

NINTH ANNUAL REPORT
of the
COMMISSION OF INVESTIGATION
of the
STATE OF NEW JERSEY
to
THE GOVERNOR AND THE LEGISLATURE
of the
STATE OF NEW JERSEY

1. 2023年12月31日

2. 2023年12月31日

3. 2023年12月31日

4. 2023年12月31日

5. 2023年12月31日

THE COMMISSION OF INVESTIGATION
OF THE STATE OF NEW JERSEY

Commissioners

Joseph H. Rodriguez, *Chairman*

Lewis B. Kaden

Arthur S. Lane*

Stewart G. Pollock**

EXECUTIVE DIRECTOR

Michael R. Siavage***

Counsel to the Commission

Neil J. Casey, III

Peter M. Schirmer

Robert M. Tosti

Executive Assistant

John O. Davies

28 West State Street
Trenton, New Jersey 08608
609-292-6767

* Mr. Lane in May, 1977, succeeded Mr. Thomas R. Farley, who had served as a commissioner since March, 1973.

** Mr. Pollock on February 17, 1978, became chief counsel to the Governor.

*** Mr. Siavage in June, 1977, succeeded Mr. Frank L. Holstein, who had served as Executive Director since February, 1975.



STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

28 West State Street
Trenton, N. J. 08608
Telephone (609) 292-6767

*TO: The Governor and the Members of the Senate and
the General Assembly of the State of New Jersey*

The New Jersey State Commission of Investigation is pleased to submit for the year 1977 its ninth annual report and recommendations pursuant to Section 10 of P. L. 1968, Chapter 266 (N.J.S.A. 52:9M-10), the Act establishing the Commission of Investigation.

Respectfully submitted,

Joseph H. Rodriguez, *Chairman*

Lewis B. Kaden

Arthur S. Lane

TABLE OF CONTENTS

	PAGE
ORIGIN AND SCOPE OF THE COMMISSION	1
RESUME OF THE COMMISSION'S MAJOR INVESTIGATIONS	7
<i>Organized Crime Confrontations</i>	7
<i>Garbage Industry</i>	9
<i>Organized Crime Influence in Long Branch</i>	10
<i>Monmouth County Prosecutor's Office</i>	11
<i>State Division of Purchase and Property</i>	11
<i>Building Services Industry</i>	12
<i>Hudson County Mosquito Commission</i>	13
<i>Misappropriation of Funds in Atlantic County</i>	14
<i>Development of Point Breeze in Jersey City</i>	14
<i>Tactics and Strategies of Organized Crime</i>	15
<i>Property Purchases in Atlantic County</i>	16
<i>Bank Fraud in Middlesex County</i>	17
<i>Office of the Attorney General</i>	17
<i>Workers' Compensation System</i>	18
<i>Misuse of School Property in Passaic County</i>	19
<i>Drug Traffic and Law Enforcement</i>	20
<i>Pseudo-Charitable Fund-raising Appeals</i>	21
<i>Delaware River Port Authority</i>	22
<i>Government of Lindenwold</i>	24
<i>Land Acquisition by Middlesex County</i>	25
<i>Pre-Parole Release Abuses in the Prisons</i>	26
<i>New Jersey Medicaid Program</i>	28
INVESTIGATION OF MEDICAID HOSPITALS	34
<i>Introduction</i>	34
<i>Conclusions and Recommendations</i>	38
<i>SHARE</i>	38
<i>Analysis of Hospitals</i>	40
<i>Eligibility, Use Control, Intermediary Problems</i>	43
<i>PSRO's and Medicaid</i>	46

	PAGE
INVESTIGATION OF NON-PUBLIC SCHOOLS FOR THE HANDICAPPED	47
<i>Introduction</i>	47
<i>The Public Hearings</i>	48
<i>The Special Education Report</i>	52
<i>Cooperation with the Legislature</i>	57
CASINO CONTROL LEGISLATION	59
<i>Introduction</i>	59
<i>The Lawmaking Process</i>	60
<i>The S.C.I. Role</i>	61
<i>The S.C.I.'s Proposed Controls</i>	64
ORGANIZED CRIME PROGRAM	71
<i>Introduction</i>	71
<i>1977 Update</i>	71
ORGANIZED CRIME IN ATLANTIC CITY	74
<i>Introduction</i>	74
<i>The Public Hearings</i>	74
<i>Testimony—First Day</i>	78
Janet Perella	
<i>John's Wholesale Moves In</i>	78
John Martorano	
<i>The Bruno Connection</i>	79
Raymond Martorano	
<i>Bruno and "Long John"</i>	88
Angelo Bruno	
<i>Crime Family Ties</i>	98
Joel Mittelman	
<i>The "Lost" Account</i>	110
John Felice	
<i>A Peculiar Arrangement</i>	116
Lt. Daniel McFadden	
<i>The Bruno Network</i>	123
J. Robert Murphy/Harry Silberman	
<i>Spokesmen for the State</i>	131

	PAGE
<i>Testimony—Second Day</i>	136
Frank Tumolo	136
Domenico Adamita <i>The Casanova Disco</i>	137
Leonardo Soccolich <i>The \$50,000 Cache</i>	163
Vincenze Carolla	172
Robert Del Bono	175
Giuseppe Gambino <i>The Gambino Family and Bruno</i>	177
Anthony Quaranta <i>The Gambino Mob</i>	188
Horace J. Bryant <i>Liquor Law Loopholes</i>	197
Angelo Bruno <i>Executive Session Testimony</i>	203
 <i>Testimony—Third Day</i>	 206
George B. Crisafulli	206
Lewis J. Malamut <i>The Hotel Shelburne Deal</i>	208
Mel Richman <i>Refused to "Front"</i>	219
Emmanuel Gambino <i>The "DiNardo" Disguise</i>	227
Julius M. Cayson <i>Mr. Skalsky Recalled</i>	241
Steward Siegel <i>Gambling School Target</i>	245
Detective William Davis Jr. <i>"Mustache Mike" Recalled</i>	251
 <i>Testimony—Fourth Day</i>	 253
Ralph F. Salerno <i>Crime Expert's Summary</i>	253

William F. Hyland, then-Attorney General	269
<i>Clinton Pagano, State Police Superintendent</i>	
<i>Richard Williams, Atlantic Prosecutor</i>	
<i>Justin Dintino, State Police Captain</i>	
Chairman Joseph H. Rodriguez	
<i>Closing Statement</i>	270
<i>Conclusions—Report and Recommendations</i>	273
Summary	273
Guidelines	274
Recommendations, in Brief	274

APPENDICES

1) <i>Members of the Commission</i>	278
2) <i>Act Creating the Commission</i>	280
3) <i>Code of Fair Procedure</i>	286

ORIGIN AND SCOPE OF THE COMMISSION

Despite the range and impact of the Commission's achievements, inquiries continue to be made about its jurisdiction, the way it functions and its importance to a better New Jersey. The Commission believes this important information should be conveniently available. Accordingly, the pertinent facts are summarized below.

The New Jersey State Commission of Investigation was an outgrowth of extensive research and public hearings conducted in 1968 by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey. That Committee was under direction from the Legislature to find ways to correct what was a serious and intensifying crime problem in New Jersey.

Indeed, by the late 1960s New Jersey had the unattractive image of being a corrupt haven for flourishing organized crime operations. William F. Hyland, who was Attorney General from 1974-1978 for the State of New Jersey, vividly recalled that unfortunate era in testimony before the Governor's Committee to Evaluate the S.C.I. He said in part:

“ . . . our state quickly developed a national reputation as governmental cesspool, a bedroom for hired killers and a dumping ground for their victims. Whether this was a deserved reputation was not necessarily material. The significant thing was that this became an accepted fact that seriously undermined confidence in state law enforcement.”

The Joint Legislative Committee in its report issued in the Spring of 1968 found that a crisis in crime control did exist in New Jersey. The Committee attributed the expanding activities of organized crime to “failure to some considerable degree in the system itself, official corruption, or both” and offered a series of sweeping recommendations for improving various areas of the criminal justice system in the state.

The two highest priority recommendations were for a new State Criminal Justice unit in the executive branch of state government and an independent State Commission of Investigation, patterned

after the New York State Commission of Investigation, now in its 20th year of probing crime, official corruption and other governmental abuses.

The Committee envisioned the proposed Criminal Justice unit and the proposed Commission of Investigation as complementary agencies in the fight against crime and corruption. The Criminal Justice unit was to be a large organization with extensive manpower and authority to coordinate and press forward criminal investigations and prosecutions throughout the state. The Commission of Investigation, like the New York Commission, was to be a relatively small but highly expert body which would conduct fact-finding investigations, bring the facts to the public's attention, and make recommendations to the Governor and the Legislature for improvements in laws and the operations of government.

The Joint Legislative Committee's recommendations prompted immediate supportive legislative and executive action. New Jersey now has a Criminal Justice Division in the State Department of Law and Public Safety and an independent State Commission of Investigation* which is structured as a Commission of the Legislature. The new laws were designed to prevent any conflict between the functions of this purely investigative, fact-finding Commission and the prosecutorial authorities of the state. The latter have the responsibility of pressing indictments and other charges of violations of law and bringing the wrongdoers to punishment. This Commission has the responsibilities of publicly exposing evil by fact-finding investigations and of recommending new laws and other remedies to protect the integrity of the political process.

The complementary role of the S.C.I. was emphasized anew by the Governor's Committee to Evaluate the S.C.I.**, which conducted in 1975 a comprehensive and impartial analysis of the Commission's record and function. The Committee's members consisted of the late Chief Justice Joseph Weintraub of the New Jersey

*The bill creating the New Jersey State Commission of Investigation was introduced April 29, 1968 in the Senate. Legislative approval of that measure was completed September 4, 1968. The bill created the Commission for an initial term beginning January 1, 1969 and ending December 31, 1974. It is cited as Public Law, 1968, Chapter 266, N. J. S. A. 52:9M-1 et seq. The Legislature on November 12, 1973 completed enactment of a bill, cited as Public Law, 1973, Chapter 238, which renewed the Commission for another term ending December 31, 1979.

**The Governor's Committee to Evaluate the S.C.I. was created in April, 1971 by executive order of the Governor after the introduction in the Senate of a bill to terminate the S.C.I. touched off a backlash of public furor and criticism against the bill. The measure was subsequently withdrawn. A bill to implement the recommendations of the Evaluative Committee to strengthen the S.C.I. is pending in the Legislature.

Supreme Court, former Associate Justice Nathan L. Jacobs of that same Court, and former Judge Edward F. Broderick of the New Jersey Superior Court.

That Committee in its October 6, 1975, public report rejected summarily any suggestion that the S.C.I. duplicates work of other agencies. Indeed, the Committee said the record demonstrated convincingly that the Commission performs a valuable function and that there is continuing need for the S.C.I.'s contributions to both the legislative process and the executive branch.

The Committee concluded that it saw no likelihood that the need for the S.C.I. will abate, and recommended amendment of the S.C.I.'s statute to make the Commission a permanent rather than a temporary agency. In support of this statement, the Committee declared:

“Our evaluation of the work of the S.C.I. convinces us that the agency has performed a very valuable function . . . The current public skepticism of government performance emphasizes the continuing need for a credible agency to delve into the problems that plague our institutions, an agency which can provide truthful information and sound recommendations. There must be constant public awareness if we are to retain a healthy and vibrant system of government. Indeed we see no likelihood that the need for the S.C.I. will abate . . .”

The complementary role of the S.C.I. also was stressed in a statement made by Matthew P. Boylan when he was Director of the State Division of Criminal Justice. He stated in part:

I have had the opportunity to work closely with the State Commission of Investigation and it is my opinion that this agency effectively plugs a gap in the law enforcement network in New Jersey. This gap which existed prior to the creation of the S.C.I. is due to the fact that traditional law enforcement investigative agencies either return an indictment based on the development of investigative leads or, in rare situations, request that a grand jury return a presentment exposing conditions in public institutions and agencies. There is no mechanism available to existing law enforcement agencies other than the

S.C.I. to alert the public to the existence of conditions which require remedial legislation unless the traditional press release or press conference is utilized. The drawback of that method of informing the public is obvious. Consequently, the S.C.I. is an independent agency which can reveal through a series of extended public hearings, conditions in the public domain which require remedial action either by the Legislature or through more diligent administration of existing laws by the state, county or municipal agencies entrusted with their administration.

To insure the integrity and impartiality of the Commission, no more than two of the four Commissioners may be of the same political party. Two Commissioners are appointed by the Governor and one each by the President of the Senate and the Speaker of the Assembly. It thus may be said the Commission by law is bi-partisan and by concern and action is non-partisan.

The paramount statutory responsibilities vested in the Commission are set forth in Section 2 of its statute.* This section provides:

2. The Commission shall have the duty and power to conduct investigations in connection with:
 - (a) The faithful execution and effective enforcement of the laws of the state, with particular reference but not limited to organized crime and racketeering.
 - (b) The conduct of public officers and public employees, and of officers and employees of public corporations and authorities.
 - (c) Any matter concerning the public peace, public safety and public justice.

The statute provides further that the Commission shall conduct investigations by direction of the Governor and by concurrent resolution of the Legislature. The Commission also shall conduct investigations of the affairs of any state department or agency at the request of the head of a department or agency.

* The full text of the Commission's statute is included in the Appendices Section of this report.

Thus, the enabling statute assigned to the Commission, as an investigative, fact-finding body,* a wide range of responsibilities. It is highly mobile, may compel testimony and production of other evidence by subpoena, and has authority to grant immunity to witnesses. Although the Commission does not have and cannot exercise any prosecutorial functions, the statute does provide for the Commission to refer information to prosecutorial authorities.

One of the Commission's prime responsibilities when it uncovers irregularities, improprieties, misconduct, or corruption, is to bring the facts to the attention of the public. The objective is to insure corrective action. The importance of public exposure was put most succinctly by a New York Times analysis of the nature of such a Commission:

Some people would put the whole business in the lap of a District Attorney (prosecutor), arguing that if he does not bring indictments, there is not much the people can do.

But this misses the primary purpose of the State Investigation Commission. It is not to probe outright criminal acts by those in public employment. That is the job of the regular investigation arms of the law.

Instead, the Commission has been charged by the Legislature to check on, and to expose, lapses in the faithful and effective performance of duty by public employees.

Is sheer non-criminality to be the only standard of behavior to which a public official is to be held? Or does the public have a right to know of laxity, inefficiency, incompetence, waste and other failures in the work for which it pays?

The exact format for public action by the S.C.I. is subject in each instance to a formal determination by the Commission which takes into consideration factors of complexity of subject matter and of conciseness, accuracy and thoroughness in presentation of the facts. The Commission may proceed by way of a public hearing or a public report, or both.

* As a legislative, investigative agency, the S.C.I. is not unique, since investigative agencies of the legislative branch of government are as old as the Republic. The first full-fledged Congressional investigating committee was established in 1792 to "inquire into the causes of the failure of the last expedition of Major General St. Clair." (3 Annals of Congress 493 (1792)).

In the course of its conduct, the Commission adheres to and is guided by the New Jersey Code of Fair Procedure.*

The Code sets forth those protections which the Legislature in its wisdom and the Judiciary by interpretation have provided for witnesses called at private and public hearings and for individuals mentioned in the Commission's public proceedings. Section Six of the Code states that any individual who feels adversely affected by the testimony or other evidence presented in a public session by the Commission shall be afforded an opportunity to make a statement under oath relevant to the testimony or other evidence complained of. The statements, subject to determination of relevancy, are incorporated in the records of the Commission's public proceedings. Before resolving to proceed to a public action, the Commission carefully analyzes and evaluates investigative data in private in keeping with its solemn obligation to avoid unnecessary stigma and embarrassment to individuals but, at the same time, to fulfill its statutory obligation to keep the public informed with specifics necessary to give credibility to the S.C.I.'s findings and recommendations.

The Commission contends that indictments which may result from referral of matters to other agencies are not the only test of the efficacy of the agency's public actions. Even more important are the corrective legislative and regulatory actions sparked by arousing the public interest. The Commission takes particular pride in all such actions which have resulted in improved governmental operations and laws. It will continue to work for more effective protection for the taxpaying public from abuses in the expenditure of public funds and other subversions of the public trust.

* The New Jersey Code of Fair Procedure (Chapter 376, Laws of New Jersey, 1968, N.J.S.A. 52:13E-1 to 52:13E-10) is printed in full in the Appendices section of this report.

RESUME OF THE COMMISSION'S MAJOR INVESTIGATIONS

This is a summary of the Commission's major investigations undertaken since June, 1969, when the S.C.I. became staffed and operational. In describing them as major investigations, it is meant that they required considerable time and effort and, where appropriate, resulted in a public hearing or a public report. Since these inquiries have been discussed fully in separate reports or in previous annual reports or in sections of this report, only a brief statement about each — including subsequent results — will be set forth.

1. ORGANIZED CRIME CONFRONTATIONS*

Since the summer of 1969, the Commission has been issuing subpoenas for the appearance and testimony of individuals identified by law enforcement authorities as leaders or members of organized crime families operating in New Jersey. This program has been part of the Commission's continuous effort to increase the storehouse of intelligence, mutually shared with law enforcement agencies, about the status, modes and patterns of underworld operations in this state. However, the need to penetrate the so-called "Oath of Silence", behind which organized crime figures try to hide, has required the Commission to utilize every constitutional weapon at its disposal. One of these important anti-crime tools is the power to grant immunity, following procedures that are in strict accord with the protections laid down by law and the judiciary. The Commission believes that, once witnesses have been granted immunity against the use of their testimony or any leads derived from such testimony, a proper balance has been struck between protecting individual rights and the responsibility of the state to safeguard the public by learning as much as possible about the plans and strategies of the underworld. This philosophy and approach have been approved by the highest state and federal courts.

* See P. 71 of this report; see also New Jersey State Commission of Investigation, Annual Reports for 1970, 1971, 1972, 1973, 1974, 1975 and 1976.

As part of this program of confrontation, nine organized crime figures who were served with subpoenas elected to undergo extended periods of court-ordered imprisonment for civil contempt for refusing to answer S.C.I. questions. In addition, certain organized crime figures remain under S.C.I. subpoena for either continuing or future testimony, including Simone Rizzo (Sam the Plumber) DeCavalcante, Carl (Pappy) Ippolito, and Antonio (Tony Bananas) Caponigro, who is in Federal Prison. Among the many organized crime figures known to have fled New Jersey in an effort to avoid being served with S.C.I. subpoenas are Anthony (Tumac) Acceturo of Livingston, Emilio (The Count) Delio and Joseph Paterno of Newark, Joseph (Demus) Covello of Belleville, John (Johnny D) DiGilio of Paramus, Tino Fiumara of Wyckoff, John (Johnny Keyes) Simone of Lawrence Township, and Ippolito. The attempt by a number of these to seek alternate places of residence, primarily in South Florida, has been interrupted from time to time by federal and state indictments charging them with criminal violations of the Commission's anti-crime campaign. New Jersey's former Attorney General Hyland, who was the agency's first chairman, has observed: ". . . much has already been done to eliminate — or at least to weaken — organized crime. Much of the credit for that success belongs to the S.C.I. for its efforts in seeking testimony from alleged organized crime figures and for focusing the spotlight on, and thus alerting the public to, the problems associated with organized crime."

Illustrating the Attorney General's views was a report by the Pennsylvania Crime Commission which emphasized as a prime reason for the "continuing" influx of New Jersey mob figures into Pennsylvania a fear in the underworld of New Jersey's S.C.I. The Pennsylvania report also stressed other factors such as telephone wiretaps and electronic surveillances (activities not permitted to Pennsylvania law enforcement officials) as well as the active "stalking" of mob operations in New Jersey that has been an important aspect of the S.C.I.'s surveillance activities.

During 1977 the S.C.I. responded to a number of requests for assistance in the creation of anti-crime commissions similar to New Jersey's or in strengthening existing commissions. The most recent invitation came from the Florida House of Representatives' Select Committee on Organized Crime, before which S.C.I. Executive Director Michael R. Siavage testified on pending legislation that copied the New Jersey S.C.I. statute almost word for word.

Also during the year, Commission Chairman Joseph H. Rodriguez and Mr. Siavage testified before committees of the Pennsylvania and New Mexico state legislatures in response to requests for counsel in resolving organized crime problems. The increasing interest in sharing our experiences and exchanging views with us prompted the New Jersey Commission to propose in late 1977 the formation of a National Organization of Investigatory Commissions. Such a national group is now a reality.

2. THE GARBAGE INDUSTRY*

The Legislature in 1969 passed a resolution requesting the Commission to investigate the garbage industry and make recommendations for possible corrective action at the state level. An investigation was subsequently undertaken by the S.C.I. of certain practices and procedures in that industry. The investigation ended with two weeks of private hearings, concluding in September, 1969.

A principal finding of the Commission was that some garbage industry trade associations discouraged competition, encouraged collusive bidding, and preserved allocations of customers on a territorial basis. Unless the vice of customer allocation was curbed by the state, the Commission concluded, many municipalities would continue to be faced with the problem of receiving only one bid for waste collection.

The Commission recommended legislative action leading to a statewide approach to regulating and policing of the garbage industry. Specific recommendations were: Prohibit customer territorial allocation, price fixing and collusive bidding; provide for licensing by the state (to the exclusion of municipal licenses) of all waste collectors in New Jersey, and prohibit discrimination in the use of privately owned waste disposal areas. State regulation of the industry eventually was enacted by the Legislature.

* See New Jersey State Commission of Investigation, A Report Relating to the Garbage Industry, October 7, 1969.

3. ORGANIZED CRIME INFLUENCE IN LONG BRANCH*

The seashore city of Long Branch had since 1967 been the focus of publicized charges and disclosures about the influence of organized crime. One charge was that an organized crime figure, Anthony (Little Pussy) Russo, controlled the mayor and the city council. Official reports indicated mob figures were operating in an atmosphere relatively secure from law enforcement. The Commission began an investigation in May, 1969, that culminated with public hearings in early 1970. Among the major disclosures were:

That a Long Branch city manager was ousted from his job by the city council after he began taking counter-action against organized crime's influence; that Russo offered to get the city manager's job back for that same person if he would close his eyes to underworld influences and act as a front for the mob; that impending police raids on gambling establishments were being leaked in time to prevent arrests despite the anti-gambling efforts of an honest police chief who died in 1968; and that the next police chief lacked the integrity and desire to investigate organized crime and stem its influence.

After the hearings, the irresponsible police chief resigned and the electorate voted in a new administration.

The Asbury Park Press commented editorially that the Commission's hearings did more good than four previous grand jury investigations. Also, the Commission's special agents developed detailed fiscal information and records relating to corporations formed by Russo, information which was used by federal authorities in obtaining a 1971 indictment of Russo on a charge of failure to file corporate income tax returns. He pleaded guilty to that charge and received a three-year prison sentence.

* See New Jersey State Commission of Investigation, 1970 Annual Report, issued February, 1971.

4. THE MONMOUTH COUNTY PROSECUTOR'S OFFICE*

The Long Branch inquiry extended to the Monmouth County prosecutor's office, since the prosecutor had prime responsibility for law enforcement in this county. This probe determined that a disproportionate share of authority had been vested in the then-chief of county detectives. Twenty-four hours after the Commission issued subpoenas in October, 1969, the chief committed suicide.

Public hearings were held in late 1970. Testimony showed that a confidential expense account supposedly used for nine years by the chief of detectives to pay informants was not used for that purpose and could not be accounted for. The testimony also detailed how that fund was solely controlled by the chief with no county audit and no supervision by the county prosecutor. In fact, the county prosecutor testified that he signed vouchers in blank.

The Commission after the hearing made a series of recommendations to reform the county prosecutor system. A principal recommendation was for full-time prosecutors and assistants. A state law, since enacted, has established full-time prosecutorial staffs in the more populous counties of New Jersey and additional statutes are requiring full-time prosecutors in certain other counties. Prior to the Commission's probe, there were no full-time county prosecutors in the state. Today all but a few small, rural counties have full-time prosecutors.

5. THE STATE DIVISION OF PURCHASE AND PROPERTY**

The Commission in February, 1970, began investigating charges of corrupt practices and procedures involving the State Division of Purchase and Property and suppliers of state services. Public hearings were held at which testimony showed payoffs to a state buyer to get cleaning contracts for state buildings, rigging of bids on state contracts, renewal of those contracts without bidding, unsatisfactory performance of work called for under state contracts, and illegal contracting of such work.

After the investigation, the state buyer was dismissed from his job. Records of the investigation were turned over to the State

* See New Jersey State Commission of Investigation, 1970 Annual Report, issued February, 1971.

** See New Jersey State Commission of Investigation, 1970 Annual Report, issued February, 1971.

Attorney General's Office which obtained an indictment charging the buyer with misconduct in office. He pleaded guilty and was fined and placed on probation.

This investigation met with immediate correctional steps by the Division of Purchase and Property, which voluntarily changed procedures to prevent recurrence of similar incidents.

6. THE BUILDING SERVICES INDUSTRY*

The probe of the Division of Purchase and Property brought to the Commission's attention anti-competitive and other improper practices and influences in the building services industry. A follow-up investigation was carried out with public hearings being held in June, 1970.

Testimony showed the existence of a trade organization designed to thwart competition by limiting free bidding and enterprise. The hearings also revealed that a union official linked with organized crime figures was the real power in the trade organization and that coerced sales of certain detergent cleaning products and imposition of sweetheart contracts were sometimes the price of labor peace. Another disclosure was that a major organized crime figure in New Jersey acted as an arbiter of disputes between some cleaning companies.

The Commission's investigation of restraint-of-trade and other abusive practices in the building service and maintenance industry aroused the interest of the United States Senate Commerce Committee which invited the S.C.I. to testify at its 1972 public hearings on organized crime in interstate commerce. As a result of that testimony, the Anti-Trust Division of the United States Justice Department, with assistance from the S.C.I., launched an investigation into an association which allocated territories and customers to various member building service maintenance companies in New Jersey. In May, 1974, a Federal Grand Jury indicted 12 companies and 17 officials for conspiring to shut out competition in the industry. The companies were the same as those involved in the S.C.I.'s public hearings. Attorney Roger L. Currier of the Justice Department's anti-trust division in Philadelphia, in coor-

* See New Jersey Commission of Investigation, 1970 Annual Report, issued February, 1971.

dination with the U.S. Attorney's office in New Jersey, brought the entire case to a final conclusion on Oct. 25, 1977. On that date the defendants ended the government's civil action by agreeing to a consent judgment stipulating they would abandon the practices alleged against them. Earlier, the government's criminal suit against the defendants was completed in March, 1976, by which time one company had pleaded guilty to the charges, the other defendants pleaded no contest and fines totaling \$233,000 were levied.

7. THE HUDSON COUNTY MOSQUITO COMMISSION*

During 1970 the Commission received allegations of corrupt practices in the operation of the Hudson County Mosquito Extermination Commission. An investigation led to public hearings at the close of 1970.

The Mosquito Commission's treasurer, who was almost blind, testified how he signed checks and vouchers on direction from the agency's executive director. The testimony also revealed shake-down payments by the New Jersey Turnpike and other organizations with projects or rights-of-way in the Hudson meadowlands, the existence of a secret bank account, and kickback payments by contractors and suppliers under a fraudulent voucher scheme.

One result of this investigation was abolition of the Mosquito Commission, an agency which served no valid function and whose annual budget was approaching the \$500,000 mark.

Also, after receiving S.C.I. records of the investigation, the Hudson County Prosecutor's Office obtained conspiracy and embezzlement indictments against the Mosquito Commission's executive director and his two sons. The executive director pleaded guilty to embezzlement and in June, 1972, was sentenced to two to four years in prison. His sons pleaded guilty to conspiracy and were fined \$1,000 each.

* See New Jersey Commission of Investigation, 1970 Annual Report, issued February, 1971.

8. MISAPPROPRIATION OF FUNDS IN ATLANTIC COUNTY*

The Commission in 1970 was asked to investigate the misappropriation of \$130,196 that came to light with the suicide of a purchasing agent in Atlantic County government. The Commission in December of that year issued a detailed public report which documented in sworn testimony a violation of public trust and a breakdown in the use of the powers of county government. The inquiry revealed how that purchasing agent fraudulently diverted money to his own use over a period of 13 years. The sworn testimony confirmed that for years prior to 1971, monthly appropriation sheets of many departments contained irregularities traceable to the purchasing agent but that no highly placed county official ever tried to get a full explanation of those irregularities. The testimony also disclosed that after county officials were first notified by the bank about the false check endorsement part of the agent's scheme, an inadequate investigation was conducted by some county officials.

Copies of the Commission's report were sent to Freeholder Boards throughout the state for use as a guide in preventing any further instances of similar misappropriation of funds. As a result of fiscal irregularities uncovered in its probes not only of Atlantic County but also of county agencies in Monmouth and Hudson counties, the Commission recommended that county and municipal auditors be mandated to exercise more responsibility for maintaining integrity, with stress on continuous reviews of the internal controls of county and local governments.

9. DEVELOPMENT OF POINT BREEZE IN JERSEY CITY**

The lands that lie along the Jersey City waterfront are among the most valuable and economically important in the state. The Commission in the Spring of 1971 investigated allegations of corruption and other irregularities in the development of the Point Breeze area of Jersey City's waterfront as a containership port and an industrial park.

The investigation revealed a classic, informative example of how a proper and needed development could be frustrated by

* See Report on Misappropriation of Public Funds, Atlantic County, a Report by the New Jersey State Commission of Investigation, December, 1971.

** See New Jersey State Commission of Investigation, 1971 Annual Report, issued March, 1972.

improper procedures. Public hearings in October, 1971, disclosed a payoff to public officials, improper receipt of real estate commissions, and irregular approaches to the use of state laws for blighted areas and granting tax abatement.

Two bills implementing S.C.I. recommendations from this probe were enacted into law. One improved the urban renewal process and the other tightened statutory provisions to prevent a purchaser of publicly owned lands from receiving any part of the brokerage fee attendant on such a purchase.

In addition, the Commission referred probe records to prosecutorial authorities. A Hudson County Grand Jury returned an indictment charging a former Jersey City building inspector with extorting \$1,200 from an official of the Port Jersey Corp. and obtaining money under false pretenses. The inspector was convicted of obtaining money under false pretenses and fined \$200 and given a six-month suspended sentence.

10. TACTICS AND STRATEGIES OF ORGANIZED CRIME*

Although not a "sworn" member of organized crime, Herbert Gross, a former Lakewood hotel operator and real estate man, became during 1965-70 a virtual part of the mob through involvement in numbers banks, shylock loan operations, cashing of stolen securities and other activities. In order to shorten a State Prison term in 1971, Gross began in that year to cooperate with government agencies, including the S.C.I.

Gross' testimony during two days of public hearings by the Commission in February, 1972, pinpointed the ruthless operations of organized crime figures in the Ocean County area and their ties back to underworld bosses in Northern New Jersey and New York City. His testimony and that of other witnesses detailed how mobsters infiltrated a legitimate motel business in Lakewood. A former restaurant concessionaire at that motel testified that because of shylock loans arranged through an organized crime association, he lost assets of about \$60,000 in six months and left town a broken and penniless man.

* See New Jersey State Commission of Investigation, 1972 Annual Report, issued February, 1973.

Records of this investigation were made available to federal authorities who subsequently obtained an extortion-conspiracy indictment against nine organized crime figures relative to a shylock loan dispute which culminated with an underworld "sitdown" or trial. New Jersey law enforcement officials testified at the S.C.I. hearings that the public exposure afforded by those sessions demonstrated the need for continually active vigilance against organized crime particularly in rapidly developing areas, where the inquiry showed how organized crime follows population growth.

11. PROPERTY PURCHASES IN ATLANTIC COUNTY*

The Commission during 1971 received information that the State may have overpaid for the site of the Stockton State College in Galloway Township, Atlantic County. Subsequent field investigations and private hearings extending into 1972 showed that payment by the state of \$924 an acre for a key 595-acre tract was indeed excessive.

Substantially the same acreage had been sold only nine months earlier by two corporations headed by some Atlantic City businessmen to a New York City-based land purchasing group for \$475 per acre, which was about double the per acreage price of two comparable large-tract sales in the Galloway area. The Commission in a public report in June, 1972, cited two critical flaws as leading to excessive overpayment for the land by the state: inadequate and misleading appraisals of land that had recently changed hands at a premium price; and lack of expertise and safeguards in State Division of Purchase and Property procedures to discover and correct the appraisal problems.

The report stressed a number of recommendations to insure that the Division would in the future detect and correct faults in appraisals. Key recommendations were post-appraisal reviews by qualified experts and strict pre-qualification of appraisers before being listed as eligible to work for the state. The recommendations were promptly implemented by the Division.

* See Report and Recommendations on Property Purchase Practices of the Division of Purchase and Property, a Report by the New Jersey Commission of Investigation, issued June, 1972.

12. BANK FRAUD IN MIDDLESEX COUNTY*

Investigative activities during 1971 in Middlesex County directed the Commission's attention to Santo R. Santisi, then president of the Middlesex County Bank which he founded. A full-scale probe by the Commission's special agents and special agents/accountants concentrated on Santisi-controlled corporations, in particular the Otnas Holding Company, and ultimately broadened to investigation of certain transactions at the Middlesex County Bank.

The probe uncovered schemes by Santisi and his entourage for the use of publicly invested funds in Otnas solely for their own personal gain, apparently illicit public sale of stock without the required state registration and misapplication by Santisi of hundreds of thousands of dollars of funds of the Middlesex County Bank. Those funds were "loaned" to members of the Santisi entourage who either personally or through their corporations acted as conduits to divert the money for the benefit of Santisi and some of his corporations.

During the first quarter of 1972 the Commission completed private hearings in this investigation but deferred planned public hearings at the request of bank examiners who expressed fears about the impact of adverse publicity on the bank's financial health. Instead, the S.C.I. referred data from this investigation to federal authorities who obtained indictments of Santisi and several of his cohorts on charges involving the misapplied bank funds. All pleaded guilty. Santisi was sentenced to three years in prison. One of his associates was sentenced to a year in prison and two others received suspended sentences.

13. THE OFFICE OF THE ATTORNEY GENERAL**

In the summer of 1972 the Commission was requested by the then Attorney General of New Jersey, George F. Kugler, Jr., to investigate his office's handling of the case of Paul J. Sherwin, the Secretary of State who was convicted on a conspiracy indictment in connection with a campaign contribution made by a contractor who had bid on a state highway contract. The request

* See New Jersey Commission of Investigation, 1972 Annual Report, issued February, 1973.

** See Report on Investigation of the Office of the Attorney General of New Jersey, A Report by New Jersey State Commission of Investigation, issued January, 1973.

triggered an investigation which extended into early 1973. The Commission took from 22 witnesses sworn testimony consisting of more than 1,300 pages of transcripts and also introduced exhibits consisting of more than 300 pages. The Commission, by unanimous resolution, issued in February, 1972, a 1,600-page report which was forwarded to the Governor and the Legislature and to all news media. John J. Francis, the retired Associate Justice of the New Jersey Supreme Court, served without compensation as Special Counsel to the Commission in the investigation.

A primary conclusion of the report which climaxed this inquiry — a report which made public all recorded testimony and exhibits — was that “we find no reliable evidence whatever to reasonably justify a conclusion that Attorney General Kugler was derelict in his law enforcement obligations.” The report also attacked certain types of political campaign contributions as a “malignant cancer in the blood stream of our political life” and urged the prohibition of such contributions to public officials by those aspiring for governmental contracts.

14. THE WORKERS' COMPENSATION SYSTEM*

New Jersey's system for compensating individuals for employment injuries became during the early 1970s the object of intense scrutiny. In addition to evidence and statistics indicating faults in the system, there were persistent published reports that irregularities, abuses and illegalities were being ignored or condoned. Mounting complaints led the State Commissioner of Labor and Industry to request an investigation. That task, which was undertaken by the S.C.I., was one of the agency's most comprehensive inquiries. The facts, as presented at nine days of public hearings in Trenton in May-June, 1973, documented abuses which included unwarranted compensation claims, lavish gift-giving and entertaining, questionable conduct by some judges, and the use by some law firms of favored heat treating doctors or “house doctors” who inflated claims by bill padding.

As a result of the investigation, three Judges of Compensation were given disciplinary suspensions, with one of them eventually

* See Final Report and Recommendations on the Investigation of the Workmen's Compensation System, a Report by the New Jersey State Commission of Investigation, January, 1974.

being dismissed from office by the Governor. After referral of data in this probe to prosecutorial authorities, an Essex County Grand Jury during 1975 indicted two partners of a law firm and the firm's business manager on charges of conspiracy and obtaining money under false pretenses in connection with the alleged heat-treatment, bill-padding scheme exposed at the S.C.I.'s public hearings. Also the Waterfront Commission of New York Harbor used the investigative techniques and methodology established by the S.C.I. in this investigation to uncover widespread Workmen's Compensation frauds involving dock workers.

The Commission made more than a score of proposed law changes to the Legislature. One recommended measure, to stifle bill-padding and related malpractices, became law but a full-fledged effort to enact wide-ranging revisions did not actually begin until after the introduction of major proposed reform bills in 1978 by Senate President Joseph P. Merlino, Senators Anthony Scardino, Jr., and Eugene J. Bedell and Assemblyman Joseph D. Patero.

15. MISUSE OF SCHOOL PROPERTY IN PASSAIC COUNTY*

A citizen's complaint received in January, 1973, prompted the Commission to inquire into the handling and distribution by the State of federal surplus property donated for use in schools and other institutions as well as questionable transactions at the Passaic County Vocational and Technical High School in Wayne. The investigation was capped by five days of public hearings at the Passaic County Courthouse in Paterson.

The hearings disclosed that the school's purchasing agent, who also was its business manager, failed to obtain competitive prices for many goods purchased, that substantial amounts of goods and services were purchased through middlemen, one of whom marked up prices by more than 100 per cent, and that regular payoffs were made to the school's purchasing agent. The evidence also confirmed that the purchasing agent used some school employees and property for improvements at his home and that the school had become a dumping ground for millions of dollars of federally donated surplus property under a mismanaged state program.

* See New Jersey State Commission of Investigation, Annual Report for 1973, issued in March, 1974.

This investigation led to S.C.I. recommendations for administrative corrective steps to establish an efficient program of state distribution of the surplus property and for improved procedures for school boards in overseeing purchasing practices. The State Board of Education relayed the S.C.I. recommendations to all school boards in the state with instructions to be guided by them.

Further, after referral of data from this probe to the State Criminal Justice Division, a State Grand Jury indicted Alex Smollock, the school's manager and purchasing agent, on charges of taking nearly \$40,000 in kickbacks. He was convicted of nine counts of accepting bribes and was sentenced to one to three years in state prison and fined \$9,000. Superior Court Appellate Division early in 1977 upheld Smollock's conviction. Later, in March, 1977, in a civil suit by Passaic County freeholders and the Technical-Vocational High School, Smollock was ordered by Superior Court to return salary he received during suspension from school duties as well as the bribe money.

16. THE DRUG TRAFFIC AND LAW ENFORCEMENT*

Narcotics and their relationship to law enforcement in New Jersey are a natural area of concern for the Commission, since the huge profits to be made from illicit narcotics trafficking are an obvious lure to criminal elements. As a result of an increase in the S.C.I.'s intelligence gathering during 1973 relative to narcotics, the Commission obtained considerable information concerning certain criminal elements in Northern New Jersey. A subsequent investigation produced a mass of detail about drug trafficking. At public hearings in late 1973, witnesses revealed their involvement in heroin and cocaine transactions in Northern New Jersey, marked by accounts of a killing and an attempt by crime figures to persuade a witness to commit murder. Federal, state and county authorities testified about the international, interstate and intrastate flow of heroin and cocaine and problems of law enforcement units responsible for the fight against illicit narcotics distribution.

Due to a combination of a reliable informant and an extensive follow-up investigation by S.C.I. agents, this probe had significant

* See New Jersey State Commission of Investigation, Annual Report for 1973, issued in March, 1974.

collateral results. These included the solving of a gangland style slaying case and the busting of a stolen jewelry fencing ring and a crime federation burglary ring of more than 30 individuals. Both the Essex County (N. J.) Prosecutor and the Lackawanna County (Pa.) District Attorney complimented the S.C.I. for referrals of probe data and otherwise aiding law enforcement. The hearings also generated S.C.I. recommendations for an improved law enforcement attack on narcotics distribution and for revisions of the narcotics law, including sterner penalties for non-addict pushers.

17. PSEUDO-CHARITABLE FUND-RAISING APPEALS*

A growing number of companies were established in New Jersey to sell by telephone exorbitantly high-priced household products, principally light bulbs, in the name of allegedly handicapped workers. Although different in age, size and some operating procedures, all created an illusion of charitable works for the handicapped through telephonic sales presentations which stressed references to "handicaps" or "the handicapped." Consumers by the hundreds, outraged upon learning they had been duped into thinking these profit-oriented businesses were charities, registered complaints with the State Division of Consumer Affairs. That Division sought a full S.C.I. investigation of these pseudo-charities because of the broader purview of the Commission's statute, the Commission's investigative expertise and its public exposure powers.

Facts put into the public record at hearings held by the S.C.I. in June, 1974, included: That people were willing to pay high prices of as much as 1,100 per cent above cost only because telephone solicitors gave the illusion they were aiding a charity; that some companies used healthy solicitors who claimed they were handicapped to induce sales; that solicitors, handicapped or not, were subject to prompt dismissal if they did not produce enough sales to assure a profit for the owners; that an owner of one company received a total of more than \$1 million in four years from the business; that authentically handicapped solicitors could be harmed by having to constantly dwell on their ailments in order to induce sales, and that pseudo-charitable appeals drained off millions of

* See Final Report and Recommendations on the Investigation of Profit Oriented Companies Operating in a Pseudo-Charitable Manner, a Report by the New Jersey State Commission of Investigation, September, 1974.

dollars each year that otherwise could be tapped by authentic charities.

Access to data from this investigation was offered to federal officials both during the probe and immediately after the public hearings. Subsequently, the owner of one of the profit-making companies identified at the S.C.I.'s hearings and the sales manager of another company were charged with fraud by federal authorities. Both pleaded guilty.

A number of bills to implement S.C.I. recommendations in the charitable fund-raising field were introduced in the Legislature. In April, 1977, Governor Brendan T. Byrne signed into law a bill sponsored by then Senators Alexander J. Menza of Union and John J. Fay of Middlesex to require authorization by the Attorney General before corporations can identify themselves as fund-raisers for the "handicapped" or the "blind." Another bill, to require professional fund raisers to provide financial reports to the Attorney General, also cleared the Legislature and was signed into law by the Governor on December 15, 1977. This bill was sponsored by Assemblymen Martin A. Herman and Kenneth A. Gewertz of Gloucester, H. Donald Stewart of Salem, Francis J. Gorman of Camden and Steven P. Perskie, now a Senator, of Atlantic.

18. THE DELAWARE RIVER PORT AUTHORITY*

The State Executive Commission on Ethical Standards during 1974 requested the S.C.I.'s assistance in investigating allegations of possible conflicts of interest of Ralph Cornell, then the Chairman of the Delaware River Port Authority. He had been a Commissioner of that authority since its inception in 1951. The reason for the request, as stated by the Ethics Commission, was that "the State Commission of Investigation is better equipped in terms of personnel, resources and operating procedures to conduct this inquiry."

The investigation involved the analysis of a virtual mountain of books and records of the Authority, corporations and banks in order to expose certain business relationships relative to subcon-

* See Report on the Compatibility of the Interests of Mr. Ralph Cornell, Chairman of the Delaware River Port Authority, a Report by the New Jersey State Commission of Investigation, October, 1974.

tracting work done on Authority projects. After holding private hearings on 14 occasions from March through August of 1974, the Commission issued a comprehensive public report on this inquiry and sent it to the Governor and the Ethical Standards Commission, appropriately leaving to that Commission the final judgments on the full factual picture presented by the report. The Attorney General's Office also was given copies of the report.

The principal facts developed by the S.C.I.'s investigation were that Mr. Cornell's Cornell & Company had received substantial income for work performed on Port Authority projects on a subcontracting and sub-subcontracting basis while other companies were listed in the Authority's records as the subcontractors with no listing of Cornell & Company in those documents; that he was the recipient of substantial dividend payments as a major stockholder in the insurance company which was the New Jersey broker for the insurance needs of the Authority, and that as an investor in lands subject to value enhancement by proximity to existing or proposed Authority projects, Mr. Cornell had received more than \$1.9 million in unadjusted profits. The report stated, however, that the probe found no evidence of Mr. Cornell making land purchases on the basis of "insider information" and that the purchases could have been made by any well informed citizen with substantial monetary resources.

In October, 1977, the Delaware River Port Authority agreed to accept a payment of \$50,666 by Mr. Cornell as a repayment of profits some of his firms made on Authority projects. The settlement represented a compromise of the Authority's claim that the profits amounted to \$64,330 and Mr. Cornell's claim that they were \$37,004. Port Authority counsel said the settlement was accepted to avoid "extensive expensive litigation." Cornell's counsel emphasized that the settlement was not to be regarded as an admission of liability. Mr. Cornell, who was absolved of any criminal wrongdoing by the state in 1975, was not reappointed to the Authority when his term expired in January, 1975.

19. THE GOVERNMENT OF LINDENWOLD*

A citizen's letter alleging abuses in the government of the Borough of Lindenwold, a rapidly developed suburban community in Camden County, was received by the Commission in the latter part of 1973. One of the letter's signatories, a former Borough Councilman in Lindenwold, in a subsequent interview with S.C.I. special agents, told not only of abuses concerning ethical standards but also of official corruption. He brought with him to the S.C.I.'s offices \$5,000 he received, but never spent, as his share of payoffs made for votes favorable to land development projects.

During 1974 the Commission obtained substantial corroboration for this man's story of amorality in the Borough's government in a lengthy probe involving full use of the Commission subpoena and witness immunity powers and its investigative and accounting expertise. At three days of public hearings in Trenton in December, 1974, the Commission heard testimony supported by numerous exhibits that \$198,500 had been paid by land developers to Lindenwold public officials in return for favorable treatment and cooperation of the Borough government, that a Borough official and a county official had accepted substantial amounts of cash from companies owning land subject to the officials' regulation, and that Lindenwold public officials used strawmen to mask their purchases of properties which were offered for sale by the Borough, the value of which could be enhanced by the officials' acts.

The public disclosure of what the Commission called "the democratic process of local government operating at its worst" sounded a warning to communities throughout New Jersey. The principal S.C.I. recommendation stemming from this hearing was for enactment of a tough conflict of interest law to apply uniformly on a statewide basis to all county and municipal officials. Legislation meeting the S.C.I.'s standards is pending in the Legislature.

The S.C.I. referred the Lindenwold probe records to the Criminal Justice Division which obtained State Grand Jury indictments in 1975. Former Mayor William J. McDade and real estate developer John Piper pleaded guilty to bribery and conspiracy charges on September 26, 1977, as their trial was scheduled to start. Former Councilman Arthur W. Scheid was found guilty on three counts and former Councilman Dominic Stranieri was found guilty on two counts after their trial concluded October 5, 1977.

* See New Jersey State Commission of Investigation, 1974 Annual Report, issued in March, 1975.

20. LAND ACQUISITION BY MIDDLESEX COUNTY*

The Commission received a series of citizens' complaints during the Spring of 1975 about alleged overpayment by the Middlesex County government for purchase of certain lands for park purposes under the State's Green Acres program. A preliminary inquiry by the Commission indicated that overpayments had occurred and that faulty real estate appraisals and insufficient review of those appraisals by the County's Land Acquisition Department and by the State's Green Acres unit was at the root of the problem. Accordingly, the Commission authorized a full-scale investigation of the County's land acquisition procedures and related Green Acres' program practices. Public hearings were held in Trenton in January, 1976.

This investigation, aided by two of the most respected post-appraisal reviewers in the State, determined that the County did overpay by some 100 per cent above fair market value for certain parcels of land in the Ambrose and Doty's brooks area of Piscataway Township. Both experts found that the appraisals made for each of the parcels overstated the value of the lands, largely because of failure to account adequately for physical deficiencies in terrain. The investigation determined that the Administrator of the County's Land Acquisition Department had approved the land purchase prices with virtual rubber stamp consent from the Board of Freeholders. The Administrator not only constantly solicited a stream of political contributions from the appraisers doing business with the County but also, according to the sworn testimony of two of those appraisers, solicited such payments from the two at a time when they were being awarded appraisal work for the County by the Administrator. Additional testimony at the hearings indicated serious deficiencies and confusion in the appraisal review function of the State Green Acres program, which supplies matching funds for county and local land purchases for park purposes.

As a result of the S.C.I.'s exposures in this investigation, the Administrator of the County's Land Acquisition Department was suspended from his post, and the County government moved to institute a more stringent process of checks and balances on land acquisition procedures. Even before the S.C.I. completed its 1976 hearings, arrangements were being formalized voluntarily by state officials, alerted by the Commission's findings, for the transfer of

* See New Jersey State Commission of Investigation, Annual Report for 1975.

the Green Acres appraisal and post-appraisal review and control system from the Department of Environmental Protection to the Department of Transportation — one of many general and technical recommendations by the Commission that were implemented as a result of the inquiry. In addition, data from the S.C.I. investigation was referred to prosecutorial authorities.

The Middlesex Grand Jury investigated the conduct of the Middlesex County Land Acquisition Department and its former Administrator as a result of allegations raised during public hearings by the S.C.I. On September 27, 1976, the Grand Jury returned a presentment in which it said that while it found "no provable affirmative criminal act" by the Administrator, "it does feel that his actions in that capacity indicated an insufficient expertise and lack of concern to perform his office in the best interests of the citizens of Middlesex County." The Grand Jury also noted that he solicited and collected political contributions from the same people with whom he dealt as departmental administrator.

The Grand Jury's presentment noted that "since the public hearings of the State Commission of Investigation in January, 1976 the Freeholders of Middlesex County have already taken substantial corrective actions." However, it urged in addition that the office of Land Acquisition Administrator be "completely disassociated" from solicitation and collection of political contributions and also that "all of the county officials who control the award of contracts be forbidden from soliciting contributions from individuals over whom they have the power to award contracts." The presentment also recommended that the post of departmental administrator be filled on a nonpartisan basis.

21. PRE-PAROLE RELEASE IN THE PRISONS*

The Commission during 1974 and 1975 received complaints alleging abuses of the pre-parole release programs of New Jersey's correctional system. The programs, aimed at the worthy goal of re-introducing inmates to society, included furloughs, work releases, education releases and community releases. Lengthy preliminary inquiries to evaluate the complaints indicated clearly to the Commission that the effectiveness and goals of the programs were being subverted by gross misconduct attributable to weaknesses in the operation and supervision of the programs.

* See New Jersey State Commission of Investigation Eighth Annual Report.

Accordingly, the Commission by resolution in September, 1975, authorized a full investigation. The probe extended into 1976, with public hearings being held during May and June of 1976. Principal disclosures at the hearings included:

- Falsification of furlough and other types of applications to gain premature entry into the release programs.
- Establishment of favored status for some inmates and a resulting system of bartering for favors, including monetary exchanges among inmates.
- The ease with which work, educational and other releases could be ripped off because of insufficient supervision in hands of the inmates themselves.
- The intrusion of a barter-for-favors system for the transfer of inmates from one to another of the various penal institutions.

As the Commission stated publicly, its probe and hearings were aided substantially by Ann Klein, the former Commissioner of Institutions and Agencies who is now Commissioner of Human Services, and by Robert J. Mulcahy, 3d, the former Deputy Commissioner of Institutions who, as the first Commissioner of a new State Department of Corrections, initiated major reforms of prison furlough procedures. These changes included elimination of inmate supervision of the furlough program and the provision of funds for non-inmate control of it, as the Commission had recommended. Mr. Mulcahy, who is now Chief of Staff to Governor Byrne, later commented to a news reporter: "The S.C.I. investigation was a high-class, highly professional job. It was done in a positive fashion. The effect was really to help the department correct problems rather than simply expose them."

In addition to these reforms that followed the Commission's inquiry into furlough abuses in the prisons, a series of indictments and arrests resulted after the Commission referred its facts and public hearings transcripts to the Attorney General and other appropriate prosecuting authorities.

The Attorney General announced in January, 1977, the indictment by the State Grand Jury of five former inmates of Leesburg State Prison on charges of escape in connection with alleged fraudulent obtaining of furloughs from the prison. The then

Criminal Justice Division Director Robert J. Del Tufo said the indictments charged the five defendants "bought" furloughs from fellow inmates who had been utilized as clerks by the prison system to process forms, records and other paper work that enabled inmates to qualify for furloughs.

The State Grand Jury also indicted a since-dismissed clerk of Trenton State Prison for false swearing and perjury as a result of her testimony on prison furlough abuses during the Commission's private and public hearings. A glaring abuse involving the ex-clerk was the utilization of a bogus court opinion to obtain a substantial reduction in the prison sentence—and therefore the premature release—of one inmate, Patrick Pizuto, known to law enforcement authorities as an underling of Anthony (Little Pussy) Russo, the seashore mob figure. This disclosure at the S.C.I.'s hearing led to the immediate reincarceration of Pizuto, who was subsequently indicted for murder and on federal bank fraud charges. On December 8, 1977, Superior Court Appellate Division dismissed as moot Pizuto's appeal from his reincarceration.

22. THE NEW JERSEY MEDICAID PROGRAM*

This Annual Report contains the Conclusions and Recommendations—on medicaid hospitals—of the sixth and final report** by the S.C.I. in its intensive investigation of New Jersey's Medicaid Program. The extent to which this \$400 million-a-year program of health care for the poor was under simultaneous investigation by the Commission and various other agencies indicates both the complexities of the various functions involved and the degree to which they were misused and abused at great public cost.

In December of 1974 Governor Brendan T. Byrne requested the State Commission of Investigation to conduct an evaluation of New Jersey's system of Medicaid reimbursement. Also, at that time, the New Jersey Attorney General's office announced that it was probing the alleged interests of Dr. Bernard Bergman in New Jersey nursing homes. Later, that office set up a special section of its Enforcement Bureau to deal specifically with criminal activities

* See New Jersey State Commission of Investigation 1975 and 1976 Annual Reports.

** See Pp. 34 to 46 of this Annual Report and see New Jersey State Commission of Investigation Report on "Hospital Phase of the Medicaid Program," April, 1977.

and fraud in the area of reimbursement to nursing homes and other providers, a unit which has obtained many indictments. In January, 1975, the Governor announced the formation of a cabinet-level committee to study the problems of Medicaid reimbursement for nursing home care. That committee issued its report on November 13, 1975, and certain recommendations relating to property costs reimbursement reiterated suggestions initially made by the S.C.I. on April 3, 1975, in the S.C.I.'s first report on nursing home reimbursement. The New Jersey Legislature also created a committee to examine nursing homes in January of 1975. That committee, chaired by then Senator John Fay of Middlesex County, examined the quality of care in New Jersey nursing homes receiving Medicaid reimbursement and other aspects of the program.

Because of the attention being given to other facets of the Medicaid system related to nursing homes, because reimbursement of land and building costs presents one of the largest cost factors in Medicaid reimbursement, and because investigators involved in the area have realized that it is this component of reimbursement which is most often abused and most in need of reform,* the S.C.I. continued to direct its attention to this area.

During the course of its probe, the Commission reported to the Governor on an update basis from time to time—an operational pattern based on the premise, later substantiated, that the social and financial cost of apparent widespread exploitation of the huge health care delivery system would warrant urgent interim statutory and regulatory correction. The final report by the Commission—on Medicaid hospitals—did not reach a recommendation stage in time to be covered in the last Annual Report and this is summarized on subsequent pages of this Annual Report. A chronological charting of the entire investigation, however, shows the Commission took the following public steps:

• **NURSING HOMES**—An initial public report by the S.C.I. on April 3, 1975, exposed serious flaws in the rental and related phases of New Jersey's method of property cost reimbursements of Medicaid-participating nursing homes, one critical conclusion of which was that inflated reimbursement schedules allowed unconscionably inflated profits to greedy entrepreneurs at heavy cost to taxpayers.

* See, e.g., Reimbursement of Nursing Home Property Costs, Pruning the Money Tree, Report of the New York State Moreland Act Commission on Nursing Homes and Related Facilities, January, 1976; Report on Nursing and Related Facilities, Temporary State Commission on Living Costs and the Economy, April, 1975; Report of the Ad Hoc Committee on Capital Cost Reimbursement Rates, New York Public Health Council, October 25, 1975.

• **CLINICAL LABORATORIES**—A formal public S.C.I. pronouncement on April 23, 1975, detailed dangerously poor conditions and procedures in certain independent clinical laboratories and recommended swift legislative enactment of a pending remedial measure. Subsequently the Legislature approved and the Governor signed the highly effective Clinical Laboratories Act.

• **CLINICAL LABORATORIES***—The Commission conducted in June, 1975, a series of public hearings that effectively exposed how Medicaid was being bilked by some independent clinical laboratories through false billing and kickbacks practices, among other evils. The S.C.I.'s unprecedented probe and recommendations in this vital area also were followed by major reforms. This Medicaid manual regulating independent clinical laboratories was drastically revised to bar abusive activities and the maximum fee schedule for reimbursing laboratories was reduced by 40 percent. Taxpayer savings from these improvements alone were estimated at \$1.4 million for the fiscal year ending June 30, 1976.

• **NURSING HOMES****—The final S.C.I. dissection of nursing home property cost reimbursement under Medicaid provisions emphasized so-called "money tree" plucking by unscrupulous operators through facility selling-financing-leasing-back schemes that excessively ballooned the value of the facilities. A two-day public hearing in October, 1976, corroborated dramatically the gross abuses revealed in the S.C.I.'s inquiries into the nursing home property cost reimbursement system phase of its Medicaid inquiry.

• **"MEDICAID MILLS"†**—How some doctors, dentists and pharmacists corrupted the system was dramatized by the Commission's exposé of over-billing and over-utilization practices that bared a loophole potential for far wider abuse of the Medicaid system.

• **MEDICAID HOSPITALS‡**—Utilizing its small but expert staff of accountant-agents, an S.C.I. team made an in-depth assessment of the emerging rate-regulating and Medicaid reimbursement process affecting in-patient hospitals with substantial Medicaid patient care to determine the adequacy, if any, of fiscal controls by supervisory public agencies to insure the system's efficiency, economy

* See New Jersey State Commission of Investigation, Annual Report for 1975.

** See New Jersey State Commission of Investigation, Annual Report for 1976.

† See New Jersey State Commission of Investigation Annual Report for 1976.

‡ See Report of New Jersey State Commission of Investigation on Hospital Phase of The Medicaid Program, April, 1977; see also Pp. 34 to 46 of this Annual Report.

and integrity. Such an unusually complex analysis of methods of controlling hospital costs was vital because of the huge impact of such costs on the Medicaid program. A summary of this document appears later in this Annual Report.

A number of statutory and regulatory steps were taken in response to the revelations of abuses and exploitation of the Medicaid system following—and even during—the Commission's investigations, interim reports and public hearings. These actions included the Legislature's enactment of a New Jersey Clinical Laboratory Improvement Act, as well as a law increasing maximum penalties for bilking the Medicaid program through overbilling and false billing.

Many of the Commission's recommendations were expeditiously adopted by the Division of Medical Assistance and Health Services as a result of the S.C.I.'s clinical laboratory hearings.

The inflated fee schedule — which facilitated the making of financial inducement type payments from some laboratories to their physician customers — was reduced 40 per cent. Language in the program laboratory manual was tightened to clearly proscribe the practice by which small laboratories subcontracted particular tests to large reference facilities and then, in many instances, marked-up the cost by more than 300 per cent and reaped windfall profits at the taxpayer's expense. The manual now explicitly prohibits the breakdown of automated component-part tests into separate procedures and the submission of bills to Medicaid for each to the end that a lab might receive between \$60 and \$80 for a profile which costs less than \$3.50 to perform. A computer system for analyzing and screening group tests was developed. The Division took steps to insure that laboratories fully identify the procedures performed and for which payment is requested. In this regard, a requirement was imposed upon Prudential (the fiscal intermediary) that all claims be itemized in detail. Aggregate billing — which was effectively used by some labs to mask improper requests for reimbursement — is no longer tolerated. The Division adopted a hard line with respect to the flow of inducement type payments in any form whatever between laboratories and physician customers.

The Division cured a glaring weakness by employing more staff expertise in clinical laboratory processes and procedure. The

Commission recommended that a panel be formed to draft an equitable competitive bid system for laboratory work based upon awards of a regional nature. In furtherance of this recommendation, the Commission testified against impractical restrictions of federal law before several Congressional bodies.

At the conclusion of the second phase of the Commission's probe of gross profiteering in Medicaid nursing home facilities in October, 1976, the Commission urged that Senate Bill 594, requiring full public disclosure of those who have financial or other business interest in nursing homes, be substantially strengthened to eliminate practices that siphoned health care dollars from patients to speculators. This bill, which had passed in the Senate on April 12, 1976, subsequently was amended on the Assembly floor in accordance with the S.C.I.'s recommendations, according to a spokesman for the Legislature's Joint Nursing Home Study Commission which drafted the original legislation. The revised measure then cleared both the Assembly and the Senate in February and April, 1977, and was signed into law by Governor Byrne on September 29, 1977.

Additionally, subsequent to the issuance of its Final Report on Nursing Homes, the Commission persisted in its efforts to have New Jersey's system of property cost reimbursement to Medicaid nursing homes restructured along the lines suggested by the Commission in that report. Commission representatives met on several occasions with high-ranking officials of the appropriate administrative agencies. Those agencies have accepted the Commission recommendation, which will show a savings of as much as \$6 million per year, according to the Director of the Division of Medical Resistance and Health Services, and are presently implementing its initial stages.

Certain unusually alarming aspects of the Commission's complicated Medicaid inquiry, such as the clinical laboratory abuses and the evils of the "medicaid mills," helped to spur corrective efforts. In fact, the clinical laboratory phase was a pioneering probe that revealed for the first time the hard facts about unscrupulous ripoffs of the system. These disclosures resulted in the appearance of Commission officials before the U.S. Senate Committee on Aging and the U.S. House of Representatives Subcommittee on Oversight and Investigation. U.S. Senator Harrison A. Williams of New Jersey, reporting his "dismay" over the "widespread fraud and abuse among clinical laboratories," told the Senate in remarks entered into the Congressional Record:

“With respect to the latter, I am pleased to note that the Aging Committee gives great credit to the New Jersey Commission of Investigation and to our New Jersey Department of Institutions and Agencies (now Department of Human Services). The Legislature and the Department responded with prompt implementation of corrective measures.”

INVESTIGATION OF THE HOSPITAL PHASE OF THE MEDICAID PROGRAM

INTRODUCTION

This sixth medicaid report by the New Jersey State Commission of Investigation concluded its probe of New Jersey's Medicaid program. The final document concerned the in-patient hospital phase of the Medicaid program and the adequacy of fiscal controls developed by the state to insure efficiency, economy and integrity. The following is a summary of the report with a reminder that it was made public in April of 1977, since which time a number of changes have taken place.

The Commission found in the course of its investigation that the New Jersey Medicaid program began in January, 1970, at the midpoint of an unprecedented hospital cost-increase spiral. In April 26, 1976, a report of Presidential Council of Wage and Price Stability indicated that:

- the cost of an average hospital stay (was) up from \$311 in 1965 to \$1,017 in 1975;
- health expenditures as a percent of our Gross National Product rose to an unprecedented level of 8.3 percent in 1975, up 41 percent from the 5.9 level in 1965;
- health care expenditures tripled since 1965, up from \$39 billion to \$119 billion; the 1974 to 1975 increase of \$15 billion was the biggest in our history.

In the course of the hospital phase of the Medicaid probe, S.C.I. personnel was assigned to provide technical assistance to the Public Advocate at the 1976 Blue Cross rate hearings conducted by the Department of Insurance, and at the hospital rate appeal hearings before the Department of Health. Such participation at both forums provided an opportunity for the Commission's staff to identify those elements in the hospital rate-setting system which were relevant to proposing a fair and equitable Medicaid rate.

STRUCTURE OF THE REPORT

It became apparent at the inception of the Commission's investigation that its limited manpower could be best utilized by a concentrated analysis of the emerging hospital rate making process known as SHARE—the acronym for Standard Hospital Accounting Rate Evaluation.

To that end, Section I of this report dealt with an in-depth analysis of the SHARE system.

Section II contained the results of the SCI's extensive analysis of budget processing by 12 high-volume Medicaid in-patient hospitals.

Section III reviewed Medicaid eligibility problems, evaluated various utilization controls by hospitals and assessed the performance of the state's fiscal intermediaries' screening procedures in paying hospital reimbursement claims.

Finally, Section IV of the report evaluated the potential impact and current status of the Federal law mandating the use of the Professional Standards Review Organization (PSRO), a system designed to assess the "quality", "appropriateness" and "necessity" of inpatient hospital care rendered to Medicaid and Medicare recipients.

Based on the findings of the Commission's inquiry into the hospital phase of the Medicaid program, the following Conclusions and Recommendations—some of which have now been adopted—were presented:

SECTION I — THE SHARE SYSTEM

The complex problem of determining hospital rates of reimbursement cannot be understood without a historical perspective of the process utilized prior to 1975. From the time that the Hospital Service Plan of New Jersey, commonly called Blue Cross, was founded in 1938 until 1971, the system of cost reimbursement to the hospitals in this State was based upon informal rate-making conducted on a "one-to-one" basis between Blue Cross and each individual hospital. The first Medicaid hospital rates were pegged to Blue Cross reimbursement rates. As reimbursement rates (per diems) escalated, the public and government officials became increasingly alarmed.

Bureaucratic Malpractice, a 1974 report by the Center for Analysis of Public Issues, traced the history of health care reimbursement in New Jersey. In 1963, the Commissioner of Banking and Insurance set a "fixed ceiling" beyond which hospital costs would not be reimbursed. The Commissioner set this ceiling without the benefit of effective or systematic checks and balances or review of cost data supplied by the New Jersey Hospital Association or its individual member institutions. This system was criticized by many reports.

All other attempts to accurately determine reasonableness of hospital costs or to define real hospital costs were opposed by the New Jersey Hospital Association (NJHA) and were not adopted. NJHA proposed a committee to advise the Commissioner of Banking and Insurance in 1968, but the advice rendered was ineffective in achieving meaningful cost containment.

In 1969, T. Girard Wharton, as special counsel to the Department of Banking and Insurance, submitted a report highly critical of the entire rate-making process. The report criticized the overly informal and unstructured nature of the rate-making process and of the procedure by which important legal opinions were rendered. In addition to these criticisms, the report proposed adoption of controls to reduce costs (e.g., use of a standard system of accounting, prospective hospital rate-setting, pre-admission testing, tougher utilization review, joint purchasing, physician review of questionable diagnoses, competitive bidding for services and closer surveillance of operations).

In 1971, a new system was proposed whereby the Hospital Research and Educational Trust (HRET), an affiliate of NJHA, began to review hospital per diem budgets. This purported review was done retroactively and the hospitals' cost claims and recommendations were virtually "rubber stamped" with the approval of the Commissioner of Banking and Insurance. Hospital budgets were generally approved with little or no modification. The *Bureaucratic Malpractice* report criticized this system.

In May 1971, the Health Care Facilities Planning Act, (*N.J.S.A.* 26:2H-1, *et seq.*) was adopted. This important and beneficial legislation greatly expanded the power of the Department of Health over the health care industry. The Health Care Administration Board was created with power to approve rates and standards relating to the licensing of health care facilities. The new powers and responsibilities created by the legislation and

relevant administrative regulations for the Department of Health included the power to:

- Approve hospital charges to the Medicaid Program.
- Protect all patients against improper hospital accounting policies.
- Determine reasonableness of hospital charges to Blue Cross jointly with the Commissioner of Insurance.
- Create adversarial rate-making.

The Standard Hospital Accounting and Rate Evaluation (SHARE) system was adopted by the Department of Health in 1975, four years later. Hospitals submitted budgets in the fall of 1975 for prospective rates for the calendar year 1976.

Through the SHARE system, the State Department of Health attempts to analyze budgets submitted by each hospital, compare them with facilities of similar operation, complexity and location and set a per diem reimbursement rate sufficient to fund "presumptively reasonable" budgets. The SHARE system also requires that each hospital submit its proposed budget pursuant to standardized budgetary forms and procedures.

The SHARE budget forms which must be submitted by each hospital are lengthy and detailed. Much of the data required is of necessity based on estimates since the per diem rates are set prospectively. The budget forms require detailed information relevant to approximately 40 cost categories, including acute care, intensive care, emergency room and administration.

One of the most significant changes between 1977 and 1976, documenting submission requirements by the various hospitals, were detailed timetables with deadlines which must be met by both the individual hospitals and the department of health. One of the causes of problems with the 1976 rates was the delay in issuance of rates and the hearing schedules.

Under the system now operating hospitals had to submit their 1977 budget by October 31, 1976. There are incentives included. All hospitals that had submitted "clean budgets," i.e. one that was internally consistent, mathematically correct and which could therefore be entered into the SHARE computer data base got a 3% increase over their 1976 approved rate beginning January 1, 1977. In all, 113 hospital budgets for 1977 were received prior to the deadline and 110 were entered into the data base. In 1976 only 90 hospitals were included in the base.

Conclusions, Recommendations

SECTION I—SHARE

CONCLUSION (1)

Through complex hospital cost categorization, peer comparison and analysis, the SHARE system attempts to determine prospectively the amount of money each hospital must spend to operate in an efficient manner. However, the SHARE system is not perfect.

RECOMMENDATION (1)

The SHARE System is basically an effective hospital cost-control mechanism (and will be more so if its defects are eliminated) and should be used for Medicaid rate-setting in hospitals. However, the probable availability of other methods embodying the SHARE concept should also be considered in the development of reasonable hospital cost restraints.

* * * *

CONCLUSION (2)

The exclusive authority to set per diem rates under the Medicaid Program has been construed to rest with the Commissioner of the Department of Institutions and Agencies (now the Department of Human Services). Under present agreement, the Health Department uses the SHARE system to recommend an interim rate of hospital reimbursement for use in the Medicaid Program by the Department of Human Services.

RECOMMENDATION (2)

It is imperative that the methodology of the SHARE System be utilized in the handling of Medicaid patients.

* * * *

CONCLUSION (3)

To the degree that SHARE cost center challenges depend upon a determination of excessive unit costs, a risk may exist that hospitals having cost centers lower than the challenge limit might increase the cost center claims to the 'ceiling', thereby unfairly maximizing the rate of reimbursement. Through this procedure, hospitals inclined to do so would be able to obtain higher rates of reimbursement than those to which they in fact were entitled, and be rewarded for inefficiency. In the Commission's opinion, the temptation to recast excessive costs of one center to costs of centers falling below the 'norm' is too great a temptation to place on any hospital presenting unaudited budget submissions.

RECOMMENDATION (3)

In addition to the prescribed SHARE analysis presently being made, a detailed audit of cost center budgets submitted by hospitals should be performed as a matter of routine, since only through such audits will the Department of Health be able to assure the accuracy of cost estimates and volumes presented by hospitals.

* * * *

CONCLUSION (4)

The Health Department perceives its analysts as professionals whose job is to determine what constitutes reasonable costs for individual health care facilities. The S.C.I. believes that, in effect, there is a dual role for the analysts. Since they set the administrative payment rate, they are directly responsible for the determination of the component costs to Medicaid.

RECOMMENDATION (4)

Health Department analysts should be aware of this dual responsibility and subjective decisions made by them which may materially affect reimbursement rates should be scrutinized closely by superiors.

* * * *

CONCLUSION (5)

SHARE practices and procedures to some extent embody adversarial principles. Appellate proceedings are held before a hearing officer, a formal record is made and hospitals are permitted to present reasons for appeal through a legal representative. The Public Advocate in these rate-making proceedings, represents the public interest . . . Under current procedures, questions have been raised as to the power of the Public Advocate to 'discover' detailed hospital cost-related information relevant to setting of a 'reasonable' rate of reimbursement.

RECOMMENDATION (5)

Because of its importance to the public interest, the adversary representation of the Public Advocate at rate-making proceedings should be strengthened, particularly his authority to obtain cost-related data from hospitals. Any information reasonably relevant to the setting of a reasonable rate of hospital reimbursement should be available to all interested parties.

* * * *

CONCLUSION (6)

Even though SHARE in New Jersey provides a fair method to determine hospital per diems, there has been a gap with respect to out-of-state hospital services. Naturally some of the dollars paid to out-of-state hospitals are emergency-type treatments or other situations where certain kinds of treatment may not be available in New Jersey.

RECOMMENDATION (6)

Added costs resulting from a situation in which it is purely the free choice of the recipient to cross state lines without advance authorization or approval for hospital care should be financially minimized, perhaps by not permitting the out-of-state hospital a higher per diem reimbursement than is permitted at a comparable New Jersey hospital.

SECTION II — S.C.I. ANALYSIS OF 12 HOSPITALS

Commission staff analyzed the 1976 cost claims and budget requests submitted by 12 hospitals which are high volume Medicaid providers. The Commission transmitted the results of this analysis to the Department of the Public Advocate and the Department of Health. The Commission's technical assistance to the Public Advocate in SHARE system analyses and Blue Cross Rate Hearings totaled some 750 accountant hours over the course of this investigation.

The S.C.I.'s analysis reconciled three aspects of SHARE: Budget Submission, Cost Center Computer Challenges and Rate Review. The study included a breakdown of the per diem among all the cost centers and recast per diem costs after challenges to Hotel Services, Nursing Services, General Patient Care and Ancillary Services. The same four-way breakdown is used by New York Blue Cross in its rate requests. The S.C.I. analysis provided a "total financial picture" of each hospital budget, including total request, computer challenges, adjustments by health department analysts, per diem breakdown among cost centers, etc.

CONCLUSION (1)

The S.C.I. analysis illustrated the significant savings for the Medicaid Program by the operation of the SHARE system as that system was applied to the 12 facilities reviewed. On the basis of a Division of Medical Assistance and Health Services estimate of one million patient days for 1976, the Commission projected savings approximating \$7 million which could accrue to the Medicaid Program.

RECOMMENDATION (1)

The Commission's in-depth costs analysis of these 12 high-volume hospitals bolsters the need for incorporating the cost containment benefits of the SHARE system into the Medicaid Program.

* * * *

CONCLUSION (2)

The S.C.I. analysis disclosed that mathematical errors were made in the computation of the hospital reimbursement rate and that several such calculations were alarmingly large.

RECOMMENDATION (2)

The Health Department should consistently cross-check mathematical accuracy in calculations of reimbursement rates. A model developed by the S.C.I. in its analysis of the 12 hospitals could be adopted. To further guarantee the accuracy of hospital figures and to insure that facilities will not be rewarded for inefficiencies, the Health Department should regularly request copies of management consultant reports on individual hospitals, since these reports would be helpful in identifying areas of operational and administrative inefficiency.

* * * *

CONCLUSION (3)

SHARE had not adequately reflected comparable cost figures among peer groups in their cost centers due to the diversity in the methods of compensation, e.g., percentage of gross charges, fee for service, salary, etc. Until the SHARE system is capable of extracting reasonable cost data from these centers, the final reimbursement rate will not be truly reflective of "presumptively reasonable budgets" unless objective peer comparisons of cost centers are uniformly made.

RECOMMENDATION (3)

Hospitals must be required to submit detailed information regarding levels of compensation paid either to physicians or groups, or both, without regard to the method of payment.

* * * *

CONCLUSION (4)

Refinements must be made in SHARE's analysis of the specific physician components of the Radiology, Pathology and Anesthesiology cost centers. With further respect to the compensation arrangements between radiologists, pathologists and other specialists, the Commission noted the filing of antitrust action alleging price-fixing in the Southern District of New York by relevant professional associations.

RECOMMENDATION (4)

The Commission has urged the Anti-trust Section of the New Jersey Attorney General's Division of Criminal Justice to review and analyze the practices of such associations in New Jersey.

* * * *

CONCLUSION (5)

Decisions of the (Health Department's) Licensing Unit—such as a determination of the minimum acceptable amount of physician coverage in an emergency room—directly affect hospital costs. The Health Statistics and Economic Unit presently operates the SHARE system. However, the licensing unit makes ad hoc decisions which have a direct and material impact on the cost of claims of hospitals.

RECOMMENDATION (5)

Greater coordination was urged between licensing and rate-making units within the Department of Health. Obviously, cost-pivotal decisions by the licensing unit should not be rendered informally but should be made only after appropriate intra-departmental consideration.

* * * *

SECTION III — ELIGIBILITY, USE CONTROLS, INTERMEDIARY PROBLEMS

It was apparent from the State's commitment of expenditures for recipients to hospitals and out-patient clinics of \$135,000,000 in 1975, as reported to the S.C.I., that large urban hospitals retained their status as the "family doctor" for the medically indigent. The S.C.I. conducted surveys of major hospitals in Essex, Hudson, Monmouth, Atlantic and Camden Counties regarding admission problems which concern the access to hospital care of Medicaid recipients and potential recipients.

CONCLUSION (1)

Large urban hospitals, due to alleged red tape in enrolling recipients, other than those in the ADC (Aid to Dependent Children) program, have become the initial contact point in filing medical benefits. While it reportedly took five weeks to get a recipient "on" the computer (listed on the eligibility rolls), the average hospital stay was estimated at 6.5 days. Therefore, the hospitals must wait 28½ days to find out if they are going to be reimbursed for medical services rendered to beneficiaries. Instances of payment denial for eligibility reasons were reported by fiscal officers surveyed even when a recipient had a Medicaid card and a validated stub.

RECOMMENDATION (1)

Adapting a process successful in Florida, New Jersey should integrate Medicaid eligibility data maintained by the N. J. Blue Cross into the Blue Cross teleprocessing system, which has terminals in virtually every hospital in the state. This would give administrators added assurance their hospitals will be paid for services rendered in the absence of any overutilization problems and will provide them with a "fail safe" method of determining the potential recipient's eligibility status.

* * * *

CONCLUSION (2)

The State became the beneficiary of certain utilization controls such as Approval of Individual Diagnosis (AID), which controlled the length of hospital stays, and Pre-Admission Testing (PAT), which was designed to cut down on hospitalization for diagnostic reasons. The effective operation of well-designed utilization

controls is a condition precedent to achieving substantial cost containment in the Medicaid Program.

RECOMMENDATION (2)

Such control programs must be maintained and improved since they are, as the Commission declares in its report, "important deterrents to temptations to overutilize hospital services, thereby limiting increases in hospital costs."

* * * *

CONCLUSION (3)

In the course of the Commission's investigation it came to light that the Medicaid Program permitted fiscal intermediaries (Blue Cross and Prudential) to use twice the number of days of hospitalization allowed under the AID program in processing certain kinds of in-patient hospital claims . . . The obvious question was . . . why should the State permit the fiscal intermediaries to use in certain cases a screening process which defeats the purpose and intent of this utilization control?

RECOMMENDATION (3)

The Division of Medical Assistance and Health Services should issue a written directive obligating the intermediaries to follow specified utilization control procedures. It is the responsibility of the Division to establish, update and enforce clear utilization review procedures in the claims screening process.

* * * *

CONCLUSION (4)

Under the Medicaid Program, PAT was billed as an out-patient service. PAT was designed to shorten hospital stays by encouraging the performance of tests *before* admission to a hospital rather than during a patient's confinement. Blue Cross estimated that PAT could reduce the average length of hospital in-patient stays by as much as two days, but socio-economic problems unrelated to the delivery of health care services adversely affected the Medicaid hospital provider's ability to maximize its use. In order to solve transportation and broken appointment problems, some hospitals were admitting patients for diagnostic, pre-operative tests and for reasons which lack medical necessity. Admission for the forementioned reasons are NOT reimbursable for medical purposes.

RECOMMENDATION (4)

Aggressive efforts must be made to use Pre-Admission Testing (PAT) consistently and uniformly, rather than haphazardly, for Medicaid patients.

* * * *

CONCLUSION (5)

Blue Cross and Blue Shield of Greater New York experimented with a Program for Elective Surgical Second Opinion (PRESSO), which is designed to reduce the number of unnecessary elective surgical operations. Movement leading to the adoption of PRESSO was initiated by the N. J. State Benefits Council, which offers the second opinion option to state and local employees under their respective health programs. N. J. Blue Shield agreed to cooperate.

RECOMMENDATION (5)

If the PRESSO program is evaluated favorably by providers and users after a test period, it should be adopted by the Medicaid Program as a mandatory requirement in all instances of non-emergency surgery.

* * * *

CONCLUSION (6)

Hospital providers which are not covered by Blue Cross are serviced by the Prudential Insurance Co. Prudential had reported savings of \$217,717 in 1974 and \$295,470 in 1975, as a result of their claims review of 30 hospital providers in those years. Blue Cross realized savings of \$4.8 million during the same period. The disparity in savings resulted primarily from the difference in the number of hospitals each intermediary services. Blue Cross handled only 30. Nevertheless Prudential's past program savings had not matched percentage-wise Blue Cross savings. Prudential recently adopted a limited screening process for Medicaid services which is more consistent with the AID manual, but it was applied only to hospitals with higher than average 'length of stay' norms. This change occurred in March of 1976, resulting in dollar savings in the first six months of 1976 in excess of those achieved for all the previous year. However, Prudential did not apply these more stringent screens to Medicaid claims from hospitals with low 'length of stay' norms.

RECOMMENDATION (6)

For Medicaid patients, other than SSI (Supplemental Security Income) recipients, the length of stay provisions should be set at AID levels applicable to Blue Cross subscribers, giving the Medicaid Program parity with screens applied to commercially insured subscribers. As the S.C.I. stated: "The taxpayers of New Jersey deserve no less. This reform is necessary to reduce overutilization abuses and inflated costs in the Medicaid Program."

SECTION IV — PSRO'S AND MEDICAID

The Commission found that fiscal intermediaries were performing a function (in regard to medical review of hospital reimbursement claims) which substantially would be assumed by Professional Standards Review Organizations if PSRO's were in operation. Therefore, it became relevant to evaluate the potential impact of the PSRO system on eligibility and decision making in the Medicaid program.

PSRO's were established under provision of the 1972 Amendments to the Social Security Act (Public Law 92-603) to monitor the delivery of health care to Medicaid, Medicare and Maternal and Child Care patients. As of April, 1977, only five of the eight designated areas in New Jersey were *conditionally* funded.

CONCLUSION (1)

The Commission found that fiscal intermediaries were performing a function (in regard to medical review of hospital reimbursement claims) which substantially would be assumed by Professional Standards Review Organizations if PSRO's were in operation. State officials in key decision-making roles have expressed reservations regarding the efficacy of "peer review" in a PSRO structure and the requirement that PSRO's have ultimate discretion not only as to which claims to deny but also which to pay.

RECOMMENDATION (1)

PSRO's should be tested during a trial period as a supplementary check-and-balance on existing utilization review procedures. Once tested and made fully operational, they should be monitored to insure that they continue, as the Commission emphasized, "to function independently and aggressively — in short, in the best interest of the public."

*INVESTIGATION OF ABUSES BY NON-PUBLIC SCHOOLS OF THE SPECIAL EDUCATION PROGRAM FOR SEVERELY HANDICAPPED CHILDREN**

INTRODUCTION

During the early part of 1977, increasing complaints and allegations were circulating throughout the state of alleged misuse and other abuses by non-public schools of the \$26 million Special Education program for severely handicapped children. The State Commission of Investigation was the recipient of a number of such complaints and on several occasions received requests for information or comment in connection with individual investigative reporting assignments in this field by major newspapers. One of these publications, the Daily Record of Morris County, published a particularly revealing series of articles alleging gross misconduct on the part of certain non-public school operators. This was a factor in the S.C.I.'s decision to change its inquiry from an evaluation of the problems into an extensive investigation.

By June of 1977, the Commission's investigative staff was pursuing fresh reports of questionable activities if not outright misconduct in some non-public school operations. Scores of assigned inquiries in the field were backed up by the in-depth auditing of actual expense budgets and hundreds of bank checks, vouchers, purchase orders, and miscellaneous business records. Gradually a record was assembled confirming the callous misappropriation for personal use of large sums of money that had been earmarked ostensibly for the education of more than 5,000 children too seriously handicapped to be served by the public schools.

The Special Education program about which the Commission was concerned is a substantial and, of course, a critically significant part of the overall effort to improve the lives and minds of these unfortunate children. Most of them—some attend special residential schools out-of-state—are enrolled in 125 non-public day schools and 25 non-public residential schools throughout New Jersey. Such schools are required to offer appropriate educational

* See Report and Recommendations of the New Jersey State Commission of Investigation on the Misuse of Public Funds in the Operation of Non-Public Schools for Handicapped Children, issued May, 1978, available at the office of the Commission.

programs for one or more of a dozen categorized handicaps—educable or trainable mentally retarded, perceptually impaired, orthopedically handicapped, neurologically impaired, visually handicapped, auditorially handicapped, communication handicapped, emotionally disturbed, chronically ill and multiply handicapped. While the Commission's inquiry concentrated on financial irregularities in certain non-public day schools, it also touched on questionable operations in residential facilities. The Commission's investigation was strongly supported and aided by such officials as Dr. James W. Richardson, director of the Bureau of Special Education in the Department of Education; Mrs. Eleanor Engelbrecht, coordinator of Non-Public School Eligibility in Dr. Richardson's bureau; and Dr. David Holmes and Mrs. Susan Greenman, president and secretary, respectively, of the Association of Schools and Agencies for the Handicapped (ASAH).

THE PUBLIC HEARINGS

The Commission decided to hold public hearings as soon as possible to expose the wrongdoing that it had verified initially in four out of six private schools on its investigatory agenda. As Commission Chairman Joseph H. Rodriguez stated at the opening of the S.C.I.'s two-day hearing session on January 19, 1978:

The abuses of a few of these schools should not be permitted to damage or destroy the reputation of the entire system or of the many dedicated people serving the handicapped children of our state.

Because we felt that the improprieties our inquiry uncovered should be halted as quickly as possible, we decided they should be subjected to swift public exposure and swift correction—even as our inquiry into this complex and vital system continues into other aspects.

We intend, as in past public hearings, to record testimony reflecting all facets of this Special Education program, all sides of an extremely intricate and sensitive endeavor to improve the minds and the lives of children who themselves are unable to call out to us for the help they need.

The Commission's formal report to the Governor and the Legislature on Special Education program abuses, which included a condensation of transcripts of the relevant public hearing testimony, has received wide attention and circulation. Since, as noted previously, copies of this Commission report are available to the general public on request, a summary of it is sufficient for the purposes of this annual report. Part of the summary is the following statement by Commission Chairman Joseph H. Rodriguez at the close of the S.C.I. public hearings on January 20, after which will come a condensation of the Commission's full Special Education report.

Chairman Rodriguez concluded the two-day hearing thus :

These hearings have exposed examples of a callous abuse of the system by *some* private schools and have demonstrated the inadequacy of the law and rules by which the system is administered. These administrative weaknesses also were illustrated by certain questionable practices by *some* entrepreneurs that further threatened the reputation of the entire system as well as the dedicated and continuous public endorsement upon which the success of the program depends.

The range of misdeeds actual and apparent, as revealed by witnesses at this public forum, reflected an appalling high-handed disregard by some for the personal as well as educational well-being of handicapped children in a minority of private schools. The outright improprieties and the questionable practices and procedures were depressingly wide-ranging—despite the relatively small sampling of such activities :

- The administrator of the Calais School utilized tax funds allocated to his non-public facility to roll up more than \$40,000 in personal, non-educational payouts in a two-year period. These included a \$750 "gift" to his brother-in-law, a trip to Las Vegas, the acquisition of expensive paintings and sculptures disguised as "books and supplies," excessive pensions and insurance coverage for himself and his wife, and a multitude of sales tax-exempted personal purchases with school checks of

such items as a stereo system, books and magazines, lawn equipment, swimming pool chemicals, cameras—even tennis balls and sneakers.

- A former teacher at the above school testified that the son of the administrator and his wife (each of whom is drawing \$30,000 in annual salaries) was at \$13,000 a year the highest paid member of the school's teaching staff who was not certified and showed up at the school only in the afternoon twice a week.

- The business manager of the Lincoln School admitted she and her associate journeyed to Florida each year at the school's expense in a \$7,000 van paid for out of public funds allocated to the school. In addition, she confirmed payment by the school of a \$7,000 addition to her home.

- The administrative associate of the above witness confirmed the employment by the school of a person who served chiefly as her personal valet.

- A former Lincoln School employee confirmed she handled most of the managerial duties, at a salary of \$15,000, that were the stated responsibility of the two previous witnesses, who received \$36,000 yearly compensation each.

- A car salesman testified that the Lincoln School operators purchased a five-passenger van, with luxury accessories, which was unsuited for the hauling and busing purposes for which the operators said they bought the vehicle.

- The executive director of Manor Woods Academy was depicted as using school funds to acquire and expand real estate holdings, at a substantial personal profit, that appeared to have little or no relationship to her publicly funded private school.

- The executive director of Somerset Hills School told how the school's operating corporation leases the school's land and building from another corporation, with the same ownership—illustrating a self-dealing procedure that calls for examination in depth.

- Officials of the highly respected Association of Schools and Agencies for the Handicapped (ASAH), both of whom operate outstanding non-public facilities, have stated that only 18 schools qualified for membership and that that association's efforts to improve the Special Education funding system were unsuccessful.
- Testimony was recorded on the difficulty of persuading agencies with related responsibilities to compile and adopt uniform procedural guidelines, on the lack of manpower with which to manage and watchdog the system, and other problems that beset program administrators within the State Education Department.

The hearings confirmed that there is ample opportunity for present and prospective operators who desire only to gain a fair and reasonable return from private facilities that fill a critical void in the public school system. Therefore we believe we can face the problem of proposing stringent reforms—such as making auditing requirements more strict, accountability more effective, monitoring more frequent and alert and staffing more capable and adequate—without undue concern that any reduction of educational opportunity will be the result.

In fact, even more than aggressive and expeditious legislative and regulatory reform is warranted.

Those who have flagrantly profited by the diversion of funds to personal acquisitions and activities unrelated to the education of handicapped children, should—through criminal or civil action, or both—be forced to disgorge themselves of all such profits.

The S.C.I. intends as is its practice to cooperate fully with all law enforcement, prosecutorial and other governmental agencies by a full and continuous referral and disclosure of its findings to them for appropriate action.

We will suggest that the Attorney General consider filing civil suits against the individual beneficiaries of “unjust enrichment” from Special Education

abuses, as narrated at these proceedings, as well as criminal action when justified, or both.

The Commission, as I have indicated, intends to prepare as soon as possible a detailed report of its findings to date—even as our investigation continues into other facets of the Special Education program.

The problem is as complex as it is heart-rending. But what stands out starkly as we end these hearings is the undisputed conclusion that the Special Education program for handicapped children isn't working the way it can and should, that *some* children are being shortchanged, that *some* public funds are being wasted because money's going into private pockets instead of educational programs. We intend to report to the Governor and the Legislature our detailed, recommendations on these problems.

THE SPECIAL EDUCATION REPORT—(A Summary)

(Note: The Commission's recommendations were endorsed by the Association of Schools and Agencies for the Handicapped.)

I. INTRODUCTION

The S.C.I.'s public hearings focused on certain areas of prospective reform—including staffing and functioning of the Education Department's Branch of Special Education and Pupil Personnel Services (BSEPPS), a specific description of allowable and non-allowable private school expenses, record keeping and reporting requirements for participating schools, and the rate-setting procedures.

The Commission, in proposing its recommendations, is mindful that cost savings are not the only concern.

Comment: Because certain operators are able to exploit a system's poor reporting requirements does not necessarily suggest that rates are exorbitant. Equally supportable is the conclusion that state and local funds which are barely adequate are being partially diverted to the personal benefit of certain operators. Thus, the S.C.I.'s recommendations emphasize *both* cost consciousness and cost effectiveness.

In preparing its report, the Commission reviewed in depth a law-mandated plan that Connecticut is implementing—the Cost Accounting and Rate Establishment System (CARES). A number of cost-control and rate-setting proposals relate to the CARES plan, as modified by S.C.I. staff familiar with reimbursement systems in the health care field.

Recommendation:

Since neither laws nor regulations exist in many areas of concern, it is the S.C.I.'s considered judgment that most of its changes should be implemented through the clear mandate of legislative action rather than by regulatory orders.

II. ADMINISTRATIVE RESPONSIBILITY

The Commission's inquiry disclosed a critical lack of resources within the Education Department for monitoring the Special Education system. It also confirmed a marked overlap of authority between the Division of Youth and Family Services and the Department's BSEPPS in connection with schools that also served as residential facilities.

Recommendations:

Create by statute a bureau within the Department of Education to supervise the reimbursement of all non-public schools for handicapped children. The bureau should supervise all day, residential and summer programs. Its staff should include at least five auditors with fiscal control and rate-setting responsibility. The bureau's capability should include evaluation of appropriate use of buildings and grounds space by schools while maintaining a timely processing of essential data reports.

Comment: The entire process of review and rate-setting should not occupy more than four to six weeks of staff time. The balance of the work-year is to be allotted to field auditing.

III. ALLOWABLE AND NON-ALLOWABLE COSTS

The Commission's public hearings depicted non-public school expenditures that were considered extremely improper. While some operators complained they received sparse direction from the state, the S.C.I. emphasizes that it regards most of the practices examined in the hearings to be highly inappropriate—by any standard—and urges the adopting of strict guidelines concerning allowable and non-allowable costs.

Recommendations:

- *Individuals who directly or indirectly control a non-public school decision-making board should not be eligible to receive a reimbursable salary as an employee of the school.*

- *Maintenance of offices in homes or other locations separated from the main facility should not be a reimbursable expense.*

- *Costs of social activities and amusements and related incidentals should be disallowed unless an educational program need can be proven.*

- *No allowable rental or mortgage carrying charges should exceed the normal depreciation, taxes, insurance and maintenance.*

Comment: One of the serious questions raised by the Commission's public hearings was the use by certain operators of rental costs as a means of creating an increased profit. This recommendation will prevent profiteering through leases.

- *Limit allowable interest charges.*

- *Closely monitor so-called "research and development" programs.*

- *No fund raising expenses should be allowed.*

- *Dividends paid to shareholders and losses on sale of capital assets should not be allowed.*

- *Costs incurred in an "investment" program and losses from the sale of such investments should not be allowable costs.*

- *Costs incurred for lobbying and legal work, other than legal consultation as defined, should not be allowable.*

- *Uncollectible accounts should not be allowable.*

- *Capital expenditures in excess of \$100 should not be allowable.*

- *Medical expenses should be allowable only to the extent the physician acts in an advisory capacity or conducts diagnoses for the purpose of developing educational programs.*

- *The value of donated goods should not be allowable.*

- *Funding of contingency accounts and intangible costs should not be allowable.*

- *Non-current costs should not be allowable as current year costs.*

Comment: A listing of non-allowable expenses through specific statutory language would set standards for the industry and

establish clear guidelines on what is or is not appropriate. These guidelines should be enacted quickly. But implementation of them can be ordered at once pending statutory action.

IV. REPORTING REQUIREMENTS

S.C.I. audits of financial reporting instructions and forms illustrated many deficiencies. The reasons for a lack of adequate and accurate information to the state's BSEPPS ranged from ambiguity of the instructions to outright manipulation of the records by operators. These deficiencies permitted perpetuation at many schools of chaotic accounting records.

Recommendations:

- *The state BSEPPS should require certain detailed reports by the schools. One such report should be an "expense budget" forecast. Another should be an "actual cost" report with itemized expenses apportioned according to allowable and non-allowable costs—with further subdividing of allowable costs into prescribed program areas. In addition, two subsidiary reports should be compiled—one reconciling projected and actual expenses and another reconciling accrued expenses and total disbursements.*

- *Another requirement should be a report breaking down the components of the "salary" portion of the above reports. For instance, if a school has both a regular and a summer session, two salary reports would be necessary, apportioning allowable and non-allowable salaries and relating the allowable portion proportionately to programs.*

- *Assets having a useful life in excess of a year and costing over \$100 should be capitalized and depreciated according to a uniform policy that will prevent fiscal distortions.*

- *Allocation of private school floor and land space should be allocated on a program basis.*

- *Material changes in programs or enrollments should be reported within 30 days. Budget projections must be submitted by May 1 and "actual cost" as well as reconciled costs by August 31. This program of reporting should be in effect for the 1979-80 school year.*

V. RATE SETTING

For the past two years, when tuition rates were based on an outline of expense estimates, the timing and availability of data was such that most schools requested and received the maximum

rate no matter what their actual costs. It became obvious during the Commission's inquiry that the special education programs varied according to the severity of the individual's handicap. In two of the schools examined by the S.C.I. for example, the programs provided and resultant costs were widely divergent, although each school served children with the same handicap classification. Yet each school received the same tuition rate. It was revealed that no mechanisms existed to prevent a school from receiving revenue in excess of actual costs or to permit the recovery of such excess payments from the school.

Recommendations:

- *Tuition rates should be set by June 15, annually, based on budget estimates adjusted by actual costs. The proposed budgets should be submitted by May 1 for review. Schools should have the right of appeal.*

- *Such established rates should be flexible to the extent of accommodating major reasonable changes, subject to approval or modification by the state.*

- *Adjustments in succeeding years: Actual cost reports then should provide the basis for any recalculations, if necessary, of the rate for the year covered. Any excess revenue, unless relatively small, should be offset in the next year's rate.*

- *Reasonableness should be the rule in setting rates based on budget and actual cost reports, keyed to a comparison among cost component categories of schools providing similar services.*

Comment: The objective of these recommendations is to support essential programs and services by tuition rates which will reimburse a private school for reasonable costs. Costs may be questioned if they appear out of line with costs at other facilities and, of course, eliminated if unjustified. Rates no longer will be "cast in stone." The system should insure that a handicapped child is receiving the services for which the non-public school is being paid based on a fair and reasonable rate that should insure continuing quality programs. In general the rate should reflect the cost components of the budget and actual cost reports. For those non-public schools which are incorporated for profit, the amount of profit requested and allowed should be set forth as a separate component of the rate.

COOPERATION WITH THE LEGISLATURE

As was promised, the Commission began at once to help to correct at least the most obvious of the regulatory and procedural defects in the Special Education program, while continuing its inquiry and compiling its formal report and final recommendations for extensive permanent reforms. Commission Chairman Rodriguez and Executive Director Michael R. Siavage conferred with Attorney General John J. Degnan and his staff and with key legislators, including former Senate President Matthew Feldman, chairman of the Senate Education Committee, and Senator Anthony Scardino, Jr., chairman of the Senate Committee on Institutions, Health and Welfare.

At those conferences, Chairman Rodriguez and Mr. Siavage expressed the Commission's desire to cooperate with legislative committees and individual legislators. They assured the legislators of continuing liaison during the process of proposing, drafting and enacting permanent statutory reforms to correct the particular Special Education program deficiencies which the Commission's investigation and public hearings had disclosed.

At the same time, the S.C.I. officials noted that certain corrective steps might be instituted immediately to proscribe the most obvious irregularities in the interval during which the Commission and the Legislature would be developing the more complex permanent revisions.

For example, Chairman Rodriguez and Director Siavage suggested that more specific guidelines could be promulgated as to the type of records that must be maintained to support allowed expenditures and to provide data for audit purposes. They indicated that more precise definitions of allowable "education" expenses could be laid down now to clarify and augment what few—if any—definitions presently exist.

They also suggested that more adequate staffing might be initiated at once to help ease the auditing and other financial monitoring defects attributable to a lack of adequate personnel.

The Commission's spokesmen suggested to the legislative leaders other problem areas for possible corrective actions.

One of these, for example, was the question of "unspent tuition on hand at the schools." It was pointed out that there was no provision requiring the return of any tuition payments that were

received but not spent by the non-public schools. It also was suggested that a mechanism should be set up for the recovery of inappropriate expenditures in this and other respects.

Also emphasized was a need for a requirement that minimum standards be established for the maintenance of essential financial records. All non-public schools, the Commission officials said, should be required to maintain full "basic" documentation to show what they actually purchased with public funds.

In line with the above suggestion, it was noted that costs reported to the Department of Education by non-public schools should be required to reflect *only* educational expenses that are documented by the accounting records.

THE CASINO CONTROL LEGISLATION

INTRODUCTION

The Commission's investigation of organized crime problems generated by Atlantic City's new legalized casino gambling enterprise is a textbook example of a primary S.C.I. obligation and function.

Its inception was triggered by a gubernatorial request, one of the ways by which this agency is required under law to undertake an inquiry. The undertaking complied fully with a provision of the agency's law which stipulates that it investigate "the faithful execution and effective enforcement of the laws of the state, with particular reference but not limited to organized crime and racketeering." This mandate had set off a prior low key monitoring of the potential organized crime impact of casino gambling in 1974, when that proposition was first—but unsuccessfully—put to the voters of this state.

Because the S.C.I. had not officially concluded an evaluation of a potential organized crime spinoff from casino gambling that it had begun in 1974, the agency was able to move swiftly when an Atlantic City-only proposition finally won public approval on Nov. 2, 1976. The agency immediately converted its casino gambling evaluation into an intensive probe. That activity began officially on Nov. 3, 1976, when Governor Brendan T. Byrne proclaimed his request for an S.C.I. inquiry. The S.C.I. responded as follows to the Governor's call:

The New Jersey State Commission of Investigation announced today that it will undertake public action in order to make constructive recommendations to the Governor, the Legislature, and the people for the effective control and policing of casino gambling in Atlantic City. The State Commission of Investigation announced that it will consult with knowledgeable authorities and persons in those jurisdictions, both foreign and domestic, which presently permit casino

gambling and with the Attorney General of New Jersey, the New Jersey State Police, and other law enforcement and public officials, and will undertake other investigative activities, for the purpose of independently and objectively determining the specific safeguards necessary to the proper operation of casino gambling.

The Commission expressed its determination that the surveillance of organized crime should not await enabling legislation. The Commission intends to monitor activity in the Atlantic City area pending the establishment of casino gambling.

S.C.I. Chairman Joseph H. Rodriguez said that, in order to avoid exploitation of casino gambling and casino gamblers by organized crime, and in order to avoid the possible corruption of public officials and employees responsible for the supervision of casino gambling, the most stringent legislation possible should be enacted to protect the public from possible corruption or exploitation by organized crime.

* * * *

THE LAWMAKING PROCESS

The promise of a vigorous effort to bar penetration of the new gaming industry by organized crime accompanied the introduction on Nov. 22, 1976, of Assembly Bill No. 2366—"an Act authorizing the establishment of gambling casinos in Atlantic City and providing for the licensing, regulation and taxation thereof, and creating the New Jersey Casino Control Commission and the Division of Gaming Enforcement, prescribing the powers, duties and functions thereof and making appropriations thereto."

The primary sponsor in the Assembly of the A-2366 measure was Steven P. Perskie, D-Atlantic, with Howard Kupperman, R-Atlantic, and Richard J. Codey, D-Essex, as co-sponsors. The bill was referred to the Assembly Committee on State Government and Federal and Interstate Relations, headed by Mr. Codey. This Committee held the first of a number of public discussions on the legislation on Dec. 15, 1976.

A Committee Substitute for A-2366 was eventually reported out by Assemblyman Codey's committee on April 18, 1977, and put into a position for an immediate floor vote. After being amended in numerous areas from the floor, the measure was approved under an emergency suspension of rules by a vote of 48-20 in the 80-seat House on April 25.

It then was received in the Senate and referred to the Senate Judiciary Committee, where a series of hearings and discussions on the legislation were held under the direction of James P. Dugan, D-Hudson. The bill was released with further amendments to the Senate committee on May 16 and passed by the 40-seat Senate by a vote of 28-3 on May 23. After Assembly concurrence with Senate changes, it was signed into law on June 2, 1977.

THE S.C.I. ROLE

The S.C.I. played a supportive role in this legislative forum, particularly with the issuance on April 13 of its Report and Recommendations on Casino Gambling. In this 167-page document were detailed conclusions supporting 57 recommendations for a strict casino gambling control law.

Hundreds of copies of the S.C.I.'s report have been distributed upon request throughout New Jersey and many other states. Its contents were summarized in the preface of the report:

The S.C.I.'s recommendations, . . . are primarily aimed at promoting the integrity of the casino gambling industry. The Commission shares the widely held conviction that the endeavor can be successful only if it gains and retains the public trust. Already the S.C.I.'s explorations in Atlantic City and other jurisdictions have produced some indications that only the most stringent of gambling control laws can thwart the infiltration of casinos and related services and suppliers by organized crime. Because of the potential enticements of casino gaming to criminal elements, the S.C.I. whenever it had a choice between being hard-nosed or easy-going, opted in favor of strictness in drafting its recommendations.

Because of the Commission's emphasis on the danger of criminal penetration of casinos and the

need to structure the most honest operation possible, this report eschews some issues which are primarily of an economic nature. Thus, for example, the Commission has avoided specific stipulations on the number of rooms a casino-hotel should be required to have or on casino taxation. Nonetheless, while making no recommendations on certain purely economic problems, this report discusses some of these factors at length because of their importance to Atlantic City, the gaming industry and the taxpayers in general.

The Commission wishes at this point to stress the necessity of properly programming one particularly important economic issue—the casino gambling proposal's required distribution of casino tax revenues to ease the utility, property tax and rental costs of the elderly and disabled. Unless the industry wishes to stand accused of being spawned by a hoax, even as it tries to shape a reputable image, this casino referendum "campaign promise" to some one million people must certainly be fairly and adequately implemented.

On its own and at the request of various legislative committee leaders, the Commission espoused its "strongest possible law" point-of-view and the acceptance at least of statutory proposals most necessary to accomplish that goal.

The Commission's efforts included the issuing (April 18) of a "summary report" to the Assembly State Government Committee, the mailing (April 19) of copies of that summary to all members of the Assembly prior to a pivotal house session, the briefing (April 21) of majority and minority party caucuses at the request of Assembly caucus leaders, the listing (April 21) of almost a score of recommendations regarded by the Commission as "essential" to the drafting of a properly effective control law as a priority proposal to the Legislature, the submission (May 2) to all senators of a critique of the enabling bill as it emerged from the Assembly, the transmittal (May 9) of a group of 17 "most essential" S.C.I. recommendations to the Senate Judiciary Committee at the request of a committee leader, the submission (May 16) to all senators of the same priority list that had been given to the Judiciary Committee.

While the Casino Control Act as finally enacted lacked a number of provisions recommended by the S.C.I., it nonetheless was a statutory program that the Commission characterized as an acceptable base on which to build even stronger controls in the future. The S.C.I. would have preferred that the law impose in clearer language much stronger restraints against conflicts of interest and misuse of personal check-cashing provisions, more forthright phrasing of provisions for official access to casino records and more stringent controls over customer relationships, including a complete ban against tipping.

The Commission, asked to comment on the enabling bill on the day it was sent by the Senate to the governor for his signature of approval, issued this statement on May 26.

The S.C.I. has vigorously supported provisions to more effectively dilute the threatened subversion of this new industry by organized crime and the possibility of official corruption. Nonetheless, the Commission regards the proposed law as at least a moderately firm first step. We urge that there be further steps to enact S.C.I. recommendations necessary for a really strong regulation of the industry.

As with any governmental effort to regulate an exceedingly sensitive activity, effective enforcement of the casino control statute will rely chiefly on the integrity of those who are designated to regulate the system and on the desire of both appointing and appointed officials to carry out the true intent of the law.

Simply put, that intent is to assure a healthy and creditable casino gambling industry—free from the evil influences that historically haunt that type of enterprise—for the benefit of the state, the local community and the hundreds of thousands of elderly and disabled New Jerseyans who are supposed to derive financial assistance from casino tax revenues.

At the request of the Governor, the S.C.I. has been engaged in extensive monitoring of casino-related developments in the Atlantic City area. This surveillance fueled the Commission's drive for the strongest law possible against the admitted peril of criminal

infiltration of casinos and allied casino services. We compliment the legislators for accepting, in full or in part, some of our legislative recommendations.

The S.C.I.'s statutory mandate to promote the most effective and faithful enforcement of laws "with particular reference to" organized crime and racketeering necessitates, of course, that the Commission continue a surveillance of casino activities. As a result, the S.C.I. proposes additional revisions of the casino control law as both experience under the law and the Commission's special expertise in the organized crime field dictate as essential to the public interest and welfare.

We are hopeful that casino gambling in Atlantic City will match the expectations of the voters of this state who authorized it last November. We remain convinced that this goal can best be realized under a truly strong control law supervised by intelligent, honest and public-spirited officials fully committed to implementing the fundamental purpose of the law.

#

THE S.C.I.'S PROPOSED CONTROLS

Following are the major conclusions and recommendations of the State Commission of Investigation report on casino gambling:

A. REGULATORY AUTHORITY

- A two-tier system, consisting of a decision-making rule-making, hearing body and an investigative and law enforcement body.
- The decision-making body shall consist of five part-time commissioners, totally independent, appointed by the Governor with Senate confirmation to staggered five-year terms, each commissioner being limited to a single term.
- No more than three of the five commissioners shall belong to any one political party.

- The enforcement body shall be a division within the Department of Law and Public Safety and so structured as to guarantee its independence of operation to the greatest extent possible.
- The enforcement body's obligation to police the casino gambling industry shall not be diluted by the assignment to it of other tasks.
- The enforcement body shall be provided with its own strong, independent audit capability, a function the S.C.I. regards as particularly important.
- To help thwart corruption, stringent restrictions should be imposed on the contact by officials of either regulatory body with private gambling enterprises prior to, during and after their terms or periods of service.
- All regulatory members, officials and employees should be barred from all political activity.

B. LICENSING

- The S.C.I. takes no position on casino hotel room requirements, which it considers to be primarily an economic issue, but recommends that if the Legislature does not enact specific room requirements which would tend to limit the number of casino licenses, some means of limiting the total number of such licenses should be devised.
- The number of casino licenses any one licensee may participate in shall not be limited but shall be keyed to the number of other casinos in operation.
- A casino licensee shall be required to have complete control of the entire physical premises on which the casino is located.
- A casino license applicant shall at all times bear the burden of proving his qualifications for a license.
- Applicants for a casino license shall waive any liability for required disclosure of all information requested of them during the application process.

- Casino licenses shall be denied to any applicant who fails to prove by clear and convincing evidence his qualifications for such license.
- A casino license shall be denied to any applicant who has been convicted of a specified list of crimes, including any “offense indicating a lack of business integrity or business honesty, without regard to whether such crime is labeled a misdemeanor, felony or disorderly persons offense.”
- A casino license shall be denied to any applicant who is or was a member of organized crime or who is or was an associate of organized crime, as specified.
- Certain persons employed by or associated with the casino licensee shall be required to be individually licensed.
- Before an actual casino license is issued, certain associated persons subject to individual licensure shall first have obtained their license.

C. ANCILLARY SERVICES

- Certain specified casino gambling “ancillary services” shall be required to be licensed in order to mitigate a dual risk of intrusion by criminal elements directly into casino operations or indirectly through the hotel or through services related to casinos.
- Licensing shall be required of any providers of raw materials or services to the casino gambling industry, such as gambling equipment manufacturers, casino security services, gambling debt collection agencies, gaming equipment repairs.
- Operators and owners of casino and casino-related companies and manufacturers of gaming equipment must be stringently licensed.
- Licensing shall be required of any casino or hotel service industry such as suppliers of liquor, food and non-alcoholic beverages, security services, garbage haulers, vending machine providers, as well as suppliers of goods sold in such machines, linen

suppliers, limousine services, any shopkeeper located within the hotel complex and any other industry which the regulatory body shall require to be licensed.

- Any supplier of goods or services not mentioned in the above lists but which supplies the hotel on a continuing basis must register with the regulatory body the terms of the arrangements and the identity of all owners and employees of the supplier.
- Any supplier of a casino-related goods or services on a "one time basis" except manufacturers of gaming equipment, shall not be required to be licensed or to register but must file the terms of its agreement with the regulatory agency.
- All providers of goods and services directly relating to the casino operation, as specified, must be licensed at the time of the opening of the casino. Other providers, as specified, must have applied for licensure at the time of the casino opening but may provide goods or services pending licensure decision.

D. CASINO OPERATIONAL PROCEDURES

- Clear separation of certain casino functions must be mandated by statute.
- Casino accounting and security departments must be required by law to report in writing any circumstances that even "suggest" a violation of internal and security controls by the casino licensee.
- Chips should be purchased only at gaming tables and redeemed only at cashier's cages.
- All slot machines must have counters built-in that record total play and total payout.
- Odds and payout should not be regulated by the State, at least at the outset.
- Casino gambling hours should be limited to 16 hours daily, from noon to 4 a.m. daily, including Saturdays, Sundays and holidays.

E. CASINO CUSTOMER RELATIONS

- Casinos should not be allowed to extend credit.
- The Legislature should enact a statute requiring casinos to issue chips to players only upon the presentation by players of cash or its specified equivalent, such as traveler's checks, nationally recognized credit cards or personal checks.
- Tipping of casino personnel shall be absolutely prohibited.
- Liquor may be made available in a casino but not at the gambling tables.
- All persons involved in debt collection activities must be licensed.
- All persons involved in organizing and operating junkets must be licensed.
- Dress codes or regulations should be minimal and required only to have a reasonable relationship to proper health and safety standards.

F. RECORD-KEEPING PRACTICES AND REPORTING PROCEDURES

- From a law enforcement perspective, tight controls on and detailed records of casino revenues and disbursements shall be prescribed whether or not tax considerations require such procedures.
- Each casino licensee must be required to maintain specified and detailed books, records and supporting documents as governed by regulatory rules.
- All bookkeeping and other phases of a casino licensee's operation shall be required to be open to immediate inspection without warrant or probable cause.
- Specific procedures for audits of licensee's financial condition by Certified Public Accountants shall be promulgated.
- All licensees must maintain their banking accounts in banks within this state.

- Licensees shall be required to file with the casino gambling enforcement regulatory bodies copies of all reports submitted to other state, local or federal agencies and to certain private entities.
- Annually each licensee shall provide a certified list of all individuals receiving payments of any kind for personal services rendered to the licensee.
- Licensees shall be required to report to the licensing agency whenever any individually licensed person associated with the casino is terminated or otherwise severs his relationship.
- A casino licensee and any corporation holding an interest therein shall cooperate and assist the licensing authority in obtaining information regarding the beneficial owners of its stock.
- The casino licensee and all individuals and/or corporations licensed by virtue of their employment or association with a casino licensee shall at all times make available to the licensing authority their corporate and personal financial records.
- All transactions in excess of \$2,500 by a casino licensee must be made pursuant to a written contract, to be made available on request to the regulatory authorities.

G. SANCTIONS

- Conflicts provisions imposed upon members and employees of the regulatory authority shall be subject to specific civil and criminal sanctions.
- Even unintentional violations of casino gambling statutes shall be subject to sanctions.
- Specific civil and criminal sanctions shall be provided for the use of unlicensed personnel to collect casino debts.
- A violation by any holder of a substantial interest in a casino shall be punishable in addition as a violation by the casino licensee.

H. LABOR ORGANIZATIONS

- All representatives of all labor organizations must register fully before entering into collective bargaining with casino or hotel employees.
- All labor organizations who seek to receive dues or administer pension funds must qualify according to the "disqualification criteria" for licensure.
- No labor organization or agent shall hold any financial interest in any hotel or casino licensee where it represents employees.

I. MISCELLANEOUS PROVISIONS

- "Moonlighting" by public employees or persons holding public office in casino jobs shall be prohibited.
- Casino licensees, casino-related companies and all corporations or persons individually licensed because of their interest in, employment by or association with a casino shall be limited in the amount of money they may contribute to political parties, candidates or campaign organization.

ORGANIZED CRIME PROGRAM

INTRODUCTION

A basic provision of the S.C.I.'s enabling statute, which prescribes overall the Commission's duties and powers, mandates investigations of the execution and enforcement of the laws of the State "with particular reference" to organized crime and racketeering. One of the primary budgetary requests of the Commission in its fiscal 1977-78 budget request was for sufficient funding for a full-time organized crime unit. The basis of the request was the recognition by the Commission that its resources were often diverted into other areas and special projects. The legislature granted this request and the Commission developed, in 1977, a distinct, full-time organized crime unit for the first time in its history. The institution of this approach was particularly important and timely because of the advent of casino gaming in Atlantic City. Parallel Commission projects had focused on developing casino control legislation* and critical input was supplied concerning legislative provisions against organized crime infiltration.

Additionally, the Commission continued its activity in the critical area of confronting high ranking members of organized crime. The Commission's work in this area was highlighted by the decision of Angelo Bruno to break his seven-year silence and testify as ordered by the Superior Court rather than face reincarceration for continuing civil contempt.

1977 UPDATE

Also under the S.C.I.'s enabling law, the Commission is required to cooperate, advise and assist the Attorney General, County Prosecutors and other law enforcement officials in the performance of their official duties. With regard to organized crime, the Commission began, in the fall of 1977, a program of heightened liaison with the Attorney General's office and county prosecutors' offices. The Commission's work with regard to prosecutors included the counties of Atlantic, Burlington, Hudson, Passaic and Union but

* See Pp. 59 through 70 of this report.

the Commission's program in this area is continuing and will eventually reach all 21 counties. The highlight of this enlarged communication effort was exemplified by the cooperation with the Burlington County Prosecutor's Office subsequent to the Commission's investigation in Atlantic City, which is summarized later in this report. The Commission made available to the Burlington County Prosecutor's Office information concerning the Gambino brothers and associates of Delran. The Commission was advised by the Burlington County Prosecutor's Office that the commission's activity in exposing the organized crime ties of the Gambino group played a major role in the allotment of funds by the Board of Freeholders to create an organized crime unit. Subsequent to this funding, respective staffs of the Commission and the Prosecutor's Office met on several occasions concerning strategies of control. Other Prosecutor's Offices also provided the Commission with input and substantial information concerning organized crime activities in their counties which contributed immeasurably to the Commission's organized crime confrontation program.

As indicated previously in this report, nine organized crime figures have chosen to spend prolonged periods of court-mandated incarceration on civil contempt grounds because they refused to testify before the S.C.I.

Of these nine, four gained release from jail only after agreeing to testify before the Commission. These four were Angelo Bruno, Nicodemo (Little Nicky) Scarfo, Anthony (Little Pussy) Russo and Nicholas Russo. A fifth, Gerardo Catena, who had been imprisoned in March, 1970, was ordered released in 1975 by the New Jersey State Supreme Court, which ruled that imprisonment had lost its coercive effect because he had demonstrated a resolve never to testify. A sixth, John (Johnny Coca Cola) Lardiere, who had been jailed since 1971 for refusing to testify before the S.C.I., was shot to death during the early morning of April 10, 1977. The murder occurred in the parking lot of a Bridgewater motel, while Lardiere was on a court-ordered Easter furlough.

In various stages of final judicial appeal are the cases of Ralph (Blackie) Napoli, 63, and Louis Anthony (Bobby) Manna, 44, who were ordered during 1977 to be released from civil confinement at Clinton after incarceration that began following S.C.I. contempt proceedings in 1971 and 1972.

Still in litigation is the case of Joseph (Bayonne Joe) Zicarelli, who originally was imprisoned in January of 1971 after being

held in civil contempt for refusing to answer questions about organized crime despite being granted immunity from prosecution. In June of 1971, Zicarelli began serving a 12-to-15 year sentence after being convicted of bribery and extortion. In July of 1977, having been paroled from that sentence, Zicarelli was immediately returned to civil confinement. Alleging, as with Gerardo Catena, that he too had demonstrated a resolve never to testify, Zicarelli filed an action in Superior Court requesting that he be released from confinement. In dismissing Zicarelli's petition on October 10, 1977, Superior Court Judge George Y. Schoch stated: "Mr. Zicarelli's resolve not to testify (before the S.C.I.) has not really been tested." In December of 1977, Zicarelli was granted a medical furlough which will expire on October 1, 1978.

While Bruno and Simone Rizzo (Sam the Plumber) DeCavalcante were subjected to periodic interrogation by the Commission throughout 1977, still another individual who remained under Commission subpoena is a fugitive. He is Carl Ippolito of Trenton and Morrisville, Pa. Ippolito had been ordered to appear before the Commission after the State Supreme Court ruled in early 1978 that he did not have to answer certain specific questions put to him by the S.C.I. unless he was granted immunity. However, his failure to appear led to an indictment and a warrant for his arrest.

The Commission's most significant organized crime confrontation involved Angelo Bruno Annaloro and his sudden turnabout in 1977. He originally was incarcerated for civil contempt in October, 1970, but in 1973 had gained in Superior Court an indeterminate release from jail because of his medical condition.

On January 12, 1977, Superior Court found that the medical condition of Mr. Bruno was such that he should be returned to jail if he continued to refuse to testify. The Appellate Division affirmed that decision and ordered Bruno reimprisoned. Faced with the certainty of re-incarceration, Bruno agreed on May 23, 1977, to purge himself of contempt. On June 16, 1977, Bruno began to testify at executive sessions of the Commission. On August 8, 1977, he testified at public hearings by the S.C.I. with respect to the presence of organized crime in the Atlantic City region as it related to the developing casino gambling industry.* Since that time, Bruno has continued to testify at executive sessions of the Commission.

* See Angelo Bruno testimony, beginning on P. 98.

ORGANIZED CRIME IN ATLANTIC CITY

INTRODUCTION

Even before submitting its Report and Recommendations on Casino Gambling, the Commission had uncovered enough evidence of an actual intrusion of organized crime into the Atlantic City region to warrant full public exposure through the S.C.I.'s traditional hearing process. Such a public action was in keeping with the S.C.I.'s statutory mandate to alert and inform the citizenry.

S.C.I. investigators had uncovered data on the machinations of mob figures in such fields as vending machines, bars, restaurants, hotels and gambling schools. Meanwhile, a loop hole in the statutory and regulatory proposals to banish the threat of organized crime and official corruption from the Atlantic City scene quickly became evident to the Commission:

That organized crime—in addition to its historic interest in casinos and allied services—was also, already, penetrating certain other legitimate businesses that had not been a direct, or even indirect, target of legislative restraints and over which regulatory controls, where they existed at all, were traditionally inadequate and only casually enforced.

THE PUBLIC HEARINGS

Beginning on Aug. 8, 1977, in the Senate Chamber of the State House in Trenton, a succession of witnesses—including underworld members, relatives or associates—put into a four-day public hearing record proof of the expanding presence of organized crime in the Atlantic City region.

The hearings generated revelations of a cooperative interest in seashore casino gaming spin-off action by Angelo Bruno, boss of the crime family that dominates the Philadelphia-South Jersey area, and by leaders, relatives and associates of the potent Gambino crime family of the New York metropolitan area. According to an expert witness, Ralph Salerno, the nationally known organized crime authority, the S.C.I.'s public hearings linked two of the most powerful mobs of the Northeastern United States in a pact of peaceful co-existence while wheeling and dealing in casinoland.

The first public hearing day produced testimonial proof of strong-arm expansion into the cigarette vending business in Atlantic City and surrounding communities by a mob-controlled company, John's Wholesale Distributors of Philadelphia, and its affiliates. How this company's business tripled, with the aid of the outfit's "super salesman," Bruno, was a hearing highlight. The second hearing day's testimony illustrated the unorthodox and mysterious juggling of finances that are a commonplace in the purchase or sale of many mob-targeted businesses such as bars, restaurants, pizza parlors. The responses of witnesses who were interrogated about the fiscal flimflam surrounding the Casanova Disco in Atlantic City were marked by startling lapses of memories about thousands of dollars in loans, by admission of a \$40,000 "hole-in-the-wall" cache and by an unwillingness to clarify the maze of bank checks received, paid, exchanged or transferred from bank account to bank account. The third public hearing day featured testimony about the attempted \$12 million purchase of the Hotel Shelburne by a Gambino relative hiding behind an alias while trying to enlist a reputable Philadelphia professional man as a "front" for the deal. This day's hearing record also pinpointed the attempt of a known crime figure to muscle into a prospective Atlantic City casino gambling school.

Expert witness Salerno, speaking from the standpoint of 31 years of experience in the organized crime field, including 20 years on that assignment for the New York Police Department, cited the following definition during the Commission's final hearing day:

Organized crime is a self-perpetuating, continuing criminal conspiracy for profit and power, using fear and corruption and seeking, if possible, immunity from the law.

This expert testified that the S.C.I. hearing disclosures had reflected every element of that definition. He demonstrated this tie between the testimony and the meaning of organized crime point by point, a presentation that was particularly enlightened by his confirmation that the leaders of the Bruno and Gambino crime families were "closer than is usual and ordinary between people of rank in organized crime."

That the S.C.I.'s public action was a logical and effective next-step after the submission of the Commission's Report and Recommendations for structuring a strong casino control law was em-

phasized by S.C.I. Chairman Joseph H. Rodriguez as he opened the hearings.

He noted the dual nature of the problem of organized crime control in Atlantic City—on the one hand the mob pressures on casinos and casino servicing industries and on the other hand mob infiltration of largely unregulated private enterprises surrounding the casinos.

Recalling the Commission's "hard-nosed" recommendations for an unusually strong casino control law, Chairman Rodriguez said in his introductory statement:

The Commission considers one of its most important recommendations to have been the licensing of ancillary businesses which service the casino hotels. That recommendation was based upon the feedback which the Commission was receiving from its on-going investigation, upon the Commission's experience in the area of organized crime and upon the experience of other jurisdictions which have legalized gambling. It was founded upon the realization that the tentacles of organized crime can ensnarl any legitimate business, including a casino-hotel, through devious and indirect means.

Gambling in Atlantic City, however, will be an industry measured in billions of dollars, dollars which are invested and spent not only in casino-hotels but also on almost every other facet of economic and social life imaginable. The organs of state and local government cannot ignore this fact; nor can society tolerate an incursion by organized crime into areas *not* addressed by the licensing regulations of the casino legislation.

In short, just as New Jersey must not accept organized crime ownership of a casino, it must also foreclose mob investment or control of businesses which will prosper from the spinoff of gambling. . . .

Among the affirmative conclusions of these hearings hopefully will be a warning to the public that *organized crime is presently and actively engaged* in the casino gambling environs. The hearings should

throw a disruptive spotlight on the disguises with which mob figures negotiate their schemes behind the more acceptable reputations of willing or unwitting professional and business fronts. The testimony should orchestrate the mysterious movements of cash and checks through a strange mix of bank accounts and people. The record will show an obvious presence of organized crime figures, associates, allies, kinfolk and namesakes in and on the periphery of Atlantic City casino and casino-connected deals.

Additionally, patterns of control and influence of organized crime families will be exposed in a further effort to alert responsible governmental officials. The Atlantic City scene is by no means completely infiltrated, but one of the important purposes of these hearings will be an examination of *potential* influences and infiltration. It is for this reason that the Commission has chosen to make an early public exposition. The door of Atlantic City is presently ajar and it is *now* that government should lay its collective shoulder against it. An exposition of a *totally* infiltrated city one year from now would contribute nothing more than a public elegy on the inability of government to cope with organized crime in a manner that the citizenry had the right to anticipate when it made casino gambling legal. . . .

I want to reiterate on behalf of the S.C.I. that our responsibility for monitoring the casino gambling scene by no means will conclude with the windup of these public sessions. As required by the law under which our Commission was created in 1968, we are obligated to continue our watchdogging of organized crime in and around Atlantic City even as we continue to increase our confrontation of organized crime and racketeering in all other areas of the state.

As was certainly the wish of the 1.5 million New Jerseyans who voted to permit casino gambling in Atlantic City, the S.C.I. also wants this new enterprise to mature and prosper in the most reputable manner possible for the benefit of New Jersey's economy, its residents and its visitors. The Commis-

sion, however, has said that it shares a widely held conviction that casino gambling "can be successful only if it gains—and retains—the public trust."

The S.C.I. intends, to the fullest extent of our small agency's capabilities, to try to help this sensitive new industry both gain and retain that essential public trust.

We will now call on our Executive Director, Michael R. Siavage, who is counsel for these hearings, to begin the questioning of witnesses. You may proceed, Mr. Siavage.

THE TESTIMONY — The First Day

John's Wholesale Moves In

The first witness, Mrs. Janet Perella, principal clerk in the office of the Atlantic City Luxury Tax Bureau was called primarily to show how swiftly John's Wholesale Distributors sought to validate its entry into the cigarette vending business in Atlantic City after voters approved the casino gambling proposition on Nov. 2, 1976. The luxury tax in Atlantic City is, in effect, a local sales tax on alcoholic beverages, tobacco and tobacco products, rooms and amusements. The local sales tax on cigarettes is 3 cents per pack.

Q. Mrs. Perella, I'm showing you what's been marked Exhibit C-1 for purposes of identification, which purports to be an application for a luxury tax stamp on behalf of John's Wholesale Distributors, Inc., 2001 South 29th Street, Philadelphia, Pennsylvania. I ask you if you recognize that.

A. Yes, that's it.

Q. Can you tell the Commission the date on that application?

A. November 15th, 1976.

Q. Do you recall when the gambling referendum was passed in Atlantic City?

A. In November of '76.

Q. Thank you.

I'm showing you now what's been marked Exhibit C-2 for the purpose of identification, which purports

to be a photostatic copy of a letter, dated November 12, 1976, to Mr. John Martorano, signed by the Administrator of the Luxury Tax Bureau in Atlantic City. It reads in pertinent part: "When you wish to make a purchase of Atlantic City cigarette tax units of 3¢ per package of cigarettes, mail us your check for the net amount of the purchase; total unit cost less a credit of 7 1/2% for affixing the stamps and accompany the check with your invoice showing the transaction. The check is to be payable to City of Atlantic City."

I ask you if you recognize that exhibit as a letter from the Administrator of the Luxury Tax Bureau.

A. Yes, I do.

Q. Mrs. Perella, the 7 1/2% that's referred to in that paragraph, does that mean that the person who obtains the luxury stamp then becomes the agent for Atlantic City?

A. Yes.

Q. They get a commission, in essence, for stamping the cigarettes?

A. That's right.

Q. Is any background check done or any kind of investigation of applicants to become collecting agents for the City of Atlantic City prior to the granting of the approval?

A. Not by the Luxury Tax Bureau.

Q. Has an application to become a luxury tax collecting agent ever been denied, to your knowledge, since you have been at the Luxury Tax Bureau?

A. No.

The Bruno Connection

The complicated corporate origin of John's Wholesale Distributors, and its longtime Bruno connection, was related by John Martorano, half-owner of the company. The first disclosure of Bruno's "good will" royalties and sales commissions also came from this witness.

EXAMINATION BY MR. STAVAGE:

Q. *Mr. Martorano, what is your present business or occupation?*

A. I'm the manager of John's Wholesale Distributors in Philadelphia, Pennsylvania.

Q. *Do you own any percentage of the corporate stock of John's Wholesale Distributors?*

A. I own fifty per cent of it, me and my wife.

Q. *And who owns the other percentage of the corporation?*

A. My sister-in-law, Evelyn Martorano.

Q. *Does she own fifty per cent?*

A. Fifty per cent.

Q. *And she is the wife of Raymond Martorano?*

A. Yes.

* * * *

Q. *Mr. Martorano, I want to review with you on a chart* where we are at this point in time as far as the explanation goes of the corporate history of John's Vending. We said that it began as a corporation—I'm sorry—as an individual proprietorship in 1959 or 1960 and it was owned by your brother at that time. Correct?*

A. Yes, sir.

Q. *Then in 1963 it purchased Penn-Jersey Vending from Sue Bruno, the wife of Angelo Bruno. Is that correct?*

A. Yes.

Q. *Sue Bruno retained the good will and got one and a half cents a pack for it. Is that correct?*

A. Yes, sir.

Q. *But later assigned her interest in that good will to Mr. Bruno in 1965. Correct?*

A. Yes, sir.

Q. *And John's Vending became John's Vending Corporation in 1965. Is that correct?*

A. 1966.

* See chart (Exhibit C-4) on P. 81.

EXHIBIT C-4

JOHN'S WHOLESALE DISTRIBUTORS, INC. ... A CORPORATE HISTORY ...

- 1959-60
John's Vending Company Owned by Raymond (Long John) Martorano, a Bruno associate.
- 1963
John's Vending buys
Penn-Jersey Vending ... From Sue Bruno, wife of Angelo Bruno. Salesman Bruno gets 1½¢ per pack for "good will" etc.
- 1966
John's Vending becomes
John's Vending Corporation The Corporate partners: Raymond Martorano, another Bruno associate Harry Riccobene, and Raymond's brother, John. Bruno still gets "good will" commission on sales.
- 1976
John's Wholesale
Distributors, Inc., formed Bruno arrangement calls for John's Wholesale to pay him 2¢ per carton on its sales while he continues to get commission, now 3¢ per pack, on his vending machine sales.
- 1976
John's Wholesale sells
John's Vending operation
to Jimmy Del Caine, et al. Bruno arrangement same as above.
- 1976
John's Wholesale sells its
Wildwood "branch" to
J & H Distributors. ... but Mrs. Raymond Martorano, who is the owner of the land of record, retains the site, and Bruno still gets "commission" deal. Sale was to a former John's Wholesale employee, price \$27,000.
- 1976 (Nov. 15)
John's Wholesale gets
Atlantic City Luxury Tax
License so it can sell
cigarettes there. ... Meanwhile, Bruno and Martorano continue to solicit business ...
-
-

Q. Okay. Corporate partners were Raymond Martorano, Harry Riccobene and yourself. Is that correct?

A. Yes, sir.

Q. And Mr. Bruno's arrangement did not change; he continued to get—

A. Yes.

Q. —payment for good will?

In 1976 John's Wholesale Distributors, Inc., was formed. Is that correct?

A. It was just a change of name.

Q. Okay. John's Vending Corporation changed its name to John's Wholesale Distributors?

A. Yes.

Q. And that was because it went into the distributorship business, correct?

A. Yes.

Q. Sold off the vending-machine portion, and then Mr. Bruno's arrangement changed to two cents a carton for all the cigarettes sold through John's Wholesale Distributors?

A. Yes.

The Bruno "Good Will"

John Martorano testified that the vending machine portion of the business was sold for between \$175,000 and \$180,000 and that Angelo Bruno sold his "good will" in that portion. But he couldn't remember for sure what Bruno was paid. Asked if Bruno got \$130,000 or \$140,000 for the good will, he said, "I'd be guessing."

The long relationship between Bruno and the expanding business operation the Martoranos initiated gradually came into clearer focus as John Martorano was pressed for more details:

Q. Did the transformation of John's Vending into a corporation in any way affect the payments to Mr. Bruno for his good will?

A. No, continued the way it was.

Q. He continued to get one and a half cents per pack?

A. Or two cents at that time, whatever it was.

Q. Did Mr. Bruno function during this period as a salesman?

A. When it was—when Mrs. Bruno authorized us to change the payment on the commissions from herself to Penn-Jersey to himself, to her husband, Mr. Bruno was a solicitor in his own right picking up stops and we would service those particular stops for him.

Q. You mentioned changing the payments from herself to Mr. Bruno. Did there come a time when she assigned her interest in that good will to Mr. Bruno?

A. Yes.

Q. Was it approximately in 1965?

A. It could have been around that time. I don't remember the exact. . . .

Q. So the payments began to go directly to Mr. Bruno?

A. Mr. Bruno, yes, sir.

Q. And at the same time he became a salesman for John's Vending?

A. Yes. No. When you say "a salesman," he never was a salesman. He's a commission salesman, an independent commission salesman for himself.

Q. He was not employed by John's Vending?

A. Only in the respect that I'm saying by getting paid through sales through his machines and soliciting locations and then getting commissions on those sales through those placements.

Q. He was getting good will, but it was being added to by his current activities?

A. Yes, sir.

Q. Then in 1976 did John's Vending change its name to John's Wholesale Distributors?

A. Yes, sir.

Q. And did they sell off the vending-machine portion of the business?

A. Yes, we did.

Q. And John's Wholesale then entered the distributorship business; is that correct?

A. Yes.

Q. And did you change your agreement with Mr. Bruno at that time in 1976?

A. Yes, sir.

Q. In what way did you change it?

A. He now is a commission salesman for John's Wholesale. He gets paid commissions on all the cigarettes that we sell through our company.

Q. How much does he get paid?

A. He gets paid, I believe it's two—it's exactly two cents per carton, or one-fifth of one penny per pack.

Q. That's on all cigarettes sold?

A. All cigarettes sold through John's Wholesale Distributors.

Q. Whether he solicits the location or not?

A. Yes, sir.

Q. Does he also receive any payments from John's J.D. Vending Corp., the vending-machine business that bought the vending routes?

A. I believe he has some coming. The exact, I don't know.

Q. Does he get three cents per pack?

A. I have no idea, sir.

The \$51,000 "Super Salesman"

John Martorano testified further that he received \$500 a week salary from John's Wholesale and that his brother, Raymond, also received a \$500 salary. He said Bruno got "approximately the same amount." Although income tax papers show that Bruno received \$51,000 in 1976, somewhat more than the Martorano brothers, nonetheless the testimony indicated at least a rough three-way split of profits by means of special bonuses.

Q. And how much does your brother Raymond make?

A. \$500 per week.

Q. Same as you?

A. Yes.

Q. Do you receive any bonus at the end of the year?

A. Yes, usually.

Q. What does your bonus depend upon?

A. It depends on our business for the prior year, how well we do.

Q. Do you get a certain percentage of the increase in the business or the gross business?

A. No, there's no, no formula used.

Q. Why don't you explain how it's computed?

A. Well, at the end of the year, when we have completed our year, we've had a good year, we receive a bonus.

Q. Who computes the bonus?

A. Our accountant, sir.

Q. What was your bonus last year?

A. Last year I believe it was about \$16-17,000.

Q. So, in addition to your 500 per week, which would be 26,000, you take the 16, that's approximately \$42,000 a year gross?

A. Yes.

Q. How much did Mr. Bruno make last year?

A. I would say approximately the same amount. I'm guessing on that, also. At that time I think he was making about 3 or \$4,000 a month.

Q. Mr. Martorano, I show you what's been marked Exhibit C-3 for the purposes of identification, which purports to be a photostatic copy of a wage and tax statement for Angelo Bruno for the year 1976 from John's Wholesale Distributors, 2001 South 29th Street, and ask you if you can make out the figure for wages, tips and other compensation.

(Whereupon, the witness confers with counsel.)

MR. SIAVAGE: It's under No. 2, Mr. Avena.

A. From us?

Q. Yes.

A. From John's Wholesale? That's what it is.

Q. Will you read that figure?

A. I can just see \$51,000.

Q. \$51,000?

THE CHAIRMAN: Is that 51,000?

THE WITNESS: \$51,000.

Q. He makes a little bit more than you do, then?

A. Yes.

Q. And a little bit more than Raymond?

A. Yes.

Q. *Is Raymond the vice-president of the company?*

A. No, he's not an officer, sir.

Q. *You are the president?*

A. Yes, sir.

Q. *What is your approximate profit margin on a carton of cigarettes? How much do you buy it from the manufacturer for?*

A. I believe it's about \$2.75 a carton.

Q. *And how much do you sell it for?*

A. About \$4.55. There's a state tax on it, too, also, sir.

Q. *And Mr. Bruno's two cents a carton comes out before you sell it?*

A. He just gets two cents a carton, yes, sir.

Q. *Why did you agree to give Mr. Bruno two cents a carton on his packs, all his cartons of cigarettes or all the cartons of cigarettes that John's Distributors sells in 1976?*

A. To retain him. Or not to retain him, but to have him work for us as a commission salesman; to induce him to work for us. He's a very important individual in our business.

Q. *You have described him as a super salesman?*

A. Yes, sir.

Q. *Does he work every day in the sales business?*

A. As far as I know. I have very little contact in person. Most of the contact is through telephones. As stops are solicited and turned over, then they're given to me.

Q. *Does he call you almost every day?*

A. No, occasionally. Maybe two or three times a week, or whenever necessary, sir.

Q. Does he work mostly with your brother Raymond out in the field?

A. He works in the field with Raymond, yes, my brother. They work as a team.

Pay Continued, in Jail or Not

Whether Angelo Bruno was in jail or incapacitated by illness did not affect his income as John's Wholesale salesman. He originally was ordered to be jailed in October, 1970, for refusing to answer questions put to him by the S.C.I. After limited releases because of illness in 1972 and 1973, Bruno was freed for an indeterminate period in June, 1973, because of a worsening of his medical condition.

Early in 1977, Assignment Judge George Y. Schoch of Superior Court granted the Commission's application for Bruno's re-incarceration because of his improved physical condition. Bruno lost an appeal from this ruling and finally, in May, 1977 told the court he intended to purge himself of contempt by answering responsibly the questions of the Commission.

Bruno's influential role in the operation of John's Wholesale was further highlighted by John Martorano's answers to questions by S.C.I. Commissioner Stewart G. Pollock and Chairman Rodriguez, respectively:

EXAMINATION BY COMMISSIONER POLLOCK:

Q. You mentioned that Mr. Bruno received compensation up until 1976 on a somewhat different basis, right?

A. Yes, sir.

Q. That was compensation ostensibly for the sale of good will?

A. For his good will and his machines, yes.

Q. Did he continue to receive that while he was in jail?

A. Yes, sir.

EXAMINATION BY THE CHAIRMAN :

Q. *Mr. Martorano, as I understand your testimony, the two cents per carton is on every carton that's sold by your corporation?*

A. Yes, sir.

Q. *And the reason that you have that arrangement with Mr. Bruno, as I understand it, is because you want to induce him to stay and work with your outfit rather than going to some other outfit?*

A. Definitely, sir, yes.

Q. *And that that's why you feel he should be paid is because he's in the nature of a super salesman?*

A. Yes.

Q. *And what he receives is sales commissions; is that correct?*

A. Yes, sir.

Q. *Does he receive those commissions even on cartons of cigarettes that he did not solicit?*

A. Yes, everything sold through our company, sir.

Bruno and "Long John"

Raymond (Long John) Martorano, who was John Martorano's brother, started the business that eventually mushroomed into John's Wholesale Distributors. He eventually became a salesman for John's Wholesale, supposedly in tandem with his longtime benefactor, Angelo Bruno, but he did most of the footwork, according to the testimony.

The first move by John's Wholesale to muscle Atlantic City area cigarette sales away from an established firm was described by Raymond Martorano in connection with the "acquisition" of Toomey Vending—later Sam Ron Services, Inc.—as a client.

Q. *What are your activities now as a salesman for John's Wholesale Distributors, Mr. Martorano?*

A. To secure accounts; go out and get business.

Q. *You don't go directly to locations, do you?*

A. I used to. Not now, sir.

Q. Now you would go to the suppliers of people who have locations. Is that essentially correct?

A. Yes, sir.

Q. Do you recall soliciting the business of a Mr. Stanford Harris?

A. Yes.

Q. What business is Mr. Harris in?

A. Vending business.

Q. And does he supply other vending-machine operators?

A. I wouldn't know. Maybe. I don't know, sir.

Q. Have you ever heard of Toomey Vending?

A. Yes.

Q. Where is that located?

A. Atlantic City.

Q. Is it now called Sam Ron Services, Inc.?

A. I don't know, sir.

Q. Did you solicit the business of Toomey Vending?

A. I think so, yes.

Q. Did you talk to Mr. Harris concerning the business of Toomey Vending?

A. Yes, sir.

* * * * *

Q. Did he advise you that his son-in-law operated Toomey Vending, a Mr. Feigenbaum?

A. I don't know. Who's Mr. Feigenbaum?

Q. Who is Mr. Harris's son-in-law.

— Did he advise you that he was running the business of Toomey Vending?

A. I don't know if I know the guy or not. See, I know by first names.

Q. Sam?

A. Oh, Sam. Yeah, I know Sam.

Q. You know Sam?

A. Yes.

Q. *Did he tell you that Sam was running that business?*

A. He's the manager, you know. I don't know what you mean by running. Manager.

Q. *Have you ever talked to Sam?*

A. Oh, yeah, you know.

Q. *What have you talked to him concerning, supplies of cigarettes?*

A. Yes.

Q. *When were you able to get the business of Toomey Vending after you solicited?*

A. I don't know. Maybe three or four weeks later, five weeks. I don't know. It's a matter of—I don't remember exact time, you know.

Q. *Did you get his Atlantic City business and his Atlantic County business?*

A. I think we got one part first and a second part, but I don't remember when.

Q. *Did you obtain the Atlantic County business sometime in the spring of 1976?*

A. Could have been. I don't know.

Q. *Did you apply to the Luxury Tax Bureau of Atlantic City in November of 1976?*

A. That's my brother's department.

Q. *And you obtained the ability to tax for Atlantic City; is that correct?*

A. Usually my brother takes care of that, if he did.

Q. *Do you know the magnitude of the account of Toomey Vending?*

A. No. I don't, sir.

Raymond Martorano, in his testimony as a witness, often adopted a pattern of evasiveness that was typical of the testimony of most organized crime members and associates throughout the S.C.I.'s public hearings. For example, he sometimes found it difficult to recollect all the details of the peculiar turnover of a John's Wholesale subsidiary in Wildwood to a former employee.

Q. Were you ever connected, Mr. Martorano, with a company by the name of John's J & H Wholesale Distributors in Wildwood?

A. John's. Yeah, John's Wholesale, Wildwood, yeah.

Q. In what way were you connected with that company?

A. Well, we owned the business. I say, "we," John's, and then we sold it to this father and son.

Q. How much did you sell it for?

A. Well, my brother handles the figures, sir.

Q. Well, you own the building, don't you, Mr. Martorano?

A. Yes, sir.

Q. Do you receive rent on that building right now?

A. Oh, yeah.

Q. John's Vending owns the business and you own the building; is that correct?

A. Yes, sir.

Q. And you still own the building?

A. Yes, sir.

Q. Do you recall how much John's Vending got for the sale of that business in Wildwood?

A. My brother handled it, sir.

Q. Was it approximately \$27,000, or the amount of the inventory?

A. I wouldn't know. You know, if you got the figures there.

Q. Do you know John Felice?

A. Yeah. Yes, sir.

Q. Rick and John?

A. Rick and John, father and son, yeah.

Q. Was John Felice ever employed by John's Wholesale Distributors or John's Vending in Philadelphia?

A. My brother employed him, yes, sir.

Q. Your brother employed him?

A. Yes, sir.

Q. He was a co-employee of yours; would that be correct?

A. At the company, sir, yes, sir.

Q. Well, you work for John's Vending, don't you?

A. Yes, sir.

Q. And he was another employee, correct?

A. Yes, sir.

Q. Did you discuss the sale of John's J & H in Wildwood with him?

A. Yes. Oh, yes.

Q. Did you discuss it with his father, too?

A. Yes.

Q. You were representing John's Vending at the time as the salesman of that business?

A. No, it wasn't—we wasn't doing that well there, so I told him, "You want to buy, you can buy."

Q. Why did you handle that sale rather than your brother, who handles the internal workings of the company?

A. I was going down on weekends. I have a home down there on weekends.

Q. So it was easy for you to discuss it?

A. Yes, sir.

The Bruno-Martorano Team

How Raymond Martorano "solicited" accounts in Bruno's behalf as part of their John's Wholesale selling team was described by the witness. He testified he even serviced vending machine "locations" which were not precisely John's Wholesale business:

Q. Is that in connection with Mr. Bruno in any way?

A. Yeah. When Mr. Bruno ain't feeling well, I try to help him as much as I could.

Q. You work as a team?

A. Yes, sir.

Q. Does Mr. Bruno call you and tell you to go solicit a location on the retail level?

A. When he ain't feeling well and can't go himself, yes, sir.

Q. Has he been feeling well lately?

A. No, he ain't been feeling well lately.

Q. Has he been feeling well since he's been released from prison at any time?

A. He has his good days and bad days, sir.

Q. So some days he does go out in the field to solicit business with you?

A. Yes, sir.

Q. Does he have more good days than bad days?

A. I never counted them, sir.

Q. When he tells you to go to solicit an account on the retail level, do you receive anything as compensation from that from anybody?

A. I get paid every week, sir.

Q. All right. You get paid from John's Wholesale Distributors, correct?

A. Yes.

Q. If Mr. Bruno calls you and says go and solicit a location and allow John's J.D. to supply the vending machines, would you do that?

A. Yes, sir.

Q. And would you receive any commission from that?

A. From who, sir?

Q. From John's J.D.

A. I don't, I don't get money from them, no, sir.

Q. Do you know whether Mr. Bruno does?

A. Yes, he does.

Q. He gets three cents a pack?

A. Yes, sir.

Q. Why is it that you would do that solicitation and not ask anything from Mr. Bruno in return?

A. He's a friend of mine, sir.

Q. *It's kind of a gift to him as a friend of yours, your solicitation activity?*

A. I don't—what do you mean by a “gift,” sir? I don't understand.

Q. *He's getting three cents a pack, essentially, for your work in soliciting?*

A. He works, too, sir. Only go out when he ain't feeling well, but he works too, sir.

Q. *And you would give him that solicitation that you make because when he's not feeling well?*

A. Yes, sir.

Who worked for Whom?

S.C.I. Commissioner Pollock was curious about the way Raymond Martorano and the often ailing Angelo Bruno operated as a “team”, since Raymond apparently served primarily as the duet's foot soldier. Who worked for whom, Mr. Pollock wanted to know, and who got the credit for what.

EXAMINATION BY COMMISSIONER POLLOCK:

Q. *Mr. Martorano, does Mr. Angelo Bruno work under your supervision?*

A. We work, we work as a team, sir.

Q. *What does that mean?*

A. We're together. We go out together, solicit together.

Q. *You go out and solicit. Tell me just how the two of you work together.*

(Whereupon, the witness confers with counsel.)

Q. *What does each of you do when you go to visit a customer?*

A. We walk, we walk in, we induce—introduce ourselves and we like to talk, see if you buy cigarettes from us, sir.

Q. *Do you have any particular duties and does Mr. Bruno have any particular duties when you work together as a team?*

A. No. We—it's normal relationship, going in solicit location.

Q. Have you and Mr. Bruno ever come to New Jersey to solicit business?

A. We may have, sir. I don't remember.

Q. Have you come in the last year to New Jersey to solicit business?

A. We may have. I don't remember, sir.

Q. Do you keep a list of the accounts you solicit?

A. My brother does, sir.

Q. Your brother keeps a list of things that you and Mr. Bruno do?

A. We phone them in, sir. See, we go out and solicit and we phone them in.

Q. Have you and Mr. Bruno been in New Jersey together in the last year?

A. Oh, yes, sir. Oh, yeah.

Q. Have you been here in New Jersey on business?

A. Oh, yeah. Yes, sir.

Q. How frequently have you been in New Jersey with Mr. Bruno on business in the last year?

A. I don't remember the times, but we been here, sir. I don't, you know.

Q. And you have been here for the purpose of soliciting customers?

A. All legitimate business, yes, sir.

Q. Can you explain to me why it is that you, as one-half of the team, make \$500 per week and why Mr. Bruno makes approximately \$1,000 per week as the other half of the team?

A. That's the conditions that we arrived when we sold the vending route, sir.

Q. Now, does Mr. Bruno work as many days for John's Wholesale as you do?

A. When he's feeling well, sir, he works just as many days as I do.

Q. What I'm trying to do is get beyond that point and find out how many days does he feel well.

A. I don't know. You have to ask Mr. Bruno.

Q. Well, you work with him, don't you? You're his partner?

A. Not a partner, sir. We both work together as a team for John's Wholesale.

Q. Mr. Bruno is your teammate?

A. Yes, sir. Okay. Yes, sir.

Q. And he's your friend?

A. Yes, sir. Oh, yeah.

Q. How many days in the last year have there been occasions when Mr. Bruno has not been able to work with you as your teammate and friend because he's not felt well?

A. Well, it's a matter of record, sir, he's been in the hospital quite often, so naturally in the hospital he's not with me. Then a lot of days he's not feeling well and he stays at home, and the days he's feeling well he comes with me. We never counted the days, but youse have a record when he's in the hospital, and he's in quite often, sir.

Q. Clearly, when he's in the hospital, he cannot be working with you as the other half of the team. What about those days when he's not in the hospital; how many occasions have there been when he has not been able to work with you?

A. Maybe like a Monday or Tuesday he ain't feeling well, he don't come. Thursday or Friday he ain't feeling well, he don't come. But when he's feeling well, he's riding with me trying to get—drum up business, sir.

Q. But he still continues to get his commissions?

A. Yes, sir.

Jailed in Pennsylvania

Raymond Martorano next was asked about being jailed in Pennsylvania for refusing to testify before a Grand Jury:

EXAMINATION BY MR. SIAVAGE:

Q. Mr. Martorano, on April 25th, 1973, you were charged with contempt of a Pennsylvania grand jury and spent six months in Holmesburg State Prison for

refusal to testify. Did you discuss that unwillingness with Mr. Bruno at the time?

A. You're sworn to secrecy, sir. You can't discuss nothing.

Q. Did you discuss that with Mr. Bruno?

A. You're sworn to secrecy, sir. You can't discuss it. That including Mr. Bruno, anybody else, sir.

Q. I'll ask the question again, Mr. Martorano. You're sworn to secrecy, but the question is: Did you, in fact, discuss it with Mr. Bruno?

A. About what, sir?

Q. About whether or not you were going to testify before that Pennsylvania grand jury.

A. He always says to answer truthfully and do the right thing. He always says that, sir.

Q. Did you discuss it at that time with him?

A. He was in prison, sir, when I went away in '73.

Q. Did you discuss it with him?

A. He was in prison, sir.

Q. Did you go and discuss it with him yourself in prison?

A. He was in prison, sir.

Q. Did you go and see him in prison?

A. I seen him a couple of times, but I never discussed this with him, no, sir. Not to my best knowledge.

Q. To the best of your knowledge, you never discussed it?

A. No, sir.

Chairman Rodriguez pressed Raymond Martorano for more details on his association with Angelo Bruno. Laying the ground work for Bruno's subsequent appearance as a witness, Mr. Rodriguez sought to determine the impact Bruno had on potential John's Wholesale customers, whether Bruno was there in person or not:

EXAMINATION BY THE CHAIRMAN:

Q. On the accounts that you go to confirm for Mr. Bruno when he is not able to go on the solicitation itself, how do you know what location to go to? Does he tell you?

A. Sometimes he does and sometimes he don't, sir.

Q. Do you make clear to them you were sent by Mr. Bruno, the reason why you are there on that occasion?

A. Sometimes I do and sometimes I don't, sir.

Q. Have you ever been—let me ask you this way: Do you also subscribe to the proposition that your brother indicated to us that the reason your corporation is willing to pay Mr. Bruno on cigarettes even though he does not solicit them is because you want to induce him to stay working with John's Wholesale?

A. Yes, sir. One of the finest and honest salesman that we ever had, sir.

Q. And he is considered, also, a super salesman as far as you are concerned?

A. One of the best we ever had, sir, yes.

Q. And it's because he has this great ability to deal with these accounts and locations that you feel it's important to continue to pay him three cents a carton even though he does not solicit a lot of business that comes to John's Wholesale?

A. He's more experienced than us. He had vending companies before, which I think he did with his wife, and his experience is very important to us, sir.

*Angelo Bruno's Story**

Flanked by four lawyers, Angelo Bruno next took the witness stand. He was to concede, later, his long and increasing intimacy with the Gambino crime family in New York. But at the outset Counsel Siavage required Bruno to put into the hearing record a corroboration of his association with the cigarette vending business and its operations in Atlantic City. At the same time, a chart showing how the South Jersey business of John's Wholesale

* See Ralph Salerno testimony, Pp. 255-266.

tripled since the public legalized casino gambling was put into the record (see exhibit below).

Q. What is your present business or occupation, Mr. Bruno?

A. I'm associated with the cigarette vending business.

Q. And do you solicit cigarette locations?

A. I solicit cigarette locations.

Q. And are you employed by John's Wholesale Distributors, Incorporated, in Philadelphia?

A. Yes.

Q. You receive two cents per carton on all cigarettes sold by John's Wholesale Distributors?

A. Yes.

EXHIBIT C-7

JOHN'S WHOLESALE DISTRIBUTORS

**SOUTH JERSEY BUSINESS
(in Metered Units)**

	1975	1976
NOVEMBER	1,900	16,000
DECEMBER	4,000	13,000
	1976	1977
JANUARY	2,100	22,000
FEBRUARY	3,500	18,500
MARCH	8,000	26,000
APRIL	5,000	29,200
MAY	12,000	34,200
JUNE	20,000	47,000
JULY	27,000	44,000
TOTALS	83,500	249,900

SINCE CASINO GAMBLING PROPOSITION APPROVAL
THIS COMPANY'S BUSINESS
TRIPLED

Q. Are you also employed by certain retail vending-machine companies as far as the locations you get for those companies?

A. Yes. I'm—all right. I'm sorry to interrupt you. Go ahead.

Q. Do you get three cents per pack on the locations that you obtain for, for instance, John's J.D. Vending Corp.?

A. Yes.

Q. You also get three cents per pack on the locations you obtain for A.V.M. Corporation?

A. Yes.

Q. You also get three cents per pack on the locations you obtain for Toomey Vending?

A. Yes.

Q. Do you recall Mr. Raymond Martorano soliciting the business of Toomey Vending, Mr. Bruno?

A. Yes.

Q. Did you ask him to talk to Mr. Stanford Harris concerning that solicitation?

A. I don't think I understood the question.

Q. Did you ask Mr. Raymond Martorano to discuss the business of Toomey Vending with Mr. Stanford Harris?

A. Yes.

Q. And did Mr. Martorano discuss it with him?

A. So far as I know, he did.

Q. Was the business obtained?

A. Which business are you talking about?

Q. The business of Toomey Vending.

A. It was obtained. That's only in New Jersey, Atlantic—

Q. Just New Jersey cigarettes?

A. Atlantic City area there, New Jersey area there.

Q. Do you know the magnitude of that account, Mr. Bruno?

A. No. I mean, I never see the records.

*Bruno and the Gambinos**

The Gambino connection was Mr. Siavage's next topic. Bruno's revelations about his relationship with the late Carlo Gambino, Boss of Bosses of the Gambino crime family in New York, extended in subsequent testimony into his dealings with one of the top Gambino lieutenants and with a number of Gambino cousins and associates in New Jersey.

Q. Do you know Carlo Gambino, Mr. Bruno? Did you know Carlo Gambino?

A. Yes.

Q. How long have you known Carlo Gambino?

A. A long time. I don't remember how long.

Q. Have you or your wife ever owned property in conjunction with Carlo Gambino?

A. What? I didn't hear.

Q. Have you or your wife ever owned property in conjunction with Carlo Gambino?

A. My wife did, yes.

Q. Was that property in Florida?

A. Yes.

Q. Have you ever met with Carlo Gambino in New York City?

A. Yes.

Q. On several occasions over the years?

A. Yes.

Q. Do you know brothers by the name of Gambino in Delran, New Jersey?

A. Yes.

Q. Do you know John Gambino from Delran, also known as Giovanni?

A. Well, if its a brother, I know him.

Q. Do you know Rosario?

A. Yes.

Q. Do you know Guiseppe?

A. Yes.

* See Ralph Salerno testimony, Pp. 259-266.

Q. Do you know the father, Tomaso?

A. Yes.

Q. Do you have locations in various of their business enterprises; that is, do you receive three cents a pack on the cigarettes sold out of machines in certain locations that they have?

A. If the machine's there, I get three cents a pack.

Q. Did you discuss whether you would put vending machines into their locations with Carlo Gambino?

A. I don't remember if I did or not. I don't remember.

Q. Do you know what kind of business the Gambino brothers are in?

A. Well, they're associated with pizza parlors.

Q. Do they own pizza parlors?

A. I don't know if they own them. I don't know what exactly. I know they're associated somehow. Whether they own them, whether they don't own them, whether they have people as a franchise, I really don't know.

Q. Do you have vending machines in their location, in their pizza parlors?

A. I don't have them in all their, whatever they're supposed to be.

Q. The question was, do you have vending machines in their locations, in the pizza parlors they own?

A. I think I have some. I don't have the list with me. I don't, you know, I don't remember.

Q. Do you know them to be the owners of Valentino's Restaurant in Cherry Hill?

A. I don't know them to be the owners. I know they're there. Whether they own it, whether they rent it, what their—I know they're there. They seem to have some authority there. But I don't know whether they own it because I never saw any documents. I don't know.

Q. Did you discuss with them putting in one, a vending machine in their location, Valentino's?

A. Probably did, yes.

Q. Do you have that location, Valentino's Restaurant in Cherry Hill?

A. Yes.

Q. Do you have a location of their's in Atlantic City, also?

A. Yes.

Q. Do you have a vending machine in another location of their's in Atlantic City?

A. Right. You see, the same answer there. Oh, I'm sorry. Same answer there. I don't know what they own. I don't know if they own it or not. I don't know exactly. I haven't been to Atlantic City in about a year, approximately a year. Now, you know, I might assume that they have something to do with it, but I never saw them there. I never went there and I, I don't know what they're really—you know, what they've got to do with it.

Q. Did Giuseppe Gambino ever mention to you that they were going to open up a bar in Atlantic City?

A. I can't recall. I can't recall any conversation like that.

Q. Do you have a vending machine in their location, in a location in Atlantic City?

A. Yes.

Q. What is the location that we're speaking of?

A. Well, I think we're talking about Casanova. Aren't you?

Q. Casanova. Do you recall referring to that bar once as Valentino's in Atlantic City? Do you remember that?

A. I remember making a mistake about it, yes.

Bruno next put into the record references to a religious holiday visit to his home by the Gambino brothers of South Jersey—a visit regarded by organized crime experts as a significant demonstration of subservience and homage of underlings to an underworld boss.

Q. Had the Gambino brothers ever visited you at your house?

A. Yes.

Q. When was that?

A. The last time I can remember was for Easter.

Q. And who came on that occasion?

A. I think the two brothers. They came to wish me and my family a happy Easter.

Q. Which brothers were they?

A. Well, I remember definitely—well, not definitely. I'm pretty sure it was Rosario, and what's the other fellow's name?

Q. Guiseppe.

A. Giuseppe.

Q. Is Rosario also known as Sal?

A. Yes.

*The Castellano Meeting**

A highly revealing incident in the Bruno-Gambino family dealings following voter approval of the Casino Gambling proposition in New Jersey was the meeting between Paul Castellano and Angelo Bruno in Cherry Hill. The S.C.I.'s organized crime authority said this parley was a far more pivotal event than Bruno's almost casual references to it might suggest. Here is how Bruno described his association with Castellano:

Q. Do you know Paul Castellano, Mr. Bruno, spelled C-a-s-t-e-l-l-a-n-o?

A. Yes.

Q. How do you know Mr. Castellano?

A. Well, I met him with Carl Gambino. He's a brother-in-law, supposed to be a brother-in-law. Just the impression I'm under, he's a brother-in-law.

THE CHAIRMAN: It's your impression he's a brother-in-law of Carlo Gambino?

THE WITNESS: Yes, it's my impression he's a brother-in-law. I think he's a brother-in-law.

Q. Did you meet—

A. I think that's the way he was introduced to me, "My brother-in-law," his brother-in-law, you know.

* See Ralph Salerno testimony, Pp. 259-262.

Q. Did Carlo Gambino introduce you to Paul Castellano?

A. Yes.

Q. Do you recall when he introduced you to Paul Castellano?

A. No.

Q. Is it more than ten years ago?

Did you hear the question, Mr. Bruno?

A. Yes. I don't remember if it was before I went to Yardville or after Yardville. I don't remember.

Q. Have you met Mr. Castellano in the past six months?

A. In the past six months. Well, I think in that vicinity I did meet him.

Q. Would it be approximately April or May of 1977?

A. It could be, yes.

Q. Where did you meet him?

A. I met him at Valentino's Restaurant.

Q. In Cherry Hill?

A. Yes.

Q. That is the Gambinos' restaurant that we were referring to before?

A. That's the restaurant.

Q. Did you have dinner with him there?

A. Yes.

Q. In Valentino's?

A. Yes. Not—I had no appointment to have dinner with him.

Q. But you did have dinner with him?

A. I had dinner with him, yes.

Q. What did you discuss at that time?

A. General conversation. I don't remember.

Q. Did you discuss Atlantic City?

A. I don't remember. He may have asked me what I thought of Atlantic City. General conversation.

I have nothing to do with Paul Castellano in any-

thing in Atlantic City or any business anywhere. This way you got the whole answer.

Q. Your answer is you do not conduct any business—

A. No.

Q. —with Mr. Castellano?

A. No business of any kind.

Q. Did you discuss in Valentino's doing business separately in Atlantic City?

A. I don't know what you mean by "separately."

Q. Well, did he tell you what business he was going to go in, perhaps, and you tell him what business you were going to go in?

A. I don't recall it, but I don't know what his intentions are. I have a pretty good feeling about what my intentions are with Atlantic City. Would you want me to tell you that?

Q. What are your intentions with Atlantic City, Mr. Bruno?

A. Stay away from it. That's my intentions.

Q. Were the Gambino brothers present when you talked to Mr. Castellano, at the same table?

A. Well, it's only natural they would come, they would go away. They take care of other customers. You know, I don't remember exactly what.

Q. They may have sat down and chatted with you?

A. It's possible.

A few more specifics on the Castellano meeting were sought from Bruno by Commissioner Kaden:

Q. You also said your own view about investment in Atlantic City was that you wanted to stay out. Did you express that view to Mr. Castellano?

A. No. I don't think so.

Q. Did you talk about the prospects for investment in Atlantic City?

A. I answered the question. I—it was general conversation. As far as Atlantic City is concerned, I don't recall discussing it. Maybe something was said

about it, what I thought of it or something like that, but I don't remember the conversation.

But I know one thing, which I said before: I got nothing to do with Atlantic City as far as gambling's concerned. I'm not interested in any hotels; I'm not interested in any casinos, directly or indirectly.

Q. Well, it is true—

A. The only thing I'm interested in Atlantic City, being that the newspapers, I read an article this morning where I control forty per cent of the vending machines in Atlantic City, right now I have two or three vending machines in Atlantic City, somewhere around that spot somewhere.

Q. But you do get two cents a carton on every carton of cigarettes that John's sells in Atlantic City; is that right?

A. That's true.

Commissioner Kaden questioned Bruno on whether he knew or had had any dealings with a Robert Skalsky, who was to figure later in the week in a public hearing episode involving the attempted purchase of the Shelburne Hotel in Atlantic City. The Commissioner's efforts led to the mention of Michael Grasso, who is listed on the S.C.I.'s "Angelo Bruno Family" chart* as Bruno's key lieutenant for real estate deals.

EXAMINATION BY COMMISSIONER KADEN:

Q. Mr. Bruno, are you related to Michael Grasso?

A. Yes.

Q. What relationship is he to you?

A. He is my nephew.

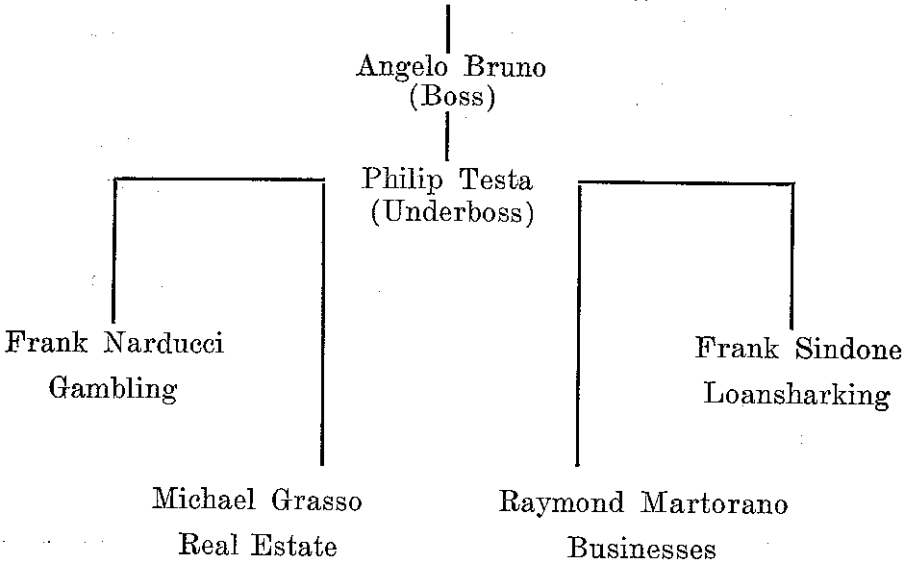
Q. Is it possible that you know a Mr. Robert Skalsky because of his association with your nephew?

A. I may have met him through him. I don't know. I have no recollection of it.

* See chart (Exhibit C-6) on P. 108.

EXHIBIT C-6

ANGELO BRUNO FAMILY



To complete the circle of Angelo Bruno's financial interest in John's Wholesale Distributors' operations in Atlantic City, Chairman Rodriguez pressed Bruno for more details on the relationship of his income to the business of Toomey Vending, the recent John's Wholesale "acquisition."

EXAMINATION BY THE CHAIRMAN:

Q. When you indicated the full extent of your interest in Atlantic City, as I understand it, was two or three locations and you made it very clear that you have no other business interest in Atlantic City, is that correct?

A. That's right.

Q. And you are not negotiating for any other interest in Atlantic City; is that correct?

A. That's correct.

Q. But for a complete answer we must also understand that you do benefit from the sales of cigarettes in Atlantic City that are made by Toomey Vending?

A. Right. Well, Mr. Chairman, what's that fellow's name there? What's his name, Harris?

Q. *Stan Harris.*

A. Stan Harris. Whether he knows my arrangement with John's Wholesale or not, I don't know. Of course, this is a public hearing, so this is my own private affairs, so now the whole world knows what my working agreement is with John's Wholesale.

* * * *

Q. *Mr. Bruno, you have been functioning with Raymond Martorano now for some period of time. I think he told us, and that you work along with him as, say, not a partner in the business but a partner with respect to solicitations. You go together quite a bit. Is that right?*

A. We go together some, when I'm not feeling well, and that's quite often.

* * * *

Q. *You benefit even though you were not with him?*

A. Yes, I do.

Q. *Now, in your opinion, is it known in the business that Mr. Martorano and you are working together as salesmen?*

A. Well, they'd have to take it for granted. They know we're both associated with the same company, so I guess they would know that.

Q. *All right. So, then, when Mr. Martorano solicits an account, it's not necessary for you to be physically present for people to know that you are associated with Mr. Martorano?*

A. No.

A. It's not necessary.

Q. *It's not necessary for you to be there?*

A. When he goes, I don't know what he does. I don't know how he talks to them. I don't know what he says because I'm not there, so I can't answer the question.

He goes. What he says, the purpose is to put, try to put the machine in there or try, if it's a vendor, to

try to solicit for the vendor to buy the wholesale, the cigarettes.

Q. *All right. So, then, is it a fair statement, as my last question,—*

A. Yeah.

Q. *—Mr. Bruno, that even though you were never to enter Atlantic City again, as you seem to indicate you want to stay away from Atlantic City, that you will benefit from the sales of Toomey Vending in Atlantic City by the commission arrangement?*

A. Those two or three locations, Commissioner.

Q. *And Toomey's locations through your sale of John's Wholesale to Toomey?*

A. Right, that's it. That's the extent of it.

Q. *Okay.*

A. It's all a matter of record. Well, not with, I mean, as far as Toomey Vending. I mean it would be a matter of record on my tax returns when I file 1977.

Lost: \$600,000 Account

For three decades Joel Mittelman's biggest competitor as president of Starkman Cigar & Wholesale Tobacco Co. was a subsidiary of a big New York corporation, the General Cigar Co. In fact, the subsidiary, the New Jersey Tobacco Co., had been Mittelman's *only* competitor in the cigarette distribution business in the Atlantic City area—until shortly before November, 1976, when New Jersey's voters legalized the Casino Gambling proposition.

At that time a new competitor emerged—the Angelo Bruno-linked John's Wholesale Distributors. Within months Mittelman's company lost one of its biggest customers, Toomey Vending, which did more than a half-million-dollars in business with Starkman.

The S.C.I., in its Report and Recommendations on Casino Gambling, had warned of the threat of underworld penetration of legitimate business. Mittelman's experience indicated the threat had become an actuality, according to his testimony:

EXAMINATION BY MR. SIAVAGE:

Q. *How long have you been in that same business in Atlantic City, Mr. Starkman?*

A. Over thirty years.

Q. *And what is the approximate size of Starkman in gross annual sales?*

A. We do about \$4,000,000 worth of business.

Q. *And how much of that is cigarette business?*

A. I would say, over 3,000,000 is cigarette business.

Q. *Approximately three-quarters?*

A. Yes.

Q. *Who is your competition located in Atlantic City on the distributor level of commerce?*

A. Well, we are the only tobacco distributor located in Atlantic City. The New Jersey Tobacco Company is located offshore.

Q. *Where are they located?*

A. I believe it's Pleasantville.

Q. *And that's New Jersey Tobacco Company. Are they cigarette distributors, also?*

A. Yes, sir.

Q. *Do they occupy the same level of commerce in this business that you do?*

A. No, they're a subsidiary of a big firm in New York City; General Cigar Company.

Q. *How long have they been your competition?*

A. Over thirty years.

Q. *Has there been, up until November of 1976, any other competition in that level of commerce in Atlantic City?*

A. No, sir.

Q. *Is there now?*

A. We have another competitor, yes, sir.

Q. *Who is that competitor?*

A. Not in Atlantic City. We have John's Distributors operating out of South Philadelphia, but they are not located in Atlantic City.

Q. Do you know them to be the suppliers of Sam Ron Services, formerly known as Toomey Vending?

A. Yes.

Q. Was Toomey Vending ever your customer?

A. Yes, sir.

Q. When did they first become your customer?

A. Toomey Vending was sold—Toomey Vending first became my customer twenty-seven years ago. But the new owners of Toomey Vending after Mr. Toomey passed away, 1975, started to buy from me, the new owners. I believe it was June or July of 1975.

Q. That you got the business back?

A. Yes, I supplied Toomey Vending with their cigarettes.

Q. Now, in Atlantic City, Mr. Mittelman, in this business there are two types of cigarettes with regard to the taxation. Do you know of what I speak?

A. Yes, sir.

Q. And one of them is what you might call Atlantic County cigarettes, which would be sold outside the environs of Atlantic City; is that correct?

A. Well, we simply call them New Jersey cigarettes. They can be sold any place in the state except Atlantic City.

Q. And they don't have an Atlantic City luxury tax stamp on them?

A. Right.

Q. Right? Is that correct?

A. That is correct.

Q. The other cigarettes you call Atlantic City cigarettes?

A. Yes, sir.

Q. They do have a three-cent luxury tax stamp on them?

A. Plus the New Jersey tax, yes.

Q. Does Toomey Vending cover both territories; that is, Atlantic City and outside of Atlantic City?

A. Yes, sir.

Q. So when they were your customer, they were sold both New Jersey and Atlantic City cigarettes?

A. Yes, sir.

Q. When did you lose the business of Toomey Vending to John's Wholesale and what was the nature of that business considering what we have just spoken of?

A. Well, I first lost all the business except the Atlantic City business, I believe it was August of last year; August of 1976.

Q. All right. What did you do when you were—how were you first notified that you lost the business?

A. If I remember correctly, I was told by the manager, who is the owner's son-in-law, of Toomey Vending that they would no longer be buying their state—we call them New Jersey state cigarettes—from us.

Q. And is that manager Mr. Sam Feigenbaum, spelled F-e-i-g-e-n-b-a-u-m?

A. Yes, he is.

Q. When you say "the owner," are you referring to Mr. Stanford Harris from Pennsylvania?

A. Yes, I am.

Q. What did Mr. Feigenbaum say to you about losing the New Jersey cigarette business?

A. Well, he simply said that he had instructions from his father-in-law, if I remember correctly, that they would no longer be buying their state cigarettes from me.

Q. Did he complain about your service?

A. No, sir.

Q. Did he complain about your price?

A. No, sir.

Q. Did he complain about anything else?

A. No, sir.

Q. Did he say that he regretted the decision?

A. I think he did.

Q. Did you ask for any reason from him?

A. Yes, I did.

Q. And what did he say?

A. And he said that he really did not know. If I remember correctly, I think he said he didn't know of any reason; that they were satisfied with me and my service, but that he had gotten instruction from Philly to buy from John's.

Q. Did there come a time later on when you also lost the Atlantic County business of Toomey?

A. Atlantic City business.

Q. Atlantic City business.

A. Yes.

Q. When was that?

A. That was in January of '77.

Q. What was the volume of the New Jersey business of Toomey Vending in dollars, if you can break it down?

A. I know it was over 3—I'm quite sure it was over \$300,000. I don't have the exact figure.

Q. And what was the Atlantic City volume?

A. I'm quite sure it was over a quarter of a million dollars.

Q. So that if my addition is correct, that's approximately 550,000 for the total business of Toomey?

A. In that vicinity. I think even more, but in that vicinity.

Q. You think even more, but in that vicinity?

A. Yes, sir.

Q. More like \$600,000?

A. Approximately.

Q. Were they your largest customer at the time you lost them?

A. Yes, sir.

Q. How were you informed of that loss?

A. That loss I was also informed of by Sam Feigenbaum, by the manager, local manager of Toomey Vending.

Q. And what did he say this time with regard to your losing that business?

A. He said almost the same thing he had said when I lost the state business.

Q. Did Feigenbaum in any way relate to you whether it was his decision or not?

A. I—no, he did not, no.

Q. Did he relate to you that it was someone else's decision as opposed to his decision?

A. I got the impression it was somebody else's decision.

Toomey Vending Loss Puzzling

Starkman Tobacco's president, Mittelman, had at least one other reason for wondering why he lost Toomey Vending's business to John's Wholesale:

Q. Would not a retailer like Toomey Vending—wouldn't it be beneficial for a business like that to have a supplier reasonably close to them?

A. I would think so, yes, sir.

Q. Does it make any business sense for them to buy tax cigarettes a long distance away from Atlantic City?

A. I should think not.

Q. Have you known, in your thirty years of experience in this business, anyone to ever buy cigarettes from Camden County, let's say?

A. Not Atlantic City cigarettes, no, sir.

Q. Or from Burlington County?

A. No, sir.

Q. Or from Pennsylvania?

A. No, sir.

Was the Bruno connection with John's Wholesale the factor in Mittelman's loss of a half-million-dollar customer to John's? The Commission remained puzzled:

EXAMINATION BY COMMISSIONER POLLOCK :

Q. *When you lost the Toomey business, what portion of your gross sales did that represent?*

A. Well, I think it was over fifteen per cent of my business. I don't know the exact figure, but I'd have to say it was over fifteen per cent of my business.

Q. *And, to the best of your knowledge testifying here today, you know of no legitimate business reason for the loss of the Toomey Vending account to the John's Wholesale Distributors' concern; is that correct?*

A. That's right, sir.

Q. *And your business is located here in New Jersey?*

A. Yes, sir.

Q. *Closer to the Atlantic City and, indeed, to the other accounts of Toomey's than either, rather John's Wholesale Vending?*

A. Yes, sir.

THE CHAIRMAN: Mr. Mittelman.

THE WITNESS: Yes.

THE CHAIRMAN: I believe the questioning of the Commissioners is terminated except I do want to make it clear that I understand your answers to be that, even though you were in Atlantic City for many, many years with these accounts, that you recently lost some \$600,000 worth of business to John's Wholesale. Is that correct?

THE WITNESS: Yes, sir.

THE CHAIRMAN: And there was nothing ever brought to your attention as to any legitimate reason why your were terminated after so many years of association?

THE WITNESS: No, sir.

A Peculiar Arrangement

John Felice of North Cape May, a onetime janitor for John's Wholesale Distributors, eventually got to run his own business—but only after a peculiar arrangement that required him to buy

cigarettes from John's Wholesale. That requirement "presumably" caused John's to sell him their local business in North Wildwood cheap.

Felice told S.C.I. Counsel Siavage how he got the deal:

Q. And what is your business or occupation?

A. President of John's J & H Distributors, Incorporated, North Wildwood, New Jersey.

Q. When did you become president of John's J & H Distributors?

A. October of 1976.

Q. And did you buy that business from someone in conjunction with other people?

A. Yes, sir.

Q. From whom did you buy that business?

A. John's Wholesale Distributors of Philadelphia.

Q. What was your business or occupation prior to purchasing John's Wholesale Distributors?

A. Manager for John's Wholesale Distributors out of North Wildwood.

Q. Did you work in the same business which you purchased?

A. Same function, yes. Yes.

Q. How long were you employed in that capacity?

A. Approximately a year and a half.

Q. And did you ever work in the plant in Philadelphia?

A. Yes.

Q. When did you work in that plant?

A. Approximately two years before that period of time.

Q. What was your position when you started with John's Wholesale?

A. Delivery man, whatever. Janitor, whatever you want to call it.

Q. When did you purchase John's J & H in Wildwood?

A. October of '76.

Q. *And do you recall the purchase price for the business?*

A. Purchase price was \$5,000 and dollar for dollar for stock.

Q. *What was the \$5,000 for?*

A. Included equipment, shelving.

Q. *Was there any value put on the good will of the business?*

A. No, sir.

Q. *Did you at any time discuss the sale of the business with Mr. Raymond Martorano?*

A. Yes.

Q. *Do you know whether he asked anyone else if they wanted to buy the business?*

A. This I don't know.

Q. *Did you ever see any kind of advertising that the business was for sale?*

A. No.

Q. *Who set the price on the business?*

A. I couldn't tell you that. I don't know this.

Q. *Well, did you?*

A. I dealt directly with Raymond Martorano as far as the selling of that particular outlet.

Q. *Did you negotiate the sale with him?*

A. He gave me what he wanted and we did counter-offer back and forth on different areas, you know.

Q. *Well, the sale eventually ended up as a purchase of inventory?*

A. Right.

Q. *Is that a fair statement?*

A. Right.

Q. *Could you have gotten any better price than that from him, in your opinion?*

A. I don't think so.

Q. *There was no price whatsoever put on the business; is that correct?*

A. No.

Q. Mr. Felice, I'm showing you what's been marked Exhibit C-5 for the purposes of identification, which purports to be the agreement of sale between John's Wholesale Distributors, Inc., and Rick and John Felice, which is signed by John Martorano, president of John's Wholesale Distributors, John Felice and Rick Felice, and that is dated September 24th, 1976. I ask you if you recognize that.

A. Yes.

Q. Paragraph 13 of that agreement reads as follows: "Lessee shall have the right to freely purchase from any source all but cigarette and tobacco products, which shall be purchased from lessor at standard prices. Lessee shall also have the right to purchase candy, patents, and other sundry items from lessor at 5% over cost unless such are drop shipments which shall be at cost without discount. Said purchases at 5% over cost shall be paid net seven days."

Now, that's a long paragraph, but with regard to the cigarette and tobacco purchases, you understand that paragraph to mean you must purchase from John's Wholesale Distributors?

A. Yes.

Q. Would it be a violation of your agreement with them if you purchased your cigarettes somewhere else?

A. Yes, sir.

Q. Would that have anything to do with the size, the magnitude of the sale price; that is, the twenty-seven-thousand-dollar purchase of inventory?

A. I don't really understand the question.

Q. I'll ask it a different way. Do you think the price of the business would have gone up had you not agreed to purchase the cigarettes from John's Wholesale, Inc.?

A. Presumably.

Q. Presumably?

A. I really couldn't answer that question.

"Customers" and "potential customers" were words that made a difference to Felice so far as his fear of self-incrimination was concerned:

Q. How many customers did you have when you took over the business in October of 1976?

A. Approximately a hundred, hundred-fifty.

Q. And how many do you have today?

A. A little over 200.

Q. Did you—

(Whereupon, the witness confers with counsel.)

A. They're approximate figures and I don't — I didn't get a complete rundown of my accounts.

Q. It has nevertheless increased by a substantial percentage since you took over?

A. Yes.

Q. What do you attribute that to, your solicitation?

A. Solicitation. I think because I'm doing it for myself, and I think I'm working a little harder for myself than doing it for somebody else.

Q. Have you ever offered a rebate back or actually rebated back to customers a portion of the minimum price for cigarettes in New Jersey?

A. I refuse to answer that question on the grounds it may incriminate me.

THE CHAIRMAN: I understand you are taking your privilege on the grounds it might incriminate you if you would answer that question?

THE WITNESS: Yes.

THE CHAIRMAN: And that's in accordance with the approval of your counsel?

THE WITNESS: Yes.

Q. Just to make it clear, I'm going to ask it one more different way.

Have you ever offered any kickback to any potential customer on the sale of cigarettes to a retail outlet?

(Whereupon, the witness confers with counsel.)

A. No, sir.

Q. The reason for that different answer is because there is a difference between rebate and kickback?

(Whereupon, the witness confers with counsel.)

A. The reason being, the first question you said "customer," this question "potential customer."

EXAMINATION BY THE CHAIRMAN :

Q. Do I understand the distinction, if I heard you correctly, that your Fifth Amendment privilege was taken with respect to customers and you answered "No" with respect to potential customers? Is that correct?

A. Yes.

The Martoranos' friendly sale of the North Wildwood dealership to Felice not only "removed" their formal corporate ties out of New Jersey but guaranteed their "supersalesman" Bruno a largesse of commissions on the cartons of cigarettes Felice was forced by his purchase agreement to buy from John's Wholesale.

EXAMINATION BY COMMISSIONER POLLOCK :

Q. What is the number of cartons that your concern, John's J & H Distributors, has purchased from John's Wholesale Distributors in Philadelphia so far this year?

A. That's hard to say. It's peaks and valleys down at that area. You know, summertime is our best time now.

Q. Would it be thousands?

A. Moneywise or cartonwise?

Q. Numbers of cartons.

A. Oh, probably hundreds of thousands.

Q. And if I understood, the Exhibit C-5 provides, in effect, that you must buy your cigarettes from John's Wholesale Distributors, right?

A. Yes sir.

Q. So if John's Wholesale Distributors had someone who was a super salesman, who received a commission of two cents per carton on each carton of cigarettes sold to your concern, John's J & H Distributors, even though their super salesman appeared in no corporate records as an officer, director, or shareholder, he, in effect, would be receiving two cents per carton from each carton of cigarettes that your concern, John's J & H, purchased from John's Wholesale Distributors; is that true?

(Whereupon, the witness confers with counsel.)

A. As far as I know, this part of the question, as far as receiving two cents or two per cent, whatever it was, that is true. But as far as the way John's run his operation up there, I don't know.

Q. *I just asked you to assume the truth of what I said. And if that were true, two cents per carton for every carton of cigarettes that John's J & H Wholesale Distributors purchases would proceed, based on the facts as I have represented them, to this super salesman?*

A. I don't really follow the question. If you're speaking of John's Wholesale in Philly, if they would pay a salesman two per cent or two cents of every carton he sells, sure, he would get paid for it, sure.

Q. *And this is all as a result of the relationship between John's J & H Wholesale Distributors, your concern, and John's Wholesale Distributors which requires that your concern, John's J & H Wholesale Distributors, purchase all of its cigarettes from John's Wholesale Distributors?*

A. My agreement with John's is that I purchase all my tobacco products from John's Wholesale in Philadelphia, yes.

Chairman Rodriguez asked Felice to restate his comments on the "rebate" questions that had caused him to take the Fifth Amendment:

EXAMINATION BY THE CHAIRMAN:

Q. *Now you want to clarify something at the suggestion of your counsel?*

A. Yes.

Q. *All right.*

A. Like I said before, I do not know Mr. Bruno. I've never seen Mr. Bruno in person. If he was with Raymond Martorano, I did not see him, and if he was with him I didn't even know it was him, anyway.

Q. *Now, for the moment I don't want to press you beyond the position you have taken with the Fifth Amendment privilege, but I want to clarify some chronology.*

Was your answer that you did not offer any rebates to customers after you become J & H Wholesale?

(Whereupon, the witness confers with counsel.)

Q. Let's start with this way: Had you been offering rebates to customers prior to your purchase of October of '76?

(Whereupon, the witness confers with counsel.)

A. No, sir.

Q. On behalf of yourself or anyone else?

A. No, sir.

Q. After the purchase in October of '76 when you, in fact, became J & H, did you offer rebates to customers at that time, either on your own or someone else's behalf?

A. I'll take the Fifth Amendment.

Q. Who was the primary solicitor in Cape May County for the business prior to October, '76?

A. I was.

Q. Who was the primary solicitor for business in Cape May County after October of '76?

A. I was.

Q. I have no further questions.

The Bruno Family Structure

An important summing-up witness on the first day of the S.C.I. hearings was Lt. Daniel McFadden of the Philadelphia Police Department. His official duties required that he keep track of the Bruno crime family in Philadelphia. He has been with the Philadelphia Police Department 21 years and for the past six years has been commanding officer of the department's Organized Crime Unit.

He was present in the hearing room from the outset and was called upon to characterize the testimony from the standpoint of his particular field of expertise—beginning with the Martorano brothers.

EXAMINATION BY MR. SIAVAGE:

Q. *Did you observe John Martorano and Raymond Martorano and Angelo Bruno on the stand?*

A. Yes, I did.

Q. *Is Raymond Martorano previously known to you, as commander of the organized crime unit of the Philadelphia Police Department?*

A. Raymond, yes, he is.

Q. *Does Raymond have a nickname?*

A. Yes.

Q. *What is his nickname?*

A. Long John.

Q. *Does he hold any position in the Angelo Bruno family?*

A. From all indications, he is closely associated with Angelo Bruno.

Q. *Does he drive a car for Angelo Bruno, based on information in your office?*

A. Yes, he is observed on many, many occasions driving.

Q. *Perhaps we should explain that a little bit. Is a chauffeur the driver of a car when we are speaking of organized-crime figures or is he something else?*

A. All indications, he is a trusted person to drive him because he would overhear conversations and he would stay right with Angelo Bruno.

Q. *You heard this morning that Mr. Martorano had a conviction for civil contempt in 1973?*

A. That is correct.

Q. *Does he have other convictions?*

A. Yes, he has.

Q. *Did he spend five years in a Pennsylvania penitentiary for distribution of narcotics?*

A. That is correct.

Q. *And when was that?*

A. The arrest was on 9/30/1954. He was found guilty of illegal possession and sale of narcotic drugs

and was given a five-year sentence in the county prison."

Q. Did he also receive five years' probation on that charge?

A. Yes, he did.

Q. Does Mr. Martorano have other convictions on his rap sheet?

A. Yes, he has.

Q. Other than the disorderly persons offenses, what are they for?

A. 9/7/50, violation of Pennsylvania liquor code, got three months in the county prison; on 7/13/51, possession and transportation of liquor, three months county prison; 9/8/51, possession and transportation of liquor, three months county prison, and then '54 he received the five years county prison for sale of narcotics.

Lt. McFadden next dissected the managerial structure of the Bruno crime family* itself:

Q. Is the assumption of Angelo Bruno's rank in organized crime in Philadelphia that has been made implicit in these hearings a correct one or incorrect one, Mr. McFadden?

A. That he is the head of the group in Philadelphia? It is.

Q. How long would you say that Mr. Bruno has been the head of organized crime in Philadelphia?

A. In 1963 I was assigned to the organized crime unit as a detective, and at that time he was considered the head of the family then.

Q. Does your knowledge of Mr. Bruno include the fact that he took over for a Mr. Ida, I-d-a, in 1958 or 1959?

A. All indications.

Q. Does Mr. Martorano go to Mr. Bruno's house on occasion?

A. Yes, he was observed there many times.

* See chart, P. 108.

Q. Now, is that important or is it unimportant, the fact that Mr. Martorano goes to Mr. Bruno's house?

A. From all our surveillances, very few people go to his house directly unless they are a very close associate.

Q. And the implications are that the corner book-maker does not go to Angelo Bruno's house?

A. No.

Q. How many people do you see, would you say, total going to Mr. Bruno's house?

A. Recent—

Q. Of people in organized crime.

A. Recently in a close week-long surveillance we had continued for approximately twelve hours out of the day, we would see Testa, Martorano, his lawyer, Narducci. That's—that would be the extent of it.

Q. You said, "Testa." Did you mean—

A. Scarfo, also.

Q. Did you mean a Mr. Philip Testa?

A. That's correct.

Q. When you say Mr. Narducci, who would you mean?

A. Frank Narducci.

Q. Does he have a nickname?

A. Yes.

Q. Chickie?

A. Chickie.

Q. Are all those people ranking members of the Angelo Bruno family?

A. It appears to be that way.

Q. Do you have any idea of the top hierarchy of the Angelo Bruno family?

A. Well, the way it is considered, Philip Testa.

Q. Philip Testa would be considered what?

A. He would be as is known as the underboss.

Q. What is the function of an underboss in relation to these other people that are listed on the chart?

A. He is the sole operator of whatever business they're in. He's the overseer of everything.

Q. *Now, is the Bruno family a little different than organized-crime families with regard to whether the people under the underboss are actually considered caporegimes?*

A. In the Philadelphia area it is considered that we only have one family of this type, and each one, as indicated on the chart, has a—it appears to be a certain job to do. One will handle gambling, one will handle the loansharking, and one the other, the real estate business that we find a lot of money is being invested.

Q. *What is a caporegime normally in the classical sense of organized crime?*

A. He would be the head of a group of what you call soldiers that would vary in number.

Q. *And he would be answerable to the boss, sometimes through the underboss and sometimes not; is that correct?*

A. He would always go to the underboss.

Q. *Do the people listed under Mr. Testa go to Mr. Testa and to Mr. Bruno?*

A. We have observed that the three of those names with the exception of Grasso. We never did observe that.

Q. *You mean Grasso to Testa or Grasso to Bruno?*

A. We, we never observed Mr. Grasso.

Q. *Would you list Mr. Grasso on the same level as these other people?*

A. Yes, and, of course, he is a blood relative.

Q. *He's Mr. Bruno's nephew; is that correct?*

A. That is correct.

Q. *The areas of expertise, does Mr. Testa—by the way, does he appear to be in any particular endeavor or is he in a wide range of endeavors?*

A. He gives his employment as Tyrone, Tyrone Dimitus Enterprises, which is a booking agency or—

Q. Talent?

A. Talent.

Q. *Would you say that Mr. Narducci's area of expertise is gambling?*

A. Yes.

Q. *And Mr. Sindone loansharking?*

A. Yes.

Q. *And Mr. Grasso real estate?*

A. Yes.

Q. *And Mr. Martorano a number of businesses including what?*

A. Well, he does—he was observed many times at 2001 South 29th Street, which is the headquarters of their business. They have just opened up a new building at 9th and Washington. Correct that. I believe it's 8th and Washington. He was observed there. We have never really put him in with the gambling.

Q. *Okay. Does he own diners and food?*

A. Yes, he does. He has various hot dog stands; involved in diners, I believe.

Q. *Okay. Based on your knowledge of the operation of Mr. Bruno's family in Philadelphia, would it be fair to conclude that the spread of the tentacles of organized crime in the legitimate business is extensive and well hidden?*

A. It is, I would say, very extensive and completely hidden.

Q. *So unless someone had your particular knowledge of the operation of the Bruno family and unless they had heard the testimony this morning about the relationship of Mr. Bruno to John's Wholesale Distributors, it otherwise would not be known that Mr. Bruno was receiving at least \$51,000 a year from the operation of John's Wholesale Distributors; is that true?*

A. That is correct, I learned that myself.

Q. *Does the operation of Mr. Bruno's enterprise result, if you know, in the confusion, if you will, of monies from legitimate and illegitimate operations?*

A. The—

Q. *The mixing of it.*

A. The mixing of it. Yes, it will derive from legitimate business.

Q. *It will?*

A. And also, I assume, illegitimate.

Q. *What is the nature of the illegitimate businesses, if you know?*

A. Well, of course, there's gambling. Mainly numbers, backing of crap games, large-scale crap games; loansharking, which is very lucrative.

Q. *And it's really impossible to tell where the legitimate money comes from in the Bruno family and where the illegitimate money comes from, isn't it?*

A. That is correct.

EXAMINATION BY COMMISSIONER KADEN:

Q. *Lieutenant, Mr. Martorano testified this morning that there was no such thing as the Angelo Bruno crime family. Based on your experience in Philadelphia, is that an accurate response?*

A. Based on my experience, I feel that there is definitely an organization.

Q. *And that that organization is headed by Mr. Bruno?*

A. All indications point that way, yes.

Q. *Mr. Martorano also described his relationship with Mr. Bruno as that of a friendship and teammates. He said that on occasion, when Mr. Bruno is not feeling well, he would ask Mr. Martorano to cover some work for him. Based on your experience, is that an accurate description of the relationship between Mr. Martorano and Mr. Bruno?*

A. I don't know about the business end of it, but I do know that he will travel with Mr. Bruno quite frequently.

Q. *But, in general, if Mr. Bruno wanted Mr. Martorano to do something for him, would he, in the ordinary course, ask Mr. Martorano whether he was*

free to do it? Is that the kind of relationship they have?

A. I feel that Mr. Martorano would be free to do it.

Q. Would be free to do it. As it was described here this morning, Mr. Bruno is a salesman for John's Wholesale. He described that as his vocation, and Mr. John Martorano described himself as the manager or the president of John's Wholesale. Based on your experience, is it an accurate portrait of the relationship to describe Mr. Bruno as an employee of Mr. John Martorano's?

A. I have yet to see him going around selling cigarettes.

Q. That was my next question. Would you expect that Mr. Bruno himself would solicit stops for the sale of cigarettes?

A. Just approximately one month ago we did have an indication through information that he did solicit one location. That's the only place I know of.

Q. Was that a location in Philadelphia?

A. Yes, it was, a bar in Philadelphia.

EXAMINATION BY THE CHAIRMAN:

Q. Lieutenant, I have one question to clarify something that's been going through my mind.

Is it not true that one of the essential ingredients for continual survival of an organized-crime family is to be able to surface some of their ill-gotten gains through a disguised legitimate front? Is that a true statement?

A. I would say, yes, it is a very true statement.

Q. So, then, taking it one step further, if you really want to impede the progress of the, say, illegitimate activity, you have to very carefully monitor and try to close off what appears to be the legitimate front. Is that true?

A. It seems that they take great pains in hiding what they actually own. We feel that a great amount of money is invested in real estate, and I feel that there's always a straw there.

Q. And one final question. Then, as I understand it, you do subscribe to the layout of the Angelo Bruno family as depicted by that exhibit?

A. Yes.

State Officials Testify

With an eye to possible corrective regulatory recommendations in the cigarette tax and vending fields, the Commission summoned as final witnesses for the first hearing day J. Robert Murphy, deputy director of the State Division of Taxation, and Harry Silberman, Supervisor of the Tax Division's Special Investigation Unit.

Questioned by Mr. Siavage, Mr. Murphy corroborated the earlier testimony about John's Wholesale Distributors' successful entry into the cigarette vending business in the Atlantic City area.

Q. Mr. Murphy, among your other duties, do you have any duties concerning wholesale distributorships or retail licenses for cigarette distribution in the state of New Jersey?

A. All tobacco distributors in the state of New Jersey must be licensed, the same with wholesalers, and they are under the jurisdiction of the Division of Taxation.

Q. Thank you.

Does the Division of Taxation keep records on the taxable units or metered units that are used by cigarette companies doing business in the state of New Jersey?

A. We do.

Q. And did you receive a request from the State Commission of Investigation concerning the business of John's Wholesale?

A. I did.

Q. And did you supply figures on that business?

A. I did.

Q. To the Commission. Mr. Murphy, those figures have been depicted on what's been marked Exhibit C-7 for the purposes of identification, and I'm going to go to the chart now and explain it with you.*

* See Chart on P. 99.

The chart depicts something which you may have in front of you, Mr. Murphy, which is the beginning of John's Wholesale Distributors' business in South Jersey in metered units beginning November, 1975, which was pre-referendum. That column goes through July of 1976 and has totals. The column runs for metered units per month all the way up to July of 1977.

Are these essentially the figures that are depicted in front of you on your figures for the Department of Taxation?

A. I believe that they are the figures that I furnished to the State Commission of Investigation.

Q. Now, without going through each month, Mr. Murphy, if you compare November of '75 with November of '76, and December of '75 with December of '76, and January right through this chart, does it appear that there is an increase in business on the part of John's since the casino gambling referendum in November of 1976?

A. From the figures and the months and the dates that you have, there has been a decided increase in the number of meters.

Q. Is it an increase from 83,500 cartons as opposed to 249,900?

A. Yes.

Q. Does it look like 249,000 is approximately three times 83,500?

A. That's right.

Q. Is it safe to say that John's Wholesale business was tripled since the advent of casino gambling in November of 1976?

A. No doubt about it.

A Criminal Could Get a License*

Mr. Murphy displayed much concern about the laxity of state controls over the processing of applications for a cigarette distributor's license.

* See Ralph Salerno testimony, Pp. 267-268.

Q. Mr. Murphy, Exhibit C-8 for identification purports to be an application for a distributor's license from the State of New Jersey, Department of Treasury, Division of Taxation, Cigarette Tax, in Trenton, New Jersey. I show it to you and ask you whether you recognize it as such.

A. Yes, I do.

Q. Thank you. Do you have one of those applications in front of you, Mr. Murphy?

A. Yes.

Q. Now, it asks for the name of the applicant and the address; is that correct?

A. That's right.

Q. And it asks whether the applicant is a partnership or a corporation, the names of the partners and the names of the officers of the corporation if it is a corporation. Is that correct?

A. That's right.

Q. Does it ask for the name of the stockholders of the corporation?

A. I don't think the stockholders are asked for.

Q. Does it request the identification of loans to the corporation?

A. No.

Q. Secured or unsecured?

A. No, it does not.

Q. Does it ask whether any of the officers have a criminal record, for instance?

A. It does not.

Q. Does it ask the officers to be fingerprinted, for instance?

A. It does not.

Q. Since it does not ask for stockholders, of course, it doesn't ask whether the stockholders have any criminal record either, does it?

A. That's right.

Mr. Murphy then recalled how he had received inquiries in February or March, 1977, from the New Jersey Tobacco Distribu-

tors Association that "certain individuals were infiltrating" the cigarette vending business in Atlantic City in a manner that "was not actually legitimate." As a result he contacted other states and his staff conducted an extensive inquiry which led to a proposed new application form which he intended to submit to the attorney general.

After Mr. Siavage read a portion of the tax division law relating to the power of the director to issue and "refrain from" issuing licenses, the S.C.I. counsel resumed his interrogation:

Q. Does it ask for the names of principal employees or their remuneration?

A. It does not.

Q. Mr. Murphy, this question has been asked of you before and you gave us an opinion. I would like to have you give it now. The question is: If I was the head of organized crime in Philadelphia or Camden County and I submitted an application to the division and admitted that fact, that is, I did not make a statement which was not in good faith or was misleading, under the present statute would I get a license?

A. You would.

Q. Do the changes which you have proposed relate to the names of stockholders of the corporation and others?

A. Yes, it does, and it also takes into consideration criminal records. In addition thereto, when I'm talking about criminal records, I'm interested primarily in whether any cigarette tax laws of this state or any other state or the Federal government was violated. I'm interested in ascertaining whether or not the individual has a criminal record in this state or any other state or in the United States. I also am interested in having the full names, addresses, necessary information such as date of birth and social security number for each of the partners and the officers and, also, the stockholders. Also, I have asked that, and I'm having this researched, that all officers of the corporation, partnerships, individuals, be fingerprinted and their application will not be cleared and approved unless they are so fingerprinted and if copies of the fingerprints are attached to the

application that's to be furnished to the Division of Taxation. I'm also asking that all applications be submitted by March 1st of each year so that they can be cleared and investigated before the end of that month, which is March 31st, when the license should be issued effective April 1st.

How the Angelo Bruno-dominated John's Wholesale Distributors actually became a paid agent of the State of New Jersey in the Atlantic City area was explained by Murphy:

Q. Mr. Murphy, in testimony this morning it was explained to us that a person who applies for and receives a distributor's license becomes, in essence, a taxing agent for the State of New Jersey. Is that essentially correct?

A. Well, they, in turn—the tobacco distributors in the state of New Jersey, they affix the stamps, and each stamp on a pack of cigarettes is nineteen cents and they have to pay, within thirty days, any taxes on these stamps that they have affixed.

Q. Do they get a rebate off that tax price because of the job of affixing the stamps?

A. That's right.

Q. And they are essentially, then, the agent of the state for putting that stamp on the cigarettes?

A. That's right.

Q. If the distributors didn't do that, the state would have to do it and they, therefore, reimburse them; is that correct?

A. That's correct.

Q. And John's Wholesale Distributors, who has applied for, and received, the New Jersey license, then is direct agent of the State of New Jersey for the purpose of stamping its cigarettes and receives remuneration for that; is that right?

A. That's right.

S.C.I. Chairman Rodriguez had two parting questions for Mr. Murphy, queries that went to the heart of the reasons for the Commission's surveillance of the Atlantic City area and its subsequent legislative report and public hearings.

EXAMINATION BY THE CHAIRMAN :

Q. Mr. Murphy, before you leave I simply have two questions.

Did I understand your testimony to be that certain representatives of the New Jersey tobacco distributors had reported to you that they had sensed illegitimate activity in Atlantic City?

A. They did.

Q. They did. Also, sir, is it a fact that the one business, John's Wholesale Distributors, has increased their total volume some 300 per cent, according to this chart?

A. At the outset, well, what you say is true, but at the outset, there were not any names that were mentioned as to who the firm was, or company was, that had infiltrated into the area and had obtained some of the business from these people.

Q. But they did indicate to you that there was someone infiltrating their business?

A. They did.

Q. And this chart is accurate and shows John's Vending, say, increasing their volume of sales by some 300 per cent?

A. That's right.

THE TESTIMONY — Second Day

The Casanova Disco

The confusing trail of financial transactions involved in the sale of the Casanova Disco in Atlantic City began with the original seller of the place, Frank Tumolo. The first witness on the second day of the S.C.I.'s public hearings, Tumolo told how he sold his property, then known as the Cabaret Disco, with its adjoining Paul's Pizzeria, for \$350,000—\$50,000 more than he first asked for the place because legalization of casino gambling had made it more valuable.

Tumolo testified that the buyer, Domenico Adamita, just walked in off the street one day, "looked at the place and decided he

wanted it” and that either a week or two later “he put a deposit and we made a deal and I sold it to him.” The deal included a \$10,000 deposit as part of a \$75,000 down payment and a mortgage for \$275,000 to be paid off at \$5,000 a month.

Even though the Casanova Disco sale was signed and sealed on March 29, 1977, less than five months prior to the S.C.I. hearings, it was difficult to pin Tumolo down on many of the particulars. But Adamita, the next witness, was even more casual about his recollection of the deal.

Counsel Siavage first explored Adamita’s background and prior business interests in what was to be a protracted effort to clarify how Adamita put together the \$350,000 financial deal that Tumolo demanded.

Q. Mr. Adamita, what is your present business or occupation?

A. In 2415 Pacific Avenue, Atlantic City.

Q. Do you own a corporation known as 2415 Avenue?

A. Yes, sir.

Q. Are you the president of the corporation?

A. Yes, sir.

Q. How much of the stock of the corporation do you own?

A. How much of the stock of the corporation? I know I buy the place at three-fifty.

Q. You bought the place for \$350,000?

A. Right.

Q. You own a hundred per cent of the corporation?

A. Yes, sir.

Q. What is your—how old are you, Mr. Adamita?

A. Forty-seven.

Q. And where were you born?

A. Italy.

Q. What part of Italy?

A. Palermo, Sicily.

Q. And where did you enter the United States? Where did you come into it? When did you come into this country?

A. 19—August of—August 25, 1960, I think.

Q. 1960. Where did you come into the country, at New York or somewhere else?

A. New York.

Q. You owned a luncheonette in New York in the 1960's; is that correct?

A. 19—I no exactly sure if it's 1960 or '61.

Q. Sometime in the sixties you owned a luncheonette?

A. Yes, yes.

* * * *

Q. Yes. We are not going chronological. You have driven a taxicab in New York; is that right?

A. Yeah. I owned a taxicab.

Q. You owned it. It was a medallion cab?

A. Yes, sir.

Q. You also owned a pizzeria in New York?

A. Yes, sir.

Q. What was the name of the pizzeria in New York?

A. Sal and Dominic.

Q. What's your present address? It's in Delran; is that correct?

A. Now?

Q. Yes.

A. 203 Dorcas Court, Mount Laurel.

Q. In Mount Laurel?

A. Yes, sir.

Q. When did you purchase that house in Mount Laurel?

A. Months after I buy the pizzeria over here. I don't know exact the months.

Q. When you say the pizzeria over here, are you referring to the Penn Pizza Palace in Pennsauken?

A. Yes, sir.

The Pennsauken Pizzeria

Despite the size of his various transactions, Adamita had difficulty remembering vital details. He purchased the Pennsauken pizzeria for \$120,000—\$20,000 down and a \$100,000 mortgage—“about” three years ago, perhaps 1975 or even 1976. He didn’t remember precisely when he bought his \$53-54,000 house, except that it was “months after I buy pizzeria over here.” He also wasn’t sure whether he put \$25,000, \$27,000 or \$30,000 down on the house.

The Pennsauken Pizza Palace was to figure in Adamita’s later scattered recollections of the Casanova transaction. Here’s how he remembered his “partnership” in the pizzeria deal:

Q. Who was your partner, Leonard Soccolich, spelled S-o-c-c-o-l-i-c-h?

A. I think so.

Q. Did you each put up \$10,000 into the Pennsauken Pizza Parlor?

A. Excuse me?

Q. Did you each put up \$10,000 to purchase the Pennsauken Pizzeria?

A. Yes, sir.

Q. Did Lenny loan you any of that money or is that yours?

A. It’s all mine.

Q. It was all yours. Now, you purchased your house after you bought the pizza parlor; is that correct?

A. Yes, sir.

As a prelude to Adamita’s testimony on his subsequent \$350,000 Casanova deal, Counsel Siavage sought to clarify the status of the witness’ personal assets at the time he bought the house and the Penn Pizza Palace:

Q. Where did you get that money, the ten-thousand for the pizza parlor and the twenty-seven for the house, that \$37,000?

A. I sell the taxicab for thirty-five-thousand dollar. I sell the house in Queens for eighty-five—I think eighty-five.

Q. You didn't sell the house. You hadn't sold the house in Queens yet, had you, when you bought the pizza parlor and your house down here in Mount Laurel?

A. Well, sold that, too.

Q. You sold that later on?

A. Yeah.

Q. All you sold at this point in time was the taxicab; is that right?

A. Excuse me?

Q. All you sold at that point in time and bought your home is the taxicab?

A. Right.

Q. The taxicab you sold for thirty-five-thousand?

A. Yes, sir.

Q. Did you owe the bank any money when you sold the taxicab?

A. No, sir.

Q. So you got thirty-five-thousand in cash for the taxicab?

A. Yes, sir.

Q. I would assume that you had a little more cash that made up the twenty-seven-thousand for the house and ten for the pizza parlor, correct?

A. That's correct.

The Gambinos Enter the Picture

Adamita conceded that it took only a week or two between the time he first saw Tumolo and when he signed the agreement to buy the Casanova Disco—and that Sal Gambino was an advisor.

Q. What is Salvatore Gambino's real name, is it Rosario Gambino?

A. I call him Sal. I don't know. It be Sal or Salvino.

Q. Sal wasn't with you when you talked with Mr. Tumolo the first time?

A. No, sir.

Q. Was Sal present in any of the negotiations with Mr. Tumolo about selling the bar?

A. No.

Q. *No?*

A. No.

Q. *You're sure of that answer?*

A. Positive. I ask an opinion, probably come down the second time, but no.

Q. *He probably came down the second time?*

A. Probably. Just look around the place.

Q. *Just to look it over?*

A. That's right. He help me, you know. He's my friend.

Q. *He wanted to look it over and help you out and give you some advice?*

A. That's right.

Q. *How did you meet Sal Gambino the first time?*

A. Italy.

Q. *You knew him since you were boys?*

A. We grew up in the same town.

Q. *He was born in Palermo, too?*

A. Yes, sir.

Q. *When was the first time you saw him in New Jersey, in South Jersey, down by Mount Laurel and Delran, do you recall?*

A. South Jersey?

Q. *In South Jersey, yes.*

A. When his brother open the club.

Q. *Opened the club. Valentino's Restaurant in Cherry Hill?*

A. Yes, sir.

Q. *Did you go over there when he opened the restaurant?*

A. I go dance, I go drink.

Q. *Sal may have come down to see the bar before you signed the agreement and acted as your advisor, correct?*

A. I don't remember when exactly come. I know I ask a lot of advice because, you know, his brother got a more—more opinion from him. He was already owner.

Q. You mean Joe Gambino, his brother, had an opinion, too?

A. No.

Q. All right. Did you ever discuss with Joe Gambino anything about Casanova?

A. Just when I needed help.

Q. Just when you needed help. Did Sal Gambino have any interest in the Penn Pizza Parlor?

A. No, sir.

Q. How much money did you need to purchase Casanova?

A. This—I know I got to pay a lot of money out.

The Financing Maze

Adamita testified that he gave Tumolo a cashier's check from the Heritage Bank in the amount of \$10,000 and that when closing time neared for the Casanova deal he needed another \$65,000. He said he took "all the money I got" to put \$40,000 toward the closing requirement, in the form of another cashier's check out of his Heritage bank account.

Then the financing maze became more confusing, in part because of loans he had difficulty clarifying:

Q. Shortly before you bought or purchased the forty-thousand-dollar cashier's check you made a deposit into your account of seventy-nine-hundred dollars in cash on March 18th, 1977. Do you know where that seventy-nine-hundred dollars in cash came from?

A. Seventy-nine-thousand-dollars—

Q. Seventy-nine-hundred.

A. Seventy-nine-hundred entry?

Q. \$7,900 in the bank, cash.

A. In the bank?

Q. You deposited that on March 17th, 1977 so you would have enough money to get by the forty-thousand-dollar check. Where did you get that seventy-nine-hundred?

A. Oh, I must have somebody lend me or somebody give it to me, something like this.

Q. *Somebody gave it to you or lent it to you?*

A. Or lend me, that's right.

Q. *Do you know who gave it or lent it?*

A. A lot of people give me money.

Q. *Give us all the names of people who give you seventy-nine-hundred dollars in cash.*

A. Well, I can tell you exactly the person. Lenny lend me.

Q. *Lenny Soccolich?*

A. Lend me fifty.

Q. *Fifty?*

A. Five-o.

Q. *\$50,000 Lenny loaned you. Okay. Who else?*

A. Vince loaned me ten-thousand.

Q. *Who else?*

A. Vince Carollo.

Q. *C-a-r-o-l-l-o?*

A. I guess so, yeah.

Q. *Who else, anybody else?*

A. Nobody else.

Q. *So it's only two people that gave you money and lent you money?*

A. (The witness nods his head.) That's correct.

Q. *That's not a lot of people. It's just two people.*

A. Well, I say a lot is —

Q. *Who gave you the seventy-nine-hundred dollars in cash? Was it Vince or Lenny?*

A. I don't know.

Q. *You don't know?*

A. I no remember exactly.

The Pennsauken Pizzeria Again

Counsel Siavage next turned to Adamita's connection with Vincent Carollo, who turned out to be a buyer of the witness' Penn Pizza Palace. Put into the record as an exhibit was a cashier's check for \$9,999.77 from the Dime Savings Bank in New York

payable to the order of Carollo and endorsed by Adamita. The witness conceded the check was used in the purchase of the Casanova Disco:

Q. Is that the \$10,000 that you're talking about that Vince gave you?

A. Oh, this ten or the ten-thousand because we got the business with the pizzeria.

Q. How long had you known Vince at that time?

A. I know Vince a couple of years, but we never ever know. Just friends. When he bought the pizzeria. I don't know. He's—

Q. What pizzeria did he buy?

A. Penn Pizza Palace.

Q. He bought your pizza palace in Pennsauken?

A. Yes, in Pennsauken.

Q. And was that before he gave you the ten-thousand dollar loan?

A. After.

Q. How long before you closed on the pizza parlor did you come to know Vince?

A. He come over, tried the place two weeks or three week, or whatever it is.

Q. He tried the place. What do you mean he tried the place?

A. He see the price I told him and for the pizza I make.

Q. You sold the Penn Pizza Parlor on April 9th, 1977; is that correct?

A. That's correct.

Q. And Vince came over two or three weeks before that to try the place?

A. Yes, sir.

Q. That's when you got to know him well?

A. Yes, sir.

Q. You didn't know him well before that?

A. Just I know. It was not very close, you know, because he live in Brooklyn. I live over here.

Q. How much did you eventually sell the Penn Pizza Palace for?

A. One-twenty-five.

Q. A hundred-twenty-five-thousand?

A. Yes, sir.

Q. And how much of that was going to be in cash?

A. Twenty.

Q. Twenty-thousand?

A. Twenty-thousand cash.

Q. Then if you sold it for twenty-thousand in cash and this was the down payment, after he gave you this check he owed you \$20,000 — \$10,000?

A. Ten-thousand.

Q. On, excuse me, on the pizza palace; is that correct?

A. Yes.

Q. Okay. When did he give you the balance, the remaining ten-thousand?

A. After the lawyer closed the deal.

Q. In what form did he give it to you; check or cash?

A. Must have been check. Got to be check or cash. I no remember exactly.

Q. Okay.

A. Lots of thing on my mind.

Q. Okay. Did you sell him any inventory in the business at the time?

A. Yes, sir.

Q. How much did you sell to Vince in inventory?

A. Around ten-thousand.

Q. About \$9,000?

A. Around that, nine-five, something like this.

Q. And twenty-nine-thousand is the whole amount of cash or check that Vince gave you to buy the Penn Pizza Parlor, right?

A. Yes, sir.

Q. Mr. Adamita, I'm showing you what's been marked Exhibit C-16, for the purposes of identification, which purports to be a cashier's check from the Hamburg Savings Bank, payable to the order of Vincenza Davi, D-a-v-i, in the amount of twenty-three-hundred dollars, which was endorsed by Julia Adamita. I ask you whether you have ever seen Exhibit C-16?

A. Yes.

Q. Okay. When did you see that?

A. When he give it to me.

Q. Who gave it to you?

A. Vince.

Q. Vince Carollo gave you this check?

A. Yes, sir.

Q. Or Vincenza Davi? Which one of them gave you that check?

A. I don't know, do business with Vince Davi. I do business with Vince Carollo.

Q. So Carollo gave you this check that was payable to Davi; is that right?

A. Wait a minute.

Q. The check is made payable to Vincenza Davi, but it goes into your account and you say Carollo gave that check because he had it in his possession even though—

A. He pay the man who buy my business.

Q. He paid the man who bought your business?

A. The man that buy my business, he gave me, correct.

Q. That's Carollo?

A. I don't know. Was this from Brooklyn or New York, Washington? I don't know.

Q. You don't know where the check—

A. I don't know where it is.

Q. Carollo—

A. Vince gave me the check. That's correct.

Q. Okay. Carollo gave it to you. I ask you if you recognize C-18, for the purposes of identification, which purports to be a twenty-five-hundred dollar check payable to Vincenza Davi, from the Hamburg Savings Bank, and endorsed by Julia Adamita again. Have you ever seen that?

A. My wife bring the bond.

Q. Is this the same kind of check as the first one we described, Vince Carollo gave you those when he purchased the pizza parlor?

A. I don't know, sir. I know Vincent gave me twenty, ten-thousand, ten-thousand for the stock, everything, gas, electrical, telephone and ten-thousand lend me.

Q. And he loaned you ten-thousand?

A. That's right. Lent me ten-thousand.

Q. When did he lend you the ten-thousand?

A. I needed ten-thousand. I asked him to lend ten-thousand for the business. He like the site.

Q. How much did Carollo give you altogether between the purchase of the pizza parlor and the loan?

A. The business is twenty-thousand, \$10,000 be gas, electrical, telephone and stock, and ten-thousand he lend me.

Q. And ten-thousand he lent you?

A. He lend me.

Q. Now, the check marked C-12 that you previously identified as the deposit on the Penn Pizza Parlor, was that for you or was that the deposit on the pizza parlor?

A. I don't know what you want to give me. Got to be ten-thousand when he wants to buy the business.

Q. Was this the loan or was it a deposit?

A. I don't know, sir.

No Written Record on Loans

Chairman Rodriguez and Commissioner Pollock sought an explanation for financial exchanges—loans or otherwise—of which the witness kept no written records.

THE CHAIRMAN: Mr. Adamita, when he loaned you the \$10,000, did you write a piece of paper that proved that he gave you the \$10,000?

THE WITNESS: No, sir.

THE CHAIRMAN: Do you have a written document that indicates he loaned you the money?

THE WITNESS: No, sir. If I ask you for a thousand dollars, you lend me, I'm sure I give you back.

THE CHAIRMAN: So it was just a word transaction?

THE WITNESS: Words.

THE CHAIRMAN: No paper indicating——

THE WITNESS: No paper at all.

THE CHAIRMAN: And you don't know when he loaned it to you in time?

THE WITNESS: Who's going to remember. I got lots of things on my mind.

THE CHAIRMAN: Have you paid any of it back?

THE WITNESS: So far, no.

THE CHAIRMAN: Do you have a record you want to keep when you start paying him back?

THE WITNESS: Soon. Soon I start to make money I got to pay back.

EXAMINATION BY COMMISSIONER POLLOCK:

Q. Mr. Carollo had bought your Penn Pizza Palace for a hundred-twenty-five-thousand dollars, right?

A. Yes.

Q. Okay. And in that transaction he had given you in cash approximately \$20,000?

A. Cash.

Q. In cash or checks?

A. If he had cash or he can't give me check, check. What he showed me——

Q. So that after that was over, he still owed you about a hundred-and five-thousand dollars, right?

A. I don't know exactly how much. I know he paid me \$800 a months.

Q. *So he owes you money and you go to him and you borrow \$10,000 from him?*

A. That's right.

Q. *And there's no piece of paper showing this?*

A. From the \$10,000? No.

Q. *Let me go back if I may on this, to this seventy-nine-hundred dollars. Do you remember when Mr. Siavage was asking you about that, you said you got seventy-nine-hundred dollars from somebody, but you couldn't recall who, just a few moments ago?*

A. Sir, Lenny give me a check, Vince give me a check. What I supposed to know? I don't know exactly. You give, who give me the money, from Vince or Lenny.

Q. *Now, Mr. Siavage, just a few moments ago, asked you some questions and you agreed, if I understand your testimony correctly, that you got \$10,000 from Vince, right? Do you remember saying that?*

A. Ten-thousand went in interest for business.

Q. *And you borrowed ten from Vince later?*

A. I borrowed ten, Vince, later.

Q. *Do you remember that?*

A. Yeah.

Q. *Fifty, five-o, from Lenny. You remember that?*

A. Yeah.

Q. *But you can't remember where you got, you can't remember where you got the seventy-nine-hundred dollars from?*

A. If you show me the name, why not show the name?

Q. *Did you receive it in cash or in a check?*

A. I don't remember, sir. Show me the check. If it was a check, I told you where it from.

COMMISSIONER POLLOCK: Mr. Siavage, would you show the witness Exhibit C-13 and ask him if that refreshes his recollection.

MR. STAVAGE: Exhibit C-13, for the record, is a copy of a deposit ticket on the account of Dominic and Julia Adamita, March 18th, 1977, in the amount of seventy-nine-hundred dollars currency.

THE WITNESS: Who makes this check?

Q. It says cash on it. Take a look at it, Mr. Adamita.

A. Yeah.

Q. See where it says cash deposit?

A. You got to tell me the person and then I can answer you. I don't know.

Q. Who made the deposit?

A. My wife.

Q. Where did she get the money?

A. Tell me the name. If you tell me the name, that's be—

Q. I wasn't there. I'm asking you where did your wife get the money?

A. I give it to my wife.

Q. All right. Now, where did you get the money?

A. Tell me the name and then—

Q. You tell me the name.

A. I no remember. I don't know.

Q. Do you recall whether or not you received that seventy-nine-hundred dollars in cash or check?

A. My wife bring to the bank. I'm sure somebody give it. You tell me the name then I will tell you the truth.

Q. Do you recall whether or not that seventy-nine-hundred dollars that you gave to your wife—

A. Somebody give it to me. Got to be from Vince or from Lenny.

Q. Or—

A. Lenny.

Q. Anyone else?

A. Not that I know, no.

Q. *But you can't recall? You cannot recall?*

A. No, sir.

Q. *And you cannot recall whether the seventy-nine-hundred dollars was in cash or in a check?*

A. Sir, I no remember.

He Was a "Trusting Man"

Chairman Rodriguez made yet another attempt to solve the riddle of the unrecorded loans.

EXAMINATION BY THE CHAIRMAN:

Q. *Mr. Adamita, in order to clarify some of the confusions we had, please listen carefully to what I'm going to say.*

You are now the owner of an establishment in Atlantic City worth some \$350,000; is that correct?

A. Yes, sir.

Q. *In order to get to that position, you engaged in a sale with a pizza parlor in Pennsauken, Penn Pizza?*

A. Yes, sir.

Q. *Now, in the process of the sale of Penn Pizza you had to borrow money, or you borrowed money, or people loaned you money to make up what you needed to get into the Casanova deal; is that right?*

A. Vince \$10,000 and Lenny fifty.

Q. *And that was the only money you borrowed?*

A. That's correct.

Q. *Do you have any written evidence of those loans any place?*

A. Nobody ask about the money.

Q. *Does your lawyer have any written evidence of those loans any place?*

A. My lawyer?

Q. *Your lawyer.*

A. George Crisafulli?

Q. *Well, that law firm, whoever.*

A. No, sir.

Q. All right. So that if anything were to happen to you, there would be no written evidence that these people have in their hands that proved that they loaned you money?

A. Vince and Lenny?

Q. They have a piece of paper?

A. Vince and Lenny lend me the money. That's it.

Q. Do they have a piece of paper to prove that they loaned you the money?

A. Vince no have no paper because Vince, when he wants the money back, he owed me money from the mortgage from my pizzeria. Do you understand?

Q. But he still loaned you the money?

A. Lend me ten-thousand. He's supposed to give me, I don't know what it is, eighty, ninety, seventy. I don't know what it is.

Q. I don't want to confuse—

A. You're already confusing.

Q. I'm only asking you a simple question. Is there anything in their possession that these people, either Lenny or Vince, that prove that they loaned you money?

A. No paper at all.

Q. All right. Thank you.

A. I'm a trusting man. I'm a businessman. 1960 I come over here. I work all day and night. I hope this country appreciates it.

Q. Thank you, Mr. Adamita.

A. You're welcome.

That \$50,000 From Soccolich

More copies of cashier's checks for varying amounts were put into the hearing record as Counsel Siavage pressed Adamita for additional details on the numerous transactions that took place preliminary to his purchase of the Casanova. One of the exhibits indicated that Lenny Soccolich had borrowed \$15,000 from relatives to help Adamita, but Adamita was vague in this matter too, just as he was about other items in the deal.

Q. Now, you were loaned altogether from Lenny \$50,000?

A. Yes.

Q. Did that exclude the fifteen-thousand dollar check from his relatives?

A. Include, everything is fifty.

Q. Everything is fifty?

A. Yes, sir.

Q. Do you know whether he ever paid back his relatives? Do you know whether Lenny ever paid them back fifteen?

A. So far as I don't give a penny. When he start to give it to him, he pay back.

Q. So he gave you fifteen in checks and thirty-five in cash, Lenny, to make up the fifty?

A. He give me fifty. Don't ask him how much the the check is. We make the—who make the check, my answer, I don't know.

Q. You don't know where it came from; you just deposit it?

A. I don't know. I don't know.

Q. Do you know how much of the fifty was in cash? How much of it was in cash?

A. \$50,000. I don't know how much is in check. I don't know how much is in cash.

Q. All you know is that it was fifty?

A. Can I drink-a-water, sir?

Q. Sure can.

A. Thank you, sir. I never talk so much in my life.

Q. Any time you want some water, Mr. Adamita, you just ask.

A. Right.

Q. Okay. The fifty that Lenny gave you, did you ask him where he got that money?

A. The fifty Lenny give me?

Q. Yes. Did you ask him where he got it?

A. Sir, I know his mother lend, his brother lend, his cousin lend. I don't know where the—who lend it to him. I don't know. I know he just gave me fifty.

Q. *When was the first time Lenny started to give you money to make up that fifty? When is the first time you borrowed any money?*

A. Since I have intention of buy the—buy Atlantic City.

Q. *As soon as you got the intention—*

A. To buy the club.

Q. *Do you know how much money he gave the first time you borrowed any money from him?*

A. No, sir.

Q. *Do you know, do you remember whether it was cash or check?*

A. Sir, \$50,000, I don't know how much he give me.

Q. *Do you remember whether the first time you borrowed any money from him it was cash or check?*

A. Fifty-thousand dollar, I don't know how much it is.

Q. *Mr. Adamita, I'm going to ask the Chairman to instruct you to listen to the questions. They are not the same questions. We know that he gave you \$50,000.*

A. Oh.

Q. *Okay?*

A. If I'm no sure—

Q. *I'm going to ask you a little bit different questions—*

A. Yes.

Q. *—each time. \$50,000 is not responsive to every question I ask you, so just listen to the question, okay?*

I know it's \$50,000 and that it's Lenny and Vince. Lenny and Vince and fifty from Lenny. I know those things, but let me ask you some different questions, okay?

A. Yes.

Q. *All right. Now, the first one of those questions, when was the first time that Lenny gave you some money to make up that \$50,000?*

A. When, right, I got on my mind to buy the club in Atlantic City. Then I ask Lenny if he could help me.

Q. *And that was in February, 1977?*

A. You got the paper or something?

Q. *When did you, with the money that Lenny gave you, put it into your bank account?*

A. The check must have been put in the bank, the cash, I don't remember exactly. I know I use—

Q. *What did you use the fifty that he gave you, the fifty for?*

A. Build up the place.

Casanova Deal Charted

In still another attempt to clarify Adamita's financing of the Casanova Disco purchase, Commission counsel utilized a chart* which was introduced into the record as an illustration of the peculiar complexities of the transaction.

Q. *Mr. Adamita, your testimony that you have given this morning has been summarized on the chart that's now going up, and I'm just going to run through that transaction with you again on that chart, okay?*

A. Right.

Q. *When you signed the agreement to purchase the Casanova Ristorante it was a three-hundred-fifty-thousand-dollar purchase price, right?*

A. Yes.

Q. *Two-hundred-seventy-five-thousand-dollar mortgage. You had to pay Tumolo five thousand a month, correct?*

A. Yes, sir.

Q. *You needed seventy-five-thousand to close, right?*

A. Right.

Q. *Okay. And that purchase was on 3/29?*

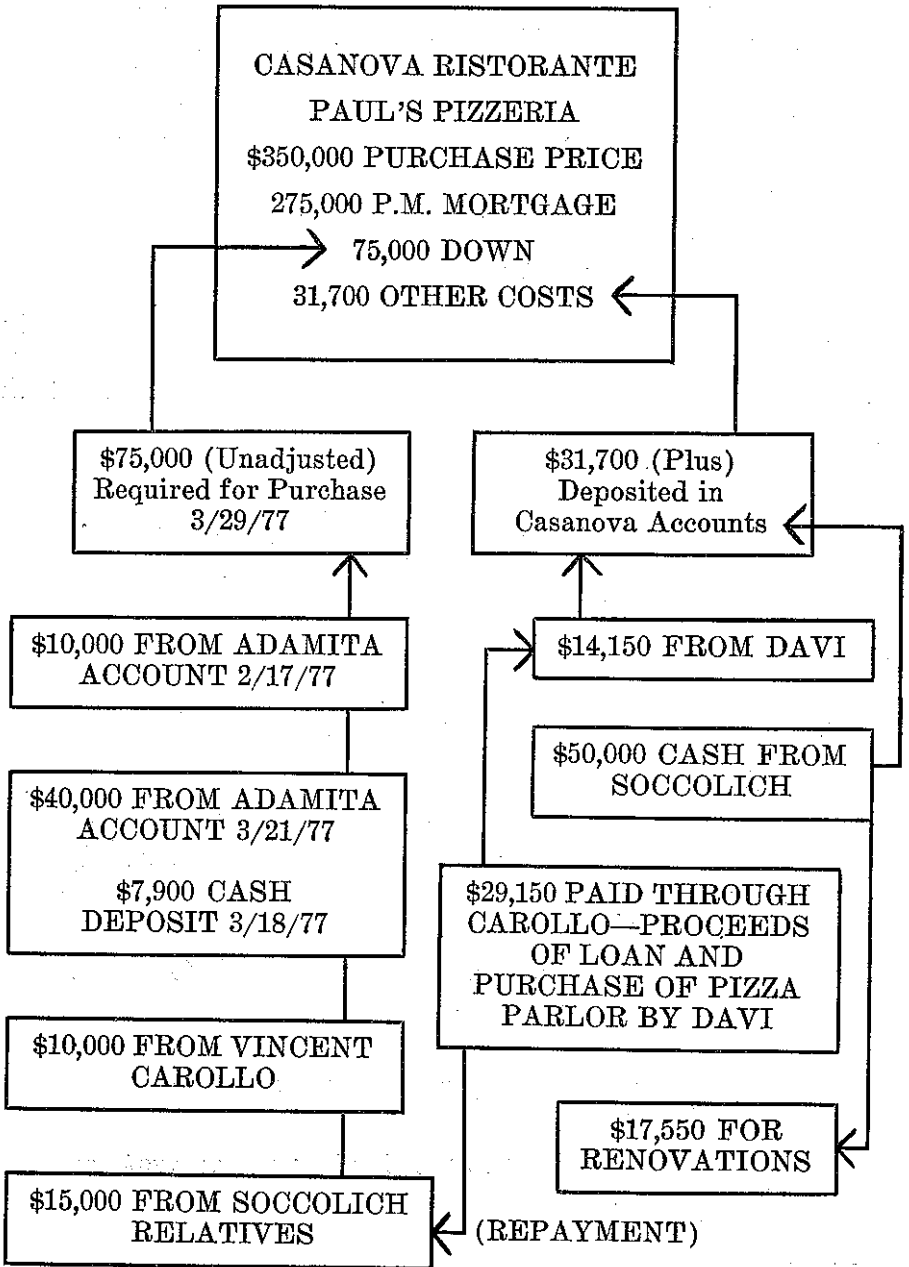
A. Right.

Q. *You took \$10,000 out of your account on February 17th.*

A. Right.

* See "Casanova Ristorante" Chart, P. 156.

EXHIBIT C-31



Q. Put that towards the closing, and then you took out a check for \$40,000 and put that towards the closing on March 21st, 1977; is that correct? We have already put that check into evidence, the forty-thousand-dollar check. Would you like to see it again?

A. Show me the check.

Q. Show you the check. Okay.

(Document handed to the witness.)

Q. Part of the source of that check was the seventy-nine-hundred dollars in cash that you deposited on March 18th, 1977, that you're not sure where that came from?

A. No, sir.

Q. Okay. And you got \$10,000 from Vince Carollo?

A. Yes, sir.

Q. Which went towards the purchase, right?

A. Yes.

Q. And that was a loan or a deposit on the Penn Pizza Parlor?

A. Right.

Q. One or the other?

A. Right.

Q. Okay. And \$15,000 from Lenny's relatives went towards this, correct?

A. Yes, sir.

Q. Okay. Altogether from Lenny you got a fifty-thousand-dollar loan?

A. Yes, sir.

Q. Correct? And you used a portion of that for renovations and deposited the rest in the accounts of Casanova, correct?

A. Yes, sir.

Q. Now, \$29,150 you got from Carollo, those three checks from Davi, you got that money, too, right?

A. Forty-thousand.

Q. Forty-thousand. That forty-thousand is made up of this ten-thousand-dollar check?

A. This \$10,000.

Q. *And these three checks that make up the twenty-nine-one-fifty, right?*

A. Right, sir.

Q. *And you took those checks and put them in your account, Casanova, or a portion of them into your account, right?*

A. Yes, sir.

Q. *And then you paid back Lenny the fifteen-thousand which he gave to his relatives. You may not know that. Okay. I'll withdraw that last question.*

You paid back Lenny after you sold the Penn Pizza Parlor. However, didn't you give Lenny half of that money?

A. No. Lenny got half of the twenty-thousand dollar.

Q. *Plus half the stock, which is forty-five hundred?*

A. That's correct.

Q. *Okay. Now, on any of these loans, that is the forty-thousand, the fifty-thousand from Soccolich or the fifteen-thousand from the Soccolich relatives or the twenty — or the ten-thousand from Vincent Carollo or seventy-nine-hundred dollars in cash which totals \$82,900, does anybody have any evidence that any money transacted at all, a note or anything?*

A. No, sir.

Q. *Now, is there any notes or any evidence that anybody owes anybody any money with regard to that \$82,900?*

A. Anybody owe me money?

Q. *Yes. Is it written down anywhere?*

THE CHAIRMAN: Did anybody write it down? Does anybody have a piece of paper that shows who owes who money?

THE WITNESS: Nobody.

Enter the Gambinos

Domenico Adamita admitted he knew the Gambinos and that he asked their advice—but again it was difficult to get the witness to discuss these friends with any precision.

Q. *Do you know Sal Gambino, Mr. Adamita?*

A. Sal Gambino? Yeah. Yes, sir.

Q. *Do you know Mr. Rosario Gambino?*

A. Salvino.

Q. *Salvino?*

A. That's what I call him in Italy. Over here he change the name.

Q. *You said that you already knew him. How about Guiseppe Gambino? Do you know Joe?*

A. Joe Gambino?

Q. *Do you know him?*

A. Yes.

Q. *How do you know him, Guiseppe Gambino?*

A. We grew up together in Palermo.

Q. *Did you ever discuss any of the business of Casanova Disco with the Gambinos after you bought the bar?*

A. Well, I take—you know, I ask them what I can do, just advice.

Q. *Did they ever sit in on any of your sessions with any of the businessmen that were doing business for Casanova?*

A. I no remember exactly.

Q. *You don't remember?*

A. But I ask what advice.

* * * *

Q. *Do you know Paolo Gambino?*

A. Who?

Q. *Paolo Gambino.*

A. Sure. He died.

Q. *Paolo, yes. You know him?*

A. Sure. I talked to him.

Q. Did your brother know him?

A. Everybody know Paolo Gambino because we come from the same town.

Q. He came from Palermo, too?

A. I guess so.

Q. You don't know Paul Castellano?

A. No, sir.

Q. When was the last time you saw Paolo Gambino?

A. When he died. I go see him when he died.

Q. When did he die?

A. I don't know. Two years or three years-and-a-half. I don't know exactly when it is.

Q. Now, on those occasions when you talked to Sal Gambino or Joe Gambino about advice on how to operate the Casanova Disco, what kinds of things did you talk about?

A. Oh, I talk about the way the business go; what I supposed to build them up better; why people come; why people no come. That's what I ask. That's it.

Q. How many times have you had occasion to talk to them?

A. Who?

Q. To Sal Gambino or Joe Gambino?

A. When I see them, I talk all the time.

Q. How many times do you see them in the course of an average week?

A. Sometime I see one, two time a week; sometime I no see.

Q. On those times when you see them one or two times a week, where is it that you see them?

A. Sometime I go on the beach, they come see me. Sometime I go to Valentino.

Q. In Cherry Hill?

A. Cherry Hill.

He Made What Decisions?

Adamita, as he testified, may have made the decisions involving the Casanova and its operations but there was little he could say of a substantive nature about what required decisions. He was evasive in his responses to such business details as vending machines and insurance coverage:

Q. *Where did you obtain your vending machines for Casanova? Who put the vending machine in?*

A. A woman come, say "Can I put a cigarette machine in there?" I says, "Why not."

Q. *Did you ever talk to Mr. Bruno about putting vending machines in there?*

A. No.

Q. *Did Gambino ever talk to Mr. Bruno about it?*

A. From what I know, no.

Q. *From what you know, you don't know whether he ever talked about it?*

A. No.

Q. *Did you ever give them the power to represent you for the vending machines? In other words, to find the vending machine for your bar in Atlantic City?*

A. No, sir.

Q. *So you don't know whether they are the ones that told Mr. Bruno they could put a vending machine in your bar in Atlantic City?*

A. No, sir.

Q. *Do you know where you obtained the insurance for Casanova?*

A. (The witness nods his head.)

Q. *What's the name of the place?*

A. I know the agent. I know I pay \$520 a month.

Q. *A Mr. Puppo, is he the agent?*

A. Puppo, no.

Q. *P-u-p-p-o?*

A. No, sir.

Q. *What's their name?*

A. Frank. Frank. Frank. I don't know the name.

Q. *You don't know?*

A. Just I know the name is Frank.

Q. *Do you know the name of the firm?*

A. (The witness shakes his head.)

Q. *Where is it located, in Philadelphia?*

A. What I know, I pay \$520 a month.

Q. *Somebody solicited your insurance business. Somebody asked you if you wanted them to become your insurance agents?*

A. No. As a matter of fact, the way I had it before, I be cancelled, so now I think I got insurance with — I don't know, with — for the — the first insurance I have been cancelled.

Q. *It's been cancelled?*

A. Now, I got through somebody. Now I pay \$520.

Q. *Who told you to go to somebody else?*

A. Because it be same as what I got.

Q. *Did Sal Gambino tell you to go to somebody else?*

A. No, sir.

* * * *

EXAMINATION BY COMMISSIONER POLLOCK:

Q. *Mr. Adamita, what is the name of the firm that provided the cigarette vending machines that your corporation placed, Casanova Disco?*

A. Can you say that again, sir, please?

Q. *What is the name of the company that provided the cigarette vending machines to the Casanova Disco?*

A. The company name from the cigarette machine?

Q. *Yes.*

A. I don't know, sir.

Q. *You run the Casanova Disco, don't you?*

A. Yes.

Q. *And you're president of the corporation that owns the Casanova?*

A. Yes.

Q. *And you're the sole stockholder, aren't you?*

A. Yes.

Q. *And you don't know the name of the entity that provided the cigarette vending machine?*

A. Well, when somebody come, he asked me if he wants to put two cigarette machine. I say, "Yes."

Q. *You don't know?*

A. No sign a contract; no sign nothing. Just people come over there.

* * * *

Q. *Did you ever discuss with Sal Gambino or Joe Gambino where you should buy the insurance for the Casanova Disco?*

A. Probably I ask this.

Q. *What did they say in reply?*

A. I don't remember what I said because I told you before I have a lot of trouble with insurance. One I had before be cancelled, so, now I — probably I ask him about insurance, yeah, sure.

Q. *Did you discuss with Sal or Joe Gambino from who to buy the liquor for the Casanova Disco?*

A. I don't remember all company that come over there. I got 200 company.

Enter Lenny Soccolich*

Leonardo Soccolich was a man of mystery as well as a prime mover in the financial maneuvers that led to Domenico Adamita's ownership of the Casanova Disco. Although he was a former pizza parlor partner of Adamita's, "loaned" him a huge sum of money and got his relatives to do the same, Soccolich wound up as an employe of Adamita's at the Casanova.

Q. *How much do you make a week?*

A. Five hundred.

Q. *Five hundred a week. How much is a net pay?*

A. Five hundred.

Q. *Are any deductions made from your pay?*

A. He pay the taxes from it.

* See Ralph Salerno testimony, P. 257.

Q. *Cash?*

A. Yeah.

Q. *Check?*

A. Cash or check, whatever.

Q. *Sometimes cash; sometimes check?*

A. Yes.

Q. *Do you know what your annual salary is?*

A. Only working there for two months. How am I supposed to know?

Q. *You don't know how much you're making a year?*

A. No.

Q. *Did you discuss with Mr. Adamita how much you were going to make a year?*

A. You figure five hundred a week. How much is it going to come out?

Q. *You used to be a partner with Mr. Adamita in a pizza parlor, didn't you?*

A. That's right.

Q. *Where was that pizza parlor located?*

A. Route 130 and Cove Road in Pennsauken.

Q. *And did you decide with Mr. Adamita to sell the pizza parlor shortly before purchasing the bar?*

A. Well, I was in — I wouldn't say I called, decided. I mean, he wants to go somewhere else or I couldn't enter by myself.

Q. *You couldn't handle the pizza parlor by yourself?*

A. No.

Q. *Are you suggesting that you didn't want to go to Atlantic City as his partner?*

A. I don't believe in Atlantic City.

Q. *You don't believe in it and you didn't want to go there, I guess, either?*

A. No.

Q. So did he offer you to become his partner in the bar, by the way? Did he offer or did he say, "Lenny, we'll sell the pizza parlor. We'll continue to be partners and buy the bar"?

A. You know, you always get to talk about it.

Q. Right. Did you, do you remember, have any discussion like that with him?

A. Could have been on and off.

Q. And you refused him because you don't believe in Atlantic City?

A. I don't believe in it.

Q. You don't believe in it. Okay. Now, you did loan Mr. Adamita \$50,000?

A. That's right.

Q. And, now, you work for him in Atlantic City?

A. That's right.

Q. So instead of becoming his partner because you don't believe in Atlantic City, you loaned him \$50,000 and became his employee?

A. That's correct.

The "Hole in the Ground"

That was apparently a coverall synonym for a secret cache of cash from which Soccolich withdrew the money he gave or loaned to Adamita. Before the witness revealed the details of his hideaway, he told how he got \$9,000 from his mother, \$4,000 from his uncle, \$2,000 from his mother-in-law.

But he couldn't remember whether the rest of the money he gave Adamita was by cash or by check because of the transactions "going back and forth." Counsel Siavage reminded Soccolich of his private testimony:

Q. When you testified before the Commission in executive session, you said that it was cash and you obtained it from a hole in the ground. Do you remember that?

A. Excuse me?

Q. When you testified in executive session before the Commission, you testified that the rest of the

\$50,000 was cash and that you had obtained it from a hole in the ground. Do you recall that testimony?

A. That was forty-thousand of it.

Q. Forty-thousand of it you got from a hole in the ground?

A. No, it wasn't. It was just called a hole in the ground. I explained to you where it was.

Q. Where was the hole?

A. It was hidden in the basement.

Q. It was in your basement?

A. That's right.

Q. And what was in the hole; was there money in there?

A. Yeah.

Q. Was it in a bag?

A. Yeah. In a—I don't know, foot by two, two by—I don't know. Something like that. A bag.

Q. What kind of bag was it? Was it a paper bag or canvas bag?

A. No. Was like—yeah, it was like a hard cloth.

Q. Hard cloth, like a bank bag?

A. Well, not really. Something. I don't know. You know, I can't describe exactly the way.

Q. And what kind of currency was in there? Was it cash, first of all?

A. Yes, it was all cash.

Q. What kind of denominations of bills were they?

A. Basically was all hundred dollar bills and maybe there were fifties.

Q. All hundred dollar bills?

A. Basically, yeah.

Q. And some fifties?

A. Yeah, You know, I was taking and putting in there so I don't recall exactly.

Q. How much did you first put in the bag? Was it in the beams in the wall?

A. Yeah.

COMMISSIONER LANE: *Was it in the basement or where?*

A. Forty-thousand.

Q. *About \$40,000?*

A. Yeah.

Q. *The beams that we're speaking of in the wall, was that in the basement of your house?*

A. Yes. Yeah.

Q. *Is the bag still there today?*

A. No.

Q. *So when you came from New York you had about \$40,000 in the bag?*

A. In the bag, but I had more than that when I came from New York.

Q. *Did your family or your wife know there was a bag in the beams with \$40,000 in it?*

A. No.

Q. *If you had died would anybody have known that the \$40,000 was in the beams?*

A. No.

Q. *Your wife wouldn't have known and your children wouldn't have known?*

A. No, sir.

EXAMINATION BY COMMISSIONER POLLOCK:

Q. *Mr. Soccolich, your present salary is now \$500 a week, right?*

A. That's right.

Q. *Have you ever made that much money before?*

A. No, but close to it.

* * * *

Q. *All right. The \$40,000 that you put in your beams down in your cellar had, before you moved to New Jersey, been kept in a bank in New York; is that right?*

A. Basically that's the way it was, yeah.

Q. *Then when you came to New Jersey you withdrew that money from the bank in New York, right?*

A. Yeah.

Q. *And you kept it in your cellar here in New Jersey?*

A. Yeah.

Q. *Is there some reason you did not put it in a bank in New Jersey?*

A. Well, actually, I never kept money in banks or anything like that. I just never did. First thing, I didn't have too much and I never kept it, so—

Q. *You realize banks would pay interest on money, don't you?*

A. Yeah.

Q. *You don't want to receive interest?*

A. No. Why?

Q. *You were keeping that money in your cellar for a purpose, weren't you?*

A. Well, not really. You know, it wasn't—I don't know. I can't tell, now, what I was—it was just there. I know I had it. That's it.

Q. *You never told your wife or your children about it?*

A. Well, I mean, my wife, she always knew that they got to be somewhere, you know, because she know I didn't spend it. She know what I, you know—

Q. *Did you tell your wife about the \$40,000 in the basement?*

A. She never know where it was, no.

Q. *She never knew that?*

A. No.

Q. *And your children never knew about it?*

A. No.

Q. *And yet when Mr. Adamita asked you for \$50,000, you went down in the basement, took down the bag and gave him the \$40,000?*

A. Well, at the moment I have no choice, actually.

Q. *So you kept that money, you kept that money in the basement from 19—late 1975 until 1977?*

A. I don't recall exactly, but I know I kept it in a New York bank for a while. I don't recall exactly if

—how long I kept it. Could have been a year or whatever. I don't recall exactly.

Q. A few minutes ago in answer to a question that I asked you about lending \$40,000 to Mr. Adamita you said, in your words, quote, you had no choice, close quote.

A. I meant that when we decide to go, you know, down in Atlantic City, I was with no job, no nothing, so I figured, I says, "Why not, \$500 a week is as good as anything."

Q. So in order to obtain a job that pays \$500 a week, you had no choice but to provide Mr. Adamita with \$40,000?

A. Oh, no. What I meant I have no choice, it wasn't that I was oppressed or anything like that, but he offered me a job, so I figure I lend him the money and I have a good job. That's what it was.

Q. Was Mr. Adamita paying interest on that \$50,000?

A. No.

Q. That's just an interest-free loan from you to him?

A. Friend to friend.

COMMISSIONER LANE: Friend to a friend.

Q. Is there any note evidencing that \$50,000 loan?

A. I have a note here in a way, you know, the money that I owed and the money that I, you know—

Q. You have a promissory note from Mr. Adamita?

—A. No, no. No, it's not promissory. It's just a note that I keep, for my records.

Q. Do you have that here with you today?

A. I have it hidden away.

Q. I beg your pardon?

A. It's hidden away.

Q. Is that down in the cellar, too?

A. Yeah—no, no.

Q. Same beam?

A. I'm sorry. It's not in the cellar. It's in a closet in my bedroom.

Q. Would you produce that for the Commission?

A. It's just a piece of paper. Why not?

Q. Very well. Would you bring that to the Commission Offices?

A. Yeah, why not?

EXAMINATION BY THE CHAIRMAN:

Q. Is that piece of paper one that only has your signature on it?

A. No, there's no signature. It's just Dominic owe me fifty-thousand; I owe my brother fifteen and my mother nine. That's all. Just things like that.

Q. So it's just something you wrote. It's not signed by any of these other people?

A. No, no.

Q. Or signed by Adamita?

A. No, no.

Q. Well, then, I don't think it would be necessary to produce that paper.

A. As you wish.

Socolich Admits He Lied

Despite his intense activity in rounding up cash for Adamita from among his various relatives, aside from the \$40,000 he took from his basement cache, Socolich found it difficult to specifically confirm his actions.

For example, he was shown a copy of a \$12,000 cashier's check to Adamita that was signed by him and asked if he actually purchased the check to give to Adamita:

A. Well, if it says so, I probably did.

Q. I'm not saying so. Does the exhibit say so?

A. I'm looking at it. Yeah.

Q. Is that your name?

A. Yeah.

Q. Thank you. You purchased that check. Did you purchase this check?

A. Yeah.

Q. Did you use the money from your relatives to purchase the check?

A. I don't remember.

Shown a copy of a \$3,000 check payable to him, but that apparently went to Adamita, Soccolich commented: "Excuse me? What's this?" He was shown the copy of another check, for \$2,000, and asked if it was from his relatives. He answered: "must have been." Asked if yet another \$2,000 check was from another relative, he said, "I guess so, yeah." And "I guess, yeah" was his reaction to a query about a relative supplying another check for \$3,040.95.

Counsel Siavage then sought a summing up from Soccolich:

Q. You borrowed that money nevertheless from your relatives and put it in your savings account?

A. Sure. I owe it.

Q. Then you purchased a check to Mr. Adamita in the amount of \$12,000.

A. Maybe that's the way it was.

Q. What did you say to your relatives when you borrowed the money?

A. Well, in some of the cases I says that I'm going to be owner.

Q. Some of the cases you said you were going to be the owner?

A. Yeah.

Q. You lied to them?

A. Naturally. You know, people don't give up money easy today, so—

* * * *

Q. Now, all the time when you were looking for those loans to your relatives and telling them you were going to purchase a bar in Atlantic City, the \$40,000 in cash was sitting downstairs in the beams of your cellar; correct?

A. I don't recall if Dominic has asked me before for some of the money. I don't recall.

Q. *You had some money in the bag in the beams when you were asking the relatives for the money, weren't you?*

A. Yeah. I don't know exactly if it was all the forty-thousand or whatever, but——

Q. *Was it more than forty?*

A. I don't think so.

Q. *Well, it was sitting down there in the cellar in the beams when you were asking four different relatives for checks to put into your savings account to get the twelve-thousand to give to Dominic, correct?*

A. Well, in this two or three months of all this transaction.

Q. *Just listen to the question. Was the \$40,000 in the beams when you were asking four different relatives for the checks to total \$12,000 to give to Dominic? That's pretty much you can answer that yes or no.*

A. I don't recall.

Q. *You don't recall whether it was down there?*

A. No.

Q. *Did you testify before that it was down there, the \$40,000? Do you recall that?*

A. Maybe I did.

Sale — But No Sale

The next witness, Vincenza Carollo, testified that he "sold" his pizza parlor in Philadelphia to his uncle, Francesco Davi, for \$40,000 just prior to purchasing the Pennsauken pizza parlor from Domenico Adamita and Lenny Soccolich for \$125,000. However, even though his uncle paid him \$13,000 down and loaned him \$16,000 in the process of buying the Philadelphia property, nothing had really happened by the time Carollo came to Trenton to testify before the S.C.I.'s public hearing.

Carollo testified that his Uncle gave him three checks totaling \$29,000 and that he gave these checks to "Lenny and Dominic." George Crisafulli was his lawyer in the sale of the pizza parlor.

EXAMINATION BY THE CHAIRMAN:

Q. But your lawyer knows all the agreements that were made for the sale of that pizza shop in Philadelphia and he knows that he's to finish the papers so that you can finish the deal? Does the lawyer know that he's supposed to finish the paper work for the sale of the pizza shop in Philadelphia?

A. Yeah.

Q. —that you want to finish the papers so that you can finish selling the pizza shop in Philadelphia?

A. Yeah, he know.

Q. He knows that?

A. Yeah.

Q. Has he told you when he will have the papers ready?

A. In—we no rush because that's me and my uncle, you know. We can—we don't have to rush it today.

Q. You're not rushing him?

A. Yeah. We trust each other, me and my uncle.

Q. But he knows he's supposed to do that work for you?

A. Yeah, I think so.

Crisafulli, of the law firm of Avena & Hendren, Camden, confirmed that the sale of Carollo's Philadelphia pizza parlor to his Uncle had not yet been consummated even though more than \$29,000 had changed hands. In fact, he said he wasn't under orders to do any closing paper work on the deal.

Although Crisafulli was unable to testify until the third day of the S.C.I.'s public hearing, his testimony is entered here because it relates directly to the Carollo testimony.

EXAMINATION BY COUNSEL SLAVAGE:

Q. Did you ever get any word from Mr. Carollo whether the sale from Carollo to Davi ever took place?

A. No.

Q. Did you do any closing on the sale from Carollo to Davi?

A. No.

Q. Did you prepare any papers on the closing from Carollo to Davi?

A. No.

Q. Do you recall testifying before the Commission that as far as you know the Carollo to Davi closing took place?

A. That's correct.

Q. Do you know, now, whether it ever took place?

A. As far as I know, it still hasn't taken place.

* * * *

EXAMINATION BY THE CHAIRMAN:

Q. Mr. Crisafulli, then as I understand it, as far as you're concerned, as an attorney, in the conversations over the sale of the pizza parlor in Philadelphia, that a closing has never taken place?

A. That's correct.

* * * *

COMMISSIONER POLLOCK: Mr. Siavage, with reference to the exhibit that's on the board, would you explain to the Commission what the relevance of Mr. Crisafulli's testimony is?

MR. SIAVAGE: Yes, sir, Mr. Pollock. With regard to the sale of the Casanova Ristorante, there were three checks, cashier's checks, which are in evidence, Exhibits C-16, 17 and 18, which totaled \$29,150.

Those checks eventually were deposited in accounts of Casanova Ristorante. I'm sorry, in the account of Domenico Adamita, and used for the purchase of the restaurant.

The explanation of the reason that Mr. Adamita had those checks, or that he received them from Carollo when he sold the Penn Pizza Parlor to Mr. Carollo in Pennsauken. They were, however, not made payable to Mr. Carollo. They were made payable to Mr. Davi.

The explanation that Mr. Carollo gave on how he received them is that he sold the pizza parlor

in Philadelphia to his uncle, Mr. Davi, for \$29,150. Thirteen of that was a down payment of that pizza parlor and sixteen, according to Mr. Carollo, was a loan from his uncle to him.

What we have now heard from Mr. Crisafulli, the lawyer who was to handle the transaction, is that closing never took place, according to him.

Gambinos Dominant

The dominant hand of brothers Joe and Sal Gambino in the operations of the Casanova Disco in Atlantic City became more obvious than either Domenico Adamita or Leonardo Soccolich had made it out to be when the next witness testified.

He was Robert DelBono, owner of the Take One Advertising Agency of Maple Shade. He sought first, but unsuccessfully, the advertising account of Valentino's in Cherry Hill. He said he was more successful later in signing up a \$2,200-\$2,400 ad account for the Casanova.

His testimony demonstrated that when you tried to do business with the Casanova you had to deal with the Gambinos. Here's how DelBono finally got the Casanova account:

Q. You did eventually, however, go to Valentino's to meet with Mr. Adamita?

A. Yes.

Q. You sat down with Mr. Adamita at a table at Valentino's?

A. Yes.

Q. And were you joined by any other people at that time?

A. Yes.

Q. Who joined you?

A. Lenny.

Q. Soccolich?

A. Yes, and Joe and Sal.

Q. Joe Gambino and Sal Gambino?

A. Yes.

Q. And did you discuss the advertising campaign for Casanova at that time?

A. We discussed what they wanted to do with what budget.

Q. *In other words, how much money they wanted to spend on advertising?*

A. Right.

Q. *Did Mr. Soccolich say anything about what he thought about advertising?*

A. He wasn't that gung-ho about the idea of spending money for advertising.

Q. *What was the budget agreed upon?*

A. It was around—it was approximately twenty-two, twenty-four-hundred dollars.

Q. *Now, did Mr. Adamita say that that was no problem? Do you recall him making a remark like that?*

A. Well, he was a very easy-going fellow.

Q. *Were the Gambino brothers less easy-going about spending the money?*

A. In my estimation, they were, but I had been in contact with them trying to get the Valentino account and, you know, they're reluctant to spend money. I would say so, yes.

Q. *Now, after that meeting at Valentino's, did you put together a package of advertising, including both radio coverage and newspaper coverage?*

A. Yes, I did.

Q. *Did you have it approved by Giuseppe Gambino and Rosario—Sal Gambino?*

A. Yes.

Q. *Did you meet with them in Valentino's for their approval on that layout campaign?*

A. I had presented it to them, you know, the radio copy and the layout of the newspaper ads.

Q. *Did you meet with them at Valentino's when Mr. Adamita was not there for their approval?*

A. Yes.

Q. *Was that a short time before you began the ad campaign?*

A. It had to have been because we met just short of them opening.

Giuseppe Gambino and Friends

Testimony by Giuseppe Gambino, the next witness, linked him not only with the other Gambinos who moved into South Jersey from New York but also with leading organized crime figures, including the Gambino family lieutenant Paul Castellano.

Counsel Siavage first asked 31-year-old Giuseppe Gambino about his background and activities.

Q. What is your date of birth, Mr. Gambino?

A. 1/9/46.

Q. And your place of birth?

A. Palermo.

Q. Sicily.

A. Yes, sir.

Q. And when did you enter the United States?

A. 1964.

Q. '64. And where did you enter the United States?

A. New York.

Q. Are you presently a resident of New York?

A. Yes.

Q. What is your business or occupation?

A. Restaurant business.

Q. Are you the present owner of Valentino's Restaurant in Cherry Hill?

A. Yes.

Q. Do you own 100 per cent of the corporation that owns Valentino's?

A. Yes, sir.

Q. Are you presently in the pizza parlor business?

A. Yes.

Q. What pizza parlor do you own?

A. Father & Son Pizza, Philadelphia.

Q. Do you own that in conjunction with anyone else?

A. My brothers.

Q. Rosario?

A. And John.

Q. And John. Does Emmanuel Gambino have any portion of that business?

A. No, sir.

Q. Were you ever in a pizza business with Emanuel Gambino?

A. Yes.

Q. Where was that pizzeria located?

A. Dover, Delaware.

Q. What was the name of that pizzeria?

A. King of Pizza.

Q. Does Emanuel Gambino own a portion of it?

A. Still running it, yeah.

Q. Is there a corporation called Father & Son Pizza, Inc.?

A. Yeah.

Q. And are you the president of that corporation?

A. I believe so.

Q. Do your brothers hold offices in that corporation?

A. Yeah.

Q. Are you the—do you hold any office in the corporation that owns King of Pizza in Dover Delaware?

A. Me and Emmanuel.

Q. All right. You're both officers of that corporation?

A. Yes, sir.

Q. Does Emmanuel own 50 per cent of that corporation?

A. Yes, sir.

Q. And you own 50 per cent of the corporation?

A. Right.

* * * *

Q. *When did you buy Valentino's Restaurant?*

A. November, last November.

Q. *Last—that would be November of 1976?*

A. Well, that's the time we opened, you know, but a couple of months before that.

* * * *

Q. *Did you work in a meat market before you came to New Jersey?*

A. Yes, sir.

Q. *What was the name of that?*

A. G & G Meat Market.

Q. *Your brother John owned the meat market?*

A. Yeah, me and my brother. Emmanuel, I'm not sure if he was in the corporation at that time or not.

Q. *How much of it did you own?*

A. This was a while ago. It was 50 per cent me and 50 per cent my brother, you know.

Q. *How old were you at that time when you owned the meat market?*

A. Well, I would say up to this was about '72. About six, seven years ago.

Q. *So that would make you how old at that time six or seven years ago?*

A. About 24.

Q. *24?*

A. 23, 24.

Q. *Where did you get the money to purchase the meat market at age 23?*

A. I no remember. My brother John, I guess he got a loan from some bank or whatever. I don't know. I don't know.

Giuseppe and Paul Castellano

Here is how Giuseppe Gambino told of his long relationship with the notorious topkick of the late Carlo Gambino of New York. He also recalled the dinner meeting between Angelo Bruno and Castellano.

Q. How do you know a Paul Castellano?

A. I know him for a while, a long time, when I was in New York.

Q. You know him for a long time in New York?

A. New York.

Q. When was the last time you saw Paul Castellano?

A. I would say a couple of month, roughly.

Q. A couple of months ago. Where did you see him?

A. At my restaurant, Valentino's, in Cherry Hill.

Q. Did he come down with—strike that.

Did he have dinner at Valentino's on that occasion?

A. Yes, he did.

Q. Does Mr. Castellano pay for dinner when he eats at Valentino's?

A. I don't remember if he paid at that time. He didn't.

Q. Might it be that he got—

A. Maybe I pick up the check as friendshipness.

Q. Has he ever met with Angelo Bruno at Valentino's?

A. Yes, he did.

Q. Were you there on that occasion?

A. Yeah.

Giuseppe Gambino and Bruno

The witness' testimony made it amply clear that Angelo Bruno was no stranger to his enterprises—and that, in fact, they did quite a bit of business with each other.

Q. Does Mr. Bruno have his vending machines in Valentino's?

A. Yes, sir.

Q. Did you discuss that with him?

A. Yes, sir.

Q. Did he suggest to you that he had been referred to Valentino's and you by Carlo Gambino?

A. No, sir.

Q. Did Mr. Bruno solicit the vending machine business at Valentino's personally?

A. Yes.

Q. Does he also have vending machines at your pizza parlors in Philadelphia?

A. Yes, he does.

* * * *

Q. Have you ever been to Angelo Bruno's house, Mr. Gambino?

A. Yes, sir, I was.

Q. When were you there?

A. I don't remember when. I remember that I was there.

Q. Who accompanied you?

A. If I'm not mistaken, at that time I think my brothers was with me.

Q. John?

A. And Rosario.

Q. Was Rosario there?

A. I think so.

Q. Anybody else?

A. No.

Q. Did your father go?

A. No.

Q. Was it around Eastertime?

A. Yes, about that time.

Q. Did Mr. Adamita go with you?

A. No, sir.

Q. Did Mr. Adamita know you were going?

A. No, sir.

Q. Why did you go?

A. Easter, it was a holiday. My brother happened to be down in Jersey. We were planning to go there and we went together.

Q. I didn't hear the last part of the answer.

A. At that time my brother John was at my house in Jersey and we decided to go pay to Mr. Bruno and he came with us.

Q. Mr. Bruno—John came with you?

A. Right.

Q. John happened to be at your house so you went over to see Mr. Bruno?

A. Right.

Q. How many people did you visit around Easter-time?

A. How many people I go visit?

Q. Yes.

A. Not too many people.

Q. Anybody else other than Mr. Bruno?

A. No, I don't think so.

Q. What did you discuss with Mr. Bruno around when you visited him at his house?

A. Nothing. Just to pass time.

Q. Did you discuss the pizza business or restaurant business in general terms?

A. No, just how's business, how's the restaurant business, pretty good, this and that.

Q. Did you discuss anything about Atlantic City when you saw him at his house?

A. No, sir.

Q. Do you know Mr. Puppo at Presidential Realty?

A. Yes.

Q. How do you know him?

A. I know him for a while because I bought insurance for the pizza shop in Philadelphia before I bought Valentino.

Q. Do you know Mr. Puppo to be related to Mr. Bruno?

A. Yes.

Q. How is he related to Mr. Bruno?

A. I know he's son-in-law.

Q. *Mr. Puppo is Mr. Bruno's son-in-law and he's your insurance agent?*

A. Yes.

Q. *For the pizza parlors in Philadelphia?*

A. Right.

Q. *Did you ever discuss the insurance with Valentino's with Mr. Puppo or anybody else in his office?*

A. Yeah. They got insurance for Valentino, too.

Q. *Did they—Did you ever discuss with them the insurance on Casanova Ristorante in Atlantic City?*

A. No, sir.

Q. *Do you know whether they insured Casanova Ristorante in Atlantic City?*

A. No, I didn't.

Giuseppe Downplays Advisor's Role, at First

Despite their close relationship, Giuseppe Gambino sought—at first—to minimize his role as counselor to Domenico Adamita in the operation of the Casanova Disco in Atlantic City. But he conceded his relationship with Adamita was longstanding, that he and Adamita both came from Palermo, Sicily, and were reunited in Brooklyn. After he came to New Jersey, he would see Adamita at the Pennsauken Pizza Palace. Later:

Q. *Did Dominic Adamita ever discuss the fact that he was going into business at Casanova in Atlantic City with you?*

A. No, not before he did.

Q. *After he did it?*

A. Yeah. He was—he was telling me after he bought the place that he was going to Atlantic City in this kind of business. That's it.

Q. *Did you have any other discussion about the bar business, Casanova in Atlantic City, with him?*

A. No. He just tell me he was buying this place and he was going to put a nightclub there, whatever, and that's all.

Q. How many times did you talk about Casanova business with him?

A. I would say maybe the only time I talked him one or two times.

Q. About two times?

A. Yeah. I don't remember exactly.

Q. Well, would you have discussed it more than three times with him, let's say?

A. I couldn't tell you. I don't remember.

Q. Were the other discussions any different than the first discussion? In other words, did he tell you he was going in business?

A. Same thing. No other discussion, no.

Q. Did he ask your advice on anything?

A. No.

Q. No. Do you know whether he talked to your brother Rosario about the business at all?

A. No. I don't know anything about it.

Q. Did you ever make any kind of decision with respect to Casanova or any portion of the business?

A. No, sir.

Q. No decisions whatsoever?

A. Uh-huh.

EXAMINATION BY THE CHAIRMAN:

Q. As I understand your testimony, I understand that you in no way have any decision-making or participated in no decisions or advice with respect to Casanova Disco in Atlantic City; is that correct?

A. I didn't get that. Would you repeat, please?

Q. You have not participated in any decision-making or given any essential advice with respect to the Casanova Disco in Atlantic City?

A. Right.

Giuseppe Next Recalls a Larger Advisory Role

As Giuseppe Gambino was about to conclude his testimony, his lawyer, Mr. Sal Avena, interrupted to say he wished to confer with his client. After a brief conference, the following colloquy ensued:

MR. AVENA: Mr. Chairman, I think a question was asked earlier that the witness may not have a full comprehension of the question, so I ask permission of the Commission that he be permitted to clarify the answer earlier given.

THE CHAIRMAN: Direct us to the question that the witness is confused about.

MR. AVENA: The question particularly given to the question where the witness was asked as to whether he had any decision-making or he made any decisions, as I understand, as I recall that was the language of the question, whether he made any decisions for Casanova in Atlantic City or gave any advice.

I think he would like to give some clarity in response to the question as it pertains to advice.

THE WITNESS: Yeah. I didn't understand that.

MR. AVENA: With your permission, Mr. Chairman.

THE WITNESS: All right. I give advice, you know, like because I say he came over my place. He likes the way is my place, Valentino, and I give some advice, you know, do this and do that. That's about it.

THE CHAIRMAN: But you were correct in saying two or three occasions? You don't want to amplify that answer. You don't want to change that answer; just the fact that you did give them advice on at least two or three occasions?

THE WITNESS: Yes, I do, because, besides Mr. Adamita, which is a guy that I know, I have a lot of strange people come to my restaurant Valentino and tell me they want idea. That I do—I do that because the place is beautiful. I had the *Courier Post* come up to me, this is beautiful, you ought to put it in the paper. I don't see anything wrong with that.

EXAMINATION BY MR. SLAVAGE:

Q. *On any one of those occasions, Mr. Gambino, was there anybody else present other than you and Mr. Adamita when you gave him this advice?*

A. Was anybody?

Q. *Yes. Was there anybody else there but you and him?*

A. I don't remember if there was anybody else there at that time.

Q. *You don't remember?*

A. No.

Q. *When did you give him this advice; before he opened up Casanova or afterwards?*

A. I don't know. Before he opened Casanova. I don't know if he was by or what. Like I say before, he told me after he bought it.

Q. *What are you qualified to give advice upon? What kinds of things do you advise him on?*

A. What kind of thing?

Q. *Yes.*

A. He ask me, you know, where did I bought this and I told him.

Q. *Well, the restaurant runs from the color of the paint on the walls to the ingredients in the meatballs, Mr. Gambino. Which ones do you advise him on?*

A. He did—he ask me if he do like Valentino. I says, "I don't care. Whatever you do, it's okay with me."

Q. *What did you do in Valentino's that he asked you about; the food service, the way the place was set up, the drinks?*

A. The way the place was set up.

Q. *The arrangement of the interior of the restaurant?*

A. Right, right.

Q. *Okay. Anything else other than the arrangement of the interior of the restaurant?*

A. No.

Q. Did he talk to you about the food business at all?

A. No.

Q. Just the way—in other words, Casanova ends up looking a lot like Valentino's on the inside, really, doesn't it?

A. Yes, sir.

Q. Same color, blue; is that correct?

A. Yeah. I didn't see Casanova until about, I say, two, two weeks before opened. That was my first time Atlantic City.

Q. And the reason that it looks similar is because you advised Mr. Adamita?

A. He asked me to do the same thing, if he could use the same work. I didn't say why not. It wasn't right on the corner from me. It's far away so he can do.

Q. Do you have a stucco work in Valentino's like they have in Casanova?

A. Yes, I do.

Q. Who does that stucco work?

A. This guy from New York, Claudio, the one he did my job.

Q. Did you refer that man to Mr. Adamita?

A. Yeah, I think I did, because he ask me about the stucco. He wants to know, you know, would they give me the price. I said I'll send to you some guy and everything like—he was asking me every time where did you get this; where did you get this? I tell him whatever I have I tell him.

EXAMINATION BY COMMISSIONER KADEN:

Q. Mr. Gambino, did you advise him that he should get his cigarette machines from John's Vending?

A. Well, like I say before, he told me where did you get this; where did you get this? So he asked me for the cigarette machine. Naturally I got mine from—

Q. So you told him you got that from Bruno?

A. Right, which I have in Philadelphia, and I told him to go over there, too.

Q. Did you tell him you got your insurance from Mr. Puppo?

A. I probably did. I don't remember. I probably did, yeah.

An Expert Assesses the Gambinos

Anthony Quaranta, a Special Agent for the New Jersey State Commission of Investigation, took the stand as an expert witness on the Gambino crime family and its connections both in New Jersey and in Canada.

Agent Quaranta spoke from the standpoint of 26 years of service with the New York City Police Department, all but four years of which were on special assignment with the Department Intelligence Division's Organized Crime Unit. In addition, during those years, he went on special assignment to the Permanent Subcommittee on Investigations of the U.S. Senate, inquiring among other matters into the infiltration of organized crime into legitimate business.

Counsel Siavage began exploring Agent Quaranta's field of expertise as soon as he completed putting his background into the hearing record:

Q. Thank you. Are you familiar with the immediate family of, and the associates of, Mr. Tomaso Gambino?

A. Yes, I am.

Q. Who are the members of that immediate family?

A. The father is Tomaso. He has three sons: John, Joseph, Rosario, also known as Sal.

Q. Are there any number of other associates of those individuals in the South Jersey area?

A. Yes. He has numerous associates that emanate from Sicily and primarily are bakers and pizza makers that are situated within the New Jersey area.

Q. When did the Gambinos first come to New Jersey?

A. Best recollection, I'd say it was in 1972. I understand the Gambinos purchased three homes in the Delran Township. At that time they indicated they were in the meat and pizza parlor business.

Q. You have heard Mr. Giuseppe Gambino tell of his relationship with Carlo Gambino by blood, have you not?

A. Yes, sir.

Q. When did Tomaso Gambino enter this country?

A. I understand it was in 1963 and through the efforts of his son John he was naturalized in November of '64.

Q. Had John Gambino been scheduled for deportation in 1958?

A. Yes. I understand he was scheduled for deportation in '58 and I—best recollection, he was—he left the country and returned in 1964, at which time he was naturalized. He married an American citizen and was naturalized.

Q. How about Rosario Gambino, also known as Sal. When did he enter the country?

A. It's not truly known, but in 1962 he was picked up as an illegal alien in New York and he successfully resisted the deportation proceedings, that hearing, and subsequently was naturalized in '66.

The Canadian Connection — and Aliens

Agent Quaranta also discussed the Gambino family's connections in Canada, which involved certain organized crime figures across the border. By his account, the Adamitas were no strangers to the Gambino family.

Q. Who is Emmanuel Adamita?

A. Emmanuel Adamita is the brother of Domenico, who testified earlier at this hearing. It's my understanding he was the operator of the Cafe Capricci in Brooklyn. I don't know what date that was.

Mr. Adamita came to my attention, I think, in early 1970 when he was—his auto was routinely stopped in Canada, at which time the operator of that car was

Paul—I should say the late Paul Gambino, who was a lieutenant in the Carlo Gambino family and the brother of the late boss, and the interesting aspect of that is that here you have a capo in a crime family driving Mr. Adamita, which offers some substance to his position within the organized crime structure.

Q. Is that unusual for a capo to drive a car?

A. Well, I guess it would be as natural as President Carter driving a secret service agent.

Q. Did they meet with the Catroni family on that occasion in Montreal?

A. Yes. I understand they met with the Catroni family and it may have been in '73. He met with members of the Catroni family and the Zerilli family somewhere in Canada.

Q. What is the Catroni family?

A. They are the governing force in Canada. There is two brothers, Vincenza and Joseph.

Q. Is Catroni spelled C-a-t-r-o-n-i?

A. Right. They control most of the organized crime activities in Canada.

Q. Are they known to be in the smuggling of illegal aliens?

A. That also came to our attention. It's—there were some reports that the members of the Catroni family and Zerilli family from Detroit were working along with members of the Gambino family in the immigration of immigrants to enforce their pizza parlors, network of pizza parlors that were being set up from the Canadian border down to the metropolitan area.

I understand this came about when the crime families had accumulated so many millions and they wanted their money to work, and they thought up this scheme of investing their monies in legitimate enterprises. So they decided to set up these pizza parlors throughout, from the Canadian border down to the metropolitan area, and they had to put employees into these restaurants, and within that they were building inside that an army; by that, in giving them

an opportunity to get employment in the country, they could later call on them for favors which could be—

Q. Have illegal aliens been picked up in New Jersey or New York?

A. Yes. I understand there's over a hundred-twenty.

Q. At pizza parlors?

A. At pizza parlors within the New Jersey metropolitan area.

Q. Are you aware of whether any illegal aliens have been picked up in any pizza parlors of Giuseppe Gambino as having an interest?

A. I understand there have been some at his chain and some at the chain of Michael Piancone, P-i-a-n-c-o-n-e.

Q. Is there also a distributorship involved with pizza parlors that is mob oriented or mob controlled in either New Jersey or New York City?

A. There's a few chains. I understand one is King of Pizza and the other is Roma Pizza which is headed by Mr. Piancone.

Carlo Gambino's Wake

When Carlo Gambino died, the elaborate funeral arrangements were marked by stringent security precautions. The funeral home was in effect sealed off to all except those who could identify themselves as trusted associates of the deceased in one of three areas. Agent Quaranta continued:

Q. Have the Gambino brothers, aside from this blood relationship to Carlo Gambino, have they been seen going to Mr. Gambino's house in New York?

A. I understand there was some reports from the New York City P.D. that they were observed intending to enter his residence sometime in '74. That was Joseph and Rosario, Sal Gambino.

Q. And were they also seen in 1973 doing the same thing?

A. Yes, sir. And if I may add, Mr. Director, they also attended the wake of the former crime family

boss Carlo Gambino in October of '76. I think that was Joseph and Rosario.

Q. Is attendance at wakes and weddings with regard to organized crime of any significance that you know of?

A. Well, using the Carlo Gambino wake as an example, only privileged people were invited due to the fact that he had many friends within the organized crime structure.

In fact, the funeral home was sealed off by his compatriots and each member, each mourner, was asked to identify themselves.

Now, they came in three areas: The organized crime area; the legitimate enterprise area; and close friends, old countrymen and blood relations. Now, the three representatives at the funeral home each knew area of identification. If any person came to attempt to pay his respects, if any of the three individuals didn't give a nod, that person wasn't allowed to go in. He was respectfully told that there was a capacity crowd and he would have to, I assume, send a mass card.

Q. Now, I would assume that each one of these three represented one of those three areas that you talked about?

A. I think in this case they are distant relations, Mr. Director.

Q. One of the three people had to nod before you got into the Carlo Gambino wake? One of these three people had to approve you?

A. Yes, sir.

Q. And did each one of those people represent a different area, legitimate or—

A. Yes.

Q. —illegitimate?

A. Yes, and if it was a family relation, it would have to be someone, either the son or the brother, Joseph, that would identify blood relations from out of town, and the organized crime would probably be one of his soldiers or capos that would know people

from throughout the country, and then they had the area of legitimate enterprises of which they vary.

Q. You don't know who the Gambino brothers were identified by, do you?

A. You mean the ones identified at the wake?

Q. Yes.

A. Well, the son was there, Thomas Gambino.

Q. No. Excuse me. I mean, the Gambinos that were here who appeared at the wake.

A. I understand Rosario and—Rosario, Sal, appeared here and Joseph, who appeared here, were observed at the wake.

A Certain Thomas Buscetta

Earlier in the day, when Domenico Adamita and Giuseppe Gambino were testifying, they were pressed about their relationship with and knowledge of a certain Thomas Buscetta. The point of these interrogations was not clarified until Agent Quaranta spoke:

Q. You have heard testimony, Mr. Quaranta, about a Thomas Buscetta, B-u-s-c-e-t-t-a, who Mr. Adamita knew as a close associate of his brother. He denied living with him, but was with him several times down here in South Jersey, and I think Giuseppe Gambino, if my memory serves me, admitted knowing Mr. Buscetta, the fact that Mr. Buscetta was at Valentino's.

Are you aware of the existence of Mr. Buscetta, first of all?

A. Yes. I understand Tomaso Buscetta is a Sicilian crime family head who entered this country illegally sometime in 1970. Now, last report I heard, he was—he left—he was—he left this country with his son and was picked up in Brazil on a narcotics charge and subsequently was deported to Italy where he's serving a prison term for the—for 14 homicides which included 14 police officers. Now, I don't know what the status is to date.

* * * *

Adamita on Buscetta

Here is how Domenico Adamita discussed Buscetta during questioning earlier in the day:

Q. Do you know anybody by the name of Tomaso Buscetta?

A. Tomaso?

Q. Buscetta.

A. Buscetta?

Q. Yes, sir. Did Mr. Tomaso Buscetta live with you for about a period of six months down in Mount Laurel?

A. Tomaso Buscetta?

Q. Yes.

A. I know Tomaso. He just go to Italy once. I never live—I got my wife and my children. I no live with nobody. Just my family.

Q. Did Tomaso Buscetta ever live with you in Mount Laurel? Did you ever have somebody staying with you for a while by the name of Tomaso Buscetta?

A. If I got my wife home, nobody come inside.

Q. Have you ever seen a man by the name of Buscetta in the United States since you have been in the United States, let's start there.

A. Yes, sir.

Q. Okay. Now, when did you see this man by the name of Buscetta?

A. I no sure now if it's the same Tomaso you're talking about.

THE CHAIRMAN: Let's just take it from the Tomaso that you know, all right?

THE WITNESS: Tomaso. I know a Tomaso, but I don't know—I know two Tomaso now.

THE CHAIRMAN: Tell us a little bit about each, now.

THE WITNESS: One, I know, Tomaso, he just stay four or five months and go back to Italy months ago.

THE CHAIRMAN: Where did he stay, in New York or did he come down here to Mount Laurel?

THE WITNESS: Or here, over here.

THE CHAIRMAN: Over here where?

THE WITNESS: In New York, New Jersey.

THE CHAIRMAN: Where in New York, where in New Jersey?

THE WITNESS: His father must have and brother live, I think, live in Delran.

THE CHAIRMAN: Close to where you live?

THE WITNESS: I live in Mount Laurel.

THE CHAIRMAN: Not too far apart?

THE WITNESS: Yeah.

THE CHAIRMAN: That Tomaso, answer the questions about him, then, please.

Mr. Siavage.

THE WITNESS: What's your question?

BY MR. SIAVAGE:

Q. *Did he live with you while he was here?*

A. No, sir.

Q. *He didn't? How often did you see him while he was here?*

A. I see once in a while.

Q. *Once in a while?*

A. I met him sometime. He come and see at the pizzeria, or sometime he go to Valentino's.

Q. *Sometimes he goes to Valentino's; sometimes he comes to your pizzeria?*

A. He live in New Jersey. I seen him. I seen him.

* * * *

The Gambinos and Buscetta

Giuseppe Gambino, in response to questions during his testimony earlier in the day, recalled Thomas (Tomaso) Buscetta thus:

Q. *Do you know a Mr. Tomaso Buscetta, B-u-s-c-e-t-t-a, goes by the name of Cebo?*

A. Tomaso Buscetta? I think I do not. I'm not sure if that's the guy I'm talking about.

Q. *Do you know him as a friend of Mr. Adamita? Does that refresh your recollection?*

A. Yeah. I think I knew at the time when I used to live in Brooklyn.

Q. *You know Buscetta when you were living in Brooklyn?*

A. Yeah. At a coffee shop in Brooklyn we all meet.

Q. *Is the name of that coffee shop Capricci's?*

A. Yeah. At that time, that's the name.

Q. *Capricci's, C-a-p-r-i-c-c-i apostrophe s. Where was Capricci's located?*

A. 18th Avenue and I think it's between 16th and 17th. Somewhere around—

Q. *In Manhattan or Brooklyn?*

A. Brooklyn.

Q. *Did Mr. Dominic Adamita frequent that coffee shop, too?*

A. Well, I only saw him a couple of times when I going for coffee.

Q. *How about Emanuel Adamita, did he go there?*

A. Emanuel, yeah.

Q. *Yes.*

A. I saw him there.

Q. *And Tomaso Buscetta, you have seen him there?*

A. Yeah, I saw him at that time in the coffee shop, too.

Q. *Did your brothers go to that coffee shop, too?*

A. Who, my brother?

Q. *Yes. Rosario.*

A. Yeah.

Q. *And Joseph?*

A. Who?

Q. *Rosario and John?*

A. Oh, John, yeah.

Q. *Yes.*

A. Yeah.

*Local Liquor Law Loopholes**

The summing-up witness for the second day of S.C.I. hearings was Horace J. Bryant, Atlantic City's Commissioner of Revenue and Finance. Part of his departmental duties as an elected commissioner is the local Alcohol Beverage Control (ABC) unit, which consisted of a supervisor, an investigator and two typists.

S.C.I. counsel questioned Mr. Bryant first about the general work of this small ABC local office and then asked him to explain how his local ABC unit tried to meet their various responsibilities :

Q. Thank you. Have you and, by that, I mean, you and the other members of the issuing authority, refused to issue any licenses or refused to renew any licenses or refused to permit any transfers because you have been unable to obtain the criminal history of the applicant?

A. No, we have not refused to issue it. We have issued the license on the information that is available to us.

Q. Have you, again meaning you and the commissioners, collectively refused to issue any license or renew any license or permit the transfer of any license because you have been unable to obtain any detailed financial information concerning the applicant?

A. No, I don't know of any.

* * * *

Q. Has the Commission refused to issue a license or permit a renewal or transfer until you have obtained all the documentation you deem necessary, or do you believe that you're compelled to issue the license when the applicable form is basically filled out in total with no blank spaces?

A. No. We—that's not our procedure because we review the questions as answered and if there's a difference from what had been said at the previous time, that is discussed with the applicant.

Now, we require that the applicant come into the office at the time the application is filled out, would be finally reviewed, and at that time if there's any ques-

* See Ralph Salerno testimony, P. 267.

tion, we attempt to elicit the information that appears to be necessary in order to have a full knowledgeable information about the licensee.

Q. To what extent is there any attempt made to independently verify the truth of any of the answers set forth in the application?

A. There is no specific procedure to be followed in that case, but we do follow asking questions, and any answer that appears to be different than that appearing on the application, or if it does not seem to G with normal sequence with information on the application, we would then proceed to answer—ask additional questions, and we may call for the full Commission to sit and discuss the subject matter with the applicant or the applicants, if it's more than one.

The Casanova Experience

Counsel next took Commissioner Bryant step-by-step through the processing—without any investigation—of the Casanova Disco application:

Q. Now, with respect to the change in ownership from Frank and Jennie Tumolo to Domenico Adamita, will you please, to the best of your recollection, specify in detail what investigation, if any, was conducted by the local ABC, by you, or by the Board of Commissioners with respect to this particular transfer?

A. It would appear that no investigation was conducted by us because when this was submitted—the search of the records by the local police department showed nothing of record—not the police department, in Mount Laurel Township, showed nothing outstanding against the person to whom the transfer was going to be made.

Q. And that was from the local municipality in which he resided; is that correct?

A. Yes, Mount Laurel Township.

Q. And that was the only check that was made for a criminal record check?

A. No. The record—local record in Atlantic City was checked, too, but that's usually done by an investigation to the first floor where it was done.

Q. *And was there any other personal background check made of this individual?*

A. Does not appear to be any other check of this individual.

Q. *What financial documentation or information was sought or obtained?*

A. From this information there would appear to be no financial information obtained.

Q. *Okay. What interviews were conducted with the applicant, if any, and if so with what result?*

A. With everyone who the application is completed, we would be hearing them personally as the Commission in charge of that, so that I did have Mr. Adamita come in and talk with him about the transfer; what were his plans and things of that nature, but there's no specific form of questions that are asked, and it depends entirely on the information that we have. There's no indication that he had a bad record at his home town and nothing indicated that we had anything on him.

We would ask general questions, but we would not zero in on any particular thing because we had no indication that there was.

Q. *So there are no other independent notations or documentation of the investigation for the transfer of this license?*

A. Well, there doesn't appear to be.

Q. *Thank you.*

A. This is when—of course, this is when the information—we were running into difficulty with the police department in getting information because of the Federal Privacy Act.

Q. *Was there any attempt made to determine if the corporation which was transferring its stock was still an existing and valid corporation and that the application itself was complete in all particulars?*

A. We looked at the application, the short form, to see that the—to see if it was completely answered, but it doesn't list that information that we have anything to check.

Q. I draw your attention to Question 6 on the 1977 application which states, "Has the corporation charter ever been suspended or revoked by the Secretary of State in New Jersey?"

Is there any answer typed in on the application?

A. No, there's no answer on this.

Q. I also draw your attention to Question No. 8, "Is the corporation now an existing valid corporation?"

Is there any answer typed in on that?

A. No answer to that.

Q. I would also direct your attention to the reverse side of that short form application, specifically at the bottom, "Affidavit of corporate applicant," which states Dominic Adamita, full age, et cetera, and it's signed by Dominic Adamita.

Is there any indication that that statement was sworn to and subscribed before anyone?

A. No, there is not.

Q. Is there any indication on this original application that you have in your possession that the corporate seal was affixed to the application?

A. Doesn't appear to be.

Q. Do you know if the applicant for this license, this transfer, had any interest in two or more other retail liquor licenses? Was that question asked of him—it would not appear on that form, sir?

A. Doesn't appear.

Q. Was that question asked of him in your conversation?

A. No, because we had no reason to suspect that he had an interest in any other. To the best of our—my information, this was the first time he had appeared before the Atlantic City Board to become involved in the ownership of the premises.

Q. And did not inquire whether you were involved in a licensed premise in other municipalities?

A. No, we were not aware of that.

Q. Other than checking with the local Mount Laurel Police where he lived and with your records in Atlantic City, were you able to ascertain if the applicant had ever been convicted of a crime on the state level or in another jurisdiction?

A. We were not able to get any information of that nature.

Q. Do you know if this applicant had ever been convicted in any proceeding for any violation of the New Jersey Alcoholic Beverage Laws or a violation of any municipal alcoholic beverage ordinance or disorderly offenses involving alcoholic beverages?

A. No, we don't. I don't know that.

Q. Do you know if he had ever been denied previously an alcoholic beverage license or any license canceled or revoked within the past ten years?

A. We have no information on that.

Q. Do you know if any other person, directly or indirectly, had a beneficial interest in this particular license for which the transfer was sought?

A. We do not know that.

Q. Thank you. I show you what has been marked as C-38. Can you identify what that particular form is?

A. This is the application for municipal retail license renewal.

Q. And is that the long form or the short form?

A. This is the long form.

Q. In retrospect, Commissioner, would it not have been better procedure to require that this applicant execute this long form for the purpose of obtaining the answer to some of these questions that I have asked you?

A. It was my understanding that the State ABC decides whether we should use the long or short form. It was not my understanding that we had a choice

there, so, therefore, we used the short form because that was what was designed at that time and we usually arranged for ordering of those forms along about February.

Q. Would it be fair to say, Commissioner, that based upon your limited investigation of this particular license you did not know with any degree of certainty whether the applicant has a criminal record; whether he has a disability in law which would make him ineligible to have a license in his own name; whether he has any organized crime contacts; whether or not he's fronting for others on the license; whether the financial investment is a bona fide investment by him in his own name; and whether he is or is not attempting to circumvent and evade the intended purpose of the ABC laws?

A. We don't have that information in the application as filed.

Crime Background No Bar to Licensing

In conclusion, Commissioner Bryant conceded that an ABC applicant could be licensed despite an organized crime background.

EXAMINATION BY COMMISSIONER POLLOCK:

Q. Commissioner, if I understood your testimony correctly, under the present system as enforced in Atlantic City today, a member of organized crime who does not have any criminal conviction could file an application for the issuance of transfer of a liquor license and, in fact, i.e. his membership in organized crime would not necessarily be disclosed in the licensing process?

A. That could be true because if we didn't have a record, only by other information we could get that. In other words, if they didn't have a record, we would not get it by the report from the police department on what the local record was or wherever they may come from. So that we would not have any specific information. The—so we might get the information in our normal examination, particularly if we have individuals who appear not to have had enough time to amass the fortunes necessary to acquire licenses.

The Bruno-Gambino Alliance

To further demonstrate the alliance between Angelo Bruno and the Gambino family from New York, Chairman Rodriguez read into the hearing record the following portion of Bruno's testimony to the Commission during a previous executive session:

“Question: Mr. Bruno, are you acquainted with a Mr. Salvatore Gambino and a Mr. Joseph Gambino?”

“Answer: Yes, I am.”

“Question: And how do you know them?”

“Answer: Well, I have machines in their—some of their places. They have some pizza places. I have my machines there. I—not my machines, my locations.”

“See, when I say ‘my machines’, I want it understood the machines don’t belong to me. They belong to the company.”

“I have my machines there and I have a couple of machines that they’re associated with. Whether they own the place, whether they don’t own the place, I don’t know. But they’re there and they seem to be managing the place. Who owns it, I don’t know. But I do have a couple of machines in that place that’s the—called Valentino’s.”

“Question: Valentino’s Restaurant?”

“Answer: Yes.”

THE CHAIRMAN: Is that the one in Cherry Hill?

THE WITNESS: Yes, Cherry Hill.

THE CHAIRMAN: Did I understand you, Mr. Bruno, that Valentino’s is one of the places where you have a location that you think the Gambinos have an interest?

THE WITNESS: They’re there.

THE CHAIRMAN: They’re there?

THE WITNESS: They look like they have an interest because they direct waitresses. They direct. Whether they own it, whether they don’t, I don’t know. What I know—

"THE CHAIRMAN: But, in your view, they're certainly in control of the place, from what you told me?

"THE WITNESS: Well, I spoke to them to put the machines in.

"Question: Do you know them to be relatives of Carlo Gambino?"

"Answer: Yes, I do.

"Question: You know Carlo Gambino, don't you? Or you did?"

"Answer: I knew. I knew him, yes.

Question: Would you consider Carlo Gambino a good friend?"

"Answer: Of mine?"

"Question: Yes."

"Answer: Yes.

"Question: Do you know how they're related to Carlo Gambino?"

"Answer: No I thought they were, I thought they were nephews, but they're not. How they're related, I don't know.

"Question: Did they ever tell you that they were his nephews?"

"Answer: No. Being, being the same name, I thought they were nephews.

"Question: You just assumed that they are nephews because they had the same name?"

"Answer: Same name, yeah.

"Question: Do you know Paul Castellano, spelled C-a-s-t-e-l-l-a-n-o, Mr. Bruno?"

"Answer: Yes.

"Question: How do you know him?"

"Answer: Through Carlo Gambino. It's his brother-in-law.

"Question: Have you ever met Paul Castellano at Valentino's Restaurant in Cherry Hill?"

"Answer: Yes.

“Question: When did you meet him there?”

“Answer: It was quite some time ago. I don’t remember.

“Question: Would it have been in April or May of 1977?”

“Answer: April, May, June. April and May just now. June. May. It might have been in May. I’m not sure.

“Question: And you said you had dinner with him there.

“Answer: Yes.

“Question: Do you recall what you discussed?”

“Answer: I don’t recall what I discussed. General conversation.

“Question: Did the discussion in any way relate to Atlantic City?”

“Answer: Well, I don’t remember the conversation. I—he maybe said, ‘What do you think of Atlantic City?’ So, maybe I gave him my opinion.

“As far as discussing Atlantic City, as far as opening a casino or buying a hotel or doing business together, no.

“Question: Did you discuss doing business apart?”

“Answer: I’ll answer the question. I have no business at all with Paul Castellano.

“Question: Did Paul Castellano inform you of his intention to have some business in Atlantic City?”

“Answer: No.

“Question: Do you know Paul Castellano to hold any position in the Carlo Gambino crime family?”

“Answer: No, not to my knowledge.

“Question: Did Carlo Gambino have a crime family?”

“MRS. RABSTEIN: A what?”

“MR. PELLETTIERI: Crime family.

“MR. SLAVAGE: A crime family.

“Answer: Not that I know. I don’t know.

“Question: *Have you ever heard Carlo Gambino referred to as the Boss of Bosses?*

“Answer: I think I read something in the paper or magazine sometimes.

“Question: *Have you ever asked him about that?*

“Answer: No.

“THE CHAIRMAN: Before we leave that, Mr. Bruno, can you tell me the other locations that you have where the Gambinos have an interest? You indicated there was more than one.

“THE WITNESS: Well, now, they, they opened up, I think the name is Valentino in Atlantic City, see. Now, whether my machine—when I say ‘my machine’, remember, I’m saying location. Whether my machine is already in there or not, I don’t know. But I was given the location. Now, whether Mr. Stan Harris, whether he took care of it or not, because I made Raymond Martorano handle that.”

THE CHAIRMAN: Later in the testimony Valentino’s in Atlantic City was corrected to mean Casanova.

THE TESTIMONY — Third Day

The Hotel Shelburne Scheme

The third day of the S.C.I.’s public hearings began with the introduction into the record of the name of Emmanuel (Matty) Gambino,* who became the pivotal witness later in the day’s proceedings. However, the initial reference to Matty Gambino was by Lawyer George B. Crisafulli of Camden, the day’s first witness, whose testimony did not relate to the Crisafulli-Shelburne deal. He had been scheduled to testify on the previous day but his appearance had been postponed. After discussing the confusing transactions involved in the purchase of the Casanova Disco in

* See Ralph Salerno testimony, P. 258.

Atlantic City by Domenico Adamita, Crisafulli was led by Counsel Siavage into his professional relationship with the Gambino family. The lawyer's testimony showed that Emmanuel Gambino associated with Giuseppe Gambino. The previous day's testimony had identified Giuseppe Gambino as an admitted associate of the late Carlo Gambino crime family and an advisor to Adamita in the Casanova deal.

EXAMINATION BY MR. SIAVAGE:

Q. *Mr. Crisafulli, do you now or have you ever represented a man by the name of Emmanuel Gambino, E-m-m-a-n-u-e-l G-a-m-b-i-n-o?*

A. No.

Q. *Have you ever represented Giuseppe Gambino?*

A. Yes.

Q. *In what capacity did you represent Giuseppe Gambino?*

A. The purchase of Valentino's Restaurant in Cherry Hill, a speeding ticket. That's all I can remember, now.

Q. *Do you recall when Valentino's Restaurant in Cherry Hill was purchased?*

A. Sometime in, I believe, the spring of '76. Before the summer of '76.

Q. *Attendant to that purchase, did you meet a man by the name of Emmanuel Gambino?*

A. Yes.

Q. *And in what way did you meet him attendant to that purchase?*

A. He was with Giuseppe.

Q. *He was with Giuseppe?*

A. Um-hum.

Q. *You mean that he came to your office when Giuseppe came to your office?*

A. Yes. I hesitate because I don't remember if he came—they came to our office or I met them somewhere, but, yes.

Q. *Was he present at the closing when Valentino's Restaurant was purchased by Giuseppe Gambino?*

A. I don't remember him being there, no.

Q. Do you recall being at the closing up in New York?

A. The closing was not in New York.

Q. Was Emmanuel Gambino present at the negotiating in New York.

A. He was present at the one meeting in New York when we were ironing out the agreement, yes.

The "Offer"

Lewis J. Malamut, owner of the Shelburne Hotel and the next witness, told about his property and how a combine of would-be purchasers offered him \$12 million for it. The combine included a Robert Skalsky, who has been identified by law enforcement authorities as an associate of Michael Grasso, Angelo Bruno's nephew and real estate advisor. The Shelburne clique also included a mysterious Mr. DiNardo.

Malamut told Counsel Siavage he was vice president and half-owner with his family of National Inns Limited. National Inns' assets included the Shelburne, the adjoining Empress Motel and other Atlantic City real estate including parking facilities.

EXAMINATION BY MR. SIAVAGE:

Q. How many rooms does the Shelburne have?

A. The Shelburne Hotel has 325 rooms, bedrooms.

Q. And how many rooms does the Empress Motel have?

A. 204.

Q. For a total of 554?

A. In that complex, yes.

Q. In your business judgment, would those two complexes be connected?

A. They are connected.

Q. Have you had, since the advent of casino gambling, several offers to purchase the Shelburne Hotel in Atlantic City?

A. Yes, we have.

Q. Have you talked to numerous individuals with regard to that purchase?

A. Yes, we have.

Q. Have any of those negotiations come to fruition?

A. Not as yet.

Q. Has anyone ever obtained an option to purchase the Shelburne complex?

A. Yes.

Q. Would that be a Mr. Skalsky and a Mr. DiNardo?

A. As far as I know, they were represented by a broker, and the official options that we gave out were written to the broker.

Q. When was the first time you met with a Mr. Robert Skalsky?

A. My first contact with Skalsky directly was on March 16, 1977.

Q. And was that at the premises of the Shelburne Hotel?

A. Yes, it was.

Q. Was he accompanied by anybody at that time?

A. Yes, he was.

Q. Was that individual's name Mr. DiNardo?

A. As best as I could ascertain at that time.

Q. Did anybody else accompany Skalsky and DiNardo?

A. Frank Moss.

Q. And what was Mr. Moss's position or occupation?

A. He represented Seashore Real Estate.

Q. And he was their agent?

A. Supposedly.

Q. Was anybody else with them at that time?

A. At that meeting, no.

Q. Did you discuss the possible purchase of the hotel by that group on March 16th, 1977?

A. Yes, we did.

Q. Did you, in fact, later send a letter to Seashore Real Estate reflecting the terms of the agreement that had been arrived at on that date?

A. Yes.

Q. I'm showing you what's been marked Exhibit C-46, for the purposes of identification, which purports to be a letter from National Inns, 2005 Boardwalk at Michigan Avenue, Atlantic City, to Seashore Realty, dated March 16th, 1977. I ask you if you recognize that as the letter that I have just referred to?

A. Yes, it is.

Q. I'm going to read the paragraph of the letter that concerns the offer and ask you whether it essentially reflected it.

It says, "We are prepared to accept an offer of your client to purchase the stock in National Inns Limited and to assume the various assets and obligations as outlined. This understanding includes those parcels that are as follows: The Shelburne, Empress Motel, Empress West, Wynn Hotel, Cliff's Garage," various other assets, "for a total sum of twelve million dollars.

"Your clients will be granted a 60-day period to obtain the necessary financing."

Is that essentially the terms?

A. Basically, of that letter.

Q. When was the next time—can we assume that other than arriving at this agreement on that date, that there were no other negotiations between you?

A. The negotiations continued.

Q. They continued subsequent to March 16th?

A. Yes.

Q. But on this date, this was the substance of what was done?

A. There was another letter.

The Loan "Agreement"

At this point, on the same day that the basic offer was made, in fact, there was also a proviso for a loan to Mr. Malamut. This didn't seem to faze the prospective purchasers, at the time.

Q. Okay. Did you also request a loan from that group?

A. Yes, we did.

Q. I show you what's been marked Exhibit C-53, for the purposes of identification, which is a letter on National Inns stationery to Seashore Realty, and ask you if you recognize that as the second letter you sent on the same day, March 16th?

A. That's correct.

Q. Again reading from the Exhibit C-53, it says, "We will proceed with granting of the option referred to in the attached letter," which is Exhibit C-46, "for a consideration of a five hundred thousand dollar loan to be secured by a third mortgage on the property."

Is that essentially the other portion of the agreement that was arrived at?

A. That's correct.

Q. In other words, you were giving an option if they will give you a loan; is that fair?

A. Basically.

Q. Other than those two letters, did the negotiations center around anything else that day?

A. No. That's all.

That "Union Pension Fund"

During the next few days Mr. Malamut and Mr. Skalsky kept in touch, the witness testifying that there were no changes in the purchase option and loan condition, "not at that point in time." On March 25 the witness and Mr. Skalsky talked again by telephone:

Q. Did Skalsky tell you of his efforts to find financing at that point?

A. Yes, he did.

Q. For the five hundred thousand dollar loan?

A. Yes. They had—they had, they said—he said that they had already made those arrangements.

Q. All right. Did he tell you how they made those arrangements?

A. Other than mentioning that the funds would be available from a union pension fund as the source, which one, I have no idea.

Q. Did he mention anybody's name in connection with that union pension fund?

A. No.

Q. Did he mention the pension fund?

A. No.

Q. Did you accept his representation at that time?

A. I did not. He asked for certain documentation that we were to provide, and I was to try and put the various papers together that were necessary to satisfy his desire, demands.

Q. Did you speak to him again after you attempted to put that documentation together?

A. On March 27 we had—

Q. Were you able to put it together?

A. No.

Q. What did Skalsky say to you as a result of that?

A. That they were still prepared to come ahead with the money.

Q. Was this the first time, in your mind, that the negotiations began to break down?

A. I began to question the fact whether they were making much progress, yes.

The Fading "Loan"

Mr. Malamut had reason to feel the deal was on shaky ground. The prospective "buyers" wanted to reduce the size of the loan on which the hotel purchase option was conditioned.

Q. How did you leave with Skalsky on that day the deal?

A. On that day, which I say it was the 27th of March, and there were some other people involved at

that meeting, the five hundred thousand dollar loan was now to be dropped to a two hundred thousand dollar loan to be handled immediately.

Q. Was that your proposal or Skalsky's proposal?

A. Their proposal.

Q. Did you accept that?

A. No.

Q. In your mind did the option ever begin to run until you got the five hundred thousand dollar loan?

In other words, did that trigger the 60-day option to come up with the twelve million?

A. That's correct. March 16th, 60-day period.

Q. And did they ever come up with the five hundred thousand dollar loan?

A. No.

Q. And did you not accept the two hundred thousand dollar offer?

A. No.

Enter Mel Richman

Despite Mr. Malamut's rejection of the reduced loan concept, the Skalsky clique sought the help of influential outsiders in an effort to sew up the Shelburne deal.

Q. What did Skalsky say to you as a result of your non-acceptance of the change of the terms of the initial agreement, March 16th?

A. Well, on March 28th we spoke to another man that was now involved in the deal.

Q. What was his name?

A. Pomerantz, William Pomerantz.

Q. Did he tell you that he represented anyone?

A. Yes. He had sat in on that meeting of the 27th.

Q. Who was present at the meeting on the 27th?

A. Mel Richman.

Q. Who is Mel Richman?

A. He's an advertising and public relations man from the Philadelphia area.

Q. Who did he represent at that meeting?

A. At that meeting he advised that he was there as a principal as opposed to being an attorney.

Q. He was part of the Skalsky or Nardo or DiNardo—

A. Right.

Q. —Richman-Pomerantz group?

A. That was the first time I ran into them. Skalsky was at that meeting. DiNardo was at the meeting and Frank Moss.

Q. Did they inspect the hotel on that date?

A. Briefly.

Q. Did they talk about whether it would be suitable for casino gambling?

A. There was some general discussion.

Q. Did they look in the ballroom and make any comments and make any comment that would be appropriate for casino?

A. Quite possibly. I couldn't recall that.

Q. What took place at that meeting on the 27th? We just summarized it, haven't we?

A. General discussion and the fact that the five hundred thousand dollar loan, we could not produce the various paperwork that would be required in the time frame needed, and they came back with the two hundred thousand dollar loan that they would take care of immediately regardless of the fact whether we could produce clear title and so on. The normal things that a mortgaging program would set forth.

Q. What discussion did you have with Skalsky on March 28th?

A. No. No, on March 28th a phone call with Pomerantz.

Q. What did he say?

A. Discussed the two hundred thousand dollar loan would be available by the middle of the following week, and then closing to be in five to six months.

Q. Did you accept that?

A. No, I did not.

Q. Why not?

A. That was not the understanding that we had originally started out with.

Q. Who did you see next concerning the deal?

A. I called Moss that day and advised him, as far as I was concerned, at that point in time, the negotiations were off.

Q. They had completely broken down on March 28th you felt?

A. Right.

The Deal Kept Collapsing

Everytime the proposed Shelburne deal collapsed, somebody revived it. That happened once again, Mr. Malamut testified, before he finally shelved it, referring further queries to his lawyer. By that time, however, considerable paperwork had become a part of the official record and a law suit threatened.

Q. Who did you speak to regarding the deal between March 28th and April 15th?

A. We received a message from Moss's office on March 30th the day—the day the \$500,000 was to be available. They were willing—they were to put it up in escrow and await the various documentation of paperwork needed for the settlement.

Q. All right.

COMMISSIONER LANE: Is that oral?

Q. Is that an oral agreement?

A. No agreement. Just a message.

Q. When was the next time you spoke to anybody on—

A. On March 31st. Back on—on the 30th.

Q. Right.

A. There was a discussion entered into during the phone call that I mentioned relative to changing some of the terms of the deal.

Q. And how was the deal going to be changed?

A. The twelve million dollar figure that you mentioned before would now be considered in terms of 90 per cent of the package.

Q. *All right. Which would mean that the package would be more than twelve million dollars?*

A. That's right.

Q. *And would it mean that the package was now 13.2 million dollars?*

A. Approximately thirteen three, something of that order, right.

Q. *Did you agree to that or that was your offer?*

A. That was my offer.

Q. *And they accepted it?*

A. They came back that they would accept 90 per cent of the twelve million dollar figure, and I said no.

The next conversation was on April 8 with Frank Moss, Bruce Klaus, Robert Cohen and Ray Finberg at the hotel.

Q. *What was the substance of that discussion, basically?*

A. These other men, other than Moss, were supposedly here to look over the facilities in terms of handling some of the financing.

Q. *Do you know where they were from?*

A. Cohen, Robert Cohen, Eastern Bank Corporation; Ray Finberg, Dicter Capital Corporation.

Q. *And the third man?*

A. Bruce Klaus floated in and out of this picture for some time.

Q. *Did Mr. Richman float back into this picture?*

A. No, not that I recall, other than that one meeting and his name a couple of times with Pomerantz on the telephone.

Q. *I'm showing you what's been marked Exhibit C-52, for the purposes of the record, which purports to be a letter to Robert Skalsky from Tyler McNutt, president, Citation Mortgage Company, dated April 11th, 1977, concerning a commitment for the \$500,000. I ask you whether you have seen that before?*

A. I have seen it.

Q. Does that refer to the five hundred thousand dollar loan?

A. I would imagine it did.

Q. When did you see this letter?

A. Not until May 13.

Q. And how did you come to see this letter?

A. On May 13, on my return to my office, Skalsky was waiting there to see me. Our negotiations had broken down. I invited him into my office and we entered into a general discussion. I told Skalsky basically that I did not desire to discuss it any further, and that if there was to be any further contact, I referred him to my attorney.

Q. Essentially by then the deal had completely broken down?

A. That's right.

Q. Were you later sued in a civil action on this matter?

A. We have not yet been served.

Q. Have you ever seen documentation that's been filed on this arrangement in the County Clerk's office?

A. Yes.

Q. All right. Exhibit C-47, for the purposes of identification, is an agreement dated May 10th, 1977 between National Inns, a Corporation of the State of New Jersey, and Robert Skalsky, his nominees or assignees, Elkins Park, Philadelphia, Pennsylvania, on the second part.

Have you ever seen that agreement before, Mr. Malamut?

A. Only the photocopy, not the original.

Q. Did you assign—did you sign that agreement?

A. No, I did not.

Q. The agreement is signed by Frank Moss, Seashore Realty for National Inns Limited. Did Mr. Moss have any authority to sign this agreement?

A. No, he did not.

Q. Does the agreement essentially recite a twelve million dollar sale that you had originally arrived at on March 16th, 1977?

A. That's about all it cites. All the other terms and conditions I knew nothing of.

Q. Whose agent was Mr. Moss?

COMMISSIONER LANE: *Talking about the negotiations?*

A. During the negotiations?

Q. Yes.

A. I would gather he represents both sides from that paper.

The Mysterious "Mr. DiNardo"

As the paperwork mounted, including what Mr. Malamut said he never authorized or signed, it developed that "Mr. DiNardo's" name never appeared on any of the letters, agreements or other documents. The reason came as a major surprise that suddenly dissolved the mystery:

Q. By the way, this agreement says that Mr. Skalsky is the party of the second part. Is Mr. DiNardo mentioned in this agreement?

A. I don't recall seeing his name in there.

Q. Do you recall seeing Mr. DiNardo's name on any of the correspondence that you received pursuant to the agreement?

A. None at all.

Q. How many times did you see Mr. DiNardo in your offices in the Shelburne with Mr. Skalsky?

A. Several times.

Q. Did he participate in the negotiations?

A. Yes.

Q. Did you assume that Skalsky and DiNardo were partners?

A. Yes, I did.

Q. Did DiNardo ever tell you that he was a partner of Skalsky's?

A. Not specifically.

Q. When you dealt with the four principals, Pomerantz, Richman, Skalsky and DiNardo, you felt that Mr. DiNardo was a principal in the deal—

A. Yes.

Q. —did you not?

A. Yes. I had asked the question several times who was the head man, and as these various people floated in and out of the picture, different ones took credit for being the man in charge.

Q. Did DiNardo remain in the negotiations all the time that you were talking?

A. Basically, yes.

Q. I'm showing you Exhibit C-45, which I will identify after I show it to you, which is a photograph. I ask you if you have ever seen that photograph before?

A. Yes, I have.

Q. Is that Mr. DiNardo?

A. Yes, it is.

MR. SIAVAGE: Mr. Chairman, for the record, the witness has just identified a picture of Emmanuel S. Gambino, 3 Conrow Road, Delran, New Jersey, as Mr. DiNardo.

I have no further questions, Mr. Chairman.

Wanted: A Front Man

Mel Richman is a Philadelphia advertising and communications professional, with a good reputation in his community and a sound financial background. An article suggesting these facts about Mr. Richman—and also listing the gross revenues of his firm—appeared in a local newspaper. That same article came to the attention of the Skalsky-Gambino clique—and they moved on Mr. Richman immediately.

The search for a front man—in this case, Mr. Richman—was initiated by Skalsky. He made little effort to hide his reasons for courting Mr. Richman and he offered a very big deal to promote the courtship.

Counsel Siavage asked Mr. Richman, the next witness, for the details:

Q. Tell the Commission the very first time that you met Mr. Skalsky and under what conditions that was?

A. He called me in my office and asked if he could see me.

Q. And can you set a date when approximately that was?

A. Oh, the latter part of March.

Q. 1977?

A. 1977.

Q. As a result of that phone call, did you meet with Mr. Skalsky?

A. Yes, sir. He came to my office.

Q. Prior to that phone call, had there been an article in the paper concerning your business in Philadelphia?

A. Yes, sir. It was not an article. It was a resume or a—in the field, which they do every year, talking about our gross volume.

Q. How many days before that phone call did that article appear?

A. One day before.

Q. The day before?

A. Yes.

Q. Have you ever met Skalsky before that phone call?

A. No, sir.

Q. Didn't know him from—you didn't know him at all?

A. Not at all.

Q. What did he say on the phone when he called you?

A. That he would like to talk to me about a money-making proposition.

Q. A business proposition?

A. Yeah.

Q. Did you eventually meet with Mr. Skalsky as a result of that phone call?

A. Yes, sir. I think the next day he came to my office.

Q. *And what was the proposal that Skalsky made to you on that occasion?*

A. He would give me a third interest in a hotel that he and someone else was going to purchase.

Q. *Did he tell you how much that deal was going to be worth? Did he mention the figure?*

A. I don't believe so. I think twelve million is in my mind, but I don't know accurately.

Q. *He was giving you a third interest in the twelve million dollar deal?*

A. Yeah.

Q. *How much did he want you to invest for the one third of the twelve million?*

A. Nothing. Nothing at all.

Q. *Nothing at all? You were getting four million dollars—*

A. Yeah, because I have a good reputation and a very good name. I'm a good administrator and highly recommended to him.

Q. *You were highly recommended to him?*

A. Yes.

Q. *Did he explain to you any of the transactions that had led up to that point in time with regard to the twelve million dollar deal?*

A. No, sir.

Q. *Did he talk in any way about your financial statement at that time?*

A. No, sir.

Q. *What did you say to Mr. Skalsky at that point in time? Were you initially interested?*

A. I said, "It's too good to be true, but I'll listen."

Q. *And then did he lay out the proposal for you?*

A. No. He said we should go down to Jersey and look at the hotel.

Gambino (Alias DiNardo) Meets Richman

The visit to Atlantic City to see the Hotel Shelburne led to Mel Richman's becoming acquainted with Emmanuel (Matty) Gambino, who had been posing as "Mr. DiNardo" in the Shelburne transaction with hotel owner Malamut. But Mr. Richman had the foresight first to contact his lawyer, William R. Pomerantz of Philadelphia, telling him: "Bill, this is too good to be true and I would like you to hang around and see what's doing because it's just too good."

Mr. Richman and Mr. Pomerantz together went to Skalsky's home in Philadelphia, preparatory to driving to Atlantic City. That's where they met Emmanuel Gambino for the first time.

Q. Did Mr. Skalsky introduce Mr. Gambino to you?

A. Yes, sir.

Q. Did Mr. Skalsky say anything to you about the fact that Mr. Gambino went by another name with regard to this deal?

A. No, sir.

Q. Later on did you hear Mr. Gambino identify himself during the negotiations?

A. No, sir.

[Discussion held between the Commission and counsel.]

Q. Showing you what's been marked Exhibit C-45, for the purposes of the record, which purports to be a photograph. I ask you whether you have ever seen that man before?

A. Yes, sir, I saw that man, but that's a younger picture of him.

Q. Is that Matty Gambino?

A. Yes, sir.

Q. Thank you. That morning when you met them at Mr. Pomerantz's home, who was present?

A. Matty Gambino, Skalsky, Mr. Pomerantz and myself.

Q. And what did you do on that occasion after you met at the house?

A. We got in the car and went to Atlantic City.

Q. Whose car did you get in?

A. Mr. Gambino's car.

Q. Did you discuss the deal on the way down to Atlantic City?

A. Oh, roughly, in a total concept.

Q. Did Skalsky at that point during that meeting say how he was referred to you?

A. No, sir.

Q. Did Skalsky ever refer to the article in the newspaper concerning the gross—

A. Yes.

Q. —revenues of your operation?

A. Yes, sir, but that was afterward.

Q. That was afterwards. All right. Let's stay with this meeting, now, and what was the approximate date of this meeting when you went to Atlantic City?

A. Approximately, I would say, maybe March 30th.

* * * *

Q. You went to the Shelburne?

A. Yes.

Q. And with whom did you meet at the Shelburne?

A. We went into the office of Mr. Malamut.

Q. Lewis Malamut?

A. I wouldn't know.

Q. And present, now, was Mr. Malamut, yourself, Mr. Pomerantz, Mr. Skalsky—

A. And a Mr. Moss, I believe, who I believe was a real estate man.

Q. Mr. Moss from the real estate and Mr. Gambino?

A. That's right.

Q. And what was discussed at that point with Mr. Malamut?

A. To make sure that they continued the option for the 90 days, I believe.

Q. Did you look over the hotel?

A. Yes. After I—we left the meeting, I looked.

Q. *Did you look at the ballroom in the hotel?*

A. Yes.

Q. *Was anything said concerning the ballroom?*

A. Yes, how it would befit a casino.

Q. *How it would befit a casino?*

A. Yeah.

Q. *Who had the discussion concerning the potential of the casino in the ballroom?*

A. Well, it would have had to have been Skalsky or Matty and the real estate man.

The Richman Financial Statement

The Skalsky-Gambino interest in Mr. Richman was largely concentrated on his financial assets and how they could be "enlarged" for more leverage in promoting the Shelburne deal. But Mr. Richman objected to their request that he exaggerate his financial worth.

The first conversation about his "financial statement" took place in Mr. Richman's office, about two weeks after the visit to the Shelburne property, about the middle of April, as Mr. Richman recalled it:

Q. *You describe the entire discussion that you had in your office with Matty and Skalsky on that occasion in your own words.*

A. They asked me if I could get together my financial statement, and I said, "No, I don't see why I should." This was the first time I was approached. And they said, well, it would strengthen the deal. I said, "Oh, mine wouldn't even have any bearing on it because possibly it could be, in total a million dollars," whatever it is. I have kind of a young building, and we talked about my financial statement, and if I were to sell it, the building, what would I be asking for it is what should go on the financial statement, not what the market value is or anything like that.

They felt that I could, in all honesty, increase it many times because I wouldn't sell it for any price other than what I asked or what I thought.

Q. They suggested that your financial statement should be increased many-fold——

A. Yes.

Q. ——than its realistic statement?

A. Yes, very definitely. That happened.

Q. Now, did they tell you that increasing your financial statement many-fold would assist in this deal? How would that help?

A. Well, it would make us more substantial, and I absolutely told them I would not do it under any circumstances.

Q. Did you ask them if they were going to submit their financial statement?

A. No.

Q. Why did they——

A. Because——

Q. Go ahead.

A. Because I knew that I wouldn't submit mine and I didn't think it was any of my business.

Q. Did Gambino or Skalsky ever suggest to you what their wherewithal was, how much they were worth or whether they were going to submit a financial statement?

A. No, never discussed.

Q. Did they ever suggest to you that it was going to be your financial statement that was going to support the entire deal?

A. No. Mine and theirs, I believe, and that was the only time it was ever mentioned.

Q. They didn't give you the impression that you were going to be the proposed source of capital or anything like that?

A. No. The reason they wanted me is, as I said, I was an upstanding citizen with a very excellent reputation.

He Found Out Who Gambino Was

Mr. Richman quickly bowed out of the negotiations when, he said, he learned who Gambino was. But even after he explained this turnabout, he spent his final moments as a witness describing with more detail his role in the aborted Skalsky-Gambino search for a front man:

Q. When was the next time you met with Skalsky and or Gambino?

A. I don't believe I met with them again because I found out who Gambino was and I immediately severed relationships.

Q. Is that the last time you spoke to Skalsky or Gambino?

A. I believe so.

Q. You later dropped out of the deal because you found out—

A. I discovered what the Gambino name meant.

EXAMINATION BY COMMISSIONER POLLOCK:

Q. These questions may be somewhat repetitive. If they are, I apologize, but it will help me at least in understanding your experience here.

When Mr. Skalsky and Mr. DiNardo, who you later learned to be Mr. Gambino, perfect strangers to you until these events that you described this morning; is that true? Isn't that true?

A. Oh, absolutely.

* * * *

Q. Just a perfect stranger, Mr. Skalsky, called you up on the phone, did he?

A. Yes, sir.

Q. And he said he wanted to talk to you about the acquisition of a hotel in Atlantic City?

A. No, a good business proposition.

Q. And then he came in to your office and he offered you a one-third interest in a twelve million dollar hotel; isn't that what happened?

A. That's right.

Q. Did he mention what name he knew his partner by?

A. Yeah, Matty Gambino.

Q. He mentioned Mr. Gambino's name at that time?

A. That's right.

Q. That Mr. Gambino and Mr. Skalsky wanted you to join them in this twelve million dollar hotel venture because Mr. Gambino needed an associate with a good reputation, you.

A. That's right, and I quote the word, front man?

Q. Yes. Is that the word he used?

A. No. Something, but conveyed that feeling.

Q. That was the word that went through your mind, is they wanted you as a front man?

A. Yes.

Emmanuel Gambino — alias "DiNardo" — Testifies

The man Shelburne owner Lewis Malamut knew as "DiNardo" testified next on how he met Skalsky and how they launched their Atlantic City venture. But first Emmanuel Gambino testified about certain previous business experiences—none of which apparently involved any investments of his own cash—and about his relationship with Joe Gambino, the owner of Valentino's in Cherry Hill.

Although he gave his present address as his sister's house in Delran, where he rented a pizzeria to her husband, Antonio Inzerillo, Emmanuel Gambino said he previously lived in Dover, Del. In that city, he and Giuseppe Gambino were 50-50 partners, he testified, in the King of Pizza pizzeria and the Executive Lounge, a night club. He said there were other King of Pizza places, including one Giuseppe owned in Philadelphia, and one in Cherry Hill. His original investment of between \$7,000 and \$10,000 in King of Pizza, Inc., he testified, was a loan from his aunt.

Emmanuel Gambino also told how he gave extensive advice to Giuseppe on the purchase and rebuilding of Valentino's and that he was at that restaurant so often that vendors and others would mistakenly "think I was one of the owners."

The witness recalled that the first time he met Robert Skalsky was in 1975 in Dover. It was at a Christmas party there in 1976 that they discussed a possible deal in Atlantic City:

Q. Where did you discuss with him about Atlantic City that you both wanted to get into the deal?

A. Yeah. I asked him if he could help me get a mortgage up there since I knew he was a builder. He had knowledge about getting mortgages and building contracts and things like that, so I figured he would be a great help to me.

Q. He didn't approach you with the deal?

A. No. We started talking about what he was doing, what I was doing, you know. Then I told him I was looking for a place up in Atlantic City. I says I think it's going to be a booming town and I said if you can get me up there I think it can be a going business.

Q. Did he ask you anything about your financial wherewithal at that time?

A. No, but I think he knew that I had businesses. I don't think at the time it was usual, you know, probably figured once a time came we purchased this place, it would had to be—we would have to see where the money was coming from and everything.

Q. Did you thereafter visit Atlantic City to look at various businesses?

A. Yes, sir, I did.

Q. Was that before Christmas?

A. Yes, it was before Christmas.

Q. Was it shortly before Christmas?

A. Approximately a month or so.

Q. It was after the referendum, wasn't it?

A. You mean the casino referendum?

Q. The gambling referendum.

A. Yes.

Q. What did you do when you were there alone?

A. I went to look at different places for restaurants or nightclubs.

Q. And which places did you look at?

A. We look at many places. I couldn't recall the places I went in and out.

Q. Did you look—

A. [Continuing] Many times I would just walk around Atlantic City looking at different place. I figured most of them would be for sale because, you know, a lot of those people figured they could make a fast dollar, so—

Q. So you thought it was going to be a gold mine?

A. Yes, I did. I still do.

Q. Do you remember looking at a place called the Cabaret Disco?

A. Yes, I do.

Q. Is that the place Giuseppe Gambino now has an interest in?

A. I don't know if he has an interest in, but it's what—that's the place called Casanova at the time.

Q. Do you recall the following testimony in executive session:

“Question: What is the Black Orchid now?”

“Answer: It's Casanova.”

Question: That's the one Mr. Gambino has an interest in?

“Answer: Yes, it is.”

Do you recall that answer?

A. I recall saying I think it is.

Q. Why did you think he did?

A. Well, he was going up there, like giving them ideas and things, so I figured maybe he did have an interest in it.

* * * *

Q. All right. We'll get to that later. Are there any other names that you can remember looking at alone, bars or restaurants?

A. Yes, sir. Le Bistro.

Q. Le Bistro. On—where is that located?

A. I don't know the name of the street. It's a few blocks down from the so-called Casanova Lounge.

Q. Did you ever negotiate for Le Bistro?

A. No. I went in there, a gentleman, another real estate office, and he asked me if I was interested in that one. I says, well, you know, I asked him the price. At the time I thought the price was a little too high.

Q. When was the first time you went to Atlantic City with Mr. Skalsky?

A. I don't remember the exact date.

Q. All right. Would it have—it was before March 16th, 1977, wasn't it?

A. Yes, sir, it was.

Q. And it was after Christmas, 1976?

A. Yes, sir, it was.

Q. Did you ever, with Mr. Skalsky, approach the ownership of the Dennis Hotel for the sale or purchase?

A. We approached every hotel in Atlantic City.

Q. Every hotel in Atlantic City?

A. Practically.

Q. You approached the Marlboro Blenheim?

A. Yes.

Q. And the Dennis?

A. Yes, sir.

The Shelburne Deal: Gambino Becomes DiNardo

The search for a potentially profitable deal in Atlantic City finally led to the Shelburne Hotel. At this point, Gambino revealed why he resorted to an alias.

Q. When do you first remember going to the Shelburne Hotel with Skalsky?

A. The exact date, I don't remember.

Q. Do you recall meeting with Mr. Malamut?

A. Yes, sir.

Q. Along with Mr. Skalsky?

A. Yes, sir.

Q. Do you know anybody by the name of DiNardo?

MR. HAEBERLE (Mr. Gambino's counsel): Is there some context to that name?

MR. SLAVAGE: It's a simple question.

A. DiNardo? Oh, yeah. I introduced myself as Matty DiNardo for the simple reason that if I were to introduce myself as Gambino, the guy wouldn't have dealt with me.

Q. When did you have negotiations with Mr. Malamut and Mr. Skalsky?

A. When we started negotiations was probably March. Beginning of the month. I'm just guessing at this because I'm not too sure about it.

Q. You arrived, essentially, at an agreement; is that correct?

A. Yes, sir.

Q. And that agreement was an option to purchase for the amount of twelve million dollars if you and Skalsky would give Malamut a five hundred thousand dollar loan initially, correct?

A. Not Skalsky would give him the loan, but we would find him a source for him to get the loan, the \$500,000.

Q. You would provide through some source, either yourself or somebody else, a five hundred thousand dollar loan?

A. Well, you see, like before the gambling went into Atlantic City, those hotels were all ready to close, so they weren't worth a third of that price.

Q. Listen to the question, Mr. Gambino. The agreement said, essentially, that Mr. Malamut was going to get a five hundred thousand dollar loan either from you or from somebody else, correct? I'm not asking what your intention was. I'm saying what the agreement said.

* * * *

Q. So it doesn't say who is going to give him the five hundred thousand dollars in the agreement, does it?

A. No, it doesn't. It was just to obtain a loan for him.

Q. Okay. Now, what did you and Skalsky do subsequent to that agreement? Did you look around for a source of the \$500,000?

A. Yes. We looked around a few different areas; looked for a third mortgage, for someone to put a third mortgage on the Shelburne Hotel in order to obtain the \$500,000.

Q. Where did you go?

A. Went to a few different sources. I couldn't recall all the sources.

Q. Did Skalsky have a lot of sources for money? Is he a man that knows a number of mortgage companies and things like that?

A. Yes. He's very social because he's done—he's in the business of building and almost any business has to have sources for mortgages and construction loans.

Q. Did you eventually find a source for the \$500,000?

A. Yes, sir, we did.

Q. Where was that?

A. The first source was in Rhode Island.

Q. Where in Rhode Island?

A. This was through a phone conversation only, though, all right? We explained the story to him that there is a gentleman in Atlantic City that is looking for a five hundred thousand dollar third mortgage, and if he would be interested in making the appropriate loan.

Q. Who was the man on the other end of the phone?

A. I don't know. Mr. Skalsky spoke to him.

Q. When Mr. Skalsky hung up, did he tell you he had obtained a five hundred thousand dollar commitment?

A. What he said, he had somebody interested enough to give the five hundred thousand dollar loan.

Q. Did you ask him who it was?

A. I don't recall if I did. I must have. I don't remember.

Q. Do you remember whether he told you?

A. I don't remember.

Q. Was it a man by the name of Leach? Does that ring any bell?

A. Who?

Q. Leach, L-e-a-c-h.

[Discussion between the witness and his counsel.]

A. I recall, I think that's the name. I'm not sure.

Q. A Ronald Leach?

A. I don't know his first name. It was a Leach.

Q. You think that's the name?

A. Yes.

Q. How about Finasco Equilease Limited; does that ring a bell with you?

A. I think that's part of that company. I think. I don't know. I don't remember.

Q. You think that company is associated with Mr. Leach?

A. I heard of it, but I don't have a knowledge of it.

Q. Were you going, were you and Skalsky going to have to give Leach anything for the loan of \$500,000?

A. No, sir. He was going to give a third mortgage on the Shelburne Hotel.

Q. How many people did Skalsky approach when he was looking for the five hundred thousand, approximately?

A. I don't know. He called up a lot of sources. You know, a lot of people. In fact, one time he went into a magazine that he got from a real estate office to look for, you know, mortgage companies.

Q. It wasn't easy to find money, was it?

A. Not really. There wasn't too many people too happy to go up to Atlantic City because they're afraid something might happen with these investigations and things like that.

The Deal Required a "Front" Man

Encouraged by prospects of buying the Shelburne for \$12 million, subject to a \$500,000 loan to Malamut, the witness told how he and Skalsky searched for a "front" for a transaction that appeared far beyond their means.

Q. Where were you going to get the twelve million?

A. From a mortgage. First we had to find the principals that could handle that particular deal.

Q. So did you look for principals?

A. Yes, we did.

Q. Did you find any?

A. Well, we had Mr. Mel Richman, but he backed out because he wasn't financially—he wasn't strong, now, to handle the deal.

Q. Financially he wasn't strong enough to handle it?

A. Right.

Q. Did you ever have any discussions with Mr. Richman concerning his ability to handle the deal?

A. Yes, sir. You see what happened there, we seen a newspaper clipping—

COMMISSIONER LANE: A little louder.

A. We seen a newspaper clipping saying that his company had written twenty-five million dollars worth of business for the one year. I figured he was an appropriate person to approach about it because it seems like he was a wealthy gentleman.

Q. Did you essentially want somebody to handle the twenty-five million dollar end of the deal? What was your investment going to be?

A. My investment was to put the package together, to get the principals and to arrange financing from them.

Q. You weren't going to find any money for the twelve million dollars?

A. Us personally?

Q. You personally.

A. No. All we wanted to do is get a little piece of the hotel. In other words, we wanted to put the

package together and find someone that was interested enough to take over what we had.

Q. Did you offer Mr. Richman any portion of the deal, any portion of the twelve million dollar deal?

A. Yes, sir. He was offered a substantial amount, but I don't remember what it was.

Q. How much of a partner did you consider yourself with Skalsky? Were you 50-50?

A. Yes, sir, we were 50-50.

Q. And when Richman joined the deal, was he a partner of a percentage that you know?

A. Yeah. Well, he was going to get a per cent, but I do not know the amount of per cent.

Q. Did you ever discuss one-third with him?

A. Might have came up, yes.

Q. Did Skalsky, to your knowledge?

A. I don't know, sir. I don't remember.

Q. How much money was Richman going to have to invest in the deal?

A. Well—

[Discussion held between the witness and his counsel.]

A. Repeat the question, please.

Q. How much money was Richman going to have to invest in the deal, the twelve million dollar deal, for his percentage of that deal?

A. I do not recall if we ever discussed any amount of money that he was to invest, sir.

The Deal Triples in Size

Before the Shelburne deal collapsed, it grew to almost thrice the agreed-upon option price for the hotel itself, according to the paperwork that the Gambino-Skalsky venture generated:

Q. Did you later obtain any further mortgage commitment other than the \$500,000?

A. Yes, sir, we obtained from Citation Mortgage.

Q. Did you ever tell Mr. Richman that he wasn't going to have to invest anything in the deal?

A. I don't remember.

Q. You don't remember. I show you what's been marked Exhibit C-50, for the purposes of identification, which purports to be a letter from Mr. Skalsky to the Citation Mortgage Company concerning the securing of a commitment of a thirty-five million dollar mortgage at an interest rate of ten-and-one-eighth per cent for the term of 20 years, signed by Mr. McNutt, Tyler McNutt, the president of Citation Mortgage Company, and ask you if you have ever seen that before?

A. Yes, sir, I have.

Q. Okay. Did Mr.—were you present when Mr. McNutt obtained the thirty-five million dollar commitment?

A. I wasn't present in the room. What happened there, we were in and he walked out of the room. He says I got to make a few phone calls, and he come back and he says, "I'm pretty sure I can get you the money." He says, "I'll give you a commitment."

Q. How much did you tell Mr. McNutt that you needed, you and Mr. Skalsky?

A. I don't recall, but it was—we asked him if he could also obtain the \$500,000. I don't recall the exact—I believe it was the thirty-five million that's written down in the contract there.

Q. What was the thirty-five million for?

A. It was for obtaining the hotel and refurnishment of the hotel.

Q. And you wanted to get that commitment into the package that you were going to sell off?

A. Yes. You see, we were trying to get a package together where we would be able to present it to the principals who were going to be the principals of this business venture.

Q. Was the thirty-five million dollars contingent upon a gambling license?

A. I don't recall that, sir.

Q. Was the thirty-five million dollars contingent upon the twelve million dollars being paid by somebody else or was the twelve million included in the thirty-five?

A. I believe the twelve million was included in the price. I'm not sure, though.

Q. Okay.

A. To the best of my mind, I think it was.

Q. So out of this thirty-five there would have been twelve that would have been applied to the purchase under the option and another twenty-three that would have been used for the refurbishing?

A. Yes, sir.

Looking for a Break

The witness, under interrogation by the Commissioners, enlarged on his hopes and ambitions in connection with Atlantic City and its new casino gambling industry:

EXAMINATION BY COMMISSIONER POLLOCK:

Q. Mr. Gambino, your business experience, as I understand it, is pretty much restricted to the operation of pizzerias?

A. Pizzerias. Since I have the club, also I went into the club business.

Q. You had no prior experience in multi-million dollar acquisitions up until this venture involving the Shelburne Hotel?

A. No, I didn't. It was like a shot in the dark, you know, you pray you get a break and you just happen to get a break.

Q. And I believe you discussed your purpose in this venture as being to obtain principals and arrange financing for the acquisition of the hotel, right?

A. Yes, sir.

Q. It was Mr. Skalsky who knew where to get the money, wasn't it?

A. Oh, yes. He had—he had the knowledge of getting mortgages and things like that.

Q. *You had no experience in this?*

A. No, I didn't.

Q. *And you had no prior experience in locating principals for multi-million dollar real estate acquisitions, had you?*

A. No, I didn't.

Q. *The question logically occurs, therefore, what was your role in this venture?*

A. You see, we originally went to Atlantic City to purchase a nightclub and restaurant. Now——

Q. *You figured you might as well buy a hotel?*

A. No. It wasn't like that. It was something like that because what happened was the real estate brought us up there, said, "Are you interested in a hotel?" I thought, "Can I get it for no money?" and he said, "I don't know. Let's see what kind of a deal we can work out with them because the guy's got problems. Probably if you can get him a loan," he says, "he might even make an agreement of sale."

That's how the whole thing started with the hotel. We never had any intentions of going to Atlantic City to purchase the hotel because I could never handle a hotel.

Q. *You were just going to be a middle-man between the seller of the hotel and whoever ultimately bought it?*

MR. HAEBERLE: Mr. Pollock, I think he has restated many times he went there for a restaurant-bar. By a process of upgrading by the real estate, he came into the hotel and then the idea of the casino in a cash package came about.

COMMISSIONER POLLOCK: That's kind of going from sandlot baseball to the major leagues.

MR. HAEBERLE: And it sometimes happens, thank God.

Q. *You had no intention——*

A. Sometimes—excuse me, sir. Sometimes when a building has problems, people hold a mortgage to it are trying to get the people to have it for one reason

or another and they will make kind of certain deals where they would give the hotel to someone else.

Q. You had no intention of actually opening and owning and operating the hotel, did you?

A. No, sir. At the time I didn't. If I could get it, I'd like to get it and get on the license.

Q. If you could get on the license you would like to be the operator of it?

A. Yes, sir. I'd even go to school to learn how to operate it and everything else.

Any Union Pension Fund Interest?

S.C.I. Commissioner Kaden tried to identify the source of the backing for what apparently had become a \$35 million deal—specifically, whether it came from labor union pension funds. His questioning set off a series of evasive responses.

Q. This letter from Mr. McNutt suggesting that there is a commitment of thirty-five million dollars for the mortgage on the Shelburne Hotel, do you know where Mr. McNutt was going to get that commitment from?

A. I haven't the faintest idea, sir.

Q. Do you know whether he got it from Mr. Leach?

A. I haven't the faintest idea.

Q. Do you know where Mr. Leach gets his money?

A. No, I don't.

Q. In your discussions with Mr. Skalsky, did you ever ask him where all this money was going to come from?

A. Well, the man is in the mortgage business. I believe that he has sources to get this type of money. You know, I never asked him. You know, if you're in the pizza business, you make pizzas. If you're in mortgages, you give out mortgages. Probably he would have that type of source to get that type of money.

Q. Did Mr. Skalsky ever suggest to you that either the five hundred thousand or the thirty-five million were to come from a union pension fund?

A. Union pension fund? He might have. I don't—we discussed about the unions were usually the ones that give these large-type of mortgages.

Q. *You did discuss with Mr. Skalsky that unions often give big mortgages?*

A. Well, if you find out, anybody can find out, a lot of the mortgages in Las Vegas is given by the unions.

Q. *Did Mr. Skalsky ever suggest that a union was going to give this mortgage?*

A. I don't recall, sir.

Q. *You don't recall. Possible that he did?*

A. I don't know.

MR. HAEBERLE: He doesn't know. He doesn't recall.

A. [Continuing] We discussed a lot of things. I just don't—

Q. *You discussed union pensions?*

A. If I can remember every conversation I had with people, you know, I'd be a genius.

Q. *I assume you don't have conversations about thirty-five million dollars every day?*

A. No, we don't.

Q. *Did Mr. Skalsky suggest the thirty-five million ought to come from union pension funds?*

A. I don't recall, sir.

Q. *You don't recall. Did he mention the particular union it might come from?*

MR. HAEBERLE: You aren't even sure he mentioned a union.

THE WITNESS: He mentioned we were going to approach some unions.

MR. HAEBERLE: Tell him.

A. He mentioned that we were going to approach some unions. We were going to approach some life insurance companies and things like that.

Q. *Did he mention that he or Mr. McNutt or Mr. Leach or any one else was going to go to the Central States Teamster's Fund?*

A. The who?

Q. The Central States Teamster's Fund?

A. To my knowledge, this is the first time I heard of Central—

Q. Did Mr. Skalsky or Mr. McNutt or Leach ever mention to you that one of the sources they were going to approach was the Central States Pension Fund?

A. I don't remember, sir.

Skalsky Testimony Recalled

Gambino had contended he was unaware that Skalsky discussed the Shelburne deal with certain individuals by name of Grasso, Turi, Weisinger, Molinari and the like. However, the next witness pointed out that these were the names of people with whom Skalsky had a number of transactions. The witness, Julius Cayson, the S.C.I.'s chief accountant for eight years, recalled Skalsky's references to some of these individuals when Skalsky testified under a grant of immunity before the S.C.I. some years ago.

EXAMINATION BY MR. SLAVAGE:

Q. In the course of your employment, have you been involved in Commission investigations related to Atlantic City?

A. I have.

Q. Have you been involved in those investigations in 1971, '74 and '76?

A. I have.

Q. During the course of your Commission employment, have you come to be acquainted with a man by the name of Robert Skalsky?

A. I have, sir.

Q. And have you come to the knowledge that Mr. Skalsky is associated with Mr. Michael Grasso?

A. Yes, sir, I have.

Q. Was Mr. Skalsky granted immunity by the State Commission of Investigation in 1972 for his testimony?

A. He was.

Q. Is that because he invoked his Fifth Amendment privilege precisely with regard to certain transactions involving Mr. Grasso?

A. Yes, he did.

Q. How do you know Mr. Skalsky as a builder, Mr. Cayson?

A. In the fall of 1971 the staff made an in depth investigation into a parcel of property located at 1501 North Monmouth Avenue in Ventnor. It was learned that Mr. Robert Skalsky was the builder and he was in partnership with an attorney by the name of Samuel Hecht, H-e-c-h-t, out of Philadelphia. It was discovered that Mr. Skalsky and Mr. Hecht got into financial difficulty and they sought out an entity by the name of Brokers Financial Corporation for financial assistance.

Q. Who are the officers of Brokers Financial Corporation, Mr. Cayson?

A. The officers are Michael Grasso and Rocco Molinari.

Q. And is Michael Grasso the Michael Grasso as identified at Monday's hearing before this Commission?

A. One and the same.

Q. Does he occupy any position in the Bruno Family according to the testimony given before the Commission on Monday by Detective McFadden?

A. According to the testimony on Monday, it would appear that Mr. Grasso is in charge of the real estate division of the Bruno Family.

Q. Now, returning to Brokers Financial and Mr. Grasso and Mr. Molinari, by the way, is Mr. Molinari a known associate of Mr. Grasso?

A. Yes, he is.

Q. Is he associated with him continually over the years?

A. Continually.

Q. What happened as a result of the contact by Skalsky and Hecht with Brokers Financial, Grasso and Molinari?

A. Skalsky introduced Grasso and Molinari to a Mr. Robert N. Fitzgerald of the Bank of New Jersey. Mr. Fitzgerald is the vice-president in charge of con-

struction mortgages. He introduced them for the purpose of them obtaining a loan so that possibly Mr. Grasso and Mr. Molinari could replace Mr. Skalsky and Mr. Hecht on the mortgage bond.

In other words, they were obligated for some 1.3, 1.4 million dollars and they evidently wanted to get out from under that mortgage.

Q. Did they, in fact, take over Bay Shore?

A. Yes, they did.

Q. Did they subsequently default on the loan?

A. They did. The bank took back the property.

Q. Did Skalsky have any other deals with Grasso and Molinari that you know of?

A. Yes. Skalsky testified on October the 6th, 1971 that Grasso and Molinari were to pay Skalsky a finder's fee for any action, and these are his words, not mine, any action they brought into the Bank of New Jersey and any deals involving one K. B. Weissman, doing business as Beechmont Investments.

Q. How many deals did Skalsky admit to of that nature?

A. Four or five.

Q. Did one deal involve Chester Weisinger?

A. Yes, it did.

Q. And a motel in Long Branch?

A. That's right. That motel is the New Castaways Motel, 2 North Bath Avenue, Long Branch, New Jersey.

Q. Who owned that motel, Sun & Shore Incorporated?

A. That motel, under the name of Sun & Shore Motel, was owned by Vinnie Rao, R-a-o.

Q. And without going into any details, did Skalsky get a finder's fee on that deal?

A. Mr. Skalsky didn't get a finder's fee on any deal.

Q. What happened?

A. Mr. Skalsky testified that although he was entitled to finder's fees on some 1.3 million dollars of

mortgage loans that he generated, Mr. Grasso and Mr. Molinari decided not to return any fees to him. That's his testimony.

* * * *

Q. Mr. Cayson, you have testified, then, to approximately six, seven transactions that Mr. Skalsky testified under a grant of immunity before the Commission in 1972 involving Mr. Michael Grasso, Turi, Molinari, Weisinger and others?

A. Yes.

Q. Out of Philadelphia; is that correct?

A. That's correct, yes, sir.

Q. And Mr. Turi and Molinari and Weisinger are known also in addition to Mr. Grasso to law enforcement officers as what?

A. They are known, very, very close associates of Michael Grasso.

Yet Another Gambino Gap Filled

During his testimony, Gambino had recalled somewhat vaguely that his partner Skalsky had contacted a Ronald Leach in Rhode Island with respect to getting financial backing for the \$500,000 loan Lewis Malamut demanded as a condition for selling the Shelburne.

S.C.I. Counsel clarified Gambino's testimony as follows:

MR. SIAVAGE: I'd like to mark a particular letter, Mr. Chairman, as Exhibit C-55 and read it into the record with your permission.

THE CHAIRMAN: It should be read.

MR. SIAVAGE: The letter is from the Rhode Island State Police, P. O. Box 185, North Scitlate Road, Rhode Island, but it's from Edward J. Carraeria, Lieutenant, officer-in-charge of intelligence unit, and it's for Cyril T. Jordan of the State Commission of Investigation, re: Mr. Ronald Leach, Finasco Realty Limited.

The purpose of receiving this letter into the record, Mr. Chairman, is because Mr. Leach was identified as a financial officer that Mr. Gambino and Mr. Skalsky approached in Rhode Island. The letter reads as follows:

“Dear Sir: As a result of your request for a discreet background investigation concerning the above person and company, our findings are as follows:

Mr. Ronald Leach has been fully identified as Ronald M. Leach, date of birth, 4/29/36, of 1145 Reservoir Avenue, Cranston, Rhode Island.

“In checking further, it was determined that Ronald Leach was arrested by the Federal Bureau of Investigation, Boston, Massachusetts, on March 7, 1969. At this time he was charged with (1) Conspiracy; (2) Giving false statement on December 11, 1969, in U. S. District Court in Boston before Judge Ford. Mr. Leach was sentenced to two years in prison and given a \$15,000 fine. Mr. Leach was received at Danbury, Connecticut Federal Penitentiary on January 15, 1971.”

Gambling School Crime Target

Having demonstrated the actual presence of organized crime in such areas as vending machines, restaurants and bars and in an aborted casino-hotel deal in Atlantic City, the S.C.I. moved to another target—casino gambling schools.

The star witness on this subject was Steward Siegel of Lakewood and New York, president of the Atlantic City Dealers and Croupiers School, in which he was a 50-50 partner with Lawyer Sam DeLuca of Jersey City. Siegel, who was waiting to get a state license to operate, was no newcomer to the casino industry, having managed casinos in Yugoslavia, Dominican Republic, Columbia and St. Martin, where he also “taught the locals how to deal.” At the time he testified he was acting as a consultant for Caribbean casinos in an investigatory capacity.

Siegel’s encounter with organized crime took him by surprise and left him frightened. It was staged in a strange way in January-February 1977, by a man he regarded as a friend, Charlie Carus. Carus, who had noted Siegel’s new car, expressed a desire for the same kind of new car deal. Siegel agreed and Carus arranged a meeting in front of a diner off the Garden State Parkway in New Jersey, preparatory to going to the dealer where Siegel had obtained his car. Siegel testified that he waited in his car in front of the diner for his friend Carus to arrive . . .

"Mustache Mike" Intervenes

Q. What did you see after you waited 30, 35 minutes?

A. As I was sitting there, I was parked at a parking meter, his car pulled up behind mine, and in the rearview mirror I was able to see him pull up in the car with another party in the car.

Q. Had you ever seen the other party before?

A. I had met the party on one or two occasions and had been shown his picture on several occasions.

Q. What happened next?

A. I got out of the car as they pulled up and I remarked to Charlie that he was wrong for bringing the other party to meet me.

Q. Why did you remark that to Charlie?

A. Well, I had been questioned on several occasions about the other party by the F.B.I. and I wanted nothing to do with him.

Q. What did Charlie say in response to you?

A. He said he had no choice in the matter, and the other party asked for myself and he to get into the car. Charlie was not in the car with us, just the two of us.

Q. Do you remember the other individual's name?

A. His first name is Michael. I do not know his last name. I never did.

Q. Showing the witness what has been marked Exhibit C-54 for the purpose of identification which purports to be a photograph; is that the Michael that you saw?

A. Yes, sir.

MR. SIAVAGE: The witness has just identified a photograph of Michael Contino.

Q. I'm going to refer to that in the rest of your testimony, Mr. Siegel, since you have now identified that individual as to Michael Contino.

Did you know him by sobriquet, do you know?

A. Yeah. They called him Mustache Mike because he wore a mustache.

Q. Why didn't Carus get into your car? Was it because you were upset with him or was it because of another reason?

A. I think Michael wanted to talk to me alone.

Q. What was the first thing Michael said to you?

A. He wanted to congratulate me for opening a school in Atlantic City.

Q. Did you ask him how he knew that you had opened a school?

A. Yes. He said he knew it from Charlie.

Q. Was Charlie a friend of Michael?

A. Very close friend. They grew up together.

Q. How did you react to Contino's congratulations?

A. I was a little upset and disturbed that he was even there.

Q. What was the next thing?

A. He wanted to become my partner.

Q. How did he put that to you?

A. Well, he told me that he could be very helpful in three areas of helping get the school open.

Q. What was that?

A. One, he could help me get my license from the state; two, he could help me financially if there was any money that I might need; and, third, since Atlantic City, the dealers in Atlantic City were going to be unionized, he would have the in with the union and he would help me make that contact with the union.

Q. What did you say when he put this postulate to you about the manner in which he could aid you?

A. I told him I had a partner, I had all the financial backing that I needed and I was not interested in any way, shape or form with him or his friends.

Q. What did Contino say in response to you when you put that to him?

A. He just said that he thought it would be to my best advantage to become my partner; that his friends could help.

Q. He essentially reiterated the offer to you again?

A. Several times.

Q. *And you said several times what?*

A. That I had a partner; that I was not interested in taking anyone in the business, and I definitely was not interested in getting involved with he or his friends.

Q. *I want you to listen closely to this question. He did not tell you any way in which he could aid you in these three areas. I want to take them one at a time and ask you whether, based on your own independent knowledge of him, whether you think he could have helped you in those areas. First take whether he could help you with the application process to the State. Is there anything that you know about Contino which would suggest to you that he could help you with the application process to the State?*

A. Quite to the contrary. I think he could be a hindrance.

Q. *You mean if he was on the license of the school?*

A. No question about it.

Q. *That's number one. Number two, is there anything that you knew about him previously that would suggest to you that he could help you financially?*

A. Again, a supposition on my part, I mean, I don't know exactly what he does for a living, but from the questions that had been asked by the F.B.I. on previous occasions, by the way Charlie talked about him, I assume that he was financially in very good shape.

Q. *Okay. The third area is Contino stated to you that his people quote-unquote, I don't think that's a false characterization of what you said.*

A. Not at all.

Q. *Had contacts in the union, in certain unions, and since the dealers and croupiers in Atlantic City were going to be unionized, they could help you and provide some kind of service to you through the unions; is that correct?*

A. Yes, that's correct.

Q. *Was there anything, based on your prior association with Contino, which suggested to you that,*

number one, that that was true; and, number two, what form that aid would take?

A. Not really. I really had no association with him prior. I had met him twice before in Charlie's presence. That's about the extent of it.

Q. Did he ever suggest to you how a union could be helpful to a man who trained dealers and croupiers?

A. Well, he mentioned that if the school was involved with the union and the hotel had to hire union people, naturally it would be to the advantage to the school that was involved with the union to be involved with the hiring.

Q. Okay. Now, after you had—after he made the proposal seven or eight times, I think you said, to you, you went back several times—

A. Several, three or four times.

Q. —and you turned him down several times?

A. Yes.

Q. What happened next?

A. He said he would get back to me on it and I should take it under advisement and think about it and discuss it with my partner.

Q. What did you say to him?

A. I said, "I would discuss it, but I could give you the answer now. The answer is definitely no."

Q. Why were you so concerned, first, when you saw him and then when he made the offer to you, et cetera?

A. Because of the nature of the investigation that the F.B.I. was into and some of the background that I had learned about him. I really wanted no part of him. I was just not looking for any trouble at this time trying to get the school open and trying to keep myself clean, and I didn't want to be involved with any people.

Q. How would you characterize him, in your own mind?

A. A tough young man.

Q. With tough old and young associates or not?

A. Yes, yes.

Siegel Was Afraid

Siegel indicated he was frightened by "Mustache Mike's" knowledge of and interest in his gambling school.

EXAMINATION BY CHAIRMAN RODRIGUEZ:

Q. All right. Do I detect, am I accurate in detecting from your answers with respect to the presence of this Michael and his attempted involvement to become your partner, that you had a deep concern with his presence?

A. Yes, sir.

Q. And is this deep concern primarily based on what you know his reputation to be with respect to these tough associates?

A. Yes, sir.

Q. Did it give you any personal concern that he was contacting you with regard to this school?

A. Still does.

Q. Do you believe that perhaps your refusal, do you think, now, that your refusal to him is a matter of concern to you personally?

A. When you say "personally," you mean physically?

Q. Physically or otherwise, whatever your answer is.

A. There is a concern, yes.

Q. And even with the knowledge of that potential concern, you were willing to reject his offer?

A. Yes, sir. I still do.

In fact, Siegel had been so afraid he had invoked his Fifth Amendment privilege when the S.C.I. asked him some weeks previously to testify about the "Mustache Mike" event at an executive session.

EXAMINATION BY COMMISSIONER POLLOCK:

Q. The sole basis for your having invoked your so-called Fifth Amendment privilege before the Commission in executive session was because of concern over your personal safety resulting from the disclosure of Mustache Mike, wasn't it?

A. Yes, sir.

Q. *And you appeared here again today pursuant to a subpoena, haven't you?*

A. That's right.

THE CHAIRMAN: We have no further questions, Mr. Siegel. This Commission sincerely appreciates your presence and your testimony.

"Mustache Mike" a Crime Figure

The day's final witness, Essex County Detective William Davis Jr., recalled that "Mustache Mike" Contino was known to the Essex Prosecutor's Office as a major organized crime figure. Davis spoke from the standpoint of five years' experience as a member of the Organized Crime Strike Force in his home county, where Contino had been based.

EXAMINATION BY MR. SLAVAGE:

Q. *And you know him as what?*

A. He is an individual who is a close associate with Anthony Accetturro, A-c-c-e-t-t-u-r-r-o.

Q. *Mr. Accetturro is what?*

A. Mr. Accetturro currently lives in Florida as does Mr. Contino. He is an individual who has very strong ties with organized crime groups. He's been involved with several different types of organized crime activities, which is gambling, we believe loan-sharking and extortion.

Q. *Did Mr. Contino appear on a television show in Florida with Mr. Accetturro?*

A. Yes, sir, he did.

Q. *Was that a voluntary appearance?*

A. No, sir, I don't believe it was.

Q. *Can you describe the TV show?*

A. It was a program that ran a series on various organized crime figures that had moved from New Jersey to the Florida area.

Q. *And Mr. Contino was pictured driving around Mr. Accetturro; is that right?*

A. Yes, sir.

Q. Does Mr. Contino presently come back to New Jersey on occasion?

A. We believe so, yes, sir.

Q. In connection between Mr. Contino and Mr. Accetturro as close associate and driver, is there anything else that connects Mr. Contino with Mr. Accetturro?

A. Some years ago we monitored Accetturro to Mr. Contino's home in 1976. Mr. Contino and Mr. Accetturro and four other individuals were indicted in Essex County.

Q. Together?

A. Yes, sir.

Q. And what are Mr. Accetturro's illegitimate areas of expertise?

A. As far as locations, still in New Jersey where he is from originally and also in Florida.

Q. Does Mr. Contino have any particular area of expertise of his own?

A. He is believed to be one of the main people for Accetturro.

Q. Mr. Accetturro is difficult to classify as to his actual organized crime family membership; is that correct?

A. Yes, sir, he is.

Q. What families has he been most closely associated with?

A. Originally, when he was in the 14th Avenue area of Newark, he was associated with Sam Dolasco which would be of the Genovese Family.

Q. Mr. Dolasco's name came out in—

A. Yes, sir.

Q. —the DeCarlo tapes?

A. Yes, sir.

Q. And what association was Mr. Dolasco supposed to have been?

A. He was Mr. Accetturro's boss, as I recall.

Q. And that was the Genovese Family?

A. Yes, sir.

Q. Go ahead.

A. Also Mr. Accetturro is believed to have worked for the Crisolotto Brothers, who are part of the Luchese Family. Mr. Accetturro has been associated with the DeCavalcante Family, which is basically Union County, and also with the Paterno group, which is part of the Carlo Gambino Family from New York City.

* * * *

EXAMINATION BY THE CHAIRMAN :

Q. Mr. Davis, someplace in the business of confronting organized crime figures, would you characterize this Mustache Mike as one of the heavy hitters attached to the Carlo Gambino Family?

A. In the Accetturro group, yes, sir.

THE TESTIMONY — Fourth and Final Day

Organized Crime Expert Sums Up

To assist the S.C.I. in confirming the impact of organized crime on Atlantic City, as a direct result of the huge cash flow and other profit attractions of the developing casino gambling industry, the Commission called upon Ralph F. Salerno to testify as an expert witness. His qualifications as such were unquestioned, based on his prowess during 31 years of exposing organized crime, including 20 years with the New York City Police Department.

Mr. Salerno also carried out major organized crime assignments for Presidential crime commissions, authored several books on organized crime as well as many articles for a variety of publications. His testimony carried added weight because of his accreditation as an expert witness on organized crime in the federal courts of Florida and Tennessee, the state courts of New Jersey, New York and Pennsylvania, and in the Canadian provinces of Ontario and Alberta.

S.C.I. Counsel Siavage said Mr. Salerno's testimony might better relate to the Atlantic City problems the Commission was exposing if he first told the public hearing what the phrase "organized crime" specifically meant.

“We often hear the question,” Mr. Siavage pointed out, “how can you fight organized crime when you don’t know what it is? Perhaps we should start your testimony with a definition of what organized crime actually is.”

A. The definition of organized crime that I use in my professional work is one which is about twelve years old now. It was put together at a series of conferences sponsored by the Office of the Governor of the State of New York on organized crime. The conferences were held at Oyster Bay, Long Island, and they have come to be referred to popularly as the Oyster Bay Conferences on Organized Crime.

The definition, I would like to point out to you, is not at all concerned and makes no mention of nationality, of skin color, of religious affiliation or any other such form of delineation because we consider that to have been capricious and arbitrary when we gave deliberations to a proper description of organized crime.

The definition was put together by some law-enforcement people, prosecutors who had some experience, people from the academic world, whose background would have been in the area of political science, of economics, sociology. We had a feeling that all of those elements and that kind of expertise is needed in a broad understanding of organized crime. We had people from Federal law-enforcement agencies. We had members of the media taking place as participants, the idea being that there is a role to be played by the newspapers, by magazines, by radio and television if we are to combat organized crime.

Forty reasonably intelligent people spent an entire day putting together the definition I’m going to offer you. It took a day because we wanted to be careful. We wanted to be complete. We didn’t want anyone who should be included kept out. We didn’t want anyone in who did not belong there.

There might be professional criminals who conduct their criminal activity in an organized way, but we didn’t want three clever jewel thieves included in our understanding and definition of organized crime.

That type of person, a professional criminal, we wanted excluded. We didn't want anyone kept out because he did not have an Italian surname. We wanted Meyer Lansky included. We wanted Longie Zwillman of years ago in Newark included in our definition. We wanted Eddie McGrath. We wanted Hughie Mulligan. We didn't care about nationalities, skin color or religion.

The definition that we put together after a great deal of deliberation is one that has not needed amendment since that time. It is now widely used throughout the United States and in Canada, and the definition is this:

Organized crime is a self-perpetuating, continuing criminal conspiracy, for profit and power, using fear and corruption and seeking, if possible, immunity from the law.

*The Traditional Organized Crime "Pattern"**

Soon after Mr. Salerno left The New York City Police Department, he looked back on his 20 years of special assignment in the organized crime field and came up with what he regarded as a "classic pattern" of organized crime operations and development. He checked it out with the official records in Dade County, Fla., in other states as well as in Canada. After describing this chart in detail, Mr. Salerno was asked to relate it to the testimony of certain organized crime associates, members or relatives as recorded previously in the S. C. I.'s hearings:

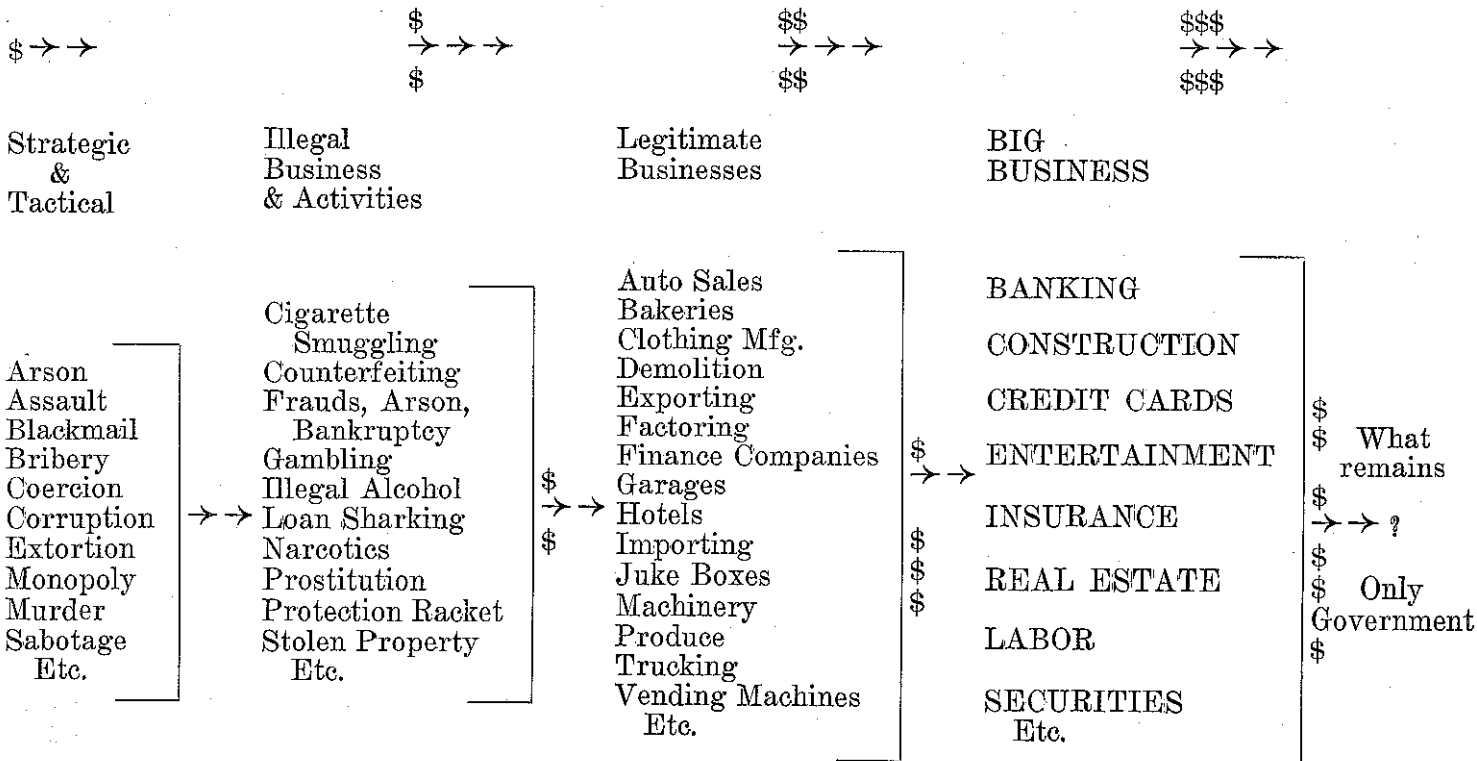
A. Yes, I think there is a great deal in the testimony that you have already presented which fits into the classic pattern.

Mr. Bruno is a man who's made some dramatic changes only in the last few years. Mr. Bruno is a man who went to prison and sat there for a while rather than answer questions. He was a little bit less reluctant in appearing before this committee because now he can answer questions for you. He's a man who declared \$51,000 in income, but he got it from a legitimate source of income. He is in the cigarette sales business and distribution business.

* See Chart, Exhibit C-56, on P. 256.

EXHIBIT C-56

The Classic Pattern of Organized Crime.



256

THE UNIVERSAL CRIME—NON-PAYMENT OF PROPER TAXES

He also is a man who has moved, at least into that level of the legal businesses on a small level, if some of the other things that are suggested to me is that he might be actually in big business. I think he may have changed his technical legal status so that he is no longer a proprietor of the business that he says he sold. But if you look at the actual terms that he described to you where he continues to participate in the profit enjoyed by that company ad infinitum, till the end of time, he has a de facto proprietary interest in that company.

Some of the other things that have been placed before you for your consideration in testimony, I think, defy a logical, prudent man's belief. Leonardo Soccolich is a man who says that he never puts money in a bank. He's a man who's engaged in business, but he never puts money in a bank. And when he needs it, he just keeps \$40,000 in a cloth bag somewhere among the rafters of his building.

Another gentleman who appeared before you, Mr. Adamita, purchases the Casanova in Atlantic City. When you ask him about it, he says, well, \$7,900 came from somebody who I don't remember because people — "Lots of people give me money" is the actual quote. Now, I don't think he's representative of the ordinary businessman that you will meet who doesn't remember. If anybody loaned me \$7,900, I think I would remember that. I think you would, and I think any other legitimate person in this room would. That's the kind of testimony that this Commission has been asked to believe.

You go on to see the example I gave you. Mr. Siegel testified that Mr. Contino came to him and suggested that Mr. Siegel should accept him as a partner in his business, and the thing of value that he would give was: You will not have union problems when you engage in your business. Again, a person that Mr. Siegel describes as a tough young man, who is not known to have any affiliation whatsoever with a labor union or with any business that normally deals with a labor union, but he is giving out as a thing of value, "I can prevent you from getting involved with labor troubles."

You have a thirty-one-year-old man named Emmanuel Gambino, who claims that he can and wants to participate in a thirty-five-million-dollar business transaction. He wants it both ways. You know, he doesn't want to be penalized because his name is Gambino, but he holds himself guilty because, as he begins to move around in an attempt to enter into a thirty-five-million-dollar deal, he uses a fictitious name and he represents himself as Matty DiNardo. Who does he do this to? He does this to a businessman who is being offered one-third of a thirty-five-million-dollar deal. That's almost \$12,000,000. And when that gentleman was asked by the Commission what were you to give in exchange for almost a twelve-million-dollar participation in this deal, it was the use of his good name.

That doesn't sound like a legitimate business deal. It doesn't sound like people who have nothing to hide. It doesn't sound like the usual way business is being conducted. The only thing he was asked to contribute other than his name—now, I think my reading of his testimony is this is when he began to get a little bit worried—he was also being asked to inflate his own financial statement so that, when he participated in the company or if he were to do so, their ability to borrow would be greater.

And here's a thirty-five-million-dollar deal that Mr. Matty DiNardo, Matty Gambino, is participating with and neither he nor his partner nor Mr. Richman, to whom they made this offer, were going to put up any money. It was all going to be somebody else's money.

Now, I don't hold Emmanuel Matty Gambino to be an average thirty-one-year-old young man here in the United States. I don't think the average thirty-one-year-old man can expect to go into a thirty-five-million-dollar deal, promise to give away eleven or twelve million of it and get that money as quickly as they seem to have indicated they got a commitment. I think anyone asked to believe that is being insulted.

*The Bruno-Gambino Alliance Charted**

Counsel Siavage next asked Mr. Salerno to relate portions of the public hearing testimony to another chart* illustrating the interrelation of the Angelo Bruno Family of Philadelphia and the Gambino Family of New York in and around Atlantic City.

EXAMINATION BY MR. SIAVAGE:

Q. I want to refer for a moment to this chart of some of the evidence that's been produced at the hearing and review it with you.

You have already testified about a long-standing relationship between the Carlo Gambino family and the Angelo Bruno family of Philadelphia, and you have already said that Paolo Gambino and Paul Castellano are known to you as—as what, Mr. Salerno?

A. They were both—Paul Castellano still is—a high-ranking member of the Carlo Gambino La Cosa Nostra family. Joseph Valachi, in his testimony before the McClellan Committee, talks about shooting at Paolo Gambino way back in the late nineteen-twenties, 1930.

Q. There is a line from Paolo Gambino to Emmanuel Adamita. Are you familiar with the testimony before this Commission that establishes that close association?

A. I was familiar with it before this hearing in connection with some work that I was doing in Canada. I know that those two gentlemen were together in Canada. One of the possibilities that the Canadian authorities suspected was a mutual investment on their part in cheese companies in Canada.

THE CHAIRMAN: Cheese companies?

THE WITNESS: Yes.

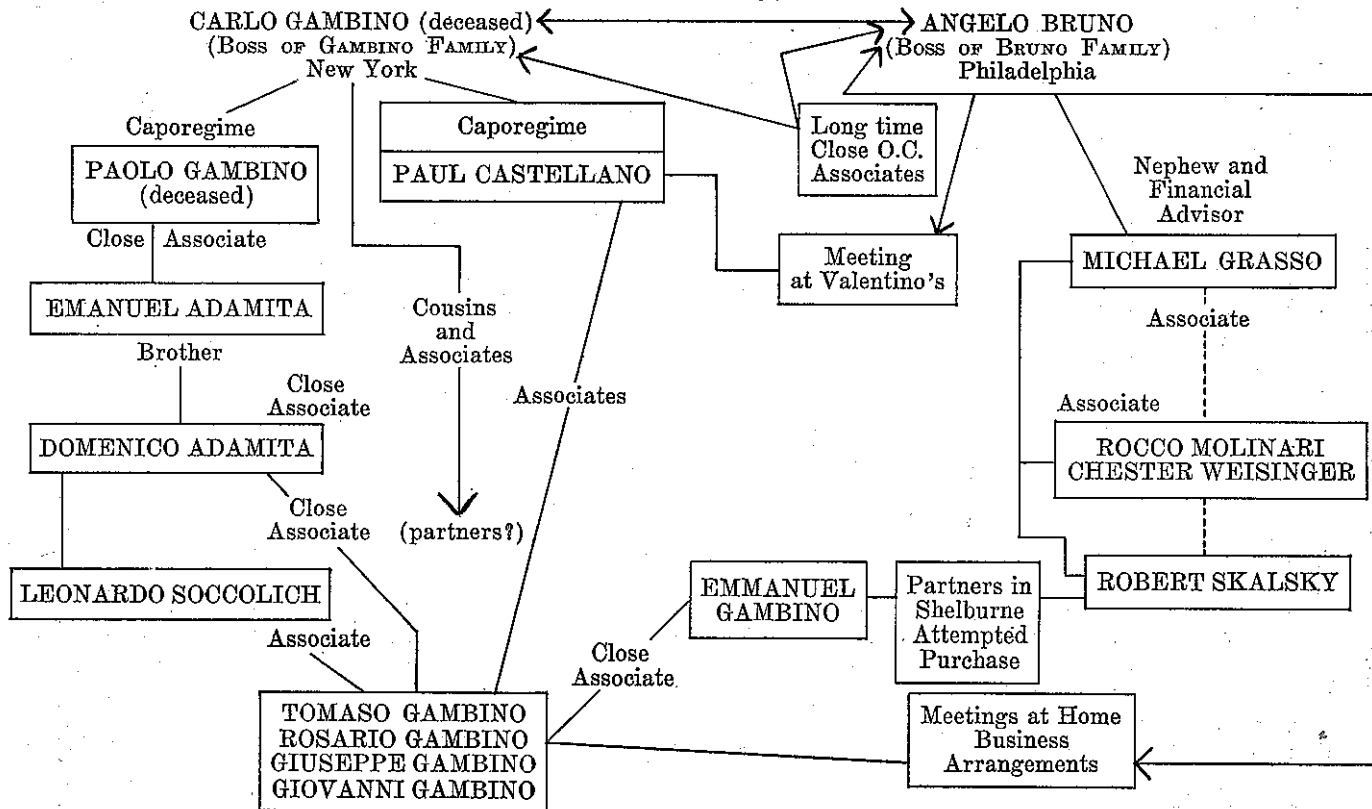
Q. Were those cheese companies that sold to pizza parlors?

A. Yes, among their products would be the types of cheese used in pizza parlors.

* See Chart, Exhibit C-57, on P. 260.

EXHIBIT C-57

260



Q. And was that with the Catroni family of Montreal?

A. There was contact in Montreal. There was also contact in the Province of Ontario, both.

Q. Domenico Adamita you heard identify himself as the brother of Emanuel Adamita and an associate, and the evidence portrays possible partner of, the Gambino brothers in Valentino's?

A. Yes.

Q. Gambino brothers associated with Carlo Gambino?

A. They're relatives.

Q. And Emmanuel Gambino was partners in the Shelburne Hotel. Now, did you hear testimony about Robert Skalsky and could you explain it if you did?

A. Yes, that was the deal that I just described. There seems to be a legal question as to whether or not they have purchased the Shelburne or whether it was only an attempt that failed, and it was Mr. Skalsky and Mr. Gambino who went to Mr. Richman—I think his first name is—I'm trying to get his first name, I think it's Mel—Mel Richman trying to use his name up front to help them make that purchase and, more particularly, the use of his name in adding to their borrowing power.

Q. And how about this line, Mr. Salerno?

A. I'm familiar with Michael Grasso as being considered by law-enforcement authorities a connection to the Bruno family, Angelo Bruno's family, and there also is an actual blood relationship between them.

Q. You heard—or are you familiar with testimony by Mr. Bruno concerning a meeting at Valentino's Restaurant? Are you not?

A. Yes, he met there with Paul Castellano.

Q. Do you put any importance upon that meeting at all in any way?

A. To my mind, to my mind, that meeting between Paul Castellano and Angelo Bruno is simply a continuation of the kinds of meetings and friendship that existed between Carlo Gambino and Angelo Bruno.

Q. Any significance to the geographic location of the meeting?

A. Well, it's Paul Castellano going to see Angelo Bruno. So I think the location — it was in Cherry Hill. It's not neutral territory, really. It's common ground between them, because Mr. Paul Castellano was both the brother-in-law and cousin of Carlo Gambino. So, there is a family relationship between them which, in fact, gives him a family relation to Thomas, Rosario, and Giuseppe and Giovanni, who are cousins of his, too. Yet Cherry Hill is, for all intents and purposes, a Philadelphia suburb and generally would be considered to be Angelo Bruno's sphere of influence in organized crime matters. So, I'm sure while both knew the owners of the location and both were familiar with the location, I think that Castellano coming from New York to Cherry Hill, he is going to see Angelo Bruno, and I think that represents the fact that Mr. Bruno has a higher rank than Mr. Castellano and probably it's Mr. Castellano asking a favor or asking something, some kind of help from Angelo Bruno.

Geography Favors Organized Crime

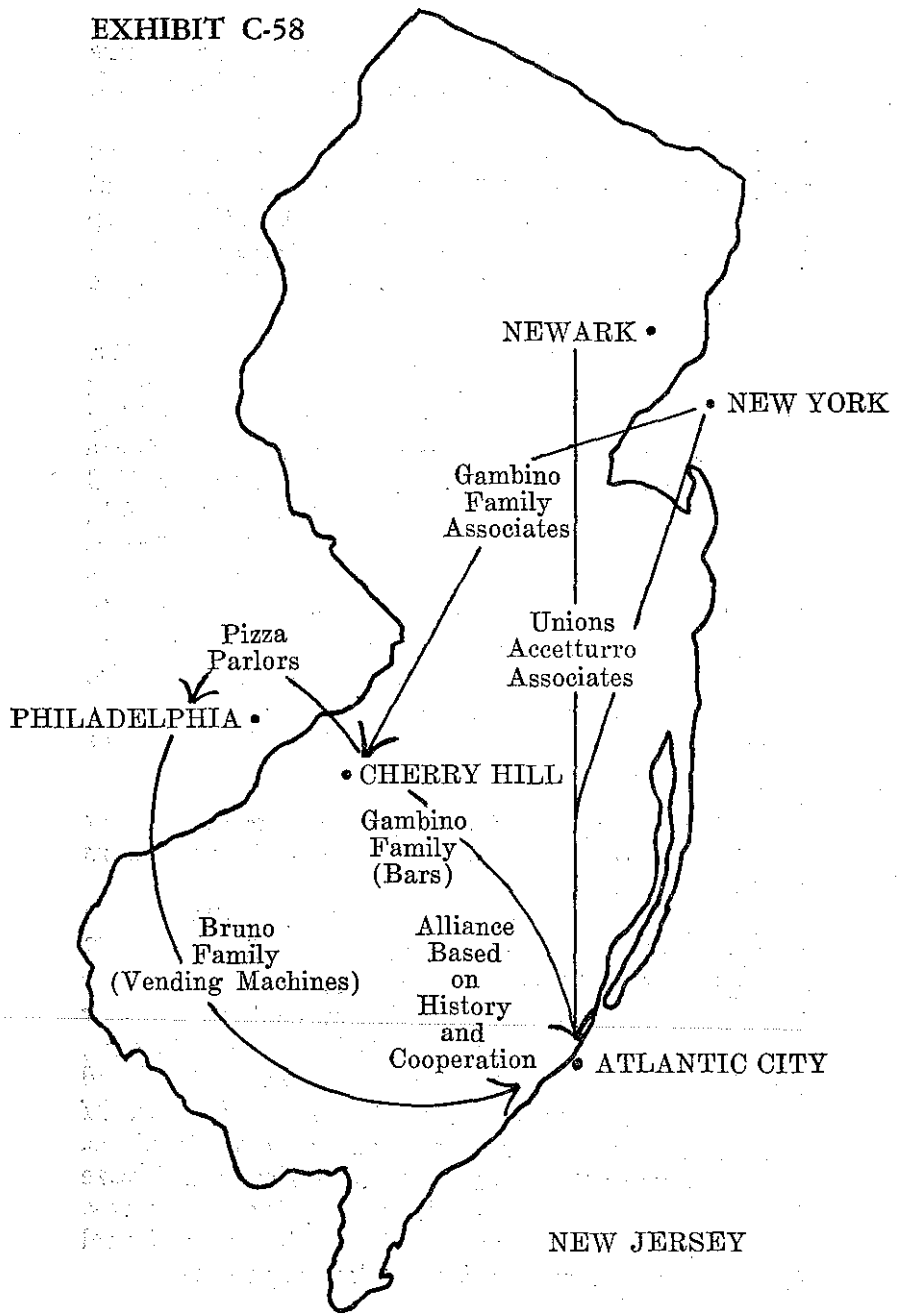
Unlike casinos in Nevada or in the Caribbean, which are far from major urban centers, Atlantic City's casinoland would be open to easier penetration by the established crime families of nearby cities, particularly New York and Philadelphia. Mr. Salerno pointed out, with the help of another S.C.I. chart, how simple was an "extension" of present activities of these closeby urban crime families into Atlantic City.

Under questioning by Counsel Siavage, Mr. Salerno explained the logistics:

A. I think you have a different picture here in New Jersey because, if you take a look at the geographical location of Atlantic City, Atlantic City is right smack in the middle of megalopolis, you know. Within a two-hour drive of Atlantic City you have touched Philadelphia; you have touched New York; you have touched

* See Chart, Exhibit C-58, on P. 263.

EXHIBIT C-58



Wilmington, Delaware. You have touched some very significant population centers.

If you want to expand that to three hours, you're including Baltimore and all the way up to Hartford, Connecticut.

If you went to the same four-hour drive required between Las Vegas and Los Angeles, you have almost all of megalopolis. You have got almost all the way up to Boston and you're almost to Washington, D.C., in the other direction. A tremendous difference in population.

Therefore, whether you're talking about Mr. Bruno's cigarette company, whether you're talking about garbage collection firms, whether you're talking about delivering napkins or silverware, down there you have a different situation. That can be supplied out of Philadelphia. As a matter of fact, Philadelphia is beautiful because it's almost the same kind of relationship to Atlantic City as it has to the Pocono Mountains. So, if anyone were going to be based in Philadelphia, he could very easily supply ancillary services to legal gambling casinos in Atlantic City. He'll find it just as easy to do it in the Poconos when they follow with casinos, which I don't think will be too far off in the distance.

Q. Somebody in various ancillary services, in other words, would not have to go into a new business here in New Jersey?

A. No, I think it would be simply a small — small in terms of mileage and effort involved — a small extension of the kinds of things that they may already have been doing in large-population centers, whether that population center was Philadelphia, or Newark, or New York or Wilmington, Delaware. It would simply be an extension of well-established lines. If you're thinking in terms of, you know, route stops. I am not going 100 miles away to service you. I have been servicing an area which was only ten miles away. I'm simply extending my service route an additional ten miles, which makes it much less expensive.

Q. People who had already infiltrated certain industries then would simply stay in that business and would not have to change their area of expertise?

A. No, not at all.

Q. On that point I would like to refer to the chart that has now been put up and is based on, again, the evidence that's been adduced at the hearing, and it depicts various organized-crime associates and their general area of expertise and their approach and their significance in Atlantic City. Why don't you go through it with me and take the first arrow and explain what it means?

A. I think there you have the meeting which took place in the restaurant in Cherry Hill. I see that as a continuation of the relationship between Carlo Gambino and Angelo Bruno simply being continued by Carlo Gambino's brother-in-law and cousin, Paul Castellano, a high-ranking member of his crime family.

Q. Would this refer to an incursion in certain pizza parlors in the Cherry Hill area and Philadelphia area by the Gambino brothers?

A. Yes, there were sales of pizza parlors in Philadelphia and in New Jersey which were related to each other, and then you have —

Q. Now, these two areas would refer to what we have been talking about this morning?

A. Yes, the vending-machine business, the cigarette operations of Angelo Bruno and the purchase of that bar in Atlantic City.

Q. This is somewhat interesting, I think, and it's based on Mr. Siegel's testimony, and that is an influence by Accetturro associates on unions. Is there any particular reason why we don't see any arrows like that coming out of Philadelphia or Cherry Hill on the same subject, that is, unions?

A. I think what is suggested there, number one, I would like to point out that that gives you a third organized-crime group. You have the Gambino family, you have the Bruno family, and that is a third and distinct separate group coming up out of that area.

I think, because the connections, the connections into unions that could possibly have given that gentleman the ability to say, "I can reduce your labor problems," come more from the north rather than from within New Jersey to the west of Atlantic City or from Philadelphia.

I'd like to point out, Mr. Siavage, without upsetting any apple carts, that I'm aware of, and you are aware of, some either further incursions there—but not to interfere with ongoing investigations, you have not included them, because I asked you why there weren't a few more arrows going there and you told me that you were extending courtesy and consideration to existing investigations.

THE CHAIRMAN: Yes, Mr. Salerno, there are certain arrows we want to keep to ourselves at this time.

THE WITNESS: Okay.

Can Organized Crime be Contained?

Mr. Salerno next was asked to comment on how to respond to the problem of organized crime penetrating the casino gambling environs of Atlantic City, or penetrating legitimate business anywhere in the state. Counsel Siavage recalled an article on "tactics and strategies" for controlling organized crime that the witness had written for the Journal of Police Science.

A. Well, one of the—you have already, you have already prevented the State of New Jersey from following one of the strategies that we described in that article. That was called the Ostrich Principle.

In some jurisdictions the strategy is to stick your head in the ground and say you don't see any organized crime and hope that maybe it will go away by itself. That was a strategy we described, and certainly one that we did not advocate.

You have prevented New Jersey from doing that just by the hearings that you have held this week.

I think you have a problem, very distinct problem, with the advent of gambling casinos in Atlantic City. What I see on that chart, you know, I see the beginning, and as we have indicated, there are some

others that could be added, I see the beginning of silken webs being spun by various spiders all around Atlantic City. And if something can't be done to clear the cobwebs, Atlantic City is going to be right caught and trapped in a spider's web.

How do you go about it? I don't have an easy answer and I don't think anyone does. I have something for the consideration of this Commission and, perhaps, other people in government in New Jersey.

I have some serious questions and reservations in my mind whether the current status of law enables you to guard Atlantic City as well as you would like. I am aware that a great deal of time and thought was given by the legislature in the legislation that is set forth. I am aware that the gaming commission being set up is taking its work very seriously and will give it its best efforts to making sure that the intent of the legislation is employed.

But we have been talking about bars. I think the ability to be able to say we have kept organized crime out of bars is not a realistic one, not in New Jersey, not in New York or nowhere else that I am aware of. I think any reasonable person will be able to tell you that he is aware of a hidden ownership in a bar, because the levels of proof and what we have a right to demand is very, very limited, and I don't think we have been able to keep organized crime out of the liquor distribution industry anywhere in the United States under the current state of the art or state of the law. So that I think whatever the ability is in the screening process of casinos, it's very weak in bars and grills.

I think you have proven it's very, very weak in cigarette sales. You know, it's one thing for a man to sell cigarettes. When a man gets the kind of volume where he becomes an agent of the state, where he affixes the state tax stamp to it and is compensated to some extent by the state for his services, I think there should be an entirely different standard. I don't think, well, simply your volume calls for you getting a tax stamp. I think you should have to meet a higher criteria to be a tax-stamping cigarette vendor than to be a cigarette vendor. I don't think

we have that in the state of New York. I don't think you have that in the state of New Jersey.

So, what you may have is a hotel in a casino that you worked very, very hard to try to keep pristine and pure, but you have slowly allowed it to be surrounded by people in organized crime who are able to get into any and every other kind of business around; collecting the garbage, delivering the food service, the napkins and so on.

What about a union that's headed by someone who's had a conviction for extortion? Are they going to be allowed to have jurisdiction?

I think what you should have considered—maybe it was considered—was that because what has been created in Atlantic City is rather unique, is rather different, that that may have had to have been declared, by the Legislature of the State of New Jersey, a separate enclave where, because of the unique situation created here, that a different standard or level of proof or lack of proof on the part of a petitioner for a license, or on the part of the licensing agency to refuse that, would prevail.

In other words, you have created a unique condition, and I suspect that that unique condition cannot be controlled by the general application of the law as you have it in licensing supervision, screening and any other kinds of government action.

Q. We have talked about changing laws, recommendations to change administrative regulations. Does that type of approach create any responsibility, that you can verbalize, on the part of the public—

A. Absolutely.

Q. —vis-a-vis law enforcement and government?

A. Absolutely. I have seen what I believe to be the genuine concern of the Governor of the State of New Jersey as to what will happen with the advent of gambling in Atlantic City. I saw him on television where he announced that he had sought and obtained a grant from the Federal government to help do this, \$300,000, which was going to be used in the screening process. I think he was sincere when he said, "And I want to tell organized crime to stay the hell out of

New Jersey and particularly to stay out of our gambling casinos.”

I know that your legislature gave a great deal of deliberation before it enacted the enabling legislation for casinos. I know that you had a referendum last year and you had one two years ago.

What I would like to suggest is that every person who voted in favor of casino gambling on that referendum is not finished with his responsibility. If he voted for it because he thought it was a good idea, then, fine. Then he has a responsibility to see that whatever was his intent is actually achieved there.

I think every legislator who voted the bills that were voted out of the legislature can't say, okay, we took care of that, now let the cops and the prosecutors and licensing agencies worry about it. I think the Legislature of the State of New Jersey has a responsibility to continue to monitor what happens in Atlantic City to see if their legislative intent is being fulfilled and to find out why not, if not, and what else they might have to do if that is the case.

I think the Governor of New Jersey will certainly continue his concern, his interest and live up to his responsibility.

But I don't think anybody can say, “Okay, we set up a gaming commission, that's their job. We have a liquor licensing authority. That's their job. And we have a police department and a state police, and that's their job.” I think everyone who's done anything to bring about casino gambling in Atlantic City has a continuing responsibility for what happens there.

S.G.I. Praised by Attorney General

The final public hearing witnesses appeared en bloc—the then-Attorney General William F. Hyland, State Police Superintendent Clinton L. Pagano and Prosecutor Richard Williams of Atlantic County. Each of these influential law enforcement officials outlined his concern about the danger of organized crime penetration of Atlantic City and described the wide-ranging programs being structured to cope with that evil. Mr. Hyland's statement included this comment:

The State Commission of Investigation is performing a useful function in conducting these hearings. This is totally aside from the testimony produced, most of which relates, of course, to figures and events well-known to law enforcement authorities through their intelligence-gathering function. Hearings such as these serve to bring home again to the public and to the media the warnings that have echoed throughout this state from time to time during the years casino gambling was under consideration.

What the Hearings Confirmed

S.C.I. Chairman Joseph H. Rodriguez brought the four days of public testimony to a close with a statement outlining the dramatic confirmation—in some cases through testimony by crime family members and associates themselves—that organized crime penetration of Atlantic City was a reality, not a threat:

We believe that these four days of public testimony have made apparent what has been chiefly a matter of speculation—that the deployment of mobsters in and around Atlantic City is a clear and present danger. Witness after witness, many of them hostile and uncooperative because of their organized crime associations, have corroborated our opening statement on Monday that these hearings will “warn the public that organized crime is presently actively engaged in the casino gambling environs at the seashore.”

As I said on Monday, and must repeat today: “Just as New Jersey must not accept organized crime ownership of a casino, it must also foreclose mob investment or control of business which will prosper from the spinoff of gambling.”

The S.C.I. believes that a significant public benefit from the past four days of hearings is the confirmed early warning that just such a mob investment in casino gambling spinoff enterprises is taking place even before the first spade is turned for building an Atlantic City casino

The testimony, much of it in the form of reluctant but nonetheless highly authoritative concessions extracted from organized crime figures, relatives and

associates, has demonstrated that the major crime families of New York and Philadelphia—the Gambinos and Angelo Brunos—are obviously “cooperating” in an effort to cash in on profitable commercial side lines of a developing casino gambling metropolis—bars, restaurants, cigarette vending, gaming schools—were the particular examples spotlighted here—as well as on prospective casino hotels.

The exposure of organized crime activities to the public limelight is not an easy task, as this agency knows from long experience. You cannot expect that organized crime figures will come clean and tell all about their nefarious activities. What can be done, by aggressive confrontation and public prodding, is the exposure of the glaring inconsistencies between the statements and the actions of organized crime members, relatives and associates.

The litany of organized crime inconsistencies was a highlight of the public hearings.

The boss of organized crime in Philadelphia and South Jersey says he wants nothing to do with Atlantic City, yet the public hearing record shows a cigarette wholesale and vending operation with which he is admittedly connected does \$1.2 million worth of business in the Atlantic City area.

This same crime boss also tells us that casino gambling is totally unrelated to his plans, yet the public record shows how his company’s business has tripled since the passage of the casino gambling referendum last November.

A bar and restaurant operator tells us he got no funds from sources other than two, yet the record shows absolutely no explanation for tens of thousands of dollars of his investment.

A silent partner tells us he loaned the entrepreneur money, but the record shows an admission that it came from a hole in a basement wall.

Yet another associate of organized crime insists piously that he has no interest in that particular bar and restaurant, but the public hearing record reveals that he had decision-making power in the development of that enterprise.

And another organized crime associate proclaims, and underscores, his moral purity, but the public hearing record shows his strong relationship with organized crime as well as his own highly questionable sub rosa activities.

And in that same transaction above, that same entrepreneur denies any attempt to create false appearances, yet the record clearly establishes an approach to a legitimate businessman with a proposition that he act as a front.

Indeed, we see in each organized crime associate in these hearings a great facility for self-serving statements on easy questions, but a marked memory lapse when the questions become more pointed.

As we said at the outset of these hearings, it is just as unacceptable to a society to have associates of organized crime across the street from a casino as it is to have them owning it. The state, we submit, should not be prepared to pay its due to the unsavory elements which have been depicted at this hearing, for there is no due. We will collect and continue to evaluate what has been exposed and portrayed in these hearings and we will consider seriously the most appropriate response that the society can make to the problem which has been depicted.

Generally, of course, it is obvious that recommendations need to be made in the area of stricter licensing for cigarette distributors and vendors and in the area of the functioning of the local alcoholic beverage control body. The Commission's specific recommendations on these areas will be forthcoming at a later time. The Commission, however, approaches its advisory task from the perspective that has been created in these hearings; to wit, the public of New Jersey must be ready to respond to the problem by granting to its Legislature and administrative agencies a sense of a public will to prevent, or at least delimit, what has been herein portrayed. The public cannot blame its administrative agencies for laxity on the one hand and not supply them with the tools of aggressiveness on the other.

The revelations that have been unfolding hour by hour here in this Senate Chamber have sent us a critically important signal—that our own monitoring, surveillance and investigatory activities must continue with increased vigor if the incursion of organized crime and racketeering in and around Atlantic City is to be thwarted. This we promise to do, of course—and as in the past, in full cooperation with other law enforcement agencies.

What we have heard and seen during the public hearings has demonstrated how unlawful or unwholesome elements can circumvent the declared “public policy of this state” as stated in the preface to the general provisions of the Casino Control Act of 1977. That statute declares such public policy to include a “meaningful and permanent contribution” by legalized casino gambling to the economic life of this state. The State Commission of Investigation intends to utilize every available resource at its disposal to prevent the subversion of this public policy.

THE CONCLUSION: Report and Recommendations

On January 12, 1978, the Commission submitted to Governor Byrne and the Legislature its “Report and Recommendations on the Incursion by Organized Crime into Certain Legitimate Businesses in Atlantic City.” The following is a condensation of that report.

Summary

The Commission’s investigation and public hearings unquestionably exposed an incipient pattern of organized crime infiltration of certain legitimate businesses in Atlantic City. The hearings particularly confirmed an attempted organized crime infiltration of a casino gaming school corporation and a prospective casino-hotel complex—enterprises which are covered by the Casino Control Act—as well as actual penetration of the cigarette vending and alcoholic beverage businesses—which are beyond the reach of the Casino Control Act.

At the outset of the commission’s public hearings, S.C.I. Chairman Joseph Rodriguez noted that just as mob control or par-

ticipation in the casino gambling industry cannot be permitted, "neither can society tolerate an incursion by organized crime into related areas *not* addressed by the licensing provisions of the casino legislation." With this emphasis in mind, the Commission concentrated its proposed statutory and administrative corrective steps on the two targets of organized crime incursion that were outside the scope of the casino control law.

Guidelines

Because of the complexity of the public problems to be solved, the Commission established three basic guidelines for its recommendations. They were:

- The recommendations should apply statewide rather than to Atlantic City only and should be implemented at once.
- The emphasis should be on statutory rather than regulatory changes.
- The license to sell alcoholic beverages and to stamp and distribute cigarettes should be considered as a privilege rather than a right.

Recommendations In Brief

Cigarette Vending and Alcoholic Beverage Business

Because of the peculiar sensitivity of these two private enterprises, as illustrated by the Commission's investigation and public hearings, the S.C.I. recommends a major strengthening of the statutes governing them.

One recommendation, applying to both the general taxation provisions under Title 54 and the laws controlling intoxicating liquor under Title 33, is that they be enlarged by a new set of requirements to flush out the "*natural persons*" behind corporate, partnership or other "legal entities" applying for a state license to undertake either of these business activities.

The Commission stresses the need to "foreclose the various subterfuges utilized by undesirable elements in camouflaging legal entity ownership and control."

The Commission would accomplish this objective by requiring more than qualifying merely the legal entity for licensure. In

stead, the Commission recommends that *the following "natural persons" also be specified for qualification on all applications as follows:*

- All individuals having any interest whatsoever in a proprietorship or company.
- All partners of a partnership, regardless of percentage.
- All joint venturers in a joint venture.
- All officers, directors and all stockholders holding directly or indirectly a beneficial interest in any of the outstanding shares of private corporations.
- All stockholders holding directly or indirectly a beneficial interest in more than 5 percent of the issued and outstanding shares of public corporations.
- All key employees of any entity applying for a license. (A key employee is defined as any employee receiving in excess of \$20,000 per annum compensation, whether as salary, commission, bonus or otherwise, and all persons who, in fact, in a supervisory capacity with the power to make or substantially affect discretionary business judgments of the applicant entity.)
- Any other person who, in the discretion of the Director, has the ability to control the applicant entity through any means including, but not limited to, loan, mortgage or pledge of securities.

The Commission finds that the *disqualification* provisions for licensure under both cigarette tax and alcoholic beverage control laws is demonstrably inadequate. In the alcoholic beverage field particularly the Commission's public actions confirm not only that the law is not being enforced at the local level in many major respects, but that "even if compliance were the rule, there would be a need for substantial modification of the statutes and regulations."

Therefore, the Commission recommends that three present disqualification provisions in the cigarette tax law—failure to provide required facts, failure to reveal anything material and supplying of false or misleading information—be also included as disqualification provisions under the Alcoholic Beverage Control law.

The Commission also recommends that the following new criteria for licensure disqualification—based on similar provisions (with

technical modifications) in the Casino Control Act—be added to both statutes:

- The conviction of any person required to be licensed under this section of any capital offense or high misdemeanor as well as of most misdemeanors and of certain disorderly persons offenses dealing with fraud or misrepresentation.
- The identification of the applicant or anyone required to be licensed under this act as a career offender or a member of a career offender cartel or an associate of a career offender cartel in such a manner as to create a reasonable belief that such association is of such a nature as to be inimical to the policies of this act.
- Defiance by any licensed person or entity of any federal or state legislative body investigating crime, corruption or the affected industry.

Cigarette Vending Business

The Commission also urges that the present limited statutory standards for revocation of cigarette tax licenses be immediately augmented by all of the recommended disqualification criteria.

So far as administrative corrections are concerned, the Commission asks not only that the regulations be revised to reflect the statutory changes recommended but also that the application form be restructured to comport with requested law changes “which deal with issues of control and therefore do not lend themselves to a single affirmative or negative check-off on an application form.” The application form, the S.C.I. stresses, should be expanded to include requests “for a statement of liabilities, including all liens, mortgages and otherwise.”

Warns the Commission: “The opportunity of requesting and receiving information critical to the licensing process from the applicant at the time of the application cannot be overemphasized. Failure to provide sufficient information requested . . . should in and of itself be sufficient reason for denial.”

Alcoholic Beverage Industry

The Commission declares that more than is presently contained in the law controlling alcoholic beverages should be required for liquor licenses and proposes the licensure of additional persons

connected with the licensed premises along the same stringent disqualification guidelines proposed for the cigarette industry.

The Commission further questions the "minimal attention" accorded transfers and renewals of ABC licenses and recommends *that all such transfers and renewals be treated as new applications.*

The Commission, which endorses the formal takeover of the local license issuing authority in Atlantic City by the State Alcoholic Beverage Control Division, recommends a re-evaluation of all municipal issuing authorities and similar corrective actions when and where necessary.

Also endorsed by the Commission is the concept of rehabilitated offenders holding limited work permits if there is strict enforcement of the administrative regulation which would bar those persons from a managerial capacity. The Commission further emphasizes that it approves of the concept of a rehabilitated offender holding a liquor license (see N.J.S.A. 33:1-31.2), but only where that applicant satisfies all the other criteria proposed in the body of the report.

Finally, in addition to regulatory actions to reflect any statutory revisions, the Commission requests that the application form for licensure qualification be restructured so that, as in the case of cigarette vending licensure, it requires *"more financial information at the time of the application so that the control body will have a sufficient information upon which to base decisions of control."*

To achieve this desirable and necessary goal, the Commission recommends that each individual required to be licensed under the new statute submit a personal questionnaire as to his background and finances, following a three-step informational process that is required on the personal forms utilized in the State of New York.

The S.C.I. recommends, therefore, this three-step application process:

- The filing of a modified long form together with a determination by the New Jersey ABC as to who should be exposed to the licensing process.
- Notice to all such persons and filing by them of personal questionnaires to augment the entity questionnaires.
- A final decision on all persons and entities required to be licensed based on the new disqualification criteria.

APPENDIX I

MEMBERS OF THE COMMISSION

The Commission's activities have been under the direction of Joseph H. Rodriguez since December, 1973, when he was appointed Commissioner and Chairman by then Governor William T. Cahill. The other Commissioners are Lewis B. Kaden and Arthur S. Lane. There is one vacancy caused by the resignation of Stewart G. Pollock to become chief counsel to Governor Brendan T. Byrne.

Mr. Rodriguez, of Cherry Hill, took his oath of office as Commissioner and Chairman in January, 1974. A graduate of LaSalle College and Rutgers University Law School, he was awarded Honorary Doctor of Laws Degrees by Seton Hall University in the Spring of 1976, by Rutgers University in 1974 and by St. Peter's College in 1972. Mr. Rodriguez was a member of the Board of Directors of the Camden Housing Improvement Project during 1967-71. He was appointed to the State Board of Higher Education in 1971 and the next year was elected Chairman of that agency which oversees the operation and growth of the state colleges and university. Mr. Rodriguez resigned that Chairmanship to accept his appointment to the Commission. He is a partner in the law firm of Brown, Connery, Kulp, Willie, Purnell and Greene, in Camden. He is the President of the New Jersey State Bar Association.

Mr. Kaden, of Perth Amboy, was sworn in as a Commissioner in July, 1976 following his appointment by Governor Brendan T. Byrne. A graduate of Harvard College and Harvard Law School, he was the John Howard Scholar at Cambridge University, England. Until January, 1974, he was a partner in the law firm of Battle, Fowler, Stokes and Kheel in New York City. From 1974 to July, 1976, he was Chief Counsel to Governor Byrne. Mr. Kaden is Professor of Law at Columbia University and he is active as a labor arbitrator and mediator.

Mr. Lane, of Harborton, was sworn as a Commissioner on May 24, 1977, in the office of the Speaker of the General Assembly, then occupied by Senator William J. Hamilton of Middlesex, who appointed him. A former state and federal judge, Mr. Lane has

been a member of the Princeton law firm of Smith, Stratton, Wise and Heher since his retirement in 1976 as vice president and general counsel for Johnson and Johnson of New Brunswick. A graduate of Princeton University, he was admitted to the New Jersey Bar in 1939 after gaining his law degree at Harvard Law School. He served in the Navy during World War II. He became assistant Mercer County prosecutor in 1947, Mercer County judge in 1956 and U.S. District Court judge in 1960 by appointment of the late President Eisenhower. Mr. Lane is chairman of the Executive Committee and a member of the Board of Directors of the National Council on Crime and Delinquency.

APPENDIX II

STATE COMMISSION OF INVESTIGATION LAW

New Jersey Statutes Annotated 52:9M-1, *Et Seq.*

L. 1968, C. 266, as amended by L. 1969, C. 67, L. 1970, C. 263, and L. 1973, C. 238.

52:9M-1. Creation; members; appointment; chairman; terms; salaries; vacancies. There is hereby created a temporary state commission of investigation. The commission shall consist of 4 members, to be known as commissioners.

Two members of the commission shall be appointed by the governor, one by the president of the senate and one by the speaker of the general assembly, each for 5 years. The governor shall designate one of the members to serve as chairman of the commission.

The members of the commission appointed by the president of the senate and the speaker of the general assembly and at least one of the members appointed by the governor shall be attorneys admitted to the bar of this state. No member or employee of the commission shall hold any other public office or public employment. Not more than 2 of the members shall belong to the same political party.

Each member of the commission shall receive an annual salary of \$15,000.00 and shall also be entitled to reimbursement for his expenses actually and necessarily incurred in the performance of his duties, including expenses of travel outside of the state.

Vacancies in the commission shall be filled for the unexpired term in the same manner as original appointments. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

52:9M-2. Duties and powers. The commission shall have the duty and power to conduct investigations in connection with:

a. The faithful execution and effective enforcement of the law of the state, with particular reference but not limited to organized crime and racketeering.

b. The conduct of public officers and public employees, and officers and employees of public corporations and authorities;

c. Any matter concerning the public peace, public safety and public justice.

52:9M-3. *Additional duties.* At the direction of the governor or by concurrent resolution of the legislature the commission shall conduct investigations and otherwise assist in connection with:

- a. The removal of public officers by the governor;
- b. The making of recommendations by the governor to any other person or body, with respect to the removal of public officers;
- c. The making of recommendations by the governor to the legislature with respect to changes in or additions to existing provisions of law required for the more effective enforcement of the law.

52:9M-4. *Investigation of management or affairs of state department or agency.* At the direction or request of the legislature by concurrent resolution or of the governor or of the head of any department, board, bureau, commission, authority or other agency created by the state, or to which the state is a party, the commission shall investigate the management or affairs of any such department, board, bureau, commission, authority or other agency.

52:9M-5. *Cooperation with law enforcement officials.* Upon request of the attorney general, a county prosecutor or any other law enforcement official, the commission shall cooperate with, advise and assist them in the performance of their official powers and duties.

52:9M-6. *Cooperation with federal government.* The commission shall cooperate with departments and officers of the United States government in the investigation of violations of the federal laws within this state.

52:9M-7. *Examination into law enforcement affecting other states.* The commission shall examine into matters relating to law enforcement extending across the boundaries of the state into other states; and may consult and exchange information with officers and agencies of other states with respect to law enforcement problems of mutual concern to this and other states.

52:9M-8. *Reference of evidence to other officials.* Whenever it shall appear to the commission that there is cause for the prosecution for a crime, or for the removal of a public officer for misconduct, the commission shall refer the evidence of such crime or misconduct to the officials authorized to conduct the prosecution or to remove the public officer.

52:9M-9. *Executive director; counsel; employees.* The commission shall be authorized to appoint and employ and at pleasure remove an executive director, counsel, investigators, accountants, and such other persons as it may deem necessary, without regard to civil service; and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. Investigators and accountants appointed by the commission shall be and have all the powers of peace officers.

52:9M-10. *Annual report; recommendations; other reports.* The commission shall make an annual report to the governor and legislature which shall include its recommendations. The commission shall make such further interim reports to the governor and legislature, or either thereof, as it shall deem advisable, or as shall be required by the governor or by concurrent resolution of the legislature.

52:9M-11. *Information to public.* By such means and to such extent as it shall deem appropriate, the commission shall keep the public informed as to the operations of organized crime, problems of criminal law enforcement in the state and other activities of the commission.

52:9M-12. *Additional powers; warrant for arrest; contempt of court.* With respect to the performance of its functions, duties and powers and subject to the limitation contained in paragraph d. of this section, the commission shall be authorized as follows:

a. To conduct any investigation authorized by this act at any place within the state; and to maintain offices, hold meetings and function at any place within the state as it may deem necessary

b. To conduct private and public hearings, and to designate a member of the commission to preside over any such hearing;

c. To administer oaths or affirmations, subpoena witnesses compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers;

d. Unless otherwise instructed by a resolution adopted by majority of the members of the commission, every witness attending before the commission shall be examined privately and the commission shall not make public the particulars of such examination. The commission shall not have the power to take testimony.

at a private hearing or at a public hearing unless at least 2 of its members are present at such hearing.

e. Witnesses summoned to appear before the commission shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the state.

If any person subpoenaed pursuant to this section shall neglect or refuse to obey the command of the subpoena, any judge of the superior court or of a county court or any municipal magistrate may, on proof by affidavit of service of the subpoena, payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpoena, issue a warrant for the arrest of said person to bring him before the judge or magistrate, who is authorized to proceed against such person as for a contempt of court.

52:9M-13. *Powers and duties unaffected.* Nothing contained in sections 2 through 12 of this act [chapter] shall be construed to supersede, repeal or limit any power, duty or function of the governor or any department or agency of the state, or any political subdivision thereof, as prescribed or defined by law.

52:9M-14. *Request and receipt of assistance.* The commission may request and shall receive from every department, division, board, bureau, commission, authority or other agency created by the state, or to which the state is a party, or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

52:9M-15. *Disclosure forbidden; statements absolutely privileged.* Any person conducting or participating in any examination or investigation who shall disclose to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the governor or commission, shall be adjudged a disorderly person.

Any statement made by a member of the commission or an employee thereof relevant to any proceedings before or investigative activities of the commission shall be absolutely privileged and such privilege shall be a complete defense to any action for libel or slander.

52:9M-16. Impounding exhibits; action by superior court. Upon the application of the commission, or a duly authorized member of its staff, the superior court or a judge thereof may impound any exhibit marked in evidence in any public or private hearing held in connection with an investigation conducted by the commission, and may order such exhibit to be retained by, or delivered to and placed in the custody of, the commission. When so impounded such exhibits shall not be taken from the custody of the commission except upon further order of the court made upon 5 days' notice to the commission or upon its application or with its consent.

52:9M-17. Immunity; order; notice; effect of immunity. a. If in the course of any investigation or hearing conducted by the commission pursuant to this act [chapter], a person refuses to answer a question or questions or produce evidence of any kind on the ground that he will be exposed to criminal prosecution or penalty or to a forfeiture of his estate thereby, the commission may order the person to answer the question or questions or produce the requested evidence and confer immunity as in this section provided. No order to answer or produce evidence with immunity shall be made except by resolution of a majority of all the members of the commission and after the attorney general and the appropriate county prosecutor shall have been given at least 24 hours written notice of the commission's intention to issue such order and afforded an opportunity to be heard in respect to any objection they or either of them may have to the granting of immunity.

b. If upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom used to expose him to criminal prosecution or penalty or to a forfeiture of his estate, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce in accordance with the order of the commission; and any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury, or upon any investigation, proceeding or trial against him for such contempt.

52:9M-18. Severability; effect of partial invalidity. If a section, clause or portion of this act [chapter] shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective as

no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

52:9M-19. There is hereby appropriated to the Commission the sum of \$400,000.

52:9M-20. This act shall take effect immediately and remain in effect until December 31, 1979.

APPENDIX III

CODE OF FAIR PROCEDURE

Chapter 376, Laws of New Jersey, 1968, N. J. S. 52:13E-1
to 52:13E-10.

An Act establishing a code of fair procedure to govern state investigating agencies and providing a penalty for certain violations thereof.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:

(a) "Agency" means any of the following while engaged in an investigation or inquiry: (1) the Governor or any person or persons appointed by him acting pursuant to P. L. 1941, c. 16, s. 1 (C. 52:15-7), (2) any temporary State commission or duly authorized committee thereof having the power to require testimony or the production of evidence by subpoena, or (3) any legislative committee or commission having the powers set forth in Revised Statutes 52:13-1.

(b) "Hearing" means any hearing in the course of an investigatory proceeding (other than a preliminary conference or interview at which no testimony is taken under oath) conducted before an agency at which testimony or the production of other evidence may be compelled by subpoena or other compulsory process.

(c) "Public hearing" means any hearing open to the public, or any hearing, or such part thereof, as to which testimony or other evidence is made available or disseminated to the public by the agency.

(d) "Private hearing" means any hearing other than a public hearing.

2. No person may be required to appear at a hearing or testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of the act, and a general statement of the subject of the investigation.

copy of the resolution, statute, order or other provision of law authorizing the investigation shall be furnished by the agency upon request therefor by the person summoned.

3. A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at a public hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the agency shall ask the witness such of the questions as it may deem appropriate to its inquiry.

4. A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

5. A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record of the investigatory proceeding.

6. Any person whose name is mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the agency or its counsel at such hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either to appear personally before the agency and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative at the option of the agency, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record of the investigatory proceeding.

7. Nothing in this act shall be construed to prevent an agency from granting to witnesses appearing before it, or to persons who

claim to be adversely affected by testimony or other evidence adduced before it, such further rights and privileges as it may determine.

8. Except in the course of subsequent hearing which is open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview conducted before a single-member agency in the course of its investigation shall be disseminated or made available to the public by said agency, its counsel or employees without the approval of the head of the agency. Except in the course of a subsequent hearing open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview before a committee or other multi-member investigating agency shall be disseminated or made available to the public by any member of the agency, its counsel or employees, except with the approval of a majority of the members of such agency. Any person who violates the provisions of this subdivision shall be adjudged a disorderly person.

9. No temporary State commission having more than 2 members shall have the power to take testimony at a public or private hearing unless at least 2 of its members are present at such hearing.

10. Nothing in this act shall be construed to affect, diminish or impair the right, under any other provision of law, rule or custom, of any member or group of members of a committee or other multi-member investigating agency to file a statement or statements of minority views to accompany and be released with or subsequent to the report of the committee or agency.