taggart. I suggested to Mr. Taggart, and I believe there were other conversations going on, that if his name was not going to be in the initial release, that there should be a companion release and a follow-up release from Sears. Whether the other gentlemen heard it or not, I don't know.

I have taken the occasion, I volunteer this, I've taken the occasion to call Mr. Art Smith and ask him if he had any recollection of the discussion on the follow-up release, and Mr. Smith told me he has no such recollection. I called him the day after the story appeared in the Star-Ledger and tried to refresh his memory

as to what happened at that meeting. But I don't know whether or not Mr. Snedeker, or Mr. Kline, or Mr. Smith was -- heard what I said to Mr. Taggart. I said it to Mr. Taggart at the meeting and I said it to Mr. Taggart when we left the meeting.

THE CHAIRMAN: Well, obviously, they didn't hear what you said to him after you left the meeting.

THE WITNESS: Right.

BY MR. MORLEY:

Q. Mr. Kohm, at any time during that meeting did you make a statement to the effect that, to the effect, to this effect: Why include Taggart's name in the release, the press doesn't have to know everything.

A. No, I did not, and I would not.

Q. Let me tell you, Mr. Kohm, three people, Mr. Snedeker, Mr. Kline and Mr. Smith, have testified here previously --

A. Right.

Q. -- that at the meeting on March 11th, 1985, the draft which now appears as Exhibit DMV-30 was circulated at that meeting; that that draft, as you can see, includes a reference to Mr. Taggart; and that you suggested at that meeting that it was not necessary to include Mr. Taggart's name in the release; that Mr. Taggart's [name] should be deleted; and, in fact, that the reference to the two-dollar-twenty-cent fee should also be deleted; and that the press, and words to the effect that the press doesn't have to know everything. Do you know of any reason, anything that might have happened at that meeting that would cause Mr. Snedeker, Mr. Smith, and Mr. Kline to give that testimony?

A. Counsellor, I was given one draft of a release.

THE CHAIRMAN: Do you want to answer the question?

A. Well, the answer is, no, I do not know.

Q. All right. Do you believe that the testimony -- would you say that the testimony by those three gentlemen is not

true?

A. I would say that their recollections, at least, are faulty.

Q. Are the facts as stated in their statement not true?

A. The facts as stated that I saw a release mentioning Bill Taggart and recommended taking that name out is not true.

Q. Do you recall what day it was that you called Mr. Smith to discuss your respective recollections of the --

A. It would be the day after the article appeared in the Star-Ledger and the day after I received a call from the Philadelphia Inquirer about an article in the Trentonian. This is, the one in Trentonian was dated May 7th. It's about that time, Counsellor. I believe it's either that day or the day after that I called. This article says that: "Smith said that Taggart and Kohm had requested a removal of Taggart's name from the press release opting to go with Sears alone." So it's about May 7th or 8th that I called Smith.

Q. Have you ever seen what is marked Exhibit DMV-30 before it was shown to you today?

A. I've never seen either one of these drafts.

Q. That's DMV-30 and DMV-31?

A. I've never seen either one of these drafts.

THE CHAIRMAN: Before today.

Q. You have never seen DMV-30?

A. Before this morning, that's correct.

Q. Have you ever seen DMV-30 before?

A. No, never saw that release.

Kohm said he discussed with Taggart his SCI appearance prior to coming to the Commission's office:

Q. Did you discuss with Mr. Taggart your respective recollections of the conversation at the meeting on March 11?

A. I discussed with Mr. Taggart the fact that I was going to make available to this hearing a copy of the draft release that was given to me at the meeting of March 11th.

Q. Did you show Mr. Taggart a copy of that release?

A. No, I did not.

Q. Did you provide -- did you discuss with Mr. Taggart whether he also had a copy of that release?

A. No, I did not.

Q. Did you discuss with Mr. Taggart your recollection with respect to the discussion concerning whether Mr. Taggart's name should or should not be included in the release?

A. Yes, I did.

Q. Did Mr. Taggart discuss his recollection of the same discussion?

A. Yes, he did.

Q. Did his recollection comport with your recollection?

A. His recollection squared with my recollection specifically as to the need for a follow-up release from Sears.

Q. Did his recollection agree with your recollection with respect to whether you urged that his name should be included in the release?

A. I think Mr. Taggart raised the question that he didn't know whether Mr. Snedeker or Mr. Kline had heard my specific comments to him in connection with his name being in the initial release.

Q. Did you suggest to Mr. Taggart that perhaps that was the case?

A. No, I did not.

Taggart, during his SCI appearance, confirmed that Kohm attended Snedeker's May 11 meeting "on my behalf as a friend." Following are portions of Taggart's testimony about that meeting:

Q. At the meeting was the issue raised as to whether your name or the name of Taggart Driving Schools should appear in the public announcement?

A. Yes, there was discussion about that.

Q. Can you tell us how that discussion arose?

A. Well, I, I don't know exactly. I know that Cliff Snedeker expressed that he, he prefer that they emphasize Sears and de --

you know, and he wanted to put Sears up front, and that he, he thought my name should be left out.

Q. Prior to Mr. Snedeker's mentioning that the name should be left out, did anybody else express that opinion?

A. Well, no. Well, not that I recall. Bill Kohm, his -- he emphasized that he wanted to de-emphasize Taggart and emphasize Sears. That was his basic.

Q. All right. Did Mr. Kohm say, in order -- well, in order to de-emphasize Taggart --

A. Yes.

Q. -- did Mr. Kohm suggest the Taggart name be deleted, not be in the release?

A. No, I don't -- that he recommend that my name be out of the release?

Q. Not be in the release?

A. No, no, I don't recall him saying that.

COMMISSIONER GREENBERG: Would you tell me, please, if you will, the substance of how this meeting went from beginning to end? You focused on a part of it in response to this question, but if you will describe for me, please, what occurred at the meeting.

THE WITNESS: I'd be happy to. First, it was a very unstructured meeting; that when we first came in there was smalltalk, and then both the director and the assistant director were very enthusiastic, and they at sometimes were talking to me and Bill Kohm was talking with Smith, and sometimes they both were talking at the same time about different things. I mean, it was that kind of unstructured atmosphere and that's basically how, how the meeting was structured.

COMMISSIONER GREENBERG: Yes. Now tell me what occurred at the meeting.

THE WITNESS: I mean, there was discussion on, on how they were going to present the, and how they were going to do the release. When Smith came in, he handed a copy of the release to Kohm and Kohm was looking at it and discussing it with Smith.

COMMISSIONER GREENBERG: Did you get a copy of it from Smith?

THE WITNESS: No, I did not.

COMMISSIONER GREENBERG: Did you ever get a copy of it that day from Smith?

THE WITNESS: No, I did not get a copy of it.

COMMISSIONER GREENBERG: Did you look at the release?

THE WITNESS: No, I did not.

COMMISSIONER GREENBERG: Did you hear a discussion between Kohm and Smith or Kohm and anybody else concerning the release?

THE WITNESS: Not that I recall, Commissioner.

COMMISSIONER GREENBERG: Well, was there a conversation concerning the release that you did not happen to hear the substance of it?

THE WITNESS: That I did not hear the substance of?

COMMISSIONER GREENBERG: Yes.

THE WITNESS: Yes.

COMMISSIONER GREENBERG: You know there was a conversation concerning the release, but you weren't paying attention to what was being said. Is that it?

THE WITNESS: Well, I came out of that room assuming my name was not going to be in the release. That's, that's -- and, and that when we got out in the hallway or in the -- I don't know if it's hallway or elevator. But, anyway, Kohm said to me that I should have Sears announce my participating in the program.

THE CHAIRMAN: In a separate release?

THE WITNESS: Correct.

COMMISSIONER GREENBERG: Well, whose suggestion was it at the meeting that your name not be in the main release that was coming from Motor Vehicle?

THE WITNESS: Cliff Snedeker.

COMMISSIONER GREENBERG: Do you have a specific recollection of that?

THE WITNESS: Not specifically.

COMMISSIONER GREENBERG: Was he the first one who raised the subject of whether or not your name should be mentioned?

THE WITNESS: I don't know that for sure.

BY MR. MORLEY:

Q. Do you have any recollection of Mr. Kohm saying words to this effect at the meeting while discussing the issue of whether your name should be included in the release: You don't have to tell the press everything:

A. No, I don't recall that.

Taggart Didn't Read Draft Release

Counsel Morley next showed Taggart exhibit DMV-30, the press release draft that DMV officials said was reviewed with Taggart and Kohm on March 11. However, Taggart claimed that he never saw it. Chairman Patterson found it difficult to comprehend Taggart's apparent diffidence about the contents of the release:

THE CHAIRMAN: Mr. Taggart, I think you said before that you brought Mr. Kohm to the meeting because you were particularly interested in how the announcement of the program would be made vis-a-vis Sears, how Sears would be treated in the announcement. Is that correct?

THE WITNESS: That's correct.

THE CHAIRMAN: It's very difficult for me to believe or to understand why, if that was your concern, that you wouldn't at least look at or read a press release that the Motor Vehicle [Division], at least at that point, intended to give out announcing the program. Why did your interest all of a sudden cease?

THE WITNESS: Well, it wasn't that my interest ceased, that Kohm was huddling and talking with Smith, and I mean he was the professional and he was the one that was there looking out on my behalf. I did not -- maybe I should have, and that's a very good point, looked at the release, but I did not. And I went away on vacation, you know, right after that, that, and that next morning, so that's why I didn't get, you know, an opportunity to read the release. I did not see the release.

COMMISSIONER GREENBERG: Did Mr. Kohm say that he had a problem with the release as presented to him while you were all together in that meeting?

THE WITNESS: I don't recall him saying he had a problem with the release.

The March 13 Announcement

After his March 11 meeting Snedeker directed Smith to "make up a basic release and send it over to the attorney general's office." Snedeker also instructed Smith to delete any reference to Taggart and the \$2.20 rate that Taggart was to be paid from the copy he sent to Thomas Cannon, the attorney general's press spokesman.

On the afternoon of March 11, Kimmelman told Cannon he would be putting out a joint press release with Snedeker on March 12 or 13. Cannon, realizing he "had to hurry on this," immediately called Smith. The latter read a draft that he was preparing to send to Cannon. During the course of that or a subsequent conversation Smith stated, according to Cannon:

He said that Sears is not going -- Sears will have a concessionaire do this. I said, "Who's that?" He said, "Taggart." I said, "Who's Taggart?" He said, "He's the guy that runs, runs the driving schools and he's Sears' concessionaire for the driving schools." And then he said, then he said, "But the name is not going to be in the release." I said, "Why not?" He said, "Because they decided not to." He didn't say who "they" was. I said, "Why?" He said, "Because Sears does not like to front out the fact that they do business with concessionaires. People in the Sears stores aren't Sears employees." I said, "Fine."

You know, that was all I knew about Mr. Taggart.

- Q. I take it, then, that the attorney general didn't say anything to you about Taggart?
- A. No. I had no discussion with the attorney general about Taggart at all.

Carl Golden, the Governor's press secretary, said the attorney general's press officer is not under his jurisdiction. He didn't recall discussing the forthcoming release with DMV, except possibly "in passing" with Smith, and he did not discuss its contents with anyone at Kimmelman's office or with the Governor's office. The first time he saw the release was when it was distributed to the State House press corps. Except for the first few paragraphs, he did not read the copy he got.

DMV Gets the Governor's OK

On the morning of March 13, Snedeker, Kline and Torlini met

with Taggart at the Sears store in the Quakerbridge Mall to discuss with Sears officials how the photo licensing processing centers would be set up. That was where Stevens notified Snedeker, the latter said, that "everything was a go" and the program could be announced. Snedeker said he called Smith at once "and told him to get ahold of the attorney general's office and see that the press release on Sears was to go out, went back to the coffee shop and announced to everyone that the chief of staff had approved the program, it was a go, and that a press release was going to go out that day and would probably be in the paper the next day."

Since there was no reference to Taggart in the press release, there was no mention of Taggart in the stories that appeared in New Jersey's newspapers and on television on March 14. Golden told the SCI that he was not surprised that the stories were about Sears only and not about Sears and Taggart:

Q. Did it strike you as odd that Taggart was not named in the news reports?

A. No, because I was never told that it was definite that he was going to be appointed as the agent. My assumption when I saw the newspaper articles was that a decision had been made to go with the Sears firm as the agent and I just let it go at that.

Q. Was it your assumption at that point that Taggart was not involved?

A. That's correct.

As previously noted, Deputy DMV Director Kline had reported, to Smith and others, that Taggart had told him he had discussed the Sears-Taggart photo licensing plan with Robert Kalter, a Star-Ledger editorial writer. According to Smith's testimony, this was a reason that he believed that Taggart's involvement would quickly surface in the press, despite its omission from the press announcement. Indeed, Smith had developed a list of possible questions that would be asked by the press that included details on Taggart's role should the press seek such information. Taggart, during his appearance at the SCI, confirmed his contact with Kalter at the Star-Ledger.

On May 7 DMV's spokesman Smith wrote a memo to the file on his recollections of the Sears-Taggart episode. He wrote that when the Taggart connection did not appear in the Star-Ledger, "I was at a loss" because the story was "slipping out of the news and I really didn't know how to make the Taggart involvement public knowledge." When other members of the press called for comment after the March 13 press release, Smith said that "unfortunately no one asked me if any one other than Sears was involved."

Smith also said in his memo:

Taggart's name was not linked to Sears until April 10, when the Asbury Park Press ran a story noting that Taggart, not Sears, was receiving the \$2.20 commission fee and issuing the photo licenses. I was in Lexington, Kentucky, when that story broke and was not directly involved with any of the proceeding press coverage until I returned to the office on April 16.

Kimmelman Endorsed Non-Disclosure

A review of the press release that was finally distributed to the media leaves no doubt that the attorney general was a willing partner in DMV's decision to conceal Taggart's role in the public announcement of the Sears program.

Four of the announcement's initial five paragraphs quote Kimmelman as indicating that DMV's agent in the expanded photo license program was Sears, and no other person or entity. Actually, DMV was at the moment of the release negotiating a contract not with Sears but with Taggart or a Taggart company as the photo license processor. The only contract with Sears was by Taggart and a Taggart-Sears contract had been signed the previous February.

Kimmelman's press release noted that the additional Sears photo license centers "will increase to 64 the number of New Jersey Division of Motor Vehicles' licensing centers around the state." The attorney general thus promoted a misconception that DMV's relationship with Sears was to be the same as with its regular motor vehicle agents.

Snedeker is quoted in the release as noting "that motorists will be able to use their Sears credit cards to pay the photo license fee" -- a factual statement which nonetheless also promoted the illusion that Sears would be the only beneficiary of the fees to be assessed against drivers for the photo licenses. Indeed, the \$2.20 fee per license that Taggart was to get was not mentioned, apparently because that would have required explanatory details that might have revealed the Taggart connection. No where in the release was it disclosed that Sears was to get only 15 percent of the fee, or 33 cents per license, for providing and maintaining the processing space.

Kimmelman Read the Release

Kimmelman admitted at the SCI that he reviewed the public announcement prior to its release to the press. Just before the issuance of the release, according to Kimmelman's recollection, he "spoke with Director Snedeker and he indicated to me that it wasn't necessary to -- not "necessary," I don't want to use that word -- that it wasn't desirable to use Taggart's name in the initial press release because it would detract from the thrust of the announcement, which was, to the press, which was the physical availability of the Sears locations. We may have mentioned something about the use of concessionaires and the policy not to disclose concessionaires at that time, but I can't

recall the conversation even specifically other than the fact that there is some vague recollection."

Q. All right. And that would have been prior to the actual announcement, the actual notice?

A. It could have been at or about the same time.

The testimony on what Kimmelman knew about both the Sears-Taggart deal and the Sears-only press release continued:

Q. General, do you recall whether you reviewed with Mr. Cannon the text of a press release?

A. I read it; I read it.

Q. Let me just show you what's been marked Exhibit AG-5. It's a press release on your news letterhead. There are various attachments. I just want to call your attention to the release text itself. Do you recall whether that appears to be the release you reviewed with Cannon?

A. Yes.

Q. And at the time you looked at the release, I take it you were aware of the fact that the release made no reference to Mr. Taggart?

A. Yes.

Q. But you relied on the representation either from Mr. Cannon or from Mr. Snedeker that you previously testified about?

A. That's correct.

Taggart Role Exposed

For four weeks the misperception prevailed that Sears and Sears alone was to operate some 18 additional photo license processing centers. During this period, DMV was firming up its contractual arrangements with Taggart, or a new or existing Taggart corporation, to be its agent for such processing at the Sears stores. Then, on April 10 the truth was revealed.

Asbury Park Press Finds Out

While in the process of checking out how the Sears photo license centers would function in its circulation area, the Asbury Park Press learned that Taggart rather than Sears was to be DMV's contractual agent and that Sears in effect was merely making space available for Taggart's processing activity. Richard C. Halverson, the reporter who wrote the expose, sought

clarification from State officials in Trenton. The Governor's press secretary, Carl Golden, was one of the officials Halverson called, according to Golden's testimony at the SCI:

Q. ...When did you first become aware that Mr. Taggart was involved in the Sears deal with DMV?

A. I was contacted by a newspaper reporter for the Asbury Park Press, who called and said he wanted to talk to me and ask me some questions concerning the appointment of Mr. Taggart as the Motor Vehicle agent for photo licenses at the Sears stores. This was early, early to mid April.

Q. What did you do after you had that call from the reporter?

A. My action, reaction was that I wasn't aware that he had been the agent but that I would check on it and get back to him.

Q. Whom did you contact to check it out?

A. I contacted the Division of Motor Vehicles. I believe I spoke to Deputy, well, then Deputy Director Bob Kline.

Q. And what did Mr. Kline tell you?

A. I wanted to verify what the reporter asked, was it indeed correct, and he said, yes, it was.

Q. Did you ask Mr. Kline why the Taggart name had been left out of the release?

A. I think I did. I asked him if that was indeed the case, had it been awarded at the time the announcement was made, and he said, yes. And I asked why he wasn't mentioned or Mr. Taggart's involvement was not mentioned, and he said it was a decision made by Division of Motor Vehicle officials not to include them in the news release.

Q. Did you discuss this issue then, following your conversation with Kline, with anybody else at Division of Motor Vehicles?

A. I may have also have talked to former Director Snedeker about it as well.

Q. Do you have any recollection of what he may have said to you about it?

A. I believe the conversation revolved around the wishes of officials at Sears not to publicly talk about their concessionaire relationship with a number of people in their stores, and the wishes, if I recall correctly, of someone acting on Mr.

Taggart's behalf and having had him request that Mr. Taggart's involvement not be made public.

THE CHAIRMAN: Do you know who was acting on his behalf?

THE WITNESS: I was told, I wasn't there at the meeting, but I was told that it was Mr. William Kohm.

BY MR. MORLEY:

Q. Who told you that; Mr. Snedeker?

A. I believe it was Mr. Snedeker, yes.

Q. Did you at about that time discuss the omission of Mr. Taggart's name with anybody in the attorney general's office?

A. I -- not at that time. I did in the ensuing days, but not on that particular day.

Q. Once you had gotten the information from Kline and Snedeker, did you report what you had found out to anybody in the Governor's office.?

A. I think the first thing I did was call the reporter back and tell him that his information was indeed correct, that Mr. Taggart had gotten the contract, or was designated as the agent, I should say. There was no contract at that point.

My recollection is that I did speak with either Ed McGlynn or Greg Stevens, or possibly both, informing them that the story had broken. I had received at least one press call and there was, given the circumstances, I would probably, you know, be receiving many more.

Q. Did either Mr. McGlynn or Mr. Stevens say anything or do anything to leave you with the impression that he had foreknowledge of the decision to leave Mr. Taggart's name out of the release?

A. No, my recollection is that both of them expressed somewhat, some surprise that that was the case.

Chief of Staff Stevens recalled that he first became aware of the Asbury Park Press disclosure when Golden telephoned him about it. Stevens' testimony on this development:

Q. Did you undertake any action when it came

- to your attention?
- A. I advised the Governor and I suggested that we find out why it was left out.
- Q. Did you take any steps to find out why it was left out?
- A. Yes. I asked Director Snedeker to submit a report to me as to why the name was omitted.

That request caused Snedeker to submit on April 11 a memorandum in which the DMV director attributed the concealment of the Taggart role to "the Division's poor judgment." However, he contended the DMV had not intended to deceive the public. Following is a portion of Snedeker's explanation:

The failure to disclose the involvement of Mr. Taggart in the operation of the proposed photo licensing network at the Sears stores was, in hindsight, poor judgment. However, there was never the intention on the part of the Division to deceive either the press or the public as to identity of the individual who would be appointed as the agent for this new program. Rather, it was the Division's intention to announce to the public a new program that would for all intents and purposes be identified as Sears Photo License Centers throughout the state with the involvement of the agent being invisible due to the manner in which these centers would be operated.

The revelation about the Taggart cover-up set off an instant political controversy despite the Kean Administration's candid condemnation of the concealment as "stupid." The candidates competing for the Democratic gubernatorial nomination joined the Democratic controlled Legislature in demanding an investigation. Assemblyman John Paul Doyle (D-Ocean) introduced legislation to direct the SCI to investigate the episode and to appoint a special prosecutor to probe it. The SCI resolution subsequently was enacted while the special prosecutor directive was held in abeyance.

However, on April 22, another media expose generated additional political repercussions.

The Code of Ethics Issue

On April 3, 1972, DMV promulgated a Code of Ethics for agents and their employees. On September 27, 1981, a slightly modified version of this Code was mandated for and accepted by the Motor Vehicle Agents Association. With respect to the Sears-Taggart controversy, both of these codes prohibited motor vehicle agents or their employees from engaging in,

operating or being employed by "any commercial driver's school." David T. Maloof, a reporter for the New Jersey Network, learned about the existence of this apparent ethical bar to the appointment of Taggart as a motor vehicle agent and, on April 22, he telephoned the State House for clarification. Press Secretary Golden was the first Kean administration official to learn of this new aspect of the Sears-Taggart affair. Counsel Morley questioned Golden:

- Q. When did you first become aware of the existence of the code of ethics that would have prohibited Mr. Taggart from also becoming a motor vehicle agent?
- A. I received a call from, again from a reporter, who read to me what he told me was a code of ethics: read appropriate sections to me. That was within, perhaps, three to four days of the first story breaking that Mr. Taggart had been involved.
- Q. What did you do in response to that call?
- A. I referred him to the attorney general's office; that I didn't have a copy of the code in front of me, obviously; I wasn't an attorney and able to get it, and I recommended he contact the attorney general's office.
- Q. You have testified that he read to you a statement from what he said was a code of ethics?
- A. That's correct.
- Q. Was the essence of that statement that a person who was licensed as a driving school operator could not at the same time be designated as a motor vehicle agent?
- A. Yes. There were a number of other prohibitions as well, but that was one of them.
- Q. Did you tell anybody about the telephone call from the reporter immediately after the call?
- A. Yeah, I think I spoke with Ed McGlynn and I believe I tried to reach Michael Cole in the attorney general's office.
- Q. What was Mr. McGlynn's response when you informed him of the call?
- A. That it should be turned over to the attorney general's office to have them look at it.
- Q. Did you ever discuss the telephone call

from the reporter with Mr. Snedeker?

A. Not, not that I can recall, no.

COMMISSIONER GREENBERG: Why not?

THE WITNESS: I felt that contacting the attorney general's office was the appropriate thing to do; that the Division of Motor Vehicles was a part of that department, and I felt that that's where it should be handled.

BY MR. MORLEY:

Q. Did you ever get back to the reporter to discuss the inquiry?

A. Yes, I did, later that day.

Q. Did you call him, the reporter, back after someone had given you some response that you could give to the reporter?

A. Yes, sir.

Q. Who gave you the response?

A. Mr. Cole.

Q. All right. And what response did Mr. Cole advise you to give?

A. Mr. Cole said a reading of that section of the code was clear that Mr. Taggart would not be able to be a motor vehicle agent because of his involvement. I called the reporter back and told him that, precisely that; that a reading of it was that his information was, indeed, accurate and that the code would have prevented Mr. Taggart from becoming involved.

Deputy Chief of Staff McGlynn recalled Golden relaying Maloof's query to him on April 22, since neither the Governor nor Chief of Staff Stevens were at the State House on that day. He told Golden he was "not aware of that code of conduct at all." It wasn't until a subsequent talk with Golden that the subject of Snedeker's ability to remain in office arose, according to McGlynn's testimony:

Q. Did you ever have any conversation with Mr. Golden about whether Mr. Snedeker could continue in his position given this conflict-of-interest issue?

A. If I can phrase it differently, it wasn't whether Mr. Snedeker could continue in his position. It was whether or not when this was disclosed if it was going to be of such a nature that the media would be calling for his resignation.

Q. Do you recall when that conversation took

place in relation to your first conversation with Golden?

A. It was sometime thereafter. I would say maybe an hour or so.

Q. What was the -- how would you characterize that second conversation with Mr. Golden? Was it one in which he was seeking your views on the issue for the purpose of formulating a general recommendation to the Governor or anything of that sort, or was it again just discussion of office business?

A. I would have to characterize it as one in which we were discussing what was going to be discussed at some point that day with the Governor.

Q. Did you discuss the issue of Mr. Snedeker's possible resignation with Mr. Stevens at any time prior to becoming aware that Mr. Snedeker was, in fact, going to resign?

A. I cannot remember if I discussed it with Mr. Stevens or with the Governor. At some point during the day when I had a discussion with either the Governor or Mr. Stevens, I indicated what this code of, at that point being referred to code of ethics was and the fact that, as a result of this, it was my opinion that someone would be calling, and probably a good deal of people would be calling, for Mr. Snedeker's resignation.

Q. And as far as you knew, the words that Mr. Golden was quoting to you were verbatim from this purported code of ethics?

A. Yes. And Mr. Golden may have had a copy of that code with him at the time that he was quoting it to me.

Q. Did you get any opinions from anybody else on, before making this, having this conversation with either Mr. Stevens or the Governor?

A. I spoke with Michael Cole, First Assistant Attorney General.

Q. And what did Mr. Cole tell you about the issue?

A. To the best of my knowledge again, he indicated that he had reviewed the code of conduct and the code of conduct, in fact, had these four items which would preclude

Mr. Taggart from being both, which would preclude him from being both a driver's license operator and the operator of a motor vehicle agency.

- Q. What did Mr. Cole tell you about the legal effect of that code?
- A. In his opinion, an argument could be made that this did not apply to the way Mr. Taggart was going to operate this motor vehicle agency. However, at that point in time, in his opinion, we had lost credibility and no matter how much we tried to argue that away, it in fact was not going to be able to be argued away, and talking as lawyers we might be able to make that argument, but from the standpoint of the general public it was not going to wash.

Snedeker's Resignation Was Requested

The question of Snedeker continuing as DMV director arose, according to Chief of Staff Stevens' testimony, before it was learned that the ethics code was of dubious validity. The following portions of Stevens' testimony describe what led to Snedeker's resignation:

- Q. Did Mr. McGlynn tell you that Mr. Cole had advised him that although a document purporting to be a code of ethics existed, an argument could be made that it was of no legal effect and did not apply to Mr. Taggart?
- A. No.
- Q. Did anyone at any time ever advise you that the so-called code of ethics was of no legal effect and that the underlying basis for that code of ethics, that is the Conflict Of Interest Act, does not apply to a person in Mr. Taggart's position?
- A. Subsequent to Mr. Snedeker's resignation, yes.
- Q. Who gave you that information?
- A. Mr. Cole.
- Q. Did you have any discussions with the Governor soon after, any discussions with the Governor about his code of ethics, soon after you first became aware?
- A. Yes, within moments.
- Q. Could you tell us in summary what you told the Governor?
- A. Well, I think I said I think we've got a

big problem here; that Director Snedeker appears to be in violation of his own code of ethics, and I think I suggested that we suggest to Mr. Snedeker that he resign.

COMMISSIONER ALONGI: At that time did you know whether a contract had been signed by Taggart and with Snedeker at Motor Vehicle?

THE WITNESS: No. I assumed it had been. I had been provided with, or I had seen, a draft contract.

COMMISSIONER ALONGI: When you were working on your conversation with the Governor, were you of a mind that the contract had been signed?

THE WITNESS: Yes.

BY MR. MORLEY:

Q. What was the Governor's response to your advice that Mr. Snedeker be asked to resign?

A. He agreed.

Q. Did you solicit the advice of any other person, of any person, as to whether Mr. Snedeker should resign before the governor made his decision to ask for the resignation?

A. Only Mr. Golden and Mr. McGlynn.

Q. All right. Did Mr. Golden give you his view as to whether Mr. Snedeker should be asked to resign?

A. Yes.

Q. What was his view?

A. He thought he should.

Q. Did Mr. McGlynn give you, express a point of view as to whether Mr. Snedeker should be asked to resign?

A. I think he agreed that he should resign, yes.

Q. Do you know whether the Governor sought the advice of any other person, any person other than yourself, before coming to his decision that Mr. Snedeker should be asked to resign?

A. I, I would like to characterize it as a joint decision that he and I made together, and, no, he did not. He did speak on the phone with Mr. Golden and possibly Mr. McGlynn. I don't know

whether, I don't know whether Ed was on the phone at the same time with Carl. I had just gotten off the phone with Carl and Ed and asked Carl to describe what was going on to the Governor.

Attorney General Kimmelman, who was at home because his wife was ill on April 22, was kept informed on the day's succession of events by telephone. He said that he and First Assistant Attorney General Cole decided that "the negotiations with Taggart should be terminated in view of the (code) provision." Kimmelman's testimony:

- Q. Did Mr. Cole offer you any opinion regarding the legal force of that code of ethics?
- A. Yeah, I think, I think he said that it was an internal code of ethics; it didn't have the force of law of a departmental code of ethics promulgated pursuant to the statute. This wasn't promulgated pursuant to any statute. But we felt that the better course would be to terminate the dealings at that point.

Snedeker Recalls Resignation

Snedeker told the SCI that Golden told him about the code violation in a telephone conversation on April 22 and that he turned the call over to his deputy, Kline, who indicated that no such violation existed. He also was informed by Kimmelman that, under the circumstances "we ought to drop the Taggart contract." Snedeker said he replied: "If that's what you want to do, General, that's what will be done." Snedeker said he had never seen the ethics code -- although a code is included in all agents' manuals -- and that he had substantial legal advice that "the code was not effective and could not be enforced." While Snedeker was discussing the code issue in Cole's office, Stevens telephoned him with the request for his resignation:

- Q. What did you discuss with Mr. Stevens?
- A. He got on the phone. I did not know at the time, I found out later, that he and the Governor were out at a landfill site someplace in Mt. Holly and he was calling me from a phone in some little building at a landfill site. He had indicated to me that we had violated our code of ethics and the Governor felt that I should resign.
- Q. Did you relate to Mr. Stevens your conclusions and the conclusions you had reached with Mr. Cole and Mr. Kline at your meeting?

A. Yes. I had asked to speak to the Governor. I didn't feel that I had to resign or that I should resign at that time until I spoke to the Governor. I didn't feel that the code of ethics, which I had no knowledge of at the time, had any effect or force on it, neither did the staff. The attorney, Mr. Kline, who was an attorney, not our attorney, but our legal staff had even started to look at it over at the DMV office. I asked to speak to the Governor.

Q. And did you speak to the Governor at that time?

A. No, I did not speak to the Governor. Mr. Stevens went off the phone for a few minutes, came back and said that the Governor would talk to me after I resigned. If I didn't resign, the Governor would fire me.

Q. What did you do from there?

A. I told Mr. Stevens if that was the case, I thought it was unfair; that I would at least like the opportunity to explain my side of the story and what I knew about the code and what I didn't know about the code to the Governor before I resigned; but if that's what the Governor wanted, he would have my resignation that day.

Q. And did you resign on that day?

A. I went back to my office and dictated a one-line sentence that I hereby tender by resignation as Director, Division of Motor Vehicle, State of New Jersey, April 26th, 1985.

Q. Did you speak to the Governor before you had that letter delivered to him?

A. I did not.

Q. Did you deliver the letter to the Governor personally?

A. No, I did not. One of the members of my staff, a runner, took the letter over to, I believe it was Carl Golden's office there that time and dropped it off at the press office, or one of the offices.

Q. Did you ever discuss your resignation with the Governor?

A. Yes, I did.

Q. When was that?

- A. The Governor called me that evening and my wife answered the phone and indicated the Governor wanted to speak to me, and I spoke to the Governor and he felt sorry that this all had occurred. I explained to him that I felt sorry, also, and sorry I didn't have the opportunity to talk to him before the resignation. He had indicated to me that his advisors thought that would be the best way for me to do it, for me to resign. I told him that I thought going with Sears and doing this was still a good idea, and he agreed that it certainly shouldn't be dropped, you know, they still should discuss it with Sears. He indicated he was sorry. I indicated I was sorry and I apologized if I caused him any embarrassment.

Snedeker Would Return to His Post

Press reports have indicated that Snedeker felt he had acquiesced to the resignation demand prematurely, that subsequent questions about the actual validity of the Code of Ethics issue would have enabled him to remain at his post. His testimony at the SCI closed on this subject:

EXAMINATION BY COMMISSIONER ZAZZALI:

- Q. Personal question. Would you go back if you had the opportunity?
- A. There are a lot of things that I would like to see done, Mr. Zazzali, there that we had on the drawing board. And I know how difficult it is for my deputy right now because he's getting stepped on by about everybody there. Yeah, I would like to finish things. There are a lot of things that have to be done. Not taking the capability away from my deputy, because we had a good relationship, but it takes two to do it; one to push, one to see it gets done. My deputy was a good deputy. I would like to finish things, but I would probably quit next year anyway.

DMV Was Warned About Ethics Issue

DMV officials who purportedly were alerted about the ethics code issue as long ago as November, 1984, had difficulty recalling that, except for Assistant Motor Vehicle Director Torlini. His memory of the code issue and what he did about it was detailed. According to these excerpts from his testimony:

- Q. Have you been, since years ago and up to

the present time, familiar with the contents of that code of ethics?

A. Yes.

Q. And are you familiar with the fact that that code of ethics prohibits a motor vehicle agent from also conducting a driving school?

A. Yes, sir.

Q. At any time after the first moment that you were aware that Mr. Taggart was being considered for the photo license concession in Sears, did you call that code of ethics and the prohibition of being both a agent and a driving school [operator] to [the attention of] either Mr. Kline or Mr. Snedeker?

A. As soon as Mr. Taggart's name was brought to Mr. Kline's attention that was the first question that was asked.

COMMISSIONER ALONGI: Who raised the question?

THE WITNESS: Mr. Kline. He said "Is there a conflict of interest?" and I said "Yes. Conflict of interest, depends who is going to get the contract, is Sears going to get the contract?" That's the extent of the conversation, "Have to look into it."

COMMISSIONER ZAZZALI: What date was that?

THE WITNESS: November 19th, have to be.

Q. What was Mr. Kline's response to your informing him that there was a conflict?

A. We'll have to have the legal staff look into it.

Q. Did you ever have any subsequent conversation with Mr. Kline about this possible conflict of interest?

A. Yes, sir.

Q. When was that, if you know?

A. I was asked to supply copies of the existing contract to Mr. Kline, that they were going to be turned over to, I believe, Mr. Taggart's attorneys or Sears or whomever. They were sent up. I was holding a staff meeting and I received a call from their secretary saying they had not arrived and I had my secretary pull additional copies from the word processor

and attached to the contract we included a copy of the code of ethics.

And upon receiving it he called me and said to me "About the code of ethics", and I explained to him that -- and he advised me at that time that he was going to have, again, the situation looked into.

Kline, who as deputy director was Torlini's immediate superior, had practically no recollection during his SCI testimony of any ethics code discussion, with Torlini or anyone else:

Q. Do you recall having a conversation with Mr. Torlini soon after his conversation with Munzer and Curran in which he pointed out to you that there was a code of ethics in '71, code of ethics in the motor vehicle agents' manual that prohibited a driving school operator from being a motor vehicle agent?

A. No.

Q. Do you have any recollection of Mr. Torlini providing you with a copy of a code of ethics, what purported to be a code of ethics, which prohibited motor vehicles -- prohibited driving school operators from being motor vehicle agents?

A. The first time that I saw the code of ethics that you're referring to was in the director's office, I guess sometime around April 11th -- not April 11th, maybe April 22nd, when the decision was made to abort the Sears-Taggart photo centers.

At that time the director and I were both made aware of the code of ethics and that's when staff, I forget who showed it to us, based upon a call that we received from the Governor's office, Carl Golden, and also a call from the attorney general.

Prior to that, and during the pendency during this whole negotiating period, neither the director nor I had ever seen the particular document that you're referring to. And as I understand it now, it was buried in the back of the agent's manual.

Q. Aside from showing you any document, did Mr. Torlini at any time prior to the announcement of the Sears contract express to you orally his belief that

there was what purported to be a code of ethics prohibiting a driving school operator from being a motor vehicle agent?

A. Not that I recall. Again, the only discussion, and again, I can't recall when this transpired, was regarding the regulation, concerning driving schools and affiliation with the Division of Motor vehicle. But I don't recall any discussion with Rudy as to, you know, the quote-unquote, the code of ethics that you're referring to in the back of the agent's ethics book.

Q. Well, if Mr. Torlini had told you at any time that the appointment of Mr. Taggart might run afoul of what purported to be a code of ethics, would you have taken steps immediately to check it out?

A. If that in fact occurred I would have checked out with our legal staff. We have several lawyers, and, again, I don't recall Mr. Torlini advising me that there was a problem with the code of ethics. If anything, I'm sure that I had asked Torlini or Marc Galella, who is the executive assistant to the director, to check out any type of impediments, particularly the regulation.

Now, if they didn't bring it to my attention, you know, it's because they, I assume, found no impediment to this and I never received word from anyone on staff of an ethical problem or a regulatory problem or statutory problem.

Q. And that statement includes any code of ethics, regardless of its disputed legal force, is that --

A. Yeah -- as far -- no one on staff advised me that there was an impediment, whether it was a code of conduct or otherwise --

Q. Or what purported to be a code of ethics?

A. Or what purported to be a code of ethics. And if they did advise me I would have had it checked out by our attorneys. If I can add, you know, in operating in the Division of Motor Vehicles with the number of employees and number of problems and everything else that's going on during the course of the day, it's essential that you rely on your staff and sometimes maybe to our detriment, we don't always ask for things in writing and sometimes we

verbally contact our people and ask them to provide us with things and sometimes they talk to us and we don't always have followups to these things.

So far as that, I have no recollection of them ever stating to me, and certainly not writing to me, because I had nothing in my file to show that there was any type of problem with, you know, this code of ethics that came to light in April.

It was only at the time of Snedeker's resignation that questions were raised about the ethics code's validity. At the time negotiations began with Taggart, this was apparently not how Torlini and his staff felt about the probability of a conflict of interest on Taggart's part because the code barred a DMV agent from also being a driving school operator, as Taggart was. Torlini and his staff were convinced that a Taggart conflict existed and insisted at the SCI that Kline was pressured as long ago as November, 1984, to resolve the question. Torlini was recalled by the SCI and some members of his staff were subpoenaed to further clarify what they felt Kline knew about the ethics code question. These staff members confirmed various aspects of Torlini's testimony.

When he returned to the SCI, Torlini was questioned more precisely than before about what he told Kline with respect to a potential Taggart conflict, and when the ethics question first arose. When he first told Kline that Sears representatives had suggested Taggart as a possible photo license vendor in November of 1984, Torlini recalled:

A. One of the first questions was raised by Mr. Kline was whether there was a conflict of interest, and at that point I told him it depended on who would be appointed. If Taggart Driving School was appointed, it would be a conflict of interest. At that point he made me understand that...they would have the legal staff review it and they will handle it from there.

Q. Is there any doubt in your mind whatsoever that you said to Mr. Kline it might be a conflict of interest if Taggart were chosen?

A. Mr. Kline raised the question.

Q. Is there any doubt in your mind that Mr. Kline said would there be a conflict of interest?

A. No, sir.

Q. Is there any doubt in your mind that you responded with words to the effect it

might be if Taggart is the choice?

A. No, there isn't any doubt. And I was told that the legal staff would look into it.

Q. Did you at any time discuss this conversation with, the conversation you had with Mr. Kline, with anybody other than your testimony here?

A. With the staff through normal meetings that we would have on the program, et cetera.

Q. What about the second discussion with Mr. Kline that you just referred to; can you tell us when this took place?

A. Yes, sir. The exact date I'm not sure. But from time to time we would be requested to supply various documents dealing with agency operation, items, commissions, et cetera. We were asked to supply contracts, copies of the agency contract on two or three occasions. On one particular occasion the contract had been evidently requested. My secretary insisted it had been sent up. I was at a staff meeting and at this point she received a call that, from Mr. Kline's office, that they wanted a copy of the contract and I said, well, we'll arrange to send it up. They wanted it right now because somebody was there, and we arranged to have it run off of the word processor, delivered along with other documents, and if I recall correctly, according to my files, there were other documents that were sent up along with it.

I got a call from Mr. Kline when he received the documents and again the question was raised as to the conflict of interest, because the --

Q. All right.

A. And at that time he raised a question about the document. He -- again I pointed out to him it depended on who was going to be appointed. At that time we were not sure that Taggart was going to get the contract, or was it going to be a special corporation, or was it going to be some individual. The exact person who was going to be named as the agent was not known to us, and I explained that it would have to be looked at by someone in the legal profession, and he says it will be done and hung up the phone, and we

discussed it briefly with the staff.

Q. Are you --

A. In fact, at that point I got into a debate with one of them. I said, hey, it's something out of our hands, the legal people have to look at.

Q. Did the conversation with Mr. Kline, the telephone conversation with Mr. Kline, take place while you were actually in the staff meeting?

A. That's right. I left the table, went to my desk, and the phone's on a credenza.

Q. Following the telephone call from Kline, is it your testimony that you discussed what you had already talked about with Kline --

A. Yeah, very briefly.

Q. -- with the staff?

A. Yes. One of them made a comment and I says, hey, the question as to the conflict of interest is something I can't answer, they're going to have the legal people looking at it.

CONCLUSIONS

The Commission concludes the inquiry required by ACR 180 with a sense of dismay and regret -- dismay at the irresponsibility of key officials involved in the episode and regret that their stupidity forced the cancellation of what might well have been, under some other private enterprise auspices that posed no conflicts issue, a successful resolution of the DMV's photo license processing dilemma.

This is not to say that the Commission endorses a mandatory photo license program encompassing all of New Jersey's 5 million motorists. The Commission does believe that motorists under age 21 should be required to carry photo licenses. Indeed, this task apparently has not been a DMV burden and should be continued, with other drivers having the option of obtaining a photo license if they wish.

However, the record of this investigation dictates a need for a closer scrutiny of whether a universal photo license concept is justified. The Commission, for example, believes that an editorial which appeared in the Newark Star-Ledger on May 24, 1985, states a position which must be given serious consideration:

A small group of legislators has been dedicated to bringing photo driver licenses to New Jersey for more than a decade, despite several powerful reasons why it wasn't a good idea.

These reasons have been stated many times in the course of the protracted debate, but they are worth repeating now, when the controversial subject is once again under intensive study by the Governor and Legislature.

For starters, photo licenses are not needed. Second, they are not fraud-proof, as some claim. Third, they are more costly than unadorned licenses. Fourth -- most important -- they deny motorists the convenience of renewals by mail.

We turn now to the investigative record. Based on the sworn testimony of the leading participants in the Sears-Taggart transaction the Commission is convinced that Attorney General Kimmelman displayed a very serious lack of judgment by endorsing the intentional non-disclosure of the Taggart connection which he knew existed. Whatever the merits of Snedeker's forced resignation, both he and Kimmelman joined in the concealment in their press release on March 13 of Taggart's link with Sears in the proposed photo license expansion and both deserved equal condemnation.

Further, the Commission is disturbed by the obvious contradictions and apparent evasiveness in the testimony of certain witnesses about the March 11 meeting in Snedeker's office, concerning what was said or not said, and by whom, on the subject of omitting or disclosing the fact that Taggart and not Sears would be DMV's actual photo license agent. The record confirms not only a dispute over what draft of a DMV press release was actually discussed at the meeting but also includes among the probe exhibits the actual documents that are in conflict (See Pp. 49-68). Apparently only one of these documents can be genuine. Therefore the Commission has decided to refer this portion of its executive session record in its entirety to an appropriate prosecutorial authority. The Commission reviewed this decision with Attorney General Kimmelman and both he and the Commission agreed that, in order to avoid even an appearance of a conflict of interest, the matter should not be referred to the attorney general's office. The attorney general then requested, and the Commission agreed, that the matter should be turned over to Prosecutor Philip S. Carchman of Mercer County.

As for the code of ethics issue, the Commission has several comments. First, DMV officials must be faulted for not adhering to a code that was designed to bar conflicts of interest by the Division's motor vehicle agents and their employees, even though the document lacked legal force. The Commission concedes the code was not statutorily viable but feels that, nevertheless, it was a policy mandate that should have been obeyed. Second, while the Commission does not necessarily believe that either Snedeker's or Kimmelman's transgressions rose to such a level as to warrant forced resignations, it does feel that the ethics issue when it came to light was misused as an excuse for action against Snedeker. Indeed, the Commission believes that the time for imposing sanctions against both Snedeker and Kimmelman should have been immediately upon the expose of the concealment of Taggart as DMV's photo license processor. Third, the State Conflicts of Interest Law should be amended to cover motor vehicle agents and a thorough study should be made to decide what other contractual relationships by state government with private sector entities and entrepreneurs should be covered by the statute.

One of the questions ACR 180 requested the Commission to address was whether bidding laws or procedures had been violated. The Commission found no such violations. Indeed, the Commission's legal staff agrees with the attorney general's opinion supporting the DMV's authority to appoint a commercial entity, such as a retail chain store, to process photo license.

Finally, as suggested earlier, the Commission as a result of this limited inquiry is all the more convinced that its decision on April 30 to investigate the entire DMV motor vehicle agency system was absolutely warranted. For reasons that this report makes obvious, the Commission is conducting its wider inquiry -- which will include the photo licensing problem -- with a valid prejudgment that the system is notoriously disreputable and inefficient due to the partisan political influences and dictates that control the process.