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IN THE MATTER OF THE INVESTIGATION
OF THE OFFICE OF THE ATTORNEY
GENERAL OF THE STATE OF NEW JERSEY

TRANSCRIPT OF
PROCEEDINGS

914.90
I62
1973 v. 7

I N D E X

<u>WITNESS</u>	<u>EXAMINATION</u>
EVAN M. JAHOS	
Mr. Francis	1089
PETER R. RICHARDS	
Mr. Francis	1135
EDWIN H. STIER	
Mr. Francis	1167
JONATHON L. GOLDSTEIN	
Mr. Francis	1183
GEORGE F. KUGLER, JR.	
Mr. Francis	1239
ROBERT E. COWEN	
Mr. Francis	1284
<u>EXHIBIT</u>	<u>DESCRIPTION</u> <u>PAGE</u>
C-57	Memorandum, dated November 6, 1970, from Mr. Biederman to Mr. Jahos 1101
C-58	Memorandum from Mr. Biederman to Mr. Jahos, dated October 29, 1970, re Meeting on Prequalification Requirements, with attached memoranda from Chief John P. Brennan and Herman Crystal, and Lt. Pagano, and October 30, 1970 memo from

I N D E X (CONTINUED)

EXHIBIT

DESCRIPTION

PAGE

1			
2			
3			
4		Mr. Biederman with attached photocopies	
5		of newspaper articles; copy of memoran-	
6		dum from Mr. Biederman to Mr. Garven,	
7		dated December 2, 1970, re Mal-Bros.,	
8		with attached Determination on Qualifica-	
9		tion by the Commissioner of Transporta-	
10		tion; copy of memorandum from Mr. Bieder-	
11		man to Mr. Garven, dated September 4,	
12		1970, re Mal-Bros.; copy of letter from	
13		Mr. Biederman to the U. S. Attorney	
14		re Schiavone Construction Company, dated	
15		September 30, 1970; memorandum from Mr.	
16		Biederman to Attorney General Kugler re	
17		Schiavone Construction, dated October 8,	
18		1970; covering memo on transfer of	
19		transcripts to Mr. Jahos from Mr.	
20		Biederman, dated October 7, 1970, re	
21		Schiavone Construction; covering memo	
22		on transfer of transcripts to the	
23		Attorney General from Mr. Biederman, dated	
24		October 7, 1970; note to Mr. Jahos from	
25		Attorney General Kugler, dated September	
		29, 1970, referring to memorandum of	
		Mr. Biederman, dated September 23,	
		1970, re affidavit as to moral in-	
		tegrity	1131
	C-59	Photocopy of October 22, 1970 memorandum	
		to the files from DAB	1196

1 E V A N W. J A H O S, having been previously
2 sworn according to law by the Officer, resumed the
3 stand and testified further as follows:
4

5 THE CHAIRMAN: Mr. Jahos, this morning there
6 are three members of the State Commission of
7 Investigation sitting; Mr. Bertini, and Mr. Diana
8 and myself, John McCarthy.
9

10 Mr. Francis has asked that you come back. He
11 has some further questions that he would like to
12 pose to you.

13 You realize that the last time you were here
14 sometime, I believe, on November the 16th, 1972,
15 you were sworn at that time, and I would just advise
16 you that you do not have to be sworn again; that you
17 are still under oath.

18 THE WITNESS: I understand that.

19 THE CHAIRMAN: Mr. Francis.

20 EXAMINATION BY MR. FRANCIS:

21 Q Mr. Jahos, when you were here the last time
22 we discussed Mr. Biederman's statement that he had made a
23 telephone call to you on November 2nd, 3rd or 4th, 1970,
24 in which he made some statements to you, and you told us
25 that you had no telephone call with him on any one of those

1 three dates? A That's correct. My
2 diary doesn't show, and my calls are usually--my secretary
3 diaries my calls. I don't recall any calls from him.

4 Q And I did not ask you at that time about
5 the specifics that Mr. Biederman mentioned, and I would
6 like to do that now for the record.

7 Mr. Biederman says he said to you in a
8 telephone conversation, that telephone conversation, that
9 he had some documents, which involved a cabinet officer,
10 that he thought you ought to see, that you would be
11 interested in, and he would like to bring them over to
12 you and you said, "Fine." Did you have any such conver-
13 sations?

14 A I have no recollection
of that conversation or any such conversation.

15 Q Now, how strong is your recollection that
16 you didn't have any such conversation?

17 A I think very strong, Mr. Francis. I just do not
18 recall it. It just is a total blank, and I think I
19 probably would have.

20 Q And I won't repeat again your testimony and
21 that of your secretary about the diary of your telephone
22 calls and that there is no record of that in your diary
23 or in Mrs. Brennan's-- A Brennan.

24 Q --diary. Mr. Biederman said, also, that he
25 came over on the 4th, the afternoon of the 4th, with a

1 package, as he called it, containing memorandums and
2 newspaper clippings and handed it to your secretary for
3 you because you were not present at the time. On that
4 day, or any day after that, did you receive--did your
5 secretary give you a so-called package of materials with
6 a statement that Mr. Biederman had left them for you?

7 A She did not.

8 Q Now, when this Sherwin matter appeared and
9 you were asked as to whether you received any memorandums
10 from Mr. Biederman at sometime, you made an examination
11 of your files, did you, for such memorandums?

12 A Yes, sir. What I did was this: I asked my sec-
13 retary to put together for me all memoranda that I had
14 received from Mr. Biederman regarding bidders and in the
15 Department of Transportation, thinking that if it was any-
16 where it would be in those. I did not tell her why I
17 wanted her to do that. She did that and brought a package
18 of memoranda, which I have given you earlier, and included
19 in that was the October 30th memo with my notation on it.

20 Q I see. Well, now, prior to and after this
21 time had you been dealing with Mr. Biederman in any
22 connection?

23 A Yes. In the fall of
24 1970 we had a number of matters, and I think it extended
25 beyond that, because there were a number of large con-
tractors in the Department of Transportation, contractors

1 with the Department of Transportation, people who had been
2 involved in various matters which would have affected their
3 moral responsibility, if you will, at least as to the ex-
4 tent that we felt we ought to check out and try to set
5 some standards. That included Mal-Bros.; that included
6 Stavola; it included Schiavone. Both Mal-Bros. and
7 Schiavone were involved in Federal prosecutions at the
8 time.

9 There was a hearing before the Commissioner of
10 Transportation, which Mr. Biederman handled, involving
11 Mal-Bros., and which I was close to because of the fact
12 that the Attorney General wanted me to watch over what was
13 happening, and as a result of that there were a series of
14 memoranda and a series of problems in this area and I had
15 much to do with Mr. Biederman during that time.

16 Q So, generally speaking, both before and
17 after this time you were working with him on a subject that
18 might be described as bidding procedures and the issue of
19 moral integrity of potential bidders for contracts with
20 the Department of Transportation?

21 A That is correct, sir.

22 Q Now, you brought over with you this morning
23 a file that you had been keeping in connection with the
24 bid procedure and moral integrity issues?

25 A Yes, sir.

1 Q Does that file contain memorandums you re-
2 ceived from Mr. Biederman both before and after November
3 4th, 1970? A It does.

4 Q Could you bring out some of them both before
5 and for some period afterward?

6 A On October 29th, 1970, Mr. Biederman sent to me a
7 memorandum asking about a meeting that we had tentatively
8 set up to discuss prequalification requirements. That
9 was stamped in November 2nd in my office.

10 Q I see. Now, I notice--go ahead. Are you
11 finished? A That was attached to

12 several memoranda which I had received from Chief Brennan,
13 John P. Brennan, who was then my chief investigator, and
14 Herman Crystal, who is the deputy director of the Division
15 of Purchase and Property, and Clint Pagano, a state police
16 lieutenant at the time, all of whom were involved with
17 us in this problem and would have attended the meeting,
18 and did attend the meeting we had, and also Mr. Biederman's
19 October 30th memo, which has earlier been the subject of
20 these hearings.

21 Q Now, those papers you just had in your hand
22 were all under one clip. Is that the way they were when
23 you found the October 30th memorandum--

24 A Yes, sir.

25 Q --from Mr. Biederman?

1 A Yes, sir. This is the way my secretary says she
2 found them.

3 Q I see. A She brought
4 these clipped in to me and said they were in the file in
5 that fashion.

6 Q And these several documents that are under
7 that one clip have stamps on them indicating a date of
8 receipt in your office?

9 A Yes, sir.

10 Q I notice that some are November 2nd, 1970,
11 some November 4th, 1970. Does anything about that, the
12 difference in the dates, furnish any indication as to
13 how they happened to be under one clip?

14 A Not to me, sir. It does not.

15 MR. FRANCIS: To come again to the October
16 30th memorandum of Mr. Biederman's, I think for the
17 record I better identify it by our number.

18 MR. SAPIENZA: That is C-8.

19 MR. FRANCIS: C-8.

20 MR. SAPIENZA: Which is the memorandum of
21 October 30th from Biederman to Kohl, and we have
22 marked C-8A the same memorandum, the one that con-
23 tains the penciled notations.

24 Q Well, the memorandum of October 30th I just
25 mentioned has been marked here as Exhibit C-8, and I show

1 you that memorandum. Is that the original, or the orig-
2 inal memorandum that was received from Mr. Biederman, as
3 far as you can tell, or what was found in your file, as
4 far as you can tell? A This is the
5 memorandum which was found in my file.

6 Q I see. And that one has no stamp "Received"
7 on it? A It has not.

8 Q And that memorandum is clipped to three
9 photocopies of newspaper articles, four photocopies of
10 newspaper articles? A Three pages of
11 four articles, yes, sir.

12 Q And I think we had talked the last time about
13 searching for an explanation as to why that had no stamp
14 on it, and you have none?

15 A I have none.

16 Q And I think you told us last time that the
17 note on the right-hand corner of that, "Bid procedure"--
18 is that what it is? A Yes, sir.

19 Q "Bid procedure file," is your handwriting?
20 A Yes, sir.

21 Q Which would indicate that you did see it,
22 would it? A Well, it indicates that
23 I saw it. I have no recollection of reading it. It may
24 be that I didn't read it. It seems to me that at that time
25 there was a meeting set up with Mr. Brennan and Lt. Pagano.

1 I did not attend that meeting. This could have been
2 handed me by one of them.

3 Q I notice that the left-hand side of this
4 C-8, October 30th memorandum at the place where it's
5 clipped seems to be a little the worse for wear.

6 A We have made many copies of that October 30th
7 memorandum.

8 Q I think we can agree it looks as though the
9 clip has been taken out--

10 A Yes, sir.

11 Q --and put back and so on?

12 And the reason that was done was so that you
13 could make a number of copies of this?

14 A Yes, sir.

15 Q Do you have any recollection as to whether
16 there was anything more under that clip when you first saw
17 it in the file before these copies were made--

18 A There was not.

19 Q --which might have been--you're sure there
20 was--

A No, sir.

21 Q --nothing more than what we have here?

22 A No, sir. It was in that condition.

23 Q It was in that condition?

24 A Except for the perforations.

25 Q Yes. Now, would you give us a few more

1 memorandums you received from Mr. Biederman?

2 A Well, the file contains a copy of memorandum from
3 Biederman to Judge Garven, dated December 2nd, concerning
4 Mal-Bros., and that is attached to a determination on
5 qualification of the Commissioner of Transportation. There
6 also is a copy of one dated September 4th from Biederman
7 to Garven on Mal-Bros. There's one dated November 6th
8 from Biederman to Judge Garven, the Attorney General and
9 myself regarding Mal-Bros. There is a copy of a letter,
10 dated December 30, which Mr. Biederman wrote to the United
11 States Attorney regarding Schiavone Construction Company.
12 The problem in that was obtaining testimony from the
13 United States Attorney so that we could use it in the
14 qualification proceedings involving Schiavone. I don't
15 believe we ever actually got the transcript, but we had
16 enough information to proceed and we did.

17 There is a memorandum, dated September 4th--
18 September 24th, from Biederman to the Attorney General
19 with a copy to me regarding Schiavone Construction. There
20 is one dated October 8th to Judge Garven from Biederman
21 regarding Schiavone with a copy to me; a covering memo
22 on the transfer of transcripts from me to Biederman,
23 dated October 7th, regarding Schiavone; also, one to the
24 Attorney General on the same subject.

25 Q Well, I guess the next one is December?

1 A We get into '71 there. That's May. Let's see if
2 there are any more around that time.

3 There is a note to me from the Attorney General,
4 dated September 29th, '70, referring to a memorandum of
5 Mr. Biederman's dated September 23rd, '70, re an affidavit
6 as to moral integrity.

7 That was one of the proposed solutions; that con-
8 tractors would file an affidavit of moral integrity, which
9 we thought was impractical.

10 I think that's the most of them around that time.

11 Q You remember the Manzo collusive-bidding
12 allegation and memorandums you received from Biederman in
13 that connection, one of August 7th saying that he saw the
14 July 20th memorandum headed Sherwin to McCrane and saying
15 that he had seen that on August 4th, and making some sug-
16 gestions about investigation of the allegations of collu-
17 sive bidding. Were those memorandums in that file that
18 you have before you? A They're not in

19 this file.

20 Q Were they in a separate file?

21 A Which one are we talking about?

22 MR. SAPIENZA: It's C-4.

23 Q I show you the memorandum of Biederman to
24 Attorney General Kugler, marked C-4.

25 A I don't know where this was filed. I do not believe

1 it was in my files.

2 MR. SAPIENZA: Do you recall the first time--

3 A (Continuing) It's not addressed to me, nor is there
4 a copy to me.

5 MR. SAPIENZA: Do you recall the first time
6 that you saw the August 7th memorandum?

7 THE WITNESS: No, I do not.

8 Q Well, you do remember, and we covered it in
9 the testimony the last time, that thereafter Biederman
10 sent a memorandum to you, or original to the Attorney
11 General and a copy to you, saying that he had set up a
12 meeting with Manzo to discuss general matters and did you
13 want to have, or to the Attorney General, did he want to
14 have you or a representative of your office present at
15 the interview to inquire about the allegations of collusive
16 bidding and then you communicated with Biederman and told
17 him to investigate it himself?

18 A My best recollection is that the institution of what-
19 ever action I took with regard to the collusive-bidding
20 problem was based on the memorandum which had the under-
21 lining at the bottom of it. I think I saw that at that
22 time. Now, that's the one that referred to--was it
23 Helen?

24 Q Yes. A If we could get
25 that one out, I could identify it for you. That's the

1 one that had that specific language in it about collusive
2 bidding. It was on the basis of that that I discussed the
3 matter with Biederman and made the arrangements for follow-
4 ing through with him, and for that reason I'm not sure that
5 I ever saw the August 7th memorandum. It wouldn't have
6 been important to me.

7 MR. SAPIENZA: Off the record.

8 (Whereupon, there is a discussion off the
9 record.)

10 Q Well, we have been over these before, but
11 to refresh your recollection again--

12 A No.

13 Q --I show you C-32, Manzo Contracting Company
14 memorandum from Biederman to the Attorney General, copy to
15 you, noting that a meeting was being set up and he wanted
16 to know if you or a representative of your office would
17 be there to talk to Manzo about the collusive bidding.

18 Do you remember that?

A Yes, I do.

19 Q And then I show you the memorandum of October
20 21st from Biederman to the Attorney General, copy to you,
21 reporting on what took place at the meeting of October--

22 A It doesn't say.

23 Q At the meeting, whenever the meeting was,
24 referred to in that October 9th, and asking if you wanted
25 anything further done. And just to finish this, since we

1 have been over all of this before, this was followed, the
2 request at the bottom of the October 21st memorandum,
3 "Please advise if there is anything further you wish done,"
4 which resulted in the November 4th memorandum saying,
5 "The Director and I feel there is nothing further to be
6 done"? A That's correct.

7 I think one thing ought to be pointed out. These
8 memoranda reflect what Biederman and I were doing directly,
9 you know. We were not writing memoranda to each other
10 saying, "Talk to Manzo at that meeting." We were talking
11 on the phone. We had arranged it. That was my plan, and
12 I explained to him what he wanted. So, these were super-
13 fluous as far as I was concerned in my relations with
14 Biederman.

15 Q I see. A And, incident-
16 ally, the generating memoranda is not either one of these
17 as far as I'm concerned.

18 Q No. One memorandum you referred to just a
19 few moments ago, you produced from your file, dated
20 November 6th from Biederman, you remember, referred to the
21 Mal-Bros. Contracting Company and about the disqualifica-
22 tion hearing. I would like to mark this one specifically.

23 (Memorandum, dated November 6, 1970, from
24 Mr. Biederman to Mr. Jahos received and marked
25 Exhibit C-57.)

1 MR. FRANCIS: I should explain to you the
2 reason why I have marked this one separately.

3 You will remember when Mr. Biederman was
4 here, in discussing the hearing in connection with
5 the disqualification of Mal-Bros. as a future bidder
6 he said that he was instructed by Commissioner Kohl
7 after the hearing to prepare a memorandum for him
8 refusing to disqualify Mal-Bros. as a bidder for
9 the future and that he was in the course of pre-
10 paring the memorandum for the commissioner when
11 the commissioner came in to him and said, "Change
12 it all. We have to go the other way. I had a
13 call from downtown," and "Write the opinion the
14 other way." This memorandum, which we have just
15 marked C-57, from Mr. Jahos' file with copies to
16 Judge Garven and General Kugler discusses the Mal-
17 Bros. temporary suspension and attaches the tran-
18 script of the testimony taken on the hearing and
19 refers to what the testimony shows, and with
20 specific reference to Kantor's testimony in the
21 criminal trial in the Federal Court and then goes
22 on, "No explanation has been offered as to why the
23 transaction took place except that it was, in effect,
24 a personal favor by the contractor to Mario Gallo.
25 Under the circumstances, the commissioner will

1 continue with the suspension of the contractor."

2 Then it goes on, "You may recall that there is no

3 case in this state which holds that an indictment

4 without conviction shall be sufficient to support

5 a charge of moral integrity against a contractor or

6 justify a suspension from bidding. Mal-Bros.'

7 attorney has indicated that he will certainly appeal

8 the suspension of his client. If you concur in the

9 commissioner's opinion and wish this administration

10 to make this case a test case which would establish

11 a standard for treating other contractors dealing

12 with the state government, please advise."

13 BY MR. FRANCIS:

14 Q Mr. Jahos, you attended a meeting in the
15 United States Attorney's office on June 13th of 1970?

16 A Yes, sir.

17 Q And Mr. Stier and Mr. Richards of your office
18 accompanied you? A Yes, sir.

19 Q And the men of the United States Attorney's
20 Office who were present were the two Mr. Goldsteins, Bruce
21 and Jonathan, and Mr. Stern?

22 A Mr. Bruce Goldstein I do not believe was there at
23 the inception of the meeting.

24 Q I see. A He came after we
25 had had some minutes of earlier discussion.

1 Q I see. Now, during that discussion did you
2 tell Mr. Stern that after he had visited with the Attorney
3 General about the Biederman memorandum, that the Attorney
4 General had told you of the meeting?

5 A I believe I did acknowledge that the Attorney
6 General spoke to me about Stern's meeting with the Attorney
7 General, and I believe it was April 26th. There was no
8 need to tell him that I knew he was there because Mr.
9 Stern visited with me right after his meeting with the
10 Attorney General and told me that he had been up talking
11 to the Attorney General on that day. The question was,
12 did we discuss the substance of the meeting between the
13 United States Attorney and the Attorney General, and the
14 answer to that is no. The Attorney General told me there
15 was some investigation which Stern was going to handle,
16 and that was the end of it. And that's probably what I
17 told Mr. Stern on June 13th.

18 Q You have a clear recollection that you did
19 not tell him anything about the substance of the conversa-
20 tion that he had with Mr. Kugler at that meeting?

21 A That's correct.

22 Q At that meeting did Mr. Stern tell you and
23 Mr. Stier and Mr. Richards of the allegations of the
24 Biederman memorandums and that he had showed Mr. Kugler
25 all of the documents that have been given to the Federal

1 attorney's office?

A In the first
2 place, there was no discussion at that meeting about what
3 happened between Mr. Stern and Mr. Kugler at their earlier
4 meeting. My recollection is that we did not discuss
5 specifically any of the evidence in this matter, though
6 there may have been some passing reference to it as we
7 completed our meeting. I do not recall seeing at that time
8 any of the so-called Biederman memoranda. I had already
9 seen them. Mr. Biederman had brought down a package of
10 material to Mr. Stier and Mr. Richards' office the day
11 before, I believe, and it was at that time that I believe
12 I saw them all for the first time. There was no need,
13 really, to talk about those things at the meeting with
14 Mr. Stern. We both knew where we were going, and what
15 we were doing, at any rate. We weren't sure where we
16 were going.

17 Q Specifically, did Mr. Stern delineate the
18 letter? Did he say or make reference to a letter from
19 Paul Sherwin to John Kohl asking that the contract be
20 awarded to Manzo? Was that specific statement made by Mr.
21 Stern?

A I do not recall it.

22 Q I see. A I don't recall
23 discussing that letter at all at that meeting.

24 Q By the way, the letter from Mr. Sherwin to
25 Mr. Kohl, you did see that among the papers that Mr.

1 Biederman brought to you the day before?

2 A I believe so.

3 Q And that letter of October 3, which obvious-
4 ly is the letter referred to here in this memorandum from
5 Sherwin to Kohl, did that letter ask that the contract
6 be awarded to Manzo?

7 A I believe
8 it asked that the bids be rejected, but not that any par-
9 ticular award be made, as I recall it.

10 COMMISSIONER DIANA: Exhibit C-5, I think.

11 MR. FRANCIS: C-5, Sherwin to Kohl.

12 MR. SAPIENZA: I've got it.

13 Q I show you the letter of October 8th from
14 Sherwin to Kohl and ask you if that's the letter that we
15 have been talking about.

16 A I believe
17 it is, yes, sir.

18 Q And looking at it now, that letter does not
19 ask that the contract be awarded to Manzo?

20 A No, it's consistent with my recollection. It asks
21 that a rejection and a rebidding be held.

22 Q Did Mr. Stern at that meeting say specific-
23 ally that after fully disclosing all of the details of
24 the investigation to Mr. Kugler both men discussed how
25 the matter should be investigated?

26 A Mr. Stern did not discuss at that meeting his meet-
27 ing with the Attorney General earlier other than to say

1 that the Attorney General had promised him that we would
2 not investigate it.

3 Q By the way, and specifically, did Mr. Stern
4 say that he had made any investigation of the matter be-
5 fore he came to see Mr. Kugler?

6 A Mr. Francis, I just don't recall that.

7 Q I want to read to you from C-36, a memorandum
8 made by Mr. Bruce Goldstein of the United States Attorney's
9 Office, which is headed "Conference Held on June 13th,
10 1972," which says, quote, that Mr. Stern--strike the quote
11 for a minute. "Mr. Stern stated that during the course
12 of our investigation, when agents of the Federal Bureau
13 of Investigation visited a party by the name of Perrucci,
14 they discovered that Perrucci was then involved in a law-
15 suit with Manzo and that during the litigation of that
16 lawsuit before Judge Joseph Stamler of the Chancery
17 Division in Morris County both Perrucci and Manzo admitted
18 that Manzo had paid \$10,000 to the Republican Party in
19 order to have the state throw out the bids on the Route 46
20 job since Manzo was not the lowest bidder." Did Mr. Stern
21 make such a statement as that?

22 A No, sir, he did not, and Manzo never made any such
23 admission anywhere.

24 Q You have read Manzo's testimony before Judge
25 Stamler?

A Yes, sir.

1 Q And did he make any such admission at that
2 time? A No, sir, he did not.

3 Q Did Mr. Stern at that time say to you that
4 these facts, the ones I just recounted to you, were con-
5 firmed by a telephone call with Judge Stamler?

6 A No, Mr. Stern never said that to us. Mr. Stern
7 or his people first got to Judge Stamler, I believe, after
8 they learned that we had the transcript and the checks,
9 and that had to be during this week, and this was not
10 discussed at our meeting of June 13th. I believe that
11 Judge Stamler told us that Mr. Stern had, or his repre-
12 sentatives, had called him and discussed it, and that's
13 how I found out that they had. But that's just my recol-
14 lection. We did not discuss this at the June 13th meeting.

15 Q At that conference did Mr. Stier and Mr.
16 Richards, either or both of them, make the statement which
17 appears on Page 4 of Mr. Goldstein's memorandum of that
18 conference; "They told us," meaning Stier and Richards,
19 "that Loughran had stated to them that he had received
20 \$10,000 from Manzo and that Loughran had called Sherwin
21 and asked him to throw out the bids"? Did they make that
22 statement?

23 A The parts of that
24 statement are true. Any inference that there was a con-
nection between the two was not known to us at this time.

25 Q I see.

A We didn't learn

1 till later that week the date of the receipt of the \$10,000,
2 and that was a critical factor in our minds. So, Mr.
3 Stier and Mr. Richards could not have made a statement
4 that would infer that Loughran said that he had given the
5 10,000 for a quid pro quo. He never has, at any rate.

6 Q The principal reason for asking that ques-
7 tion was the sequence in which the statement appears at
8 the top of Page 4, namely Loughran admitted to them that
9 he received \$10,000 from Manzo and that certainly infer-
10 entially Loughran had called Sherwin and asked him to
11 throw out the bids. You are clear that no such statement,
12 and particularly in that sequence, was made?

13 A That's right. Mr. Loughran had consistently denied
14 that there was any connection between the two, and he
15 does to this day.

16 We later learned the date of the contribution,
17 which was the circumstantial factor which was significant
18 in the trial and in our thinking in regards to the case.

19 Q By the way, was there any criticism by the
20 United States Attorney's Office of your handling of the
21 investigation up to that time?

22 A I think, Mr. Francis, that at my last appearance
23 here I indicated the meeting started out on a rather
24 hostile atmosphere. Our investigators were talking to
25 their--talking to the same people that their investigators

1 were talking to. I anticipated that the problem was that
2 Mr. Stern did not like the idea of our working a case that
3 he was working; he wanted to work it exclusively. I
4 geared myself for that problem when we arrived.

5 What turned out, however, was that he made infer-
6 ences that our people were handling the witnesses in such
7 a way that we were attempting to cover up this investiga-
8 tion. That, of course, resulted in a violent reaction on
9 the part of me and my staff, and we thrashed it out and
10 made it quite clear that that was not the case, and at that
11 point we decided, essentially at my suggestion, I believe,
12 that we work it together until the Attorney General returned,
13 and from then on our relationships were fairly cordial once
14 we had laid it on the table and gotten that squared away.

15 That was the only thing that would be close to
16 criticism, as I can recall it.

17 Q Now, to come back to the telephone conversa-
18 tion you had with Judge Stamler on May 31st, 1972, which
19 called this matter to your attention, how soon after that
20 conversation did you talk to the Attorney General about
21 Judge Stamler's call? A I don't know.

22 I would say within a few days. There was a passing refer-
23 ence to the phone call and the fact that he had a problem
24 involving an alleged payment of \$10,000.

25 Q And what did General Kugler say to you, if

1 anything, about that? A He said, "You
2 better get somebody on it," and I said, "We already have."

3 Q Did he say anything that in any way indicated
4 to you that he was aware of any such situation?

5 A He did not.

6 Q Do you recall that prior to the time the
7 Attorney General left for Europe, which was June 8th of
8 1972, that he asked you to check your files and see if
9 you had any memorandums there involving the Manzo Contract-
10 ing Company and that at that time you found the August 7th
11 memorandums from Biederman?

12 A I just--I don't recall that. Our relationships
13 are fairly informal. He may have asked my secretary to
14 do it. But I don't recall it specifically myself.

15 Q Mr. Jahos, when you were here last time we
16 asked whether you had any indication that the Attorney
17 General knew anything about the Sherwin matter prior to
18 his return from Europe. Let me use the exact question.
19 "Mr. Jahos, at any time did you ever receive any indica-
20 tion that the Attorney General knew about the subject
21 matter of the Sherwin interference in the Department of
22 Transportation prior to your filling in the Attorney
23 General when he came back from Europe?

24 "Answer: Yes, I probably did, shortly be-
25 fore his return. When the investigation had reached a

1 stage where I thought we were in pretty good shape, I
2 thought it wise that the Governor know about it, and I
3 briefed Judge Garven, and at that time he probably told me
4 the Attorney General knew about it."

5 Do you remember that?

6 A Yes, sir.

7 Q The word "probably" is what interests us at
8 the moment. Was that all Judge Garven said, "Well, the
9 Attorney General probably knows about it," or was there
10 some more specific discussion?

11 A Oh, no, no. "Probably" in that sense means that I
12 believe he told me specifically that he and the Attorney
13 General and the Governor had spoken about it before. It
14 wasn't Garven saying the Attorney General probably knew,
15 it was me saying that probably Garven said the Attorney
16 General knew.

17 Q I see. A I suppose, really,
18 all I mean by that is that I left Garven's office at that
19 time knowing that the Attorney General knew about this.
20 This was later in the week of the 12th, I believe.

21 Q At that time did Mr. Garven give you any indi-
22 cation of the extent of his knowledge about the Sherwin
23 matter?

24 A No, he did not. Mr.
Garven listened, for the most part.

25 MR. FRANCIS: That's all I wanted to ask Mr.

1 Jahos about. Do you gentlemen have anything you
2 would like to inquire about?

3 THE CHAIRMAN: Mr. Bertini?

4 COMMISSIONER BERTINI: I have no questions.

5 COMMISSIONER DIANA: No.

6
7 EXAMINATION BY THE CHAIRMAN:

8 Q In other words, Mr. Jahos, you have no
9 recollection of ever discussing this matter during, say,
10 the month of May of '72 with the Attorney General?

11 A No.

12 Q And you believe that it was mentioned to him
13 just about the time he was leaving for Europe that a phone
14 call came in from Judge Stamler and that some contractor,
15 I believe you said, paid \$10,000 for a--

16 A Yes.

17 Q To get the road job?

18 A Yes.

19 Q But no specifics were given to the General
20 as to who?

21 A No. I didn't have them
22 then. I believe Manzo and Perrucci were names that I knew.
23 Judge Stamler mentioned that. But--

24 Q Were they passed on to the General, do you
25 think?

26 A No, no, no details, just
a ten-thousand-dollar contribution.

1 COMMISSIONER BERTINI: Did those names indi-
2 cate to you what particular job it would have been?

3 THE WITNESS: I don't remember when I identi-
4 fied that, whether it was before I spoke to the
5 Attorney General or after.

6 Q You had no knowledge of any meeting that
7 took place in Governor Cahill's office the same day that
8 U. S. Attorney Stern came to see General Kugler?

9 A I did not; I did not.

10 Q The General never mentioned that he had
11 attended such a meeting?

12 A No.

13 Q How long did the meeting on June 13th, 1972,
14 in Mr. Stern's office last, approximately?

15 A I can't do any more than guess, and I would say an
16 hour or so. Whether Stier and Richards stayed after our
17 meeting with everybody to begin to discuss their investiga-
18 tion with Mr. Stern's investigators after I left, I don't
19 know. No, I guess they didn't. They left with me. We
20 did that later. I think we were all in the same car.

21 Q In other words, all principals were at the
22 meeting from the beginning of the meeting till the end of
23 the meeting?

24 A Mr. Goldstein was not
25 there from the beginning; Mr. Bruce Goldstein was not
there from the beginning.

1 Q But Mr.-- A Jonathan
2 Goldstein and Mr. Stern.

3 Q And you? A And Stier,
4 Richards and myself.

5 Q Did Mr. Stern indicate to you that he had
6 pointed out to General Kugler in his meeting that the
7 State of New Jersey had taken no action on this matter
8 for two years and that since Mr. Biederman had given the
9 memorandum because of some apparent unhappiness with the
10 State of New Jersey, that Mr. Stern believed it would be
11 more advisable if the U. S. Attorney performed the investi-
12 gation? A He did not.

13 Q Did he use any words that would come close
14 to what I just asked you? A No. The
15 only recollection that I have on that issue is that he
16 kept saying that the Attorney General promised him that he
17 would be able to handle it, and I said the Attorney General
18 didn't say anything to me and I take my orders from the
19 Attorney General and that's it; we have to adjust to that
20 problem, and our adjustment was--

21
22 EXAMINATION BY COMMISSIONER BERTINI:

23 Q You then say that the hostility you found
24 when you got there, you felt, was resolved to both your
25 satisfactions? A It was to mine.

1 Q All right. Well, do you think that he, too,
2 was satisfied after it was all over that the Attorney
3 General did not tell you about the situation?

4 A I think so. I think Mr. Stern--well, Mr. Stern made
5 several comments during that week how he thought it was
6 wonderful that we were now, our two offices were now be-
7 ginning to work closely together on a specific important
8 investigation; that we were getting along well; we were
9 talking to each other and doing a job jointly, and he thought
10 that was a great thing because there had been some problems
11 before on other matters.

12 Q Then would you say that I'm correct in con-
13 cluding that the hostility was a result of a misunder-
14 standing on his part of what the Attorney General may have
15 done, thinking that the Attorney General broke his agreement
16 with him?

 A I think that's fair.

17 Q And then you satisfied him that he was eron-
18 eous in that conclusion?

19 A Well, I'm not sure that you can go that far,
20 Commissioner Bertini, because I don't know what he thought
21 about the Attorney General at that point. I know what he
22 thought about me and my people, and he may still have
23 thought that the Attorney General had not--well, we just
24 didn't discuss what his relations were with the Attorney
25 General, so I can't really speculate on what he thought

1 about that.

2
3 EXAMINATION BY THE CHAIRMAN:

4 Q Mr. Jahos, you mentioned earlier that Mr.
5 Stern alluded to some type of a coverup on the part of the
6 state as far as the moving on the Biederman memorandum.
7 Can you enlarge on that at all?

8 A His comments were directed at the questions that
9 my Bob Cowen, a lawyer-investigator on my staff, had di-
10 rected, I believe, at Mr. Mullen and I just don't recall
11 the specific questions. I do recall that we all agreed
12 that any decent investigator would have asked the same
13 questions, and that's how we resolved it, and we assured
14 him that there was no attempt to cover it up nor to take
15 the case exclusively. Mr. Stier and Mr. Richards probably
16 will remember those specific questions. They were much
17 more concerned with that problem.

18 I must say that I find it difficult to believe that
19 the United States Attorney was suggesting that we would
20 cover up a case and I, just because of the difficulty in
21 believeing that, I just didn't believe what I was hearing
22 and so we worked it out.

23 COMMISSIONER BERTINI: I take it from that
24 that you are emphatically denying that you covered
25 or attempted to cover up anything?

1 THE WITNESS: Of course.

2 Q Returning for a moment to the October 30th,
3 1970, memo, which your secretary reclaimed from the
4 general bidding procedure file, I believe you testified
5 that you have no recollection of having read it and per-
6 haps indicated that you did not read it. Is that a fair
7 statement of what you said?

8 A I think it's possible that I didn't read it, but I--
9 you know, I'm strictly speculating. I found it with my
10 note on it. I don't usually put notes on memoranda unless
11 I've read them, unless someone said this is--someone told
12 me what it was about and it had something to do--we dis-
13 cussed later or something of that sort. But I have no
14 recollection at all.

15 The only thing I can say clearly is that I have no
16 recollection at all of that memorandum from October of
17 1970.

18 Q In other words, you have no memory recall
19 of having seen the name Paul Sherwin in that 10/30/70
20 memorandum three, four, maybe five times?

21 A No.

22 Q Do you think that-- A No.

23 Q --perhaps the fact that you were receiving
24 a number of memorandum, or memoranda, from Mr. Biederman,
25 that caused you to mark on the upper right-hand corner

1 "Bid Procedure File"?

A Could be. It

2 could be that I looked at it and said, "I'll talk to
3 Biederman about this later" and never did, or did and re-
4 solved it to my own--to our mutual satisfaction, because
5 I was seeing him fairly frequently in those days.

6 Q And did you ever have any occasion from,
7 say, October 30th, 1970 for the next six months or next
8 twelve months to ask your secretary for this bid procedure
9 file and thumb through it like most of us do to see what
10 had to be done?

A No, my filing
11 isn't quite that way, Mr. Chairman. It's not a case, as
12 you would in private practice, for example, where you have
13 pending files that require action from time to time. A
14 lot of paper comes across my desk, much of it not requir-
15 ing action, some requiring action, and my work is not on
16 a case-by-case basis. So, I would not review a file as a
17 case file. My filing is subject matter filing, and, so,
18 I would have no reason to go into this file on a periodic
19 basis to review it.

20 We had a number of problems involving individuals.
21 There was litigation arising out of Mal-Bros.; there was
22 litigation arising out of Trap Rock, which is Stavola.
23 I did not handle those cases, but from time to time I be-
24 came aware of what was going on and for that reason I knew
25 about the problem. But I would not leaf through the file.

1 I did not see any of those memorandum after they were
2 filed.

3 Q I believe you testified back on November
4 16th, that, in essence, if you did see the November--not
5 November, but October 30th, 1970 memorandum, that that
6 in itself would not have led you to initiate an investiga-
7 tion? A That's correct.

8 Q Let me go back to that. If you did have an
9 opportunity and the time to read the 10/30/70 memorandum,
10 would you have done anything at all short of investigating?

11 A Well, I probably would have found out what happened,
12 whether there was, indeed, interference with bidding pro-
13 cedures. If it went to the low bidder and there was no
14 effect, and there is no indication of any quid pro quo,
15 as I earlier testified, and I would make those judgments,
16 and I probably had some indication in this that it had
17 gone to the low bidder and that there was no longer a
18 problem. This memorandum indicates that Biederman had
19 spoken to the Attorney General. It was just a copy to me.
20 That could all have been resolved at a different level.

21 There are many, many factors which go into my
22 determining whether I will start an investigation in a
23 formal sense, and obviously there was nothing here that
24 spurred me to start an investigation.

25 Q Now, short of an investigation, do you think

1 if you had read it thoroughly, do you believe you would
2 have discussed it with the Attorney General?

3 A If I had a problem with it, yes, I would have dis-
4 cussed it with the Attorney General.

5 Q Well, wouldn't the fact that the Secretary
6 of State evidently was involved--if you just read the
7 memorandum, his name is mentioned there, I guess, four or
8 five times. Would the fact that the Secretary of State's
9 name is in the memorandum lead you to discuss it with the
10 Attorney General?

11 A Not really.
12 You know, the Division of Criminal Justice is valuable to
13 the extent that it's independent, and we have been very
14 jealous of that, and no one has ever put any restraints
15 on me. I would not feel obligated to talk about this with
16 the Attorney General. And if I thought that there was a
17 criminal matter that deserved investigation, we would go
18 ahead and do it, and sooner or later, of course, I would
19 discuss it with him. But I would not feel it necessary
20 to discuss it with him prior to commencing an investigation.

21 Q In other words, you wouldn't consider it a
22 matter of, we'll call it, protocol?

23 A No, definitely not.

24 Q The fact that a fellow cabinet member might
25 be involved in this particular matter, you would discuss
it with the A.G.?

A No. I would

1 probably after we had it going so that the die was cast,
2 if we needed an investigation, but certainly not for
3 clearance.

4
5 EXAMINATION BY MR. FRANCIS:

6 Q You said to the commissioner that if you had
7 read the October 30th memorandum thoroughly you probably
8 would have made some inquiry and found out that the con-
9 tract had gone to the low bidder and would have done
10 nothing further about it?

11 A That's correct.

12 Q Is there anything that sparks your recollec-
13 tion as to whether you probably did make some inquiry?

14 A No, Mr. Francis, I just do not recall those in-
15 quiries.

16 Q Let me come again. You recall at sometime
17 seeing the November 4th, 1970 Biederman memorandum from
18 Biederman to Mullen saying that the contract is to be
19 awarded to Centrum and "You put the machinery in motion
20 to do it, to accomplish"? Do you remember seeing that?

21 A I remember seeing that after our investigation
22 started.

23 Q Yes.
24 seeing it then.

A I don't recall

25 Q At sometime up to this day you have seen

that November 4th memorandum?

A Yes.

Q Which makes it plain that the contract had been ordered to go to Centrum, the low bidder. Well, when you first saw that, if you can remember when it was or about when it was, at that time did it fit into your notion of what, if any, inquiry you might have made after the October 30th memorandum?

A I have to

A I have to

say, yes. The fact that the matter did go as it turned out it should have gone, had to be an important factor in my mind, and anyone looking at it, and it must have been meant.

I think there is also another factor that I would like to perhaps try to articulate. Mr. Biederman is a deputy attorney general. On the fact of the October 30th memo, it seems to me you can infer, at least, that if he had spoken to the Attorney General, the Attorney General said, "Do what's right. You're the man out there to advise Commissioner Kohl." At least, that's the message that I would have gotten and that's the understanding that I would have of Mr. Biederman's responsibilities out there.

If Mr. Biederman was very, very concerned about a criminal matter, he wouldn't send me a blind copy of a memorandum. He would call me. We knew each other well enough for him to do that. So, in my thinking, I could very easily have thought, "Well, Mr. Biederman has the

1 matter under control and when it becomes important, he
2 will call me."

3 Q Do you have any recollection of talking to
4 Biederman at any time after November 4th down to the present
5 time about this matter? A I do not.

6 Q And you can't think of anything that does
7 spur your recollection to the point that you can say with
8 any reasonable certainty that you probably knew that the
9 contract had gone to Centrum at the time you first saw
10 the October 30th memorandum?

11 A Nothing other than all the facts that we have de-
12 veloped in our investigation which leads me to that con-
13 clusion.

14 MR. FRANCIS: I guess that's all.

15 THE CHAIRMAN: I think maybe Commissioner
16 Diana might have a question.

17 EXAMINATION BY COMMISSIONER DIANA:

18 Q I may have missed it in my notes. I'm trying
19 to ascertain about this August 7th memo from Mr. Biederman
20 where he appears to have complaints about where questions
21 involving the Department of Transportation should be di-
22 rected, and, I don't know, but the question was asked do
23 you remember when you first saw this, and you indicated you
24 didn't remember that. At any point did you have a
25

1 recollection of there being any reference by Biederman to
2 you about that if someone, a cabinet officer, had a complaint
3 about bidding procedures he ought to take it to the
4 Attorney General, not to the Department of Transportation?

5 A I have two problems with your question, but maybe
6 I can answer it. I have no recollection of that. I don't
7 see that in this memorandum, but I have no recollection of
8 that, in any case. Biederman never discussed that kind
9 of problem with me.

10 Q All right. My question was, do you have any
11 recollection of Mr. Biederman discussing that with you?

12 A By that you are referring to the last paragraph on
13 Page 1 of C-4?

14 Q Right, this kind of stuff should go to the
15 Department of Transportation or to the Attorney General.

16 A He never discussed anything like that with me.

17
18 EXAMINATION BY THE CHAIRMAN:

19 Q Really, your relationship with Mr. Biederman
20 was to discuss and work out the rigging-of-bids complaints
21 that he was handling, and the other was the, I think you
22 would call it, morality of bidders?

23 A Bid qualification, bidders' qualification, right,
24 which has a number of aspects to it.

25 Q And is that, in essence, what you dealt

1 closely-- A That's right.

2 Q --with Mr. Biederman about?

3 A That's right.

4 Q Did Mr. Biederman, as far as you recall,
5 ever make any other--if you could call this 10/30/70 a
6 complaint, did he ever make any other complaints about
7 other officials in the State of New Jersey?

8 A Not to me.

9 Q And it's your testimony that if he had be-
10 lieved there was some type of a criminal offense having
11 been committed, he would have done more than send you a
12 blind copy of a memo? A Mr. Biederman
13 and I were not strangers at this time. We had worked to-
14 gether as young deputies years ago and there would be no
15 reason why. I would have expected him to call me on the
16 phone and say this is a problem.

17
18 EXAMINATION BY COMMISSIONER DIANA:

19 Q When he did have something of some impor-
20 tance, would he call you up and talk to you on the phone
21 about this as a normal practice?

22 A Yes.

23 Q Rather than send you a blind memo. So when
24 you made the statement that "If it had been important, he
25 would have called me," it was because that's the way, in

1 fact, he had-- A That's the way we
2 operated.

3 Q --operated? A That's right.

4 Q Had he himself felt this was something of
5 some significance? A That's right.

6 I was always sort of curious about Mr. Biederman's
7 memorandum writing. In this context, I guess that's
8 interesting.

9 THE CHAIRMAN: Do you have anything, Mr.
10 Jahos, that you might want to give to the Commission,
11 keeping in mind that our duty here is to investigate
12 pursuant to request from Attorney General Kugler,
13 dated August 1st, 1972, the handling of what we
14 have referred to as the Sherwin matter? I mean,
15 we're seeking your help if there is any that you
16 might be able to give us.

17 THE WITNESS: I don't think, Mr. Chairman,
18 that there is anything that I can add. Our files
19 have, I hope, been as open as they can be. It seems
20 to me that all the circumstances have been aired
21 and that's the way it was. I don't see anything
22 that occurs to me that I ought to bring to the
23 attention of the Commission.

24

25

EXAMINATION BY COMMISSIONER BERTINI:

1 Q There was a memorandum, dated either November
2 4th or November 5th, from the General to Biederman stating
3 "Neither Van Jahos nor I feel there is anything further to
4 be done." Do you think that that memorandum related to
5 this Route 46, this Sherwin situation?

6 A I know that it did not.

7 Q In other words, you deny that any inference
8 that could be drawn that that memorandum related to the
9 Sherwin situation is wrong?

10 A Putting it affirmatively, that memorandum did not
11 refer in any way to the Sherwin situation.

12 COMMISSIONER DIANA: It referred to what?

13 THE WITNESS: It referred to the earlier
14 allegations of collusive bidding involving the
15 Manzo Company.

16 Q That memorandum indicates that you and the
17 Attorney General must have had some conversation about
18 something that Biederman was talking about and what you're
19 saying then? A Oh, we did.

20 Q And that conversation was all about collusive
21 bidding, but not related to Sherwin?

22 A Surely. There was that earlier--we haven't found
23 it, but it's in the evidence before you. There is that
24 earlier memorandum in which there was an allegation of
25 collusive bidding, and that the matter that I asked Mr.

1 Biederman to cover and to inquire about and to use his
2 particular position to develop what information he could,
3 and he said he didn't. When he told me that, I told that
4 to the Attorney General. The Attorney General sent the
5 memo.

6 Q Since this memo C-8, dated October 30, pre-
7 cedes the memorandum from the Attorney General, I take it
8 that when that memorandum from the Attorney General was
9 written, you evidently did not read this memo relating to
10 Sherwin?

11 A I have no recollection
12 of it.

13 Q All right. And you have no recollection as
14 to when the memo that was found in your file was actually
15 put there?

16 A No.

17 EXAMINATION BY MR. FRANCIS:

18 Q Well, perhaps for the purpose of clarifying
19 the record, the October 30th memorandum referred to by
20 Commissione Bertini, Mr. Biederman testified, was delivered
21 to your office on the afternoon of November 4th. So, in
22 any event, on his testimony you would not have had it on
23 October 30th, would you?

24 A No, sir.

25 EXAMINATION BY COMMISSIONER BERTINI:

Q And do you recall when the meeting you held

1 with the Attorney General occurred which resulted in his
2 memorandum, dated November 4th or 5th? I have no recol-
3 lection.

4 MR. FRANCIS: November 4th.

5 A Oh, no, I don't even know that we met. It might
6 have been a phone call or at lunch. Just said that
7 Biederman came up with nothing. I'm inclined to think
8 that that's how it happened. He might have been prodded
9 by the Biederman memorandum asking him what to do, and it
10 would not be uncharacteristic for George to say, "What
11 happened in that?" And I would say, "We ran into a dead end,"
12 and he dictated that.

13
14 EXAMINATION BY COMMISSIONER DIANA:

15 Q Is this the document--I think it's marked
16 C-33--that you indicated was the stimulus to the investiga-
17 tion relative to the collusive bidding, or was it an earlier?

18 A Oh, no, no.

19 Mr. Sapienza, don't you have that earlier memorandum?

20 MR. SAPIENZA: Yes. I show you a document
21 marked C-2. That's the one, isn't it?

22 MR. FRANCIS: Look at the last three lines
23 on that.

24 THE WITNESS: Yes, that's it.

25 Q All right, fine.

A There was

1 another copy of this with some underlining. That's why
2 I didn't recognize it.

3 MR. FRANCIS: Yes. We don't seem to be able
4 to pick that up at the moment. We did have one and
5 we showed it to Mr. Biederman at his request, the
6 last three lines of which were underlined.

7 THE CHAIRMAN: Okay?

8 COMMISSIONER DIANA: Yes.

9 THE CHAIRMAN: You have no questions?

10 COMMISSIONER DIANA: No, that's it.

11 THE CHAIRMAN: I believe that concludes it.
12 Thank you very much, Mr. Jahos, for coming back.

13 (Whereupon, there is a discussion off the
14 record.)

15 MR. FRANCIS: May I mark for identification
16 as one exhibit all of the memorandums Mr. Jahos
17 referred to in the course of his testimony. That
18 number for identification will be C-58.

19 (The following documents received and marked
20 Exhibit C-58: Memorandum from Mr. Biederman to
21 Mr. Jahos, dated October 29, 1970, re Meeting on
22 Prequalification Requirements, with attached memor-
23 anda from Chief John L. Brennan and Herman Crystal,
24 and Lt. Pagano, and October 30, 1970 memo from
25 Mr. Biederman with attached photocopies of newspaper

1 articles; copy of memorandum from Mr. Biederman to
2 Mr. Garven, dated December 2, 1970, re Mal-Bros.,
3 with attached Determination on Qualification by the
4 Commissioner of Transportation; copy of memorandum
5 from Mr. Biederman to Mr. Garven, dated September 4,
6 1970, re Mal-Bros.; copy of letter from Mr.
7 Biederman to the U. S. Attorney re Schiavone
8 Construction Company, dated September 30, 1970;
9 memorandum from Mr. Biederman to Attorney General
10 Kugler re Schiavone Construction, dated September
11 24, 1970; memorandum to Mr. Garven from Mr. Bieder-
12 man re Schivone Construction, dated October 8, 1970;
13 covering memo on transfer of transcripts to Mr.
14 Jahos from Mr. Biederman, dated October 7, 1970, re
15 Schiavone Construction; covering memo on transfer
16 of transcripts to the Attorney General from Mr.
17 Biederman, dated October 7, 1970; note to Mr. Jahos
18 from Attorney General Kugler, dated September 29,
19 1970, referring to memorandum of Mr. Biederman,
20 dated September 23, 1970, re affidavit as to moral
21 integrity.)

22 (Witness excused.)

23 -----

24 (Whereupon, a brief recess was taken.)

25 (After recess.)

1 MR. SAPIENZA: Mr. Richards.

2 THE CHAIRMAN: Mr. Richards knows that he is
3 here before three members of the State Commission
4 of Investigation? Has that been taken care of?

5 MR. SAPIENZA: Not yet.

6 THE CHAIRMAN: Mr. Bertini is on my right,
7 Mr. Richards. Mr. Diana is on my left. My name is
8 John McCarthy. I think you already know Mr. Francis,
9 who is special counsel to the Commission in this
10 matter, and Mr. Sapienza.

11 MR. RICHARDS: Yes, sir.

12 THE CHAIRMAN: All right, sir. Would you
13 stand up at this time and be sworn, please.

14
15 P E T E R R. R I C H A R D S, having been duly
16 sworn according to law by the Officer, testified
17 as follows:

18
19 MR. SAPIENZA: Mr. Richards, before we begin
20 I'm going to read to you warnings that we have read
21 to all witnesses that appear before us. Number
22 one, we thank you for appearing voluntarily, and
23 this is an executive session of the Commission.
24 Your testimony will be taken under oath and tran-
25 scribed by the shorthand reporter. Therefore, if

1 you feel that any of your answers may tend to
2 incriminate you, you may refuse to answer. You
3 have the right to be represented by an attorney of
4 your choice, and although you are an attorney I
5 note for the record that you have no attorney with
6 you. Is it your desire to proceed today without
7 an attorney?

8 THE WITNESS: Yes, it is.

9 MR. SAPIENZA: Thank you. If you desire to
10 have an attorney present at any time during the
11 day or during these questions, you just have to
12 tell us to stop and we'll stop the proceeding. Or
13 for any reason if you would like us to stop ques-
14 tioning you at any point just say that and we will.

15 Our statute forbids disclosure by you of
16 the questions asked, your responses or any other
17 information you may gain at this hearing or at this
18 interview. The penalty is as if it were a disorderly
19 persons' offense.

20 Although your testimony is now being taken
21 in private, the Commission has the right to make it
22 available to the public at a later time or call upon
23 you to give the same testimony at a subsequent public
24 hearing upon the adoption of a resolution to that
25 effect.

1 A copy of your testimony at this private
2 hearing will be made available to you.

3 You have a right at the conclusion of this
4 hearing to file a brief, sworn statement relative
5 to your testimony for incorporation in the record if
6 you feel it's necessary.

7 Thank you.

8 THE CHAIRMAN: Yes, sir.

9
10 EXAMINATION BY MR. FRANCIS:

11 Q Mr. Richards, you are a deputy attorney
12 general of New Jersey? A Yes, I am, sir.

13 Q And have been for how long?

14 A Since January of 1969.

15 Q When were you admitted to the Bar?

16 A Well, let me correct that. I was admitted to the
17 Bar in the spring of 1970. I was sworn in as a deputy
18 attorney general at that time. I was employed in connec-
19 tion with the operation of the state-wide grand jury com-
20 mencing in January of 1969, but I was not a deputy attorney
21 general. I was not sworn in as such until I had passed
22 the bar and was sworn in.

23 Q In your capacity as a deputy attorney general
24 did you attend a meeting at the United States Attorney's
25 office in Newark on June 13th, 1972, with Mr. Jahos and

1 Mr. Stier? A Yes, I did.

2 Q Do you remember what time of the day that
3 was? A It was late in the

4 afternoon. I know we had left late. I'm not certain of
5 the exact time.

6 Q I see. What is your recollection as to the
7 length of that meeting, about?

8 A I would say roughly an hour, but I'm not certain
9 of the exact length.

10 Q And on the United States Attorney's staff,
11 what members were present?

12 A Mr. Stern was present; Jonathan Goldstein was
13 present from the beginning, and I believe Bruce Goldstein
14 came in some short time after the meeting had begun. He
15 was not there at the very beginning of the meeting.

16 Q Before Mr. Bruce Goldstein came in had Mr.
17 Stern made, started to make, any statements about the
18 nature of your conference?

19 A Yes, I believe so.

20 Q I see. Mr. Bruce Goldstein has made a
21 memorandum of that conference, which we have marked C-36
22 here. You have a copy of that before you?

23 A Yes.

24 Q I would like to go over that memorandum with
25 you.

1 Did Mr. Stern at the outset of the meeting,
2 and I refer you now to the third paragraph on the first
3 page of C-36, describe how his office got into the Sherwin
4 investigation, referring to Biederman's memoranda, and
5 did he then say with particularity how he "thereafter
6 visited the Attorney General Kugler and informed him of
7 the allegations of the Biederman memoranda showing Mr.
8 Kugler all of the allegations which had been given to us
9 pertaining to the allegations of corruption, including the
10 letter from Paul Sherwin to John Kohl asking that the
11 contract be awarded to Manzo"? Do you recall those state-
12 ments?

13 A Let me take them one
14 at a time.

15 Q Yes. A He did say that his
16 investigation had begun when Biederman had come to him
17 and delivered certain documents to him. He did say that
18 he subsequently had visited the Attorney General and had
19 informed him of the allegations against Mr. Sherwin.
20 Whether he said that he had shown the Attorney General all
21 the documents which had been given to him pertaining to the
22 matter, that is, the documents which had been given to
23 him by Mr. Biederman, I am--I am simply not certain.

24 Q I see. Well, particularly with respect to
25 the last statement at the end of that paragraph, did Mr.
Stern say that among the documents he showed to the Attorney

1 General was the letter from Paul Sherwin to Kohl asking
2 that the contract be awarded to Manzo?

3 A I'm simply not sure that he mentioned specific docu-
4 ments that he had shown to the Attorney General in that
5 meeting. I mean, he said that he had gone down to see the
6 Attorney General; that he had briefed the Attorney General
7 on the information that Biederman had given to him. Whether
8 he showed the Attorney General documents or not I simply--
9 I simply don't recall whether he said he did or not.

10 Q Did he say to you, or to your group, in this
11 explanation of his that he had shown a letter to the
12 Attorney General, specifically shown a letter from Sherwin
13 to Kohl, which said this; "Asked that the contract be
14 awarded to Manzo"?

A Well, the letter
15 did not say that. I mean, you're referring to the October--

16 Q Yes. A The October 8th
17 letter, I think.

18 Q Yes. A From Sherwin to
19 Kohl. And that's not what the letter said. I mean, we
20 had obtained the letter from Biederman, I believe, the
21 day before, so we, that is, Ed Stier and myself and Mr.
22 Jahos, had seen that letter, so we knew what it said at
23 that point. Stern, of course, had also obtained it from
24 Biederman, so he knew what the letter said. The character-
25 ization of it in C-36, I would say, is not exactly accurate

1 because the letter simply didn't say that. The letter did
2 not ask that the contract be awarded to Manzo. The letter,
3 if I recall,--I'm not trying to quote it directly--asked
4 that the bids be thrown out, not that the contract be
5 awarded directly to Manzo.

6 Q And that's what I was trying to find out,
7 specifically whether Mr. Stern said that this letter asked
8 that the contract be awarded to Manzo.

9 A Oh, if he had said that, I'm sure that we would
10 have--we would have corrected it, because we, as I say, we
11 had the letter at that point--we had gotten it the prev-
12 ious day from Mr. Biederman--and that simply is not an
13 accurate characterization of it. I don't recall him say-
14 ing that specifically. If he had, I'm sure we would have
15 said, you know, that's not precisely the contents of the
16 letter.

17 Q In the next paragraph, did Mr. Stern say he
18 had told Mr. Kugler that since the State had taken no
19 action on this matter for two years, and since Biederman
20 had given us the memorandum because of some unhappiness
21 with the position of the State, and the State had taken--
22 that it might be more advisable for the Federal Government
23 to conduct the investigation?

24 A Well, my recollection of what he said is that he
25 had, as I said, he had told the Attorney General what the

1 allegations were. He, I think, at that point said that
2 he had told the Attorney General that it looked like
3 essentially there was not very much to it and that it
4 would be, you know, if no indictment was to be returned,
5 that it would be, let's say, embarrassing to the State to
6 have to say that it had investigated a cabinet officer
7 and found no cause to return an indictment; and that my
8 understanding of what he said to the Attorney General was
9 that for that reason it would be preferable if the Federal
10 Government handled the investigation because of that
11 likelihood; that is, that if it came to nothing, that the
12 State could be embarrassed in justifying the way that the
13 state investigation had been conducted.

14 Q Will you go over to Page 2, now, the third
15 paragraph. Did Mr. Stern say to you that the FBI had
16 discovered that both Perrucci and Manzo had admitted be-
17 fore Judge Stamler in Morris County that Manzo had paid
18 \$10,000 to the Republican Party in order to have the State
19 throw out the bids on the Route 46 job?

20 A Well, Manzo had never said that. Perrucci had said
21 it in his testimony in Morris County, but Manzo had not
22 at that time, and, as far as I know, never made that ad-
23 mission.

24 Q Do you recall whether Stern said what Mr.
25 Goldstein reports here that he said, namely that Manzo

1 admitted before Judge Stamler that he paid the \$10,000 to
2 have those bids thrown out?

3 A Well, again, I doubt that he did because we had,
4 a member of my staff, had interviewed Judge Stamler by that
5 time. We knew what Judge Stamler had said happened in
6 his courtroom. I don't believe that we had received the
7 transcripts at that point of the testimony in Judge
8 Stamler's court of the Perruccis and Manzo. I do not
9 believe that at that point in time we had, anybody from
10 my staff had, interviewed either Perrucci or Manzo. I be-
11 lieve that was done subsequent to this meeting. I think
12 the interviews had been set up but not conducted yet, if
13 my recollection is correct. But, as I say, we had spoken
14 with Judge Stamler. I think if that had been said, again
15 as I said with regard to the other point, we would have
16 corrected it.

17 Q I see. By the way, have you ever read
18 Manzo's testimony before Judge Stamler?

19 A Yes.

20 Q And I think you said a moment ago that he
21 never did admit that he paid \$10,000 to have the bids thrown
22 out?

23 A That's my recollection of it.
24 I have not reviewed that testimony recently, but I do not
25 believe that he said that.

Q Will you go over to Page 4, now, the first

1 paragraph on the top of Page 4. Did you or Mr. Stier, or
2 both of you, say at that meeting to Mr. Stern that Loughran
3 admitted to you that he received \$10,000 from Manzo and
4 that Loughran had called Sherwin and asked him to throw
5 out the bids? A Yes, I believe

6 we did say that. Bob Cowen of my staff had interviewed
7 Loughran the night before we went to Newark, and we were
8 aware of the results of that interview.

9 The next sentence in that is also accurate; that is,
10 Loughran denied that there was any connection, in effect,
11 between the contribution and the request to throw bids
12 out. And he also denied, I believe, in that first inter-
13 view that Sherwin was aware of the contribution.

14 Q I see. Now, let me call your attention
15 again to that top sentence, and particularly to the se-
16 quence of events. Did you mean to indicate that Loughran
17 received \$10,000 and then after that called Sherwin and
18 asked him to throw out the bids?

19 A You mean that Loughran had admitted those two
20 facts and connected the two facts in our minds?

21 Q No, that he had first gotten \$10,000 from
22 Manzo, and after he got the \$10,000, then he called Mr.
23 Sherwin and asked him to throw out the bids.

24 A No, I believe it was the opposite--

25 Q I see.

A --in terms of

1 time sequence.

2 Q Yes. Well, you were aware of the October 8,
3 1970 letter from Sherwin to--

4 A Yes.

5 Q --Kohl? A Yes.

6 Q And in that letter that we have referred to
7 already here Mr. Sherwin said, "I prefer that all the bids
8 be rejected and the matter rebid"?

9 A Yes.

10 Q And you know, do you not, that the ten-
11 thousand-dollar check was dated October 23rd?

12 A Yes.

13 Q Which was after, some fifteen days after the
14 October 8th letter? A Yes.

15 Q So that that was the reason why I asked
16 you about the sequence of facts as stated in the top part
17 of that paragraph.

18 I gather that you did not indicate at the
19 conference that-- A That the money--

20 Q --Manzo had paid \$10,000 first to Loughran
21 and that then Loughran called Sherwin and asked him to
22 throw out the bids? A No, no, we did

23 not indicate that that had been the time sequence, because
24 we had interviewed Loughran; we had the October 30th
25 memorandum, and we had the check at that time. Of course,

1 we had knowledge--I'm not sure we had an actual copy of
2 the check at that point, but we had the information about
3 the check, its date, who it was paid to and so forth,
4 which had been obtained from Judge Stamler.

5 Q I see. Do you remember, you testified before
6 the state grand jury, I think, about your conversation
7 with Mr. Loughran, did you?

8 A Yes.

9 Q And do you recall a specific expression that
10 Loughran used in the conversation with you, "bid thing"?

11 A I'd have to review the testimony, Mr. Justice Francis.
12 It's been a long time since I've reread either the memor-
13 andum or the testimony.

14 Q Well, without reaching for the transcript of
15 the testimony, on Page 84 you said that Loughran told you
16 that he did the "bid thing" as a service to a contributor?

17 A Yes, that would be accurate.

18 During the interview of Loughran, Ed Stier and I
19 interviewed Loughran in the Attorney General's Office.
20 I believe I took the notes and I subsequently transcribed
21 those notes into the memorandum. When I testified in the
22 grand jury, I testified from that memorandum verbatim, if
23 I recall.

24 Q I see. At that conference did Mr. Jahos, on
25 Page 3, the last paragraph, did Mr. Jahos say that Mr.

1 Kugler had told him of his conversation, conversations with
2 Mr. Stern? A Mr. Jahos said that he

3 was aware that there had been a meeting between Mr. Stern
4 and, I think, Jonathan Goldstein and the Attorney General
5 sometime in the recent past, but that he had not been
6 aware of the subject matter of the meeting. He was aware
7 of the fact that the meeting had occurred, but he had not
8 been made aware of the contents of the discussion between
9 the federal people and the Attorney General.

10 Q Did Mr. Jahos say that Mr. Kugler had never
11 told him not to investigate?

12 A Yes.

13 Q That's all that's in there.

14 A Could I add one thing about this that I notice on
15 Page 4?

16 Q Yes, sure. A The second full
17 paragraph on that, which reads, "The State has not yet
18 interviewed Commissioner Kohl. Mr. Stern delineated for
19 them what Mr. Kohl had told us in an interview in our
20 office." My understanding is that if the federal people
21 had interviewed Kohl prior to our meeting, they had done
22 so only to get documents from him. If there was a substan-
23 tive interview prior to the 13th of June, we had no know-
24 ledge of it and it was not--it was not brought out at this
25 meeting.

1 One of the critical facts in the prosecution was
2 the content of a telephone conversation between Commissioner
3 Kohl and Mr. Sherwin in which Commissioner Kohl testified
4 that Mr. Sherwin had told him that Manzo was a contributor
5 to the party. The first knowledge that the State had of
6 that fact was later in the week in the U. S. Attorney's
7 office when Kohl was interviewed. Kohl came to Newark
8 and was interviewed by Ed Stier, and myself, and, I think,
9 both Jonathan and Bruce Goldstein, and we took an affidavit
10 from Commissioner Kohl at that time, and to my knowledge
11 that's the first time that the substance of that conver-
12 sation between Kohl and Sherwin came out. So that that
13 paragraph is also inaccurate in Exhibit 36.

14 Q Well, then, it is your recollection that
15 nothing whatever was said at that conference to indicate
16 that the United States Attorney's people, or investigators,
17 had interviewed Kohl prior to that time?

18 A Well, they had obtained documents from the Depart-
19 ment of Transportation. They might have spoken with Kohl
20 in the course of getting those documents. But, to my
21 knowledge, they had not interviewed Kohl with regard to
22 the substance of the phone call between himself and the
23 Secretary of State. And I say, if they had we were not
24 told that and we did not learn the substance of what
25 Kohl's information was until later on in that week. It was

1 probably--well, it could have been either Wednesday or
2 Friday. We were up there again at least twice that week
3 when Kohl came up and was interviewed.

4 Q And at that time you said you took a state-
5 ment in affidavit form from Mr. Kohl?

6 A That's correct.

7 Q Commissioner Kohl?

8 A That's correct.

9 Q At that time did anyone connected with the
10 United States Attorney's Office produce a statement that
11 they had previously taken?

12 A A prior statement, no, sir. No, sir.

13 Q I understand that you and Mr. Stier inter-
14 viewed Judge Garven? A That's correct.
15 Mr. Jahos was also present during that.

16 Q After the interview with Judge Garven did
17 you and Mr. Stier make a memorandum of the conversation?

18 A Yes. Yes, we did.

19 Q I show you a memorandum, which we have marked
20 C-47 here, and ask you if that is the memorandum that you
21 and he prepared jointly. A Yes, sir,
22 that's the memorandum.

23 Q At that interview did you show Judge Garven
24 a memorandum dated October 29th, 1970, from Mr. Sherwin
25 to Commissioner Kohl? A Yes.

1 Q And were there any handwritten notations
2 on that document?

3 A Yes, sir, there
4 were.

5 Q And will you tell us what they said?

6 A Quoting from C-47, my memorandum. I don't have
7 the October 29th memorandum in front of me. The quote
8 was: "Biederman discussed with Garven 11/4. Garven to
9 explain to Sherwin."

10 Q I see. And did you ask Judge Garven if
11 Biederman had, in fact, had a discussion with him about
12 the Sherwin matter?

13 A Yes, we did.

14 Q And what did he say?

15 A Well, what he said is incorporated in C-47. That
16 again should be an accurate reflection of the interview.
17 I again took the notes at that interview; subsequently
18 transcribed them into this memorandum. I checked the
19 memorandum back against the notes. Ed Stier read over
20 both the notes and the memo, and the contents of this
21 should be accurate. If you would like me to go over the
22 contents, I will.

23 Q Well, supposing we try to take it bit by bit.
24 Did Judge Garven tell you whether Mr. Biederman came to
25 his office?

A Yes.

Q On or about November 4th?

A Well, I think that he did not recollect the specific

1 time. He said it was a long time ago. I have that in
2 quotes in the memorandum and I would assume that that's
3 a quote from Judge Garven.

4 Q And going on with your memorandum, what did
5 Judge Garven tell you that Biederman mentioned to him at
6 the time of that visit?

A Well, he
7 said that Biederman mentioned the matter--and again I have
8 that in quotes--between Mr. Sherwin and Commissioner Kohl
9 with regard to the Route 46 repaving job. He said, that
10 is Judge Garven told us, that the specific issue when he
11 spoke with Biederman was the letter which Sherwin had
12 written to Kohl with regard to the contract.

13 We showed, I believe, Judge Garven the October 8th
14 letter, which we have referred to earlier here today,
15 and Judge Garven said he didn't recall whether or not
16 Biederman showed it to him at the time, but he said that
17 Biederman at least told him about it.

18 Q I see. Did Judge Garven at that time, or
19 did either of you make any mention of the fact that when
20 Biederman came to talk to him, the contract had already
21 been awarded or a decision had been made to award the
22 contract to the low bidder, Centrum Contracting Company?

23 A No, I don't believe so.

24 Q What did Judge Garven tell you with respect
25 to the low bid on the Route 46 contract?

1 A Well, he said that Biederman had told him, that is
2 Judge Garven, that he felt that the low bid was a proper
3 bid and that he and his commissioner, that is Kohl, felt
4 the bid should be accepted. Garven told us that he had
5 told Biederman that he was the deputy assigned to
6 Transportation and that he ought to know whether or not
7 the bid was a proper bid; and that he told, and that Garven
8 told Biederman, and again I have this in quotes, that
9 "If this would get the work done, go with the low bid."
10 And that was the end of the quotation that I had.

11 Garven assumed that he was given Manzo's name, but
12 he said he had no specific recollection of that.

13 Q What, if anything, did Judge Garven tell
14 you with respect to a request by Biederman or anyone else
15 to speak to Sherwin about the matter?

16 A Well, Judge Garven said that Biederman had, in fact,
17 asked him if he would, if he would contact Sherwin about
18 it and he said--and again I have this in quotes--that
19 "he vaguely thinks that he could have called Sherwin, but
20 that he did not have a recollection at that time," that is
21 the time of our interview, "of having done it." He said
22 he thought he probably did call Sherwin, but that he simply
23 wasn't sure at that time. He said he knew that
24 Biederman had asked him to do so, and he said he told
25 Biederman that he was going to do it, but he simply didn't

1 remember whether or not he did, in fact, make the call
2 to Sherwin.

3 Q How long did he tell you the conversation
4 that he had with Biederman took?

5 A Well, he said it was very brief. He said three
6 minutes.

7 Q Was there any reference at all by either you
8 or Judge Garven as to whether Biederman had left a package
9 of documents with Judge Garven when he came to see him on
10 that occasion?

11 A No, we didn't ask that
12 and Judge Garven did not mention it, either. There was
13 simply no discussion of it. The only document that I re-
14 call being mentioned was that October 8th letter. And, as
15 I say, my recollection is that we showed that to Judge
16 Garven and he knew that Biederman had at least told him
17 about it, the existence of that letter, but he did not
18 remember whether or not Biederman had actually showed it
19 to him. But I don't recall there being discussion of
20 other documents than that or any mention of a package of
4 documents on either side, ours or Judge Garven's.

21 Q Did Judge Garven give you any indication as
22 to why he thought Biederman came to see him?

23 A Well, he said that he thought Biederman came to
24 him--and this is not in quotes, but it was pretty close
25 to a quote, I think--to offset any influence which had

1 been exerted by Sherwin.

2 Q At the time you went to see Judge Garven did
3 you know that by November 4th the contract had gone to the
4 low bidder, Centrum Contracting Company?

5 A I would assume that we did know that; I would
6 assume that we did know that.

7 We had--I'm trying to reconstruct the time sequence
8 in my mind. We had some trouble. One of the most diffi-
9 cult parts of the investigation was reconstructing the
10 time sequence surrounding the decision-making process;
11 that is, when the decision was made to throw out the bids,
12 when it was reversed, when the check was paid, was delivered
13 in relation to those decisions in the Department of Trans-
14 portation. The two press released that went out, the time
15 sequence was very, very difficult to pin down. I think we
16 finally did that the weekend following our meeting with
17 Stern on the 13th, because I remember that we got Russell
18 Mullen, who had been the assistant commissioner, into our
19 office on the following Saturday--it's the Saturday after
20 the Tuesday on which we had the meeting with Stern--and
21 as of that time we finally had the time sequence pinned
22 down. Now, I think--

23 Q So that if you saw Commissioner Mullen on
24 that Saturday, that was the Saturday before June 20th--

25 A Yes.

1 Q --when you interviewed Judge Garven?

2 A Yes, so we would have known it at that time, that's
3 correct.

4 Q And Mullen, of course, knew--

5 A Yes.

6 Q --when the contract went to Centrum?

7 A Yes.

8 Q I think it's fair to say, also, that we
9 have in evidence here a memorandum of Mr. Biederman's
10 to Mr. Mullen, dated November 4th, 1970, telling him that
11 the commissioner had decided to award the contract to
12 Centrum and that he should set in motion the machinery to
13 accomplish it, and that the formal document awarding the
14 contract to Centrum is dated November 5th.

15 A Yes.

16 Q Now, the reason I mention those things to
17 you is to resolve a puzzlement in my mind as to why Judge
18 Garven would say "Biederman probably came to me to offset
19 any influence of Mr. Sherwin's" when the contract had al-
20 ready gone to Centrum on November 4th.

21 A Well, I could speculate about that. I'm not sure
22 it would be factual, if you want me to do that.

23 Q Well, not unless you think that there was
24 something said at the conference that would supply the rea-
25 son for your viewpoint.

A Well, Judge

1 Garven said that he assumed that Biederman came to him, as
2 I said before, to offset any influence which had been ex-
3 erted by Sherwin. Biederman--Biederman knew, of course,
4 that Sherwin had contacted Kohl about the contract, so I
5 suppose essentially there was a disagreement between two
6 cabinet officers, that is Sherwin and Kohl, at that point.
7 Biederman had convinced Kohl that the right thing to do
8 was to award the contract to the low bidder.

9 The purpose, you know, I suppose it could be in-
10 ferred from that that the purpose of Biederman's going to
11 Garven was simply to take the pressure off his commissioner.
12 The decision had been made by Kohl. Sherwin, I don't be-
13 lieve, had been informed at that time of the change and
14 Biederman perhaps hoped that Garven would do that and take
15 the pressure, take any pressure that had been exerted by
16 Sherwin, off of Commissioner Kohl.

17 Q I see. Then you had the impression from the
18 conversation that if the contract had already been awarded
19 to Centrum, Sherwin had not yet been told about it?

20 A Yes. Yes, I believe that would be--that would be
21 correct.

22 Q And that Biederman had come to Garven in
23 order to lessen any pressure that Sherwin might feel or
24 might try to exert again on the department in connection
25 with the award of a contract?

1 A That would be my assumption.

2 Q But, in any event, there was nothing in
3 your conversation with Judge Garven or what he said to
4 you which would indicate that, when he and Biederman talked,
5 that the contract had not yet been awarded to Centrum?

6 A Well, no. Of course, you know, the facts were, at
7 that point in time as I recall it, that the decision had
8 been made, but the formal award of the contract, I think,
9 had not been made. If I recall correctly, the final formal
10 award was made on the 5th. The conversation, from a note
11 on the memorandum, indicated that Biederman's discussion
12 with Garven was on the 4th. The decision to award to
13 Centrum was made prior to that, but the formal papers
14 simply hadn't gone through the Department of Transportation
15 at that point, if I recall correctly.

16
17 EXAMINATION BY MR. SAPIENZA:

18 Q Mr. Richards, I believe that you said that
19 you interviewed Mr. Loughran in the Attorney General's
20 office; is that correct? A Yes.

21 Q Is that Attorney General Kugler's office?

22 A Yes.

23 Q Why did you interview him there?

24 A The Attorney General was away. We had given Mr.
25 Loughran a subpoena to appear in the grand jury that day.

1 It was a vacant office, and a nice one to use. No other
2 reason than that.

3 Q When you went to interview Mr. Garven, what
4 was your purpose? I'm sorry. Yes, when you went to inter-
5 view Judge Garven, what was your purpose in interviewing
6 him?

7 A To explain. Our basic purpose
8 was to explain the note on the October 29th memorandum
9 saying, "Biederman discussed with Garven 11/4. Garven to
10 talk with Sherwin." We wanted to know what discussions
11 Judge Garven had had with Sherwin particularly.

12 Q And you never really were able to answer that?

13 A That's correct, because Judge Garven said he did not
14 recall whether or not he had talked to Sherwin even though
15 he had told Biederman he would.

16 Q Did Judge Garven indicate to you that he
17 was present at conversations or at a meeting sometime
18 around April of 1972 where the Attorney General was also
19 present, and the Governor and Commissioner Kohl at one
20 point and later on Secretary of State Sherwin?

21 A No, I believe not.

22 Q Did he indicate to you that immediately prior
23 to your visiting him, that he had been briefed on the matter
24 by Mr. Evan Jahos?

25 A Did he indicate

that to us?

Q Yes.

A No, I don't think

1 so. We--we knew at some point--and I frankly don't remember
2 the point, you know, whether it was--I just don't remember
3 the point--that Mr. Jahos had briefed Judge Garven about
4 the investigation.

5 Q In other words, you were aware that Jahos
6 had briefed Garven when you interviewed Garven on, I be-
7 lieve that was, June 20th?

8 A No, I'm not sure that we were aware of it at that
9 point. We became aware sometime during that, during that
10 period of time, that he had briefed Judge Garven. Whether
11 we knew it when we interviewed Judge Garven I simply don't
12 remember.

13 Q Prior to your interviewing Judge Garven,
14 did one of your staff interview David Biederman?

15 A Yes.

16 Q Who was that? A Bob Cowen;
17 Robert Cowen.

18 Q And have you discussed with Mr. Cowen the
19 results of his interview with Mr. Biederman, that first
20 interview? A Yes.

21 Q Could you tell us whether Mr. Biederman told
22 Mr. Cowen in that first interview that on November 4th,
23 1970, he delivered a package of memoranda to Judge Garven
24 and then delivered a similar package of memoranda to Evan
25 Jahos? A I spoke with Mr. Cowen

1 this morning to check on that precise point, and Mr. Cowen's
2 recollection is that Judge Garven was not discussed in his
3 interview with Mr. Biederman and that there was no mention
4 of any package of documents having been delivered to Judge
5 Garven. Garven's name simply didn't come up in that inter-
6 view.

7 Biederman also told Cowen that he had sent a copy
8 of the October 30th memorandum, that is the memorandum from
9 Biederman to Commissioner Kohl, to the Attorney General and
10 that Biederman had also sent a blind copy of that memoran-
11 dum to Mr. Jahos. But Biederman did not say to Cowen that
12 there had been the delivery of any package of documents to
13 anybody, as a matter of fact. The only delivery of docu-
14 ments that was discussed were the copies of the October
15 30th memorandum to the Attorney General and to Jahos.

16
17 EXAMINATION BY THE CHAIRMAN:

18 Q How did he send the October 30th memorandum
19 to the Attorney General?

20 A I asked Cowen that this morning, also, Mr. McCarthy,
21 and he has no recollection of the method of delivery having
22 been discussed at all. Cowen says his impression was that
23 it was mailed, but he does not have a recollection of
24 Biederman having actually said that. What he's saying, as
25 I understand it, is that there was nothing extraordinary

1 said about the method of delivery.

2
3 EXAMINATION BY MR. FRANCIS:

4 Q Did Mr. Cowen make a memorandum of his con-
5 ference with Biederman? A I believe

6 he did not, Mr. Justice. The reason for that is that it's
7 our section policy that if a witness testifies in a grand
8 jury and his testimony is memorialized under oath that way,
9 we don't make additional interview memoranda. We incorporate
10 whatever interview notes the attorney has taken into a
11 witness sheet. That witness sheet is used to interrogate
12 the witness in the grand jury. The reason that we made
13 memoranda, that Stier and I made memoranda of the Garven
14 interview, is that Mr. Garven did not testify in the grand
15 jury.

16 Q Well, I think it may be of some factual
17 significance here as to whether Biederman said to Mr.
18 Cowen that he had sent a copy of the memorandum to the
19 Attorney General. A Well, when I

20 spoke with Mr. Cowen this morning, Mr. Cowen said to me
21 that he had--this is hearsay, I realize. But he said to
22 me that he had a clear recollection of Biederman saying to
23 him that he had given a copy of that memorandum to the
24 Attorney General and a blind copy to Mr. Jahos.
25

EXAMINATION BY THE CHAIRMAN:

1
2 Q Mr. Richards, the memo of October 29th,
3 1970, that you referred to, which has the handwritten notes,
4 I think, of, it's been determined, Commissioner Kohl on the
5 left-hand-- A Yes.

6 Q --bottom, what was your understanding at
7 the time you read this as to what that pertained to?

8 A I'm not sure I understand the question, sir. Do
9 you mean what the memorandum pertained to or what the notes
10 pertained to?

11 Q No, the memorandum. What subject matter do
12 you believe it pertained to. A The October
13 29th memorandum?

14 Q Yes. A Could I see that
15 memorandum to refresh my--

16 Q Sure. And keeping in mind that there was
17 attached also the October 5th, 1970 letter.

18 A Now, I'm going to have to go back to another docu-
19 ment, and that's the July 20th memorandum, to try and--

20 Q Let me ask you another way.

21 A I think I can recall. My recollection is that
22 following this, following these memoranda through in se-
23 quence, the July 20th memo, which has just been handed to
24 me, related to a problem that Manzo had as a bidder on a
25 Route 22 job. The October 5th memorandum, or letter from

1 Kohl to Sherwin, apparently referred to that meeting and
2 a meeting which concerned that matter. And then the
3 October 5th--or the October 29th memorandum refers back to
4 the October 5th memorandum. So, I assume that we would
5 have assumed at the time that the references were to the
6 Route 22 job on which Manzo had been a low bidder and on
7 which he had problems because of bad performance on a
8 prior job, which I think was Route 12.

9 Q And there was a question about retainage of
10 funds?

11 A There was also a question
12 of retainage of funds, but that was on still a third job.
That was on--

13 MR. FRANCIS: Route 35?

14 THE WITNESS: Route 35 job over in Monmouth
15 County, I believe.

16 Q But returning, now, to those three letters or
17 memos you have in your hand, none of those refer to the
18 Route 46 matter, do they?

19 A No, no.

20 Q So the only thing that led you to talk to
21 Judge Garven was the handwritten notes at the bottom talk-
22 ing about Garven to talk to Sherwin 11/4 and so forth?

23 A Yes. Now, what I'm trying to recollect, now, this
24 is--again I have to try and reconstruct the time sequence
25 in my own mind. I believe that Ed Stier and I had learned

1 from Commissioner Kohl that that was his notation and that
2 it referred to Route 46. What I'm trying to remember, and
3 having some difficulty doing, is when we learned that.

4 Now, we interviewed Commissioner Kohl in the U. S.
5 Attorney's office prior to the interview with Judge Garven.
6 That's the time that we took the affidavit from the com-
7 missioner. The affidavit did not refer, I'm virtually
8 certain, to this notation; that is, the notation on the
9 October 29th memorandum. We may have learned it, learned
10 to what that notation referred, in that meeting.

11 Stier and I interviewed Commissioner Kohl in his
12 apartment subsequently to expand on the interview that we'd
13 had in the U. S. Attorney's office and to ask questions
14 which had come up, which had not been answered in that
15 interview. We may have learned the subject matter of the
16 notation at that time. But without going back into my
17 records, which are back in the office, and trying to figure
18 out what that second interview of Kohl was, I can't be
19 certain of what that time sequence was.

20 Q But your answer would be that these three
21 papers in themselves did not deal with Route 46?

22 A That's correct, yes. But we might have known that
23 the notation referred to Route 46 from our contacts with
24 Commissioner Kohl.

25 THE CHAIRMAN: I understand.

EXAMINATION BY MR. FRANCIS:

1 Q Mr. Cowen is available, is he?

2 A Oh, yes, Mr. Cowen is available.

3 MR. FRANCIS: I think perhaps we ought to ask
4 him to come over here to give us his first-hand
5 recollection of Biederman's statement to him with
6 respect to his alleged delivery of the 10/30 memoran-
7 dum to the Attorney General.

8 THE WITNESS: I can arrange that.

9 MR. FRANCIS: Because here Biederman does not
10 assert at all that he gave a copy of that to the
11 Attorney General. In fact, the contrary. So we now
12 have as a result of that a conflict, and I think
13 we'll have to deal with it a little further. So I
14 think it would be advisable to ask Mr. Cowen to come
15 over.

16 THE WITNESS: When would you like him, sir?

17 MR. SAPIENZA: Three o'clock.

18 MR. FRANCIS: Three o'clock.

19 THE CHAIRMAN: Let's take a two-minute break.

20 (Whereupon, there is a discussion off the
21 record.)

EXAMINATION BY COMMISSIONER BERTINI:

22 Q I don't quite understand a conclusion that
23
24
25

1 you seem to have made that doesn't jog with my thoughts;
2 that this memorandum "Biederman discussed with Garven,
3 Garven to explain to Sherwin," that this relates to 46
4 in any way, Route 46. You can't read that from just read-
5 ing everything but the notation, can you?

6 A No.

7 Q All of these memorandums do not relate to
8 Route 46? That's C-9 in evidence, the attachment, the
9 letter from Kohl to Sherwin dated October 5th, and C-2 in
10 evidence.

A That's correct.

11 Q All right. Now, the only thing that causes
12 you to believe now that this had some relationship to
13 46 is Kohl's statement to that effect?

14 A Yes.

15 Q And that statement came subsequent to your
16 becoming involved in this investigation; isn't that so?

17 COMMISSIONER DIANA: Kohl never said it.

18 Q Kohl never said it?

19 A No.

20 MR. FRANCIS: May I refresh your recollec-
21 tion about that. We inquired of Mr. Kohl when he
22 was on the stand about that notation. He said that
23 that did not relate at all to these two documents
24 you have in your hand; that he wrote that notation
25 on there because it happened to be on the top of

1 his desk at the time and he just made the notation
2 on there and that the notation does relate to Route
3 46, but the other documents do not; they relate to
4 the July 20th memorandum about collusive bidding
5 and so on.

6 COMMISSIONER BERTINI: I don't reach the same
7 conclusion, but, all right, I'll leave it at that.

8 THE CHAIRMAN: Mr. Diana, do you have any
9 questions?

10 COMMISSIONER DIANI: No.

11 THE CHAIRMAN: Justice, anything further?

12 MR. FRANCIS: No. Thank you very much.

13 THE CHAIRMAN: Thank you very much, Mr.
14 Richards.

15 (Witness excused.)

16 -----

17 (Whereupon, a brief recess is taken.)

18 (After recess.)

19 COMMISSIONER BERTINI: You have just met the
20 commissioners and all the people in the room.

21 Would you mind swearing the witness.

22
23 E D W I N H. S T I E R, having been duly sworn

24 according to law by the Officer, testified as follows:
25

1 MR. SAPIENZA: Mr. Stier, before we begin I'm
2 going to give to you warnings that we give to all
3 witnesses who appear before us no matter what their
4 status.

5 Number one, we note that you are appearing
6 voluntarily and we thank you for coming. Your
7 testimony will be taken down under oath and tran-
8 scribed by the shorthand reporter. For that reason
9 if you feel that any of your answers may tend to
10 incriminate you, you may refuse to answer.

11 You have the right to the presence of an
12 attorney with you at these hearings. We note that
13 you are an attorney. However, you have no attorney
14 present today. Is it your desire to proceed without
15 one?

16 THE WITNESS: Yes, it is.

17 MR. SAPIENZA: If at any time during the inter-
18 view you would like us to stop, you just have to tell
19 us to stop and we will, for whatever reason.

20 In addition, although your testimony is now
21 being taken at a private or executive session, the
22 Commission has the right to later make your testimony
23 public or even call upon you to give the same testi-
24 mony again in a public hearing, if it should pass
25 a resolution to that effect. You have no objection

to that, do you?

THE WITNESS: No, I don't.

MR. SAPIENZA: Thank you very much.

EXAMINATION BY MR. FRANCIS:

Q Mr. Stier, you are a deputy attorney general
of New Jersey? A Yes, sir, I am.

Q And have been for how long?
A Since January of 1969.

Q I see. And you are a member of the Bar of
New Jersey? A Yes, I am.

Q Now, did you in your capacity as attorney
general attend, or deputy attorney general, attend a
conference at the office of the United States Attorney on
June 3rd, 1972? A I think it was
June 13th.

Q June 13th, 1972? A Yes, I did.

Q And Mr. Jahos and Mr. Richards accompanied
you there? A Yes, that's correct.

Q And the members of the district attorney,
United States Attorney's staff present were Mr. Stern, the
two Mr. Goldsteins? A That's
correct, they were for a period of time. I believe Bruce
Goldstein was not present at the beginning of the meeting
but he came in at some point and we were all present

1 thereafter.

2 Q How long, about, did the whole meeting take?

3 A That's very difficult for me to estimate. My best
4 recollection is, perhaps a couple of hours.

5 Q Had Mr. Stern been discussing the matter,
6 explaining his visit to the Attorney General before Mr.
7 Bruce Goldstein came into the office?

8 A I believe so, yes.

9 Q Had he been engaged in some discussion of the
10 matter for a considerable period of time before Mr. Bruce
11 Goldstein came in?

12 A Well, my recol-
13 lection is that the whole question of our participation,
14 of our continuing our investigation of the Sherwin case,
15 was discussed and resolved prior to Bruce Goldstein coming
16 into the room, and by that I mean that by the time he
17 arrived, it's my recollection that we had decided that
18 there would be some kind of joint investigation of the
19 matter.

20 Q I see. When Bruce Goldstein came in, did
21 anybody stop and fill him in with what had been said up to
22 that time or did he just come in?

23 A Not to my recollection, no.

24 Q You have before you a document, which we
25 have marked here C-36, a memorandum of Bruce Goldstein
relating to the conference held on June 13th, and I would

1 like to go over that with you. A Yes, sir.

2 Q In the third paragraph, did Mr. Stern say to
3 you--and by "you," I mean all of you present at that meet-
4 ing--that he had shown to Mr. Kugler a letter from Paul
5 Sherwin to Kohl asking that the contract be awarded to
6 Manzo?

7 A No. I'm not--I'm bas-
8 ing my answer on my assumption that I think he's referring
9 to the letter from Sherwin to Kohl which asks that Kohl
10 throw out the bids. That letter does not ask that the
11 contract be awarded to Manzo. I'm assuming that that's the
12 letter he's referring to, and I don't believe that it was
13 interpreted at that time any differently than I have inter-
14 preted it now.

15 Q I see. Well, assuming that this reference is
16 to the October 18th letter of Sherwin to Kohl.

17 A Yes.

18 Q That letter does not ask, does it, that the
19 contract be awarded to Manzo?

20 A No, it doesn't.

21 Q Did Mr. Stern say at that time that he had
22 told Mr. Kugler that "Since the State had taken no action
23 on this matter for two years, and since Biederman had given
24 us the memoranda because of some apparent unhappiness with
25 the position the State had taken, that it might be more
 advisable for the Federal Government to conduct the

1 investigation"?

2 A I'm sorry. Is
3 your question whether he told us that he had told that to
4 Kugler?

5 Q Yes. A Yes. There were
6 really two conversations, and I really don't want to go
7 beyond the scope of your question, but I think to answer
8 it fully I have to tell you there were really two instances
9 where we spoke with Mr. Stern about his conversation with
10 the Attorney General. We spoke with him on the evening of
11 the 13th at the meeting that you have been referring to, and
12 we also spoke with him on the morning of our next meeting,
13 which occurred either on the following day, that is, the
14 14th, or the 15th. I don't recollect precisely on which
15 day that meeting occurred. But either Peter Richards or
16 I raised the question again with him and he further elab-
17 orated on his conversation with the Attorney General.

18 Now, in the course of discussing it, discussing what
19 he had told the Attorney General, he referred to the fact
20 that there had been no investigation for a year and a half
21 or two years as one of the reasons which justified his
22 conducting an investigation.

23 I'm not sure I've answered your question precisely,
24 but--

25 Q Well, part of it. Specifically, did he say
to you that Biederman had given the memorandum because of

1 some apparent unhappiness with the position the State had
2 taken?
3 that.

A I don't recall his saying

4 Q Would you go over to the next page. Did
5 Mr. Stern at that time say to you, on the third paragraph,
6 did Mr. Stern say to you that Mr. Manzo had admitted in
7 the suit in the Chancery Division in Morris County that he
8 had paid \$10,000 to the Republican Party in order to have
9 the State throw out the bids on the Route 46 job?

10 A No, didn't say that.

11 Q Have you read the Manzo testimony before
12 Judge Stamler?

A Yes, I have.

13 Q Did Manzo make any such admission as that in
14 his testimony?

A No, he didn't.

15 Q Did Mr. Stern say immediately after that
16 these facts, including the one that I have just mentioned
17 to you that Manzo admitted he paid \$10,000, did he say to
18 you that those facts were confirmed by a telephone call
19 with Judge Stamler?

A No, he didn't.

20 Q On Page 3, did Mr. Jahos say that Mr. Kugler
21 had told him of his conversation with Mr. Stern?

22 A Well, Mr. Jahos said at that meeting that he was
23 aware that Mr. Stern had met with the Attorney General,
24 but he told Mr. Stern that he was unaware of the substance
25 of that meeting.

1 Q Did Mr. Jahos say at the same time that Mr.
2 Kugler had never told him not to investigate?

3 A Yes, he indicated that the Attorney General had
4 given him no orders not to conduct any investigation.

5 Q On Page 4--were you with Mr. Richards when
6 Loughran was interviewed? A Yes. We inter-
7 viewed him together in the Attorney Genera's office.

8 Q I see. Did he admit to you that he received
9 \$10,000 from Manzo and that Loughran had called Sherwin
10 and asked him to throw out the bids?

11 A Well, he admitted that he had received the ten-
12 thousand-dollar check from Mr. Manzo. He said that he
13 went to the Secretary of State's office and spoke with--
14 spoke with Mr. Sherwin there.

15 Q Now, may I interrupt you there for a moment.

16 A Yes.

17 Q I'm interested at the moment in the sequence.
18 Did he get the \$10,000 first and then go to Mr. Sherwin,
19 or did he talk to Mr. Sherwin first and then later get
20 the \$10,000? A He talked to Mr. Sherwin

21 first. And I might add one thing just to clarify the
22 answer; that he specifically told us that there was no
23 connection between the receipt of the \$10,000 and his
24 request to Mr. Sherwin. Of course, that was ultimately
25 one of the issues in the criminal prosecution.

1 Q Did he say anything to you as to whether Mr.
2 Sherwin knew, or as to whether he told Mr. Sherwin, that
3 he had gotten the \$10,000 from Manzo?

4 A He told us specifically he had not told Mr. Sherwin
5 about the expectation of receiving \$10,000. All he would
6 admit to at that time is, that is in the interview that
7 Mr. Richards and I conducted of Loughran, all he would ad-
8 mit was that it was clear at their meeting, at the meeting
9 between Loughran and Sherwin, that Manzo was a contributor,
10 but that no specific contributions were discussed, nor were
11 there any promises that any money would be received if Manzo
12 received favorable treatment in the Department of Transpor-
13 tation.

14 Q Did Loughran at that time say anything about
15 making an effort to return the \$10,000 when the rejection
16 of the bids fell through? A No, he did
17 not. He did not admit that he had done that. I think he
18 specifically denied doing that.

19 Q At that time did Mr. Stern say to all of you
20 that it was his understanding that Loughran not only accepted
21 the 10,000 but offered to return it when it became evident
22 that the bids were not to be rejected?

23 A My recollection is that he did mention that he had
24 information that he had tried to return the \$10,000, but
25 I don't believe that he ever disclosed to us what the source

1 of that information was.

2 Q I see. Were you with Mr. Richards when he
3 interviewed Judge Garven?

A Yes, I was.

4 Q And that was on June 20th, 1972?

5 A Well, I have a copy of a memorandum that we prepared
6 on that interview. If I could use it to refresh my recol-
7 lection,--

8 Q Yes.

A --I would apprec-

9 iate it.

10 Q Go ahead.

A Yes, on June

11 20th, 1972.

12 Q Well, will you tell us what the interview

13 consisted of?

A Well, the people

14 present at the interview were: Mr. Richards, Director
15 Jahos, Mr. Garven and I. We showed Mr. Garven a copy of
16 an inter-office communication, dated October 29th, 1970,
17 on which there was a handwritten notation, "Biederman
18 discussed with Garven 11-4. Garven to explain to Sherwin."

19 Mr. Garven said that a long time prior to that
20 Deputy Attorney General Biederman had come to his office
21 and told him about the Route 46 contract; that Mr. Sherwin
22 had written a letter to Commissioner Kohl regarding the
23 awarding of that contract; that Biederman indicated that
24 the lowest bid on that contract should be accepted. I think
25 in the course of our conversation it was clear that what

1 Biederman was saying was that Sherwin was attempting to
2 interfere in the proper awarding of the contract. Mr.
3 Garven said that he instructed Biederman that if it was
4 proper to award the contract to the lowest bidder, if that
5 was to the best interests of the State, it was the legal
6 thing to do, why, that he was to do it.

7 He said that he vaguely thought that he would--
8 he agreed to talk to Sherwin about it. He thought that
9 he probably did call Paul Sherwin about it, but wasn't
10 sure.

11 He said that he thought--I'm not sure whether this
12 is a quote from Mr. Garven or not, but I think it's fair
13 to say that he thought that Biederman had come to him, that
14 is Mr. Garven, Counsel to the Governor, in order to offset
15 whatever influence Sherwin had exerted on Kohl to treat
16 Manzo favorably, and that this was Biederman's way of
17 trying to make sure that there would be no repercussions
18 from their awarding the contract to the lowest responsible
19 bidder.

20 Q Do you recall whether Biederman said anything
21 to--or Judge Garven said that Biederman told him that a
22 contract had already been awarded to the low bidder,
23 Centrum?

24 A No, my best recollection
25 is that he said that they wanted to award the contract;
the commissioner wanted to award the contract or was going

1 to award the contract to the low bidder. It's very dif-
2 ficult to tell you what he thought the situation was at the
3 time, but I believe that he expressed the idea that every-
4 thing was all set for the award of the contract to the low
5 bidder and that he was just being informed of the situa-
6 tion by Biederman.

7 Q And I gather from what you have said that
8 Judge Garven's feeling was that Biederman talked to
9 Garven in order to offset any interference, further inter-
10 ference, by Sherwin with the award of that contract, which
11 is what they planned to do?

12 A Either further interference or perhaps something
13 even more vague than that; just the idea that Sherwin might
14 have to be mollified in some way because they were going
15 to do something that was contrary to his expressed prefer-
16 ence.

17 Q But you do have the impression from what
18 Judge Garven said that the indication was that they had
19 planned or decided to award the contract to the low bidder
20 and they wanted to offset any possible interference by
21 Sherwin with the execution of that determination?

22 A Yes.

23 Q Did Judge Garven say anything, give you
24 any idea, did he have any recollection of what he did
25 say to Mr. Sherwin when he called him?

1 A No. In fact, he wasn't even certain that he ever
2 called Sherwin. He said that he thought that it was possi-
3 ble that he did. I don't know whether I have any quota-
4 tion.

5 I think in our memorandum of the interview of Garven,
6 on Page 2 in the first paragraph, we say that Garven,
7 quote, vaguely thinks, close quote, that he could have
8 called Sherwin about it, but he has no specific recollec-
9 tion of doing so. I think that's about as accurate as I
10 could summarize what he said.

11 Q Well, the next sentence completes the thought,
12 does it?

13 A Yes. The next sentence
14 reads, for the record, "Garven knows that Biederman did
15 ask him to call Sherwin and Garven remembers that he told
16 Biederman that he would call Sherwin, but he has no recol-
lection of whether or not he did so."

17 Q And still one sentence, "Garven thinks he
18 probably did call Sherwin, but he is not sure." He told
19 you that, also, did he? Right in the middle of that para-
20 graph.

21 A Yes, "thinks that he
probably did call Sherwin," yes.

22 Q Did you ask him if he ever heard any more
23 about it after that?

24 A I don't believe
that we did. If we did, it doesn't stand out in my mind.

25 Q How did you happen to go see Judge Garven on

1 that day?

A Well, the appointment
2 was arranged by Mr. Jahos. We had expressed a desire
3 to Mr. Jahos that we wanted to interview Mr. Garven because
4 of the notation on the memorandum that I have referred to
5 before, which indicated that Biederman had spoken to him
6 about it. We felt that that was necessary to complete the
7 investigation.

8 Q Did you show that memorandum of October 29th
9 to Judge Garven with the handwritten notation on it?

10 A Yes, we did.

11 Q And did he indicate to you that he had seen
12 it before?

A I don't recall him saying
13 that he had seen it before. In fact, my recollection is
14 that he indicated that he hadn't seen it before.

15 Q Was there any discussion at any time about
16 the Attorney General and whether Judge Garven had spoken
17 to the Attorney General about this?

18 A No.

19 MR. FRANCIS: That's all.

20 THE CHAIRMAN: Any questions?

21 COMMISSIONER DIANA: Yes, I just have one.

22
23 EXAMINATION BY COMMISSIONER DIANA:

24 Q Back at the beginning, the statement that
25 appears in C-36 on the first page, the third paragraph, you

1 have indicated that if the reference there is to Exhibit
2 C-5, the October 8th memo, that it did not, in fact,
3 request that a contract be awarded to Manzo, but rather
4 the bids be rejected. In the context of this memorandum,
5 it appears that Stern is alleged to have made the state-
6 ment that he showed a letter from Sherwin to Kohl asking
7 the contract be awarded to Manzo. Now, to your recollec-
8 tion, did Mr. Stern make that statement?

9 A No, he didn't, and I say that with the assurance
10 that I do because I know there is no such document which
11 requests that the award of the contract be made to Manzo.

12 Q At the time you had your conversation with
13 Mr. Stern on June 13th, had you seen the October 8th
14 memorandum? Had you had a chance to examine it?

15 A Yes, we had.

16 Q I know this is hypothetical, but had Mr.
17 Stern said words to the effect that, "Here's the October
18 8th memorandum where Sherwin asks that the contract go to
19 Manzo," would you have corrected his impression of what
20 that letter said or would you have let it slide by?

21 A Well, I--there was a point in the meeting when we
22 began discussing the evidence and the investigation as it
23 had progressed up to that point, and I think at that time
24 I would have corrected what I considered to be a misimpres-
25 sion of the letter, because we were very concerned, that is

1 Mr. Richards and I were very concerned, at that point in
2 time that the investigation progress in an orderly way
3 to its logical conclusion and we wanted to be very care-
4 ful in the way the evidence was evaluated.

5 Q To your recollection, was Mr. Bruce Goldstein
6 in the room at the point that the conversation turned
7 towards an examination of the specific evidence?

8 A I believe he was.

9 COMMISSIONER DIANA: That's all I have.

10
11 EXAMINATION BY MR. FRANCIS:

12 Q Will you give us your recollection of what
13 Mr. Stern told you of his conversation with Mr. Kugler
14 when he came down to see him with Mr. Goldstein?

15 A Well, I--as I said before, there were really two
16 times when we discussed Mr. Stern's conversation with Mr.
17 Kugler when he came down to see him. The first was at the
18 meeting of the 13th, which was the first I had heard that
19 such a meeting had occurred, and at that time my only
20 recollection, my only clear recollection of what he said,
21 was that he had an agreement by the Attorney General that
22 he would have the exclusive responsibility for conducting
23 the Sherwin investigation. I didn't press it at that time
24 because we were then engaged in a discussion of what we
25 wanted to do in our investigation. We took the position

1 that we were going to conduct our own investigation of the
2 matter, and the subject wasn't brought up again until the
3 next time we met, when the only people present were Mr.
4 Richards, Mr. Stern, myself and perhaps Jonathan Goldstein.
5 I'm not certain whether he was there, but I know that
6 Stern and Richards and I were there. The atmosphere was
7 a much more relaxed atmosphere. Mr. Stern and Mr. Richards
8 and I have known each other for a long time, and we were
9 beginning to participate in our joint cooperative investiga-
10 tion of the Sherwin matter, and I turned to Mr. Stern and
11 said to him, and I believe these were my words, "How in
12 the world did you get the Attorney General to agree to let
13 you conduct your own investigation of the Sherwin matter
14 and not to reserve any right whatsoever to conduct an
15 investigation on his own?" And the response that Mr. Stern
16 gave me was that he had told Mr. Kugler that the informa-
17 tion had come from Mr. Biederman; that in his view Mr.
18 Biederman was an unstable, unreliable individual; that it
19 was a matter that had to be investigated, but in all prob-
20 ability would not result in any kind of criminal charges,
21 and that if under those circumstances the Attorney General's
22 office conducted the investigation, it would appear as
23 though--and no criminal charges were brought, it might
24 appear as though it was a whitewash; that he would be glad
25 to handle the investigation since he was independent of the

1 Cahill administration, and that he would advise the
2 Attorney General as it went along of its progress.

3 And I said to him at that point, "Didn't you men-
4 tion the possibility, wasn't there any discussion of the
5 possibility that a case might develop from it and how would
6 it appear publicly if the Attorney General had not made an
7 attempt to conduct his own investigation of this serious
8 a criminal matter?" And his answer to that was, "No,
9 that wasn't discussed."

10 Q That's all of your recollection as to that
11 Stern told you of his conference with the Attorney General?

12 A At those two meetings, yes. In the later conver-
13 sation I believe Mr. Stern mentioned, and this occurred
14 after the Sherwin indictment was returned, he said that
15 at that conversation the Attorney General had indicated
16 some knowledge of the allegations that Biederman had made;
17 that is, about Sherwin's interference in the awarding of
18 the Manzo contract, or the Route 46 contract rather. But
19 the first time I heard that was after the Sherwin indict-
20 ment was returned.

21 MR. FRANCIS: I guess that's all. Thank you
22 very much.

23 (Witness excused.)

24 -----

25 (Whereupon, a luncheon recess is taken.)

(After recess.)

1
2
3 J O N A T H A N L. G O L D S T E I N, having
4 been previously sworn according to law by the
5 Officer, resumed the stand and testified further
6 as follows:

7
8 THE CHAIRMAN: Mr. Goldstein, I believe you
9 were here previously on November the 15th, 1972.

10 THE WITNESS: That is correct, Commissioner.

11 THE CHAIRMAN: Okay. At that time I believe
12 you were sworn--

13 THE WITNESS: Yes, I was.

14 THE CHAIRMAN: --and testified. Mr. Francis,
15 special counsel to the Commission, and Mr. Sapienza
16 have asked you to return and they want to pose further
17 questions, and I would remind you that the oath that
18 you took, you are still continuing under that, and
19 you have all three members of the Commission sitting
20 here this afternoon.

21 THE WITNESS: Fine. Thank you very much.

22 THE CHAIRMAN: Mr. Francis.

23 MR. FRANCIS: Yes.

24
25 EXAMINATION BY MR. FRANCIS:

1 Q Mr. Goldstein, you attended the meeting that
2 Mr. Stern had with the Attorney General Kugler in Trenton
3 on April 26th, 1972? A Yes, I did, sir.

4 Q How long did that meeting take?

5 A I'd say the meeting took between one hour and maybe
6 an hour and a half, sir.

7 Q I see. And I gather in the early part of the
8 meeting there was a discussion of a number of unrelated
9 subjects? A Yes, there were some other

10 situations that were common to both the Attorney General
11 and to Mr. Stern which were discussed preceding the matter
12 which is now before you.

13 Q And the so-called Sherwin matter was the
14 last thing discussed at the conference, wasn't it?

15 A That is correct, sir.

16 Q And then at the conclusion of that conference
17 you went back to the Newark office, did you?

18 A No. We went to the Trenton office first, sir.
19 We had scheduled a conference with an assistant of ours
20 from our Camden office up here at Trenton and returned
21 to the Trenton office initially. We spoke with our assis-
22 tant at that time.

23 Q Well, you and Mr. Stern prepared a memorandum
24 of your conference. Was that done at Trenton or at Newark?

25 A No, it was done back at our main office, sir.

1 Q And when with relation to the time of the con-
2 ference? A If I recall correctly,

3 I believe Mr. Stern, when he returned to the office, made
4 notes of what Mr. Kugler had told us that morning, and I
5 would say that at a subsequent time to that date Mr. Stern
6 had dictated a memorandum that is now before you, sir.

7 Q You don't remember or you don't recall how
8 long after the conference that was?

9 A It was several months ago, and I frankly cannot give
10 you an exact time, sir.

11 Q Well, was it a matter of a few days or a week
12 or longer than that? A I recall the notes

13 that Mr. Stern made being, I'm almost certain, prepared
14 the same afternoon that we spoke to the Attorney General.
15 I would think that the memo was probably dictated at some
16 point after that, and I would say that it was probably
17 several days or a couple of weeks thereafter.

18 Q Did you go over the notes that Mr. Stern had
19 made that afternoon? A I recall him

20 making the notes, and I recall Mr. Stern and I verbally
21 conversing as to the notes that he made. Yes, I do.

22 Q I see. And the notes that Mr. Stern made
23 agreed with your recollection of the conference, did they?

24 A No question about it, sir.

25 Q And then when the memorandum was prepared

1 later--and may I say to you that I'm asking about the
2 date because the date of your memorandum--or your memor-
3 andum does not have any date on it.

4 A That is correct.

5 Q When the memorandum was prepared and typed,
6 you went over it with Mr. Stern, did you?

7 A Yes, I did, sir.

8 Q Together after it had been typed?

9 A Oh, yes, we did.

10 Q And I think you said the last time that
11 you were here, to quote you, it squared with your recollec-
12 tion?

13 A I'm not sure I used
14 the word "squared," but it is consistent with my recol-
15 lection of the conversation we had with the Attorney
16 General that day, sir.

17 Q No, you're right, you didn't say that. I
18 said it. "And the memorandum squared with your recollec-
19 tion of the conversation?" and you said, "Yes, it did."

20 A Yes, it did.

21 Q So I won't charge you with having said that.

22 A I didn't think so. It's not a phrase that I use.
23 That's why.

24 Q But, in any event, after it had been typed
25 and you went over it, did you go over it together with
Mr. Stern or separately?

1 A No, I think both of us went over it at the very
2 same time.

3 Q Now, when you went down there that day, you
4 brought certain documents with you that Mr. Biederman had
5 left with Mr. Bruce Goldstein?

6 A That is correct.

7 Q And up till that time your office had not
8 conducted any investigation beyond looking at the documents
9 themselves; is that correct?

10 A That is also correct.

11 Q You will remember--well, you weren't here
12 when Mr. Stern testified. He said that he didn't even
13 know whether the documents were authentic and he wanted
14 to come down and talk to the Attorney General first.

15 A That was one of the purposes that Mr. Stern and I
16 had discussed between ourselves, and as well as Mr.
17 Peterson. We wanted to speak to Mr. Kugler to find out
18 whether or not the so-called Biederman documents were
19 authentic and were from the State Transportation Commission
20 records.

21 Q And you wanted to know that before you em-
22 barked on any investigation of them?

23 A Well, it seemed sort of foolish to have an investi-
24 gation if the documents might be non-authentic or fictitious.

25 Q I'm not suggesting it to be argumentative.

1 A I see.

2 Q I'm inquiring as to the fact. The fact was
3 that no investigation had been conducted up till that time?

4 A Exactly correct.

5 Q Now, can you tell us--well, first of all,
6 when you sat down, when you got to the point of this
7 Sherwin, discussing this Sherwin matter, will you tell us
8 the sequence of events? A As I re-
9 call what had happened, Mr. Stern had given the Attorney
10 General Mr. Bruce Goldstein's memorandum, which is dated
11 April 20th, together with the documents that Biederman had
12 brought to our office. As I recall what had taken place,
13 that for several moments, and it may have been more than
14 just a couple of moments--it seemed like a long period of
15 time--the Attorney General had read the memorandums that
16 we had given to him. I don't know in what order, to be
17 frank with you, but I remember he read through them. At
18 some point he looked up and he said, "I recall I spoke to
19 Mr. Biederman, or Mr. Biederman spoke to me about this."
20 And so I have it as accurately as possible, I'll try to give
21 you, if I can recall, the exact words, at least the sub-
22 stance of what the Attorney General said to us.

23 "Biederman had spoken to me. This is the only prob-
24 lem," I think was the phrase that he used, "that we had
25 with Mr. Sherwin and that Mr. Garven had spoken to Mr.

1 Sherwin and had put a stop to it." I think that is about
2 as accurately as I can recall the words of the Attorney
3 General or the substance of what he told us.

4 Q I gather from your effort now to be as accur-
5 ate as you can about that conversation, that part of the
6 conversation, anyway, that you considered that it was of
7 substantial importance? A No ques-
8 tion about it.

9 Q I see. But you did not put that in your
10 memorandum that you and Mr. Stern prepared. Why was that?

11 MR. SAPIENZA: You could show him a copy.

12 MR. FRANCIS: I have it here.

13 A I think I have a copy here.

14 I don't think, Mr. Francis, there was any particular
15 reason why that was not put in. It may well have been that
16 at the time that we dictated the memorandum, I think you
17 are referring to--

18 Q The sentence in Paragraph 2.

19 A We said here that "He indicated to us that this
20 matter had also been brought to the attention of Mr. Pierre
21 Garven, Counsel to the Governor, and that Mr. Garven had
22 spoken to Mr. Paul Sherwin and had stopped Mr. Sherwin's
23 activities in this matter."

24 Q Yes. A Now, I'm not sure
25 I understand exactly what point you're saying.

1 Q Well, you said that the Attorney General
2 looked up and he said, "This is the only problem we had
3 with Mr. Sherwin and Judge Garven spoke to him and stopped
4 it"?

A Right. Are you saying the
5 phrase "this was the only problem we had"?

6 Q "The only problem," yes.

7 A Well, I really can't tell you why it was or was not
8 left out. I can assure you there was no reason why it
9 was left out other than the fact that at that time it may
10 not have occurred to us to put it in, or it may not have
11 followed in proper sequence with the preceding sentence.

12 Q Well, is it fair to say that it was a matter
13 of lack of specific recollection at that moment that it was
14 not put in?

A It may have been that.
15 It may well have been also the sequence of dictating the
16 memorandum as to the sequence of the sentences.

17 Q Well, supposing we look at that paragraph,
18 particularly the sentence that you just read, "He indicated
19 to us that this matter had also been brought to the atten-
20 tion of Mr. Pierre Garven, Counsel to the Governor; that
21 Garven had spoken to Sherwin and had stopped Sherwin's
22 activities in this matter." Nothing about the sequence of
23 that sentence which would have prevented the addition of
24 the statement you just gave us that "This is the only time
25 we had any problem with Mr. Sherwin"?

A Well,

1 I don't think anything would have prevented, you know,
2 putting it in. I don't think anything really prevents it,
3 you know, omitting that phrase from the sentence, frankly,
4 sir.

5 Q Is it fair to say if you had recalled it at
6 the moment, you would have put it in?

7 A I am--you know, I think it's fair to say that if
8 I had sat down, and if Mr. Stern and I had both gone back,
9 you know, sentence by sentence as to everything that the
10 Attorney General said and everything that Mr. Stern or I
11 had said to the Attorney General, I am certain that that
12 would have been included in the memorandum. I don't think
13 the memorandum purports to be a, you know, sentence-by-
14 sentence or a phrase-by-phrase recitation of exactly what
15 was said by the three parties to the conversation.

16 Q Well, you didn't deliberately leave out that
17 statement? A Definitely not;
18 definitely not.

19 Q Well, then we take the two alternatives;
20 either it was deliberately left out or it was not recol-
21 lected at the moment. A Well,
22 definitely it was not deliberately left out.

23 Q So is it fair to say it was not recollected
24 at the moment? A I think there is a
25 third alternative. I'm not trying to foreclose the fact

1 that it may not have been recollected at the moment, sir,
2 but I think the third alternative, and being one who has
3 dictated previous memorandums myself, I think there are
4 certain things depending upon, you know, the thought process
5 and the sequence of sentence structure and so forth that
6 you would incorporate and there are things, you know, that
7 in dictating you, at times, would omit. I think it's just
8 a question of, you know, of--you know, it's a question,
9 frankly, as I see it, of the process of dictating.

10 Q I see. A I don't think
11 --I'm not sure it's a question of recollection, forgetting
12 it at that point in time.

13 Q Well, I gather from what you just said about
14 the habit of dictating, some things you include and some
15 things you don't include. I suppose you do include the
16 things that you consider to be important?

17 A Right. I think the thing that was important, you
18 know, at least to my way of thinking of it, was that, number
19 one, Mr. Biederman had spoken to the Attorney General about
20 this problem a year and a half prior to our meeting with
21 him; that, number two, Mr. Garven had spoken to Mr. Sherwin
22 about this problem and had stopped it; and at least given
23 the basic facts that we had from the Biederman memorandums
24 and from Bruce Goldstein's analysis of those memorandums, we
25 saw that, contrary to at least the initial appearance of

1 the October 8th letter in which Mr. Sherwin had asked Mr.
2 Kohl not to award the contract to Centrum, to give Manzo
3 a chance to rebid, at least we had seen at this point that
4 Centrum had gotten the contract, and, so, the point that
5 Mr. Garven had saw Sherwin and had stopped it made sense
6 to us, and I think that was a very important and salient
7 point to remember.

8 Q Then I gather the fact that Sherwin had
9 stopped it and the contract had gone to Centrum may--

10 A Mr. Garven had stopped it.

11 Q Garven had stopped it, yes. Made the other
12 thing subordinate? A I would think so.
13 I think the important thing was that Mr. Garven had spoken
14 to Mr. Sherwin and had put a stop to it and that coupled
15 with at that point our limited knowledge that Manzo did
16 not get the contract as Sherwin had indicated in the
17 October 8th letter to Commissioner Kohl but that Centrum,
18 who was the original low bidder on this job, did receive
19 the contract.

20 Q Was the fact that Centrum had gotten the
21 contract indicated at that meeting?

22 A Yes, it was. As a matter of fact, you know, I must
23 tell you that I reviewed the documents prior to coming here
24 today, as I reviewed them prior to coming here in November,
25 and in searching my recollection that exact point was raised,

1 and I think after this phrase, I think, Mr. Kugler made a
2 point to tell us that Centrum did, in fact, who was the
3 low bidder, did get the contract.

4 Q You have a clear recollection of that, do
5 you?

6 A Yes, I do, as a matter
of fact.

7 Q That isn't in this memorandum, is it?

8 A No, it is not, sir.

9 Q Was it of any significance to you that what-
10 ever Sherwin intended to do by his October 8th memorandum
11 or letter to Kohl, his efforts had been frustrated by
12 Garven or somebody else and the contract had gone to
13 Centrum?

14 A I'm not sure I follow
your question, sir. I'm sorry.

15 Q Well, did that fact have any significance to
16 you with respect to the nature of your investigation?

17 A Well, it had one fact, I think, that, you know,
18 caused us, you know, to inquire into the, one, authenticity
19 of the documents, but, two, more importantly, whether or
20 not the Attorney General's office had previously, when
21 Biederman spoke to the Attorney General, conducted an
22 investigation. And I think that fact taken by itself really
23 goes to whether or not there had been a prior investigation
24 that would have been conducted.

25 Q I suppose the effect on your mind of the

1 statement that Mr. Biederman had spoken to the Attorney
2 General about it depended, the effect of it, measure of it,
3 depended or would depend in large measure on what Mr.
4 Biederman had told the Attorney General?

5 A Well, obviously I cannot, you know, say what Mr.
6 Biederman did or did not tell the Attorney General at that
7 time, and obviously I think, you know, there are only two
8 parties to that conversation. But it seemed to me that
9 after the Attorney General had read the documents that
10 we had brought that morning, that he expressed recognition
11 of the situation or the matter that was then before him
12 and had a recollection of Mr. Biederman talking to him
13 about that.

14 Q Well, your memorandum says, "The Attorney
15 General acknowledged that Mr. Biederman spoke to me about
16 this matter"? A Yes, that's
17 correct.

18 Q That would be the extent of the statement.
19 As to the specifics, there were none?

20 A I do not recall the Attorney General saying anything
21 further as to exactly what Mr. Biederman had told him, sir.

22 Q Did you ever in the course of your investiga-
23 tion see Mr. Biederman's memorandum as to what he told the
24 Attorney General and when he told him, spoke to him about
25 this matter? A I have only read one

1 memorandum that is mentioned. Are you referring to the
2 October 30th memorandum?

3 Q No, no. I'm referring to the October 22nd
4 memorandum. A If you would have a

5 copy of that--

6 Q Yes. A --and you could
7 provide me with that.

8 MR. SAPIENZA: Mark it.

9 MR. FRANCIS: Will you mark it for identi-
10 fication.

11 (Photocopy of October 22, 1970 memorandum to
12 the files from DAB received and marked Exhibit C-59.)

13 Q Now, this memorandum, Mr. Goldstein, has
14 been described by Mr. Biederman as the precursor of the
15 October 30th memorandum and as reflecting the only conver-
16 sation he ever had with Mr. Kugler about this matter, and
17 without the--you see some handwritten or printed notes
18 there? They were inserted after the memorandum itself,
19 and his testimony both here and in the criminal trial of
20 Sherwin was that the October 30th memorandum was a chronol-
21 ogical account of events, and you will find, if you look at
22 the October 30th memorandum, that it's word for word this
23 memorandum down to the next-to-last paragraph on the second
24 page, which says, "You reversed yourself."

25 (Whereupon, there is a brief pause.)

1 Q While you're reading that, may I call your
2 attention particularly to the underlined word "would."

3 A This is on Page 2, is that correct?

4 Q Yes. A Okay.

5 (Whereupon, there is a brief pause.)

6 A May I ask, who is this memorandum to? It says,
7 "Memorandum to the Files."

8 Q Files, yes. Mr. Biederman's memorandum to
9 the files. A Yes. He talks on Page
10 2, "I later discussed this matter with you," and that
11 "you" is handwritten in.

12 Q Commissioner-- A "With the
13 commissioner." I think that means Commissioner Kohl.

14 Q That's right; that's right.

15 A Okay.

16 Q There is no doubt about that.

17 A I have completed the memo.

18 Q Now, going back again to the October 30th
19 memorandum right where you are on the second page?

20 A Yes.

21 Q You notice that it picks up, "I learned
22 on October 26th you reversed yourself"?

23 A Right.

24 Q So that the October 22nd memorandum termin-
25 ates just before that paragraph of the October 30th mem-
orandum, so that in the October 22nd memorandum, which

1 relates to a conversation of the day before with the
2 Attorney General, Mr. Biederman told the Attorney General
3 that Mr. Sherwin--he had talked to Kohl about it after
4 Hale had visited him; Kohl said he was going to ignore
5 Sherwin's request and he would award the contract to
6 Centrum?

7 A If I just might check
8 one thing, sir.

9 Q Sure. A The reason why
10 I stopped to look at some documents, I have a recollection
11 of interviewing Commissioner Kohl, in which I believe the
12 commissioner had made several decisions during this period
13 of time in which he had vacillated back and forth, and I'm
14 trying to look at both the memorandum from Mr. Mullen,
15 dated October 26th, to the commissioner in which he has
16 set forth the reasons that the department would use to
17 reject these bids, as well as a press release, I believe,
18 Mr. Mullen himself had prepared over that weekend and
19 which was in fact issued, I believe, to the Easton,
20 Pennsylvania newspapers, at least it was printed in those
21 newspapers, giving forth the reasons for the rejection of
22 the bid.

23 Q Well, you notice that that Mullen memor-
24 andum and the decision of the commissioner referred to
25 in the Biederman memorandum of October 30th was October
26th. "I learned on October 26th that you had reversed

1 yourself"? A And then I think after-
2 wards--I'm trying now to recall an interview that I believe
3 it was both Mr. Bruce Goldstein and myself had initially
4 with Mr. Kohl, and then I believe thereafter there was an
5 additional interview of the commissioner, and I have a
6 recollection that there was some vacillation, and I would
7 have to check to determine exactly what the commissioner
8 said at that time.

9 Q Well, whether there was vacillation on the
10 part of the commissioner or not, a memorandum of October
11 22nd of Biederman indicating what he told the Attorney
12 General was that Sherwin was going to be disregarded and
13 the contract would, which Mr. Biederman said he under-
14 lined for emphasis, be awarded to Centrum. Now, having
15 in mind, if you will, that Mr. Biederman has said that
16 is the only time that he ever talked to the Attorney
17 General about this matter, did Mr. Biederman ever tell
18 you that? A Mr. Biederman has not
19 told me personally that, no, sir. I have only met the
20 gentleman on one occasion.

21 Q Well, on that one occasion did you ever take
22 a statement from him? A No, I
23 never did, sir.

24 I should--let me just clarify the record. I have
25 met Mr. Biederman on two occasions; once in our office,

1 that I can recall, and the second time I recall was here
2 in your offices last November.

3 Q Yes. So that when you went to see the
4 Attorney General on the 26th, was it, of April, you did
5 not know then what it was that the Attorney General knew
6 from Mr. Biederman about the Sherwin matter?

7 A No, I did not, sir.

8 Q I suppose this seems to follow. I suppose
9 when you had read the October 30th memorandum, when you
10 went down to see the Attorney General, both you and Mr.
11 Stern? A Right.

12 Q And you naturally assumed that what was in
13 there the Attorney General knew, did you?

14 A Well, I assumed that, you know, from the memorandum
15 that the Attorney General had been made aware of the inter-
16 ference by Mr. Sherwin, and from the Attorney General's
17 reaction after reading the memorandums, that more or less
18 confirmed in my mind that he was aware of Mr. Sherwin's
19 activity.

20 Q Well, that really isn't quite what I'm ask-
21 ing.

22 A If the question is whether or
not I do--

23 Q The question is whether you assumed that the
24 Attorney General knew everything that you had in your
25 October 30th memorandum of Biederman's.

1 A If you use the word "everything," I don't think any-
2 one can assume that.

3 Q I see. A I think he knew
4 the gist of what was in the memorandums; that I did believe,
5 and if you want to use the word "assume," use the word
6 "assume," but I do believe he knew the gist of what was
7 in those memorandums, yes, sir.

8 Q Now, on June 13th of 1972 you were present
9 in Mr. Stern's office, or in your office, wherever it was?

10 A Yes.

11 Q At a meeting with Mr. Jahos, Stier, and
12 Richards, and you, and Bruce Goldstein and Mr. Stern were
13 present? A That is correct, sir.

14 Q Was Mr. Bruce Goldstein there all the time?

15 A He may have left at some point to get documents for
16 us.

17 Q Well, was he present at the opening of the
18 meeting? A I'm sure he was present

19 at the opening of the meeting. I'd be almost certain he
20 was present at the opening of the meeting.

21 Q Now,-- A What do you mean
22 by "the opening," just so there is no--

23 Q Well, at the beginning, when Mr. Stern
24 opened the meeting with statements.

25 A I'm almost certain Mr. Bruce Goldstein was present

1 then.

2 Q Was present? A Yes, sir.

3 Q Let me just go back to the conference for
4 a minute with the Attorney General.

5 A Sure.

6 Q I gather there was not much conversation at
7 that meeting? A No. There was
8 very--to be quite candid with you, there was a lot of
9 tension. I think everyone, you know, spoke directly to
10 the point and there was nothing more than just, you know,
11 the actual direct statements back and forth, sir.

12 Q Well, now, come back to the 13th meeting.
13 Did Mr. Stern say that "At the meeting with the Attorney
14 General Kugler he had shown all of the documents which had
15 been given to us," meaning your office, "pertaining to the
16 allegations of corruption"? A Well, if
17 you're asking if Mr. Stern used the word "corruption,"--

18 Q Yes. A --I think that's
19 very difficult. I don't recall if he did or did not. I
20 think at that point in time you must remember that we had
21 already had been through the Manzo books and records; we
22 had already been advised from Judge Stamler and then
23 through our own interview with the Perruccis as to the
24 ten-thousand-dollar check and as to other transactions
25 as well involving the Manzos. So, it may well have been

1 that Mr. Stern used the word "corruption."

2 Q I see. A But I frankly
3 do not have independent recollection one way or the other,
4 sir.

5 Q Did Mr. Stern say that he had shown to Mr.
6 Kugler at that meeting the letter from Paul Sherwin to
7 Kohl asking that the contract be awarded to Manzo?

8 A This is on the--

9 Q Right, the next sentence.

10 A Yes, we definitely showed that to the three gentle-
11 men.

12 Q What I'm interested in is, did Mr. Stern say
13 that he had showed the Attorney General a letter from
14 Sherwin to Kohl which asked that the contract be awarded
15 to Manzo? A I believe he did.

16 Q Well, you know that the letter of October
17 8th did not ask that the contract be awarded to Manzo,
18 don't you? A Well, I think you're
19 in an area, sir, and I think this may be the difficulty,
20 that we had since the April 26th meeting conducted quite
21 an extensive investigation and we had spoken to several
22 people at this point in time.

23 Q I know, but you would not--

24 A And I think--

25 Q You would not refer to the letter from

1 Sherwin to Kohl as asking that the contract be awarded to
2 Manzo when it didn't make any such request, would you?

3 A Well, there is no question as I read the October
4 8th memorandum, Mr. Francis, that what Mr. Sherwin was
5 asking, was, at least, to have Mr. Manzo get a second oppor-
6 tunity to rebid on that contract.

7 Q Well, what Mr. Sherwin's letter asked was
8 that "In this particular case I would prefer that you re-
9 ject the bids and request a rebidding." That's what he
10 asked for.

11 A Then I think there's
12 another sentence that goes on to say that "If you call me
13 the following Tuesday, I'll tell you my reasons why,"
14 something to that effect.

15 Q I know, but I don't want to quibble with
16 you about it. But is there anything in that letter from
17 Sherwin which asks that the contract be awarded to Manzo?

18 A Well, if you're using the exact words of the
19 letter itself, sir, then I would have to conclude that,
20 you know, you are correct. I think if you're using what
21 I would consider to be, one, a construction of a letter
22 at this point in time, it seems to me that the idea of the
23 letter from Mr. Sherwin to Commissioner Kohl was to have
24 the bids thrown out, and he tells--he tells the commis-
25 sioner, "In this particular case I would prefer that you
reject the bids and request a rebidding, and if you will

1 telephone me on Tuesday I'd be glad to give you the rea-
2 sons for my request." And I think--

3 Q Now, is there anything to indicate that he
4 was asking in that letter even that the contract be
5 awarded to John Doe or anybody? Does the letter do any-
6 thing more than ask that the bids, say that he prefers that
7 the bids be rejected? A Mr.
8 Francis, I think that the entire interpretation of the
9 letter, you know, has been before a jury, and I think that
10 they have made interpretation. I tell you, frankly, how
11 I myself have interpreted it, and I think at that conver-
12 sation I think the expressions of both Mr. Richards and
13 Mr. Stier, who saw it for the first time, was eloquent
14 as to how they interpreted that letter, and I think Mr.
15 Jahos' characterization, as I recall, that the document is
16 such that it make a good defense, it seems to me, that,
17 you know, a fair interpretation of a letter from Mr.
18 Sherwin to Commissioner Kohl would be, I would like to see
19 the bids thrown out and I would like--you know, maybe
20 you're reading something into it. But it seems to me it's
21 fair to read into it that Mr. Sherwin sent this letter to
22 the commissioner at his home. I think it's fair to read
23 into that Mr. Sherwin was looking to see the Manzo firm
24 get that contract.

25 Q And if you picked that letter up for the

1 first time in your life and read it, you would assume that
2 he was asking that the contract be awarded to Manzo, would
3 you?

4 A Mr. Francis, I picked
5 it up for the first time in my life at one point, and to
6 be quite candid with you, that was the clear import that I
7 got from that letter.

8 Q From that letter, that Sherwin wanted the
9 contract to go to Manzo?

10 A Mr. Francis,--

11 Q I would-- A Mr. Francis,
12 from picking this letter up, from picking up all the docu-
13 ments that were given to us by Mr. Biederman on the day he
14 came in to see Bruce Goldstein, from reading this entire
15 --from reading this entire situation at that time, I think
16 it was rather clear to myself, I think Mr. Bruce Goldstein's
17 memorandum of April 20th is rather clear, that what Mr.
18 Sherwin wanted, to get to the totality of all these cir-
19 cumstances, was that Manzo was to get this contract.

20 That's--you know, maybe I'm reading--maybe I'm
21 reading things into it, but it seems to me that given the
22 totality of all these documents, and giving this letter its
23 background, I think it's rather clear to myself, at least,
24 and that's the way I felt when I read the documents, that
25 what Mr. Sherwin wanted to do was to give Mr. Manzo this
contract.

1 Q And to come back to where we were, it is
2 now your statement that you would read that letter to mean
3 that Sherwin was asking Kohl to award the contract to
4 Manzo? A Given all the information that
5 I would have in this case, and given the totality of the
6 circumstances, yes, I would read this letter. Now, if
7 you're saying that the bare fact of this letter, leaving
8 out the term "Manzo" or anything else, that's something
9 else. But I am saying that given the totality of the
10 circumstances, given a familiarity, at least, with some
11 of the pertinent details, I read this letter as saying
12 to Commissioner Kohl, "I would like to see Manzo get the
13 contract." Now, I think you also--well,--

14 Q You see, when you went down to see the
15 Attorney General, you didn't even know whether the docu-
16 ments were authentic or not?

17 A No question about it.

18 Q And you simply had those, the memorandums
19 that Biederman gave you, and including the letter that
20 we're talking about now of October 8th. That's all you
21 knew at that time. And in this memoranda the letter of
22 October 8th is described as asking that the contract be
23 awarded to Manzo. Now, this is before you had any of your
24 investigation? A I'm sorry. This

25 is now on June 14th where it says, "Asking the contract be

1 awarded to Manzo," and that is subsequent to our investi-
2 gation and subsequent to the time that we had before us
3 both the Perruccis, as well as the ten-thousand-dollar
4 check, as well as Commissioner Kohl, Mr. Mullen. At this
5 point in time we were well on the way to having what I
6 would consider to be almost the complete circumstances
7 of this situation.

8 Q Well, you see, go back to the beginning of
9 that paragraph, "Mr. Stern began the meeting." He's talk-
10 ing about the meeting with the Attorney General now.
11 That's the one in April before any investigation you're
12 talking about? A Uh-huh.

13 Q "And he told him about Biederman's memorandum
14 and he showed Mr. Kugler all of the memorandums, including
15 the letter from Sherwin to Kohl asking that the contract
16 be awarded to Manzo"? A I hear what
17 you're saying. I understand exactly what you're saying.

18 Q I see. A I think, Mr.
19 Francis, so that we can be perfectly fair about this,
20 I think that at that point in time, given our investiga-
21 tion to that date, this letter, given the totality of the
22 circumstances, meant to us that Mr. Sherwin was asking
23 that the thing be rebid; the contract be rebid so that
24 Manzo would have another opportunity to be the low bidder
25 on this job. And I think this is now June the 14th or

1 June the 13th when this conference was taking place.

2 Q Well, assuming that it meant that Manzo
3 would get another opportunity to bid on the job, that
4 would not mean that the contract would be awarded to Manzo,
5 would it?

6 A Well, I think at this
7 point in time, also talking about June the 13th when we
8 had this meeting, Mr. Mullen had been in to see us and at
9 that point in time we knew that Mr. Mullen had conversa-
10 tions with Mr. Sherwin in which Mr. Sherwin had finally,
11 during the pendency of the contract, had asked Mr. Mullen,
12 "Is there some way we could just directly award this
13 contract to the Manzo firm?" And, so, we had that in our
14 mind as well and we were quite aware of that fact as well,
15 sir. Now, if, if--

16 Q Now, this memorandum that we're talking
17 about now, or this conference that we're talking about,
18 was subsequently incorporated in a memorandum of Bruce
19 Goldstein's, was it not? You have it before you, do you?

20 A I have it right before me, yes.

21 Q And did you discuss with Mr. Goldstein be-
22 fore he prepared that memorandum that the letter as shown
23 to the Attorney General asked that the contract be awarded
24 to Manzo?

25 A Sir, let me make two
points. If you're saying that at the time that Mr. Stern
and I spoke to the Attorney General, that when we showed

1 this letter to the Attorney General, that we said that
2 this letter showed that Mr. Sherwin wanted the Manzo firm
3 to get the contract, or at least to rebid the contract,
4 then that did not take place in our conversation, and I
5 think what's referred to here in Mr. Bruce Goldstein's
6 conversation, and what I'm trying to tell you--maybe I'm
7 not articulating very well or explaining to you very
8 clearly--was that at the time of the June 13th meeting
9 we had now conducted almost a six-week investigation and
10 we had a lot of facts that were available to us at this
11 point in time that gave us the conclusion that this is
12 exactly what had taken place.

13 Q I see. Well, then, I gather from what you
14 have just said that when you went down to see the Attorney
15 General and you had the October 8th letter with you--

16 A Uh-huh.

17 Q --and at a time when you had conducted no
18 investigation up to that point?

19 A Right.

20 Q You did not believe then that the letter
21 asked that the contract be awarded to Manzo?

22 A Well, if the letter was authentic--and let me just--
23 if I can just recall one part of the Biederman memorandum,
24 I think this will clarify it.

25 If the letter was authentic, sir, I think, yes, I

1 did have in my mind that what Mr. Sherwin was trying to
2 do was, at least, have the contract rebid so Manzo would
3 get a second opportunity to be the low bidder and possibly
4 he might want to help Mr. Manzo get the contract himself
5 outright, and I think that is predicated upon the October
6 30th memo in which Mr. Biederman states to Commissioner
7 Kohl, "I later discussed this matter with you and you ad-
8 vised me that you had been requested by the Secretary of
9 State, Mr. Sherwin, not to award the contract and to reject
10 all bids so that the second bidder, Mr. Manzo, represented
11 by John E. Dimon, the State Republican Chairman, would
12 have another shot at this contract." Now, before we
13 went to see the Attorney General--I know I can speak for
14 myself--I had read this memorandum, and, so, connecting
15 this part of the memorandum with the Sherwin letter to
16 Kohl, October 8th, which I also had read, it seemed to
17 me that the fair importation of the memo to the letter is
18 that Sherwin is writing the commissioner to ask him to
19 throw those bids out so, at least for the sake of argu-
20 ment, Manzo could have another opportunity to rebid,
21 possibly, as we later discovered from Mr. Mullen's conver-
22 sation with Mr. Sherwin, if there was some way to directly
23 award the contract to the Manzo firm.

24
25 EXAMINATION BY COMMISSIONER BERTINI:

1 Q Am I correct in this: that no letter exists
2 from Paul Sherwin to John Kohl asking that the contract
3 be awarded, using those words more or less, asking that
4 the contract be awarded to Manzo?

5 A No, the letter does not say that.

6 Q This is your conclusion from all the facts
7 as you have them now? A It's more than
8 my conclusion. It's Mr. Mullen's testimony that Mr.
9 Sherwin had called him up during the pendency of the con-
10 tract.

11 Q I thought the letter existed; that we had
12 a document that really showed; that Kugler was shown a
13 letter from Paul Sherwin to John Kohl asking that the con-
14 tract be awarded to Manzo. I'm trying to find that letter.
15 But I guess no such letter exists; is that correct?

16 A To the best of my knowledge, sir, that letter does
17 not exist. But the investigation that we conducted put
18 us in touch with Mr. Mullen, and shortly thereafter Mr.
19 Mullen advised us of the fact that--

20 Q So the Attorney General had no such know-
21 ledge at the time you were talking with him and he wasn't
22 given knowledge at that time by demonstrating to him a
23 letter asking for that?

24 A Well, I don't know what knowledge the Attorney
25 General did or did not have, sir.

1 Q I know. A I think only the
2 Attorney General could advise you of that.

3 Q But I thought he was handed a letter, a docu-
4 ment at that time, and I certainly would say that's some-
5 thing I ought to consider in trying to find what he knew
6 at that time. But there was no such letter. That clears
7 my mind on that. And you know of none now?

8 A I know of no letter, but I do know of testimony.

9 COMMISSIONER BERTINI: All right.

10 EXAMINATION BY MR. FRANCIS:

11 Q Will you look at Page 2 of Mr. Goldstein's
12 memorandum? A You're talking about the one
13 of June 14th?

14 Q Yes. A Yes, sir.

15 Q Did Mr. Stern at that time say to those
16 present that "Manzo, during the litigation of a lawsuit
17 before Judge Stamler"-- A I'm sorry.
18 Could I just--what paragraph is that?

19 Q Third paragraph, way down.

20 The question is, did Mr. Stern say at that
21 time that Manzo, during the litigation of a lawsuit before
22 Judge Stamler, admitted that he had paid \$10,000 to the
23 Republican Party in order to have the State throw out the
24 bids on the Route 46 job?

25 A I think

1 we have to go back to the entire sentence, Mr. Francis.

2 Q Well, let's just stay with my question first
3 for the moment. Did Mr. Stern say that Manzo had admitted
4 before Judge Stamler having paid \$10,000 to the Republican
5 Party in order to have the State throw out the bids on the
6 Route 46 job?

7 A I don't think I
8 can fairly answer that because that is part of a complete
9 sentence in which you're really referring to what the
Perruccis--

10 Q Tell me what in the sentence gives you any
11 doubt in your mind or any question as to whether Mr. Stern
12 said that or didn't say it?

13 A I think that's part of an overall statement that
14 Mr. Stern had made.

15 Q Let's start at the beginning of the paragraph,
16 now.

A Yes, sir.

17 Q "He," meaning Mr. Stern, "then stated that
18 during the course of our investigation when agents of the
19 Federal Bureau of Investigation visited a party by the
20 name of Perrucci, they discovered that Perrucci was then
21 involved in a lawsuit with Manzo and that during the litiga-
22 tion of that lawsuit before Judge Joseph Stamler of the
23 Chancery Division in Morris County both Perrucci and Manzo
24 had admitted that Manzo had paid \$10,000 to the Republican
25 Party in order to have the State throw out the bids on the

1 Route 46 job"? A To the best of
2 my recollection, that is the substance of what Mr. Stern
3 had advised Mr. Jahos, Mr. Stier and Mr. Richards as to--

4 Q Did you ever read Mr. Manzo's testimony
5 before Judge Stamler? A I have--I have
6 not read in detail Mr. Manzo's testimony.

7 Q Well, whether you read it in detail or not,
8 don't you know that Mr. Manzo denied before Judge Stamler
9 that he paid the \$10,000 to the Republican Party to have
10 the bids thrown out on the Route 46 job?

11 A I know that Mr. Manzo has subsequently both denied
12 it to ourselves and a jury trial.

13 Q Well, you know that. As a matter of fact,
14 I think you examined Mr. Manzo before the Federal grand
15 jury? A Yes, I did; yes, I did.

16 Q And he denied in his testimony there that
17 he paid \$10,000 to have these bids thrown out, didn't he?

18 A Yes, he did.

19 Q So that at least to the extent that this
20 statement in the memorandum says that Manzo admitted be-
21 fore Judge Stamler that he paid \$10,000 to the Republican
22 Party in order to have the State throw out the bids, that's
23 inaccurate, isn't it? A Well,

24 based upon the facts, you know, as we now know them as
25 to Mr. Manzo's admission, I would say that would be

1 inaccurate. But I think at the time that Mr. Stern and
2 we were advised as to what the Perruccis had advised us,
3 and we may have been advised by the agents that inter-
4 viewed the Perruccis and had been out to the Morris County
5 Courthouse, that may have been an accurate recitation of
6 what advice we had received.

7 Q Now, let's follow that a little farther.
8 The agents of the FBI did not know, did they, of the pay-
9 ment of the \$10,000 to the Republican Finance Committee
10 until after Perrucci testified about it before Judge
11 Stamler? A No question about it.

12 Q I see. So that any information they had
13 with respect to the testimony before Judge Stamler would
14 come out of the testimony before Judge Stamler, wouldn't
15 it? A No. They had inter-
16 viewed, I believe, the Perruccis, number one, and I think,
17 if I'm not mistaken, I would have to check my records, but
18 I think as well--excuse me, if you would--I think as well
19 that Bruce Goldstein and myself had also interviewed the
20 Perruccis prior to this meeting.

21 Q Well, from either what the FBI obtained by
22 interviewing Perrucci or what you learned from interview-
23 ing Perrucci, you would not say that Manzo admitted before
24 Judge Stamler that he paid \$10,000 to the Republican Party
25 to have these bids rejected, would you?

1 A You know, as I reflect back, you know, I would have
2 to agree with you that Mr. Manzo did not admit that.

3
4 EXAMINATION BY THE CHAIRMAN:

5 Q Excuse me. How about the latter part in
6 that, "These facts were confirmed by telephone call with
7 Judge Stamler;" what's your comment on that phrase?

8 A Well, I know that Bruce Goldstein had called Judge
9 Stamler and had asked the judge as to what had transpired
10 in his courtroom, and had also requested from the judge
11 a copy of the ten-thousand-dollar check, and all I can,
12 you know, say to you is that it may have been, you know,
13 in all our minds at that time that Manzo admitted, and we
14 may have been in error at that point in time.

15
16 EXAMINATION BY COMMISSIONER BERTINI:

17 Q Am I correct, then, in assuming that my view
18 at first was that this meant that Judge Stamler confirmed
19 by telephone with someone in your office that Manzo had
20 admitted paying \$10,000 to the Republican Party? Is that
21 right?

22 A I think, you know, as
23 you read that, I think it's a fair--

24 Q I had that thought.

25 A Commissioner, I think it's a very fair reading of
the statement and I think--

1 Q Do I stand corrected now in understanding
2 that that is an inaccurate statement made in this memor-
3 andum and, therefore, my interpretation of this letter
4 has been wrong, and I was led to wrongfully believe that
5 by the way it's written?

6 A No.

7 Q This memorandum.

8 A Commissioner, I don't think--let me just rephrase
9 it somewhat for you.

10 As I see it, we're talking about what information
11 was available to Mr. Bruce Goldstein at this time, Mr.
12 Stern and myself pursuant or pertinent to this investiga-
13 tion. I myself did not speak to Judge Stamler, so I
14 frankly can only tell you second-hand from what Bruce
15 Goldstein told me as to what the Judge had told him.

16 I think, now, and I think it is fair to say, you
17 know, on reflection and on reviewing the facts as we now
18 know them, that Manzo did not admit either before Judge
19 Stamler or before our grand jury that, he, in fact, had
20 made this ten-thousand-dollar payment for the contract.
21 But prior to this meeting both Bruce Goldstein and myself
22 had interviewed the Perruccis, both father and son, and
23 it was clear from their conversations, or our conversations
24 with them, our interview, that Manzo had in fact told them
25 that he had paid the ten thousand so he can get the bids

1 thrown out. Now, that much is definitely clear and that
2 much we all were a party to.

3 Your point that, you know, Manzo had admitted in
4 court, I think that part, you know, I must take on reflec-
5 tion, is in error. But it may be in our minds at that time
6 that may have been accurate. I don't know. I'd have to,
7 you know, reflect and I'd have to ask Bruce Goldstein,
8 you know, what was in his mind at that time as well.

9
10 EXAMINATION BY THE CHAIRMAN:

11 Q Of course, you know at this time that Judge
12 Stamler right here today never confirmed the fact that
13 both Perruccis and Manzo said he paid the \$10,000 for the
14 contract?

15 A I don't know that for a
16 fact one way or the other, Commissioner. I know that Bruce
17 Goldstein had spoken to the judge. I know the judge had
18 taken testimony from the Perruccis at which point I believe
19 he had to stop them after what I consider to be, and my
20 recollection tells me was, incriminating statements made
21 by the Perruccis, that he impounded a ten-thousand-dollar
22 check which he put in his own vault or locked drawer,--I'm
23 not sure--copies of which were sent to Mr. Jahos. Subse-
24 quent to that time he sent a copy to our office.

25 Now, I cannot tell you exactly what Mr. Stamler did
or did not say to Mr. Goldstein, Bruce Goldstein. I think

1 Mr. Goldstein could tell you that or Judge Stamler.

2
3 EXAMINATION BY THE CHAIRMAN:

4 Q You would not suspect for a moment that Judge
5 Stamler would tell someone from your office that Manzo
6 admitted paying \$10,000 to the Republican Party to have
7 the bids thrown out when there wasn't a single iota of
8 testimony in the record by Manzo admitting that fact?

9 A I have no doubt that Judge Stamler would tell us
10 accurately what transpired in his room. I have the highest
11 regard for Judge Stamler. I'm certain that all he told
12 our office, or Bruce Goldstein, would be an accurate por-
13 trayal of what took place in his courtroom.

14 Now, I think what may have happened, and, you know,
15 I would have to check with Bruce, frankly, at that point
16 in time I think the Perruccis had said in his court that
17 there was a ten-thousand-dollar check made payable to the
18 Republican Party to throw this contract out. I think that
19 was said in that court. I think Judge Stamler was aware
20 of that and I think, as well, we were aware of that, not
21 just from Judge Stamler or Judge Stamler's conversation
22 with Bruce Goldstein, but Bruce and I had interviewed the
23 Perruccis and I think we were aware of the entire sequence
24 of events involving the Perruccis and the Manzo firm.

25 Q Nothing that you said in the last answer

1 would indicate that Manzo had admitted before Judge Stamler
2 that he had paid the \$10,000 to the Republican Party to
3 have these bids rejected?

4 A To the best of my knowledge, it did not come from
5 Mr. Manzo but it came from the Perruccis.

6 Q I see. All right. And would you say that,
7 so far as this memorandum is concerned, either that Mr.
8 Stern did not say what appears here or Mr. Bruce Goldstein
9 misconstrued what he said in preparing the memorandum?

10 A Or there's a third alternative. It could well be
11 that we had assumed at that time that possibly Manzo had
12 said that, but we just were in error. That's a third
13 alternative. I don't know. I would have to speak to Bruce,
14 and I think based upon that conversation I could tell you
15 exactly.

16 Q Would you look at Page 3 of that memorandum?

17 A Yes, sir.

18 Q The second paragraph. Did Mr. Jahos say
19 that Mr. Kugler had told him of his conversation with Mr.
20 Stern? The beginning of the second sentence.

21 A I recall Mr. Jahos saying that Mr. Kugler had ad-
22 vised him of his conversations with us and that we were
23 conducting an investigation. That I do recall.

24 Q Was that the extent of it; he just said,
25 "The Attorney General told me of his conversation with

1 you and that we're going to conduct the investigation," or--

2 A No, no.

3 Q Does this statement indicate to you, or your
4 idea that it was intended to mean that Mr. Kugler told Mr.
5 Jahos the substance of your conversation with him at that
6 April meeting, or whether he told him of the fact of your
7 visit to him and that there was a question about an investi-
8 gation and the Federal people were going to handle it?

9 A I think what it indicated to me was that Mr. Kugler
10 had told Mr. Jahos of the subject matter of our investiga-
11 tion and that our office would handle the investigation
12 itself.

13 Q I see. Then you took what Mr. Jahos said
14 to mean, or that he was saying, that Mr. Kugler had told
15 him of the substance of your conversation in April about
16 the matter that was covered by the memorandums that you say
17 you gave to Mr. Kugler?

18 A That's the way I understood what he was saying, sir,
19 yes.

20

21 EXAMINATION BY THE CHAIRMAN:

22 Q What led you to come to that conclusion?

23 A Well, he was aware of the fact that we had spoken
24 to Mr. Kugler. Mr. Kugler had spoken to him.

25

EXAMINATION BY COMMISSIONER BERTINI:

Q Weren't you aware of that fact, too? You had, as a matter of fact, met him that day?

A No. But, if you recall, and as I recall the conversations we had with Mr. Kugler, there were several, there were several statements. One, Mr. Stern had asked Mr. Kugler not to speak to Mr. Sherwin about our meeting and about the, you know, investigation and about how it would be handled. I think Mr. Kugler wanted to think about it when we left his office, whether or not he'd go along, so to speak, or whether or not the State would want to participate, and he would get back to Mr. Stern later that day. So, Mr. Kugler promised he would not speak to Mr. Sherwin about it.

Then he said, as I recall, when we were leaving he said, "Can I speak to Mr. Jahos? Do you mind if I speak to Van?" And Mr. Stern said, "I think Mr. Jahos' name is on a CC for one of the memorandums. I would appreciate it if you wouldn't speak to Mr. Jahos, either." That's the way it was left.

When Mr. Jahos came to our office and advised us at that time that Mr. Kugler had spoken to us about the investigation, I took it to mean that Mr. Kugler had advised him as to why Mr. Stern and I had visited with him that day in April and that he was aware of the fact that he

1 was investigating.

2 COMMISSIONER BERTINI: That's the conclusion
3 you reach now. The commissioner is asking, what is
4 the basis for that conclusion? Do you have any
5 facts to cause you to believe--

6 Q Did he say anything to you other than what's
7 here in the bold print? A Just his aware-
8 ness of our investigation. I couldn't--you know, what
9 else would we be investigating?

10 EXAMINATION BY MR. SAPIENZA:

11 Q Did he mention to you that he had knowledge
12 of the particulars of Mr. Stern's conversation with Mr.
13 Kugler on April 26th? A I don't recall
14 one way or the other, Charles. Mr. Sapienza.
15

16 EXAMINATION BY COMMISSIONER BERTINI:

17 Q I infer from the fact that you knew Mr. Jahos
18 and I presume that you saw him coming from Mr. Kugler's
19 office or somehow? A No, no,
20 Commissioner. Let me put it back in sequence. I'm sorry.
21

22 Q All right. A For some reason
23 Mr. Jahos knew that we were with the Attorney General that
24 morning and a note was left for Mr. Stern and I to drop
25 in and see him after we had finished our meeting with the

1 Attorney General. At that point I am certain that Mr.
2 Jahos cannot have known what we spoke to the Attorney
3 General about,--

4 Q I realize that. A --because
5 it wasn't until Mr. Stern gave the documents to the
6 Attorney General that, I think, you know, we all knew that
7 we were discussing the Sherwin matter.

8 We then went downstairs after our meeting with the
9 Attorney General and we spoke to Mr. Jahos. It may have
10 been some investigation that we both were coordinating or
11 we both had an interest in. We then left the office, Mr.
12 Jahos' office, and we returned to our Trenton office so--

13 Q Now, I assume he must have said, "What are
14 you doing down here?" and someone must have said, "We
15 were just talking to George Kugler"?

16 A He knew we were with Mr. Kugler. I don't know if
17 he asked. He may have had the decency not to even inquire.
18 Frankly, I don't recall him asking what we were doing down
19 here. I think it was just a conversation. If I recall
20 correctly, I think it was a matter of joint interest to both
21 his staff and our staff, and I think we discussed that or
22 what our approaches would be at that present time and that
23 concluded our conversation.

24 So, at that point in time we were assured by the
25 Attorney General that he would not speak to Mr. Jahos. We

1 certainly had not advised Mr. Jahos of why we had come down
2 to see the Attorney General. And, so, on June the 13th
3 when Mr. Jahos had said that Mr. Kugler had advised him,
4 you know, of our investigation, that we were investigating,
5 I had to assume that Mr. Kugler advised him of the subject
6 matter of the investigation as well. He didn't seem sur-
7 prised that we were investigating this, by any means.

8
9 EXAMINATION BY MR. FRANCIS:

10 Q Let me just touch one more subject and I
11 think that will finish us.

12 You remember the Mal-Bros.-Malanga brothers
13 criminal case in the court?

14 A You're talking about the tax case, sir?

15 Q Yes. Well, were there two brothers who were
16 indicted? Louis Malanga?

17 A Right, there were two brothers who were indicted.
18 Louis was one and the other name--I don't recall, frankly,
19 the other name of the brother. Louis Malanga I do recall.

20 Q In any event, there was a plea to the indict-
21 ment?

A Yes, there was.

22 Q And when that happened, did the United States
23 Attorney's Office give these gentlemen, meaning the Malangas,
24 a clean bill of health, no further investigations and that
25 the matter is completely laid to rest?

Well, let me put it in proper perspective.

A I--yes, sir.

Q At the disqualification hearing of the Mal-Bros. before Commissioner Kohl and Mr. Biederman, who appeared there, says, "Commissioner, if I may, I was out of the room when Mr. Malanga testified, but the United States Attorney's Office has given these gentlemen a clean bill of health, and no further investigations and that the matter is completely laid to rest. If there is any doubt, I suggest that you call Mr. Stern and find out for yourself. The U. S. Attorney approached them to plead and assured them that that would be the end of it. One count or four-count indictment and no custodial sentence." Do you know anything about that?

A I know that John Barry of our office handled that matter for us. I know that it was before Judge Whipple. I would be somewhat surprised if we had made those representations to the Malangas.

I think--am I correct that Justin Walder represented them, sir?

Q I think so. A I think so. I am aware of one thing involving the Malangas presently, and that's why I'm sort of, you know, surprised to hear you read this to me.

I do know that new counsel for the Malangas have

1 come in to see Mr. Barry somewhat concerned about the pro-
2 bation period of time or, at least,--I forget exactly what
3 the sentence was, but I believe it was probation or sus-
4 pended. In any event, that sentence has forbidden them
5 to bid state work, and I believe the request was made of
6 our office whether or not we would consent to either a
7 change in the probation status or whether or not we would
8 consent to some kind of a change so that they could bid
9 on state contracts. And I don't mind telling you that we
10 advised their counsel that under no circumstances would we
11 so consent. And, so, given that part that I'm familiar
12 with because I partook in that discussion, I am somewhat
13 surprised at what you have--what you have read to me.

14 Q Well, I gather what you would be inclined
15 to say, in any event, the statement that your office had
16 given these gentlemen a clean bill of health was a little
17 on the exaggerated side?

18 A I think that's a fair statement to make, Mr. Francis.

19 MR. FRANCIS: I have nothing further I want
20 to ask Mr. Goldstein.

21 COMMISSIONER BERTINI: I have no questions.

22

23 EXAMINATION BY THE CHAIRMAN:

24 Q I would like to return just for a moment to
25 the meeting you had with Attorney General Kugler on April

1 26th. About how many documents or papers were handed to
2 him, in your estimation?

3 A I think I can tell you pretty closely. We gave him
4 Bruce Goldstein's memorandum of April 20th, that I recall,
5 and then we gave to him what I have here, what I had orig-
6 inally all clipped together. That's your memorandum. This
7 is also yours. Let me just see what I had here.

8 I would believe, Commissioner McCarthy, that we gave
9 him Bruce Goldstein's memorandum; then we gave him a memo,
10 dated October 5th, 1970, from Commissioner Kohl to Mr.
11 Sherwin.

12 Q Now, stop right there. That one pertained
13 not to 46, right?

14 A I frankly--
15 you're asking me a question that I cannot answer. I would
16 assume that inasmuch as what Mr. Biederman talked to our
17 office about, that it all pertained to the Route 46 project.

18 EXAMINATION BY COMMISSIONER BERTINI:

19 Q Well, now, what's the basis for that?

20 A The basis for that simply is the fact that Mr.
21 Biederman had come in to discuss with Mr. Bruce Goldstein
22 the Route 46 project. If you're asking me whether or not
23 this pertained to some other project--as a matter of fact,
24 I recall now that I read the entire memorandum, he was
25 talking about who was Florence and who is Bill Loughran.

1 There is another memorandum, dated back in July,
2 July 20th, that refers to some additional problems, that
3 I believe that Manzo had with the State, some retainage
4 if I remember correctly, and I believe, also, there may or
5 may not have been--again I have to look at the memo, but
6 I do know that Manzo at one time was not on the state
7 bidding list and I think had been removed. "Bill Loughran
8 called to say this company wants to get back on the bidders'
9 list."

10
11 EXAMINATION BY THE CHAIRMAN:

12 Q So, getting back to my question, the 10/5/70
13 memo didn't pertain to Route 46; is that correct?

14 A No, as I review this memo now, I reviewed now the
15 July 20th memorandum, this memo of 10/5 does not appear
16 to pertain to Route 46, that is correct.

17 Then there was a November 4th, 1970 memorandum from
18 Mr. Biederman to Russell Mullen.

19 Q Directing the contract to be awarded to
20 Centrum; is that the essence of it?

21 A Yes, as I recall, that is correct.

22 Then there is an October 26th, 1970 memorandum to
23 the files, which is supplemental to my memorandum to the
24 files of October 22nd, and DAB is the signature block,
25 meaning that's another Biederman memorandum.

1 Q Let me just hold you up right there. Is that
2 referred to in Bruce Goldstein's April 20th?

3 A I don't see it.

4 COMMISSIONER BERTINI: Is that the one that
5 has a handwritten note?

6 THE WITNESS: Yes, it does.

7 COMMISSIONER BERTINI: Can you read that?

8 THE WITNESS: Which turned out to be memo,
9 J.C.K., of 10/30. Yes, that's the memorandum.

10 Q But you believe that this 10/26/70 was given
11 to General Kugler?

12 A I believe so be-
13 cause I have no recollection that all the documents in
14 this, what I have before me, were the ones that Mr.
15 Biederman had brought to Mr. Bruce Goldstein, and I know
16 that Mr. Stern and I had brought with us all the documents
17 that Mr. Biederman had given to our office to give to
18 the Attorney General, in addition to Mr. Bruce Goldstein's
19 memorandum.

20 Q What others were given?

21 A The October 30th memorandum from Mr. Biederman to
22 Commissioner Kohl re Route 46 contract. Then there was
23 some newspaper clippings. One looks like--should I describe
24 what I have?

25 Q No, no, that's all right. I think we have
a record of that.

A Then there was a

1 memo of October 5th.

2 Q Well, we just discussed that, didn't we?

3 A No, there are two memos of October 5th. This one
4 is from Mr. Sherwin to Commissioner Kohl. I'm sorry. This
5 is re memo of October 5. Strike that. This is October
6 29th.

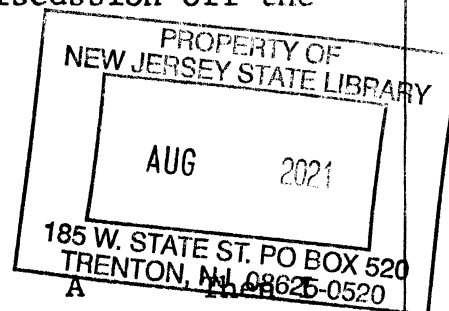
7 Now, I might also tell you, so that your records
8 are completely accurate, on the October 29th memo that
9 we showed to the Attorney General there was no handwritten
10 marking in the margin, so that your records are correct.

11 Now, on the October 29th, 1970 memorandum from Mr.
12 Sherwin to Commissioner Kohl, which we later got from the
13 Department of Transportation, we found that there was a
14 hand marking on the bottom left-hand corner in which it
15 says, "Biederman discussed with Garven November 4," or
16 "11-4." Then underneath it there is a line. It says,
17 "Garven to explain to Sherwin," and then there's another
18 line underneath that.

19 Now, that notation was not on the original document
20 that we got from Mr. Biederman and that was not on the
21 document that we showed to the Attorney General that day.
22 The notation was on the original document that we had
23 gotten from Commissioner Kohl pursuant to the subpoena we
24 had served on him.

25 MR. FRANCIS: Off the record.

(Whereupon, there is a discussion off the
record.)



BY THE CHAIRMAN:

Q Any other papers?

have October 26th, there is a memorandum to Commissioner Kohl from Mr. Mullen, who is the assistant commissioner of highways. Then there is a press release re Route U.S. 46 in the caption, and then there's the October 8th, 1970 letter from Mr. Sherwin to Commissioner Kohl at Commissioner Kohl's home, and Mr. Bruce Goldstein's memorandum as well.

MR. FRANCIS: Are you finished, Commissioner?

May I just ask--

THE WITNESS: Yes.

EXAMINATION BY MR. FRANCIS:

Q Did I understand you to say that all those documents you just described now were clipped together when you handed them to the Attorney General or--

A No. What I said was, we had them in our file all put together, clipped together. When we handed them to the Attorney General, they may or may not have been. I just do not know, Mr. Francis.

EXAMINATION BY COMMISSIONER BERTINI:

1 Q They were not left there with him?

2 A No, they were not. He returned the documents to us
3 and Mr. Stern and I then took the documents back to our
4 office.

5 Q One more question that I think is pretty
6 significant. The October 26th letter that you have there
7 is marked C-34. Do you see that with the writing which
8 turned out to be memo to J.C.K. as of October 30th, 1970?

9 A October 26th memo?

10 Q Yes. A I have that, sir.

11 Q It says that "This is the supplement of my
12 memorandum to the files of October 22, 1970," right?

13 A Yes, sir.

14 Q That would indicate that this memo supple-
15 ments a memo of October 22nd, 1970; is that right?

16 A That is correct.

17 Q Now, the parentheses which says "which turned
18 out to be a memo to J.C.K. as of October 30, 1970,"
19 would indicate that the October 22nd above was in error
20 and he later discovered it was the October 30th memo he
21 supplemented?

22 A I think what it
23 indicates to me is that Mr. Biederman had on October 22nd
24 dictated the memorandum which I saw for the first time
25 today in your offices. I think what it means to me is
that what's referred to here in the penciled markings is

1 that the October 22nd memorandum was incorporated into the
2 October 30th memorandum which Mr. Biederman turned over
3 to our office. And I think you recall Mr. Francis' ques-
4 tions earlier this afternoon when you pointed out that
5 parts of the October 22nd memorandum were incorporated
6 verbatim into the October 30th memorandum.

7 Q All right. A Does that ex-
8 plain?

9 Q I'm still confused, but I think--

10 A Let me see. What it means to me, and again I assume
11 these are Mr. Biederman's notations.

12 Q Right. A What it means to
13 me is that the October 22nd memorandum was at a future
14 date incorporated into the October 30th memorandum.

15
16 EXAMINATION BY THE CHAIRMAN:

17 Q Now, how long did General Kugler peruse
18 these group of instruments or documents you gave him?

19 A Commissioner, it was a long time. You're asking
20 me a time period. I would say a minimum, five minutes,
21 although I think probably closer to ten minutes or possibly
22 even longer. There was a long period of time.

23 Q And what's the first thing he said?

24 A The first thing that I recall he said was that
25 Biederman had spoken to him about this, and then I think

1 the next thing he said very shortly thereafter was that
2 "This was the only problem that we had had with Sherwin;"
3 that Garven had spoken to Sherwin and that Garven had
4 stopped it.

5 And then as we were speaking before with Mr.
6 Francis, I think there was one other thing that was also
7 said thereafter and I'm not sure if it was in this exact
8 sequence or it may have been a few minutes thereafter,
9 but to the effect that Centrum, who was the low bidder,
10 in any event, got the award of this contract.

11 Q Well, that said that in the 10/30/70 memo,
12 didn't it, and that was part of the writing?

13 A I'm sorry. I don't understand what you're saying.

14 MR. FRANCIS: Not 10/30, 11/4.

15 Q Well, in the 11/4, yes, sir. But also in
16 the 10/30 there was a mention that, "Commissioner, you
17 have decided to award the contract to Centrum," and he
18 says, "Later on that day I talked to the Attorney General."
19 Isn't that correct? It's in that memorandum of 10/30.

20 A That's part of it, if I can just refer to the
21 memorandum.

22 MR. SAPIENZA: Off the record a minute.

23 (Whereupon, there is a discussion off the
24 record.)

25 A (Continuing) You asked me that the October 30th

1 memorandum Mr. Biederman was advised by Commissioner Kohl
2 that the award would go to the low bidder, Centrum Construc-
3 tion Company. But in the next paragraph on Page 2, "Appar-
4 ently on Monday, October 26, 1970, you reversed your de-
5 cision to reject Mr. Sherwin's request," which means that
6 as of October 26th, 1970, Commissioner Kohl had agreed
7 to accede to Mr. Sherwin's request to throw the bids out.

8 That was what our discussion was before. I don't
9 think I was being as clear as I might have been to you, but
10 that was the point I was trying to make before to you.

11 Q That's what I want to return to. Justice,
12 Mr. Francis, I should say, earlier today indicated that
13 at the time of a phone call conversation Mr. Biederman
14 indicated he had with the Attorney General, he indicated
15 to him that in so many words Mr. Sherwin had been, quote,
16 interfering, unquote, with the Transportation Department
17 awarding of bids, and that he discussed this matter with
18 the Attorney General and the Attorney General indicated to
19 him that he should take this matter up with Commissioner
20 Kohl. Now, what I'm trying to make sure that I understand
21 your testimony is that the Attorney General indicated that
22 Centrum was awarded the contract. That's what he said to
23 you in the conversation on April the 26th?

24 A Yes, I recall him saying, you know, during our con-
25 versation that Centrum was awarded the contract.

1 Q And then I'm just trying to think back that
2 he could very easily have gotten that information by a
3 telephone call with Mr. Biederman?

4 A You mean we could have?

5 Q No, Mr. Kugler could have.

6 A Sure, he could have. Anything, you know.

7 MR. FRANCIS: Any more?

8 Thank you very much.

9 THE WITNESS: Thank you very much.

10 (Witness excused.)

11 - - -

12
13 G E O R G E F. K U G L E R, J R., having
14 been previously sworn according to law by the
15 Officer, resumed the stand and testified further as
16 follows:

17
18 THE CHAIRMAN: General Kugler, Mr. Francis
19 and Mr. Sapienza, counsel to the Commission, have
20 asked you to return today to answer a few more
21 questions, and we have all three of the commissioners
22 sitting here. You know all of us.

23 Previously, I think in the middle of November,
24 you testified earlier and you were sworn at that time,
25 and you are continued under oath, so there is no

1 need to be resworn.

2 Is there anything further you want me to
3 add?

4 MR. FRANCIS: That's fine.

5 THE CHAIRMAN: We're ready to proceed now.

6 MR. FRANCIS: I'm willing to make the apol-
7 ogies to the Attorney General for bringing him back.
8 I think he's probably back here because I wasn't
9 as thorough in covering some of the things as I
10 perhaps should have been.

11

12 EXAMINATION BY MR. FRANCIS:

13 Q Particularly, let me bring you back to the
14 conference you had with Mr. Stern and Mr. Goldstein in
15 your office on April 26th, 1972.

16 A Yes.

17 Q At that conference you told us you said to
18 Mr. Stern that you felt obliged to speak to the Governor
19 about it?

A Yes, sir.

20 Q And did you speak to him that day?

21 A I did.

22 Q And have a conference with him?

23 A Yes.

24 Q And where was that?

25 A In the Governor's office.

1 Q And did he bring some other persons in?

2 A Yes, he called, first called, Commissioner Kohl, and
3 Commissioner Kohl came down to his office.

4 Q Did he bring a file with him?

5 A Yes. He told--I jotted down on a piece of paper,
6 as I recall it, "Route 46," and it didn't mean anything to
7 me, so I told the Governor what it was and it involved
8 Route 46. As he was talking to him on the phone, he said,
9 "Bring your file on Route 46. I want to talk to you about
10 that." He didn't say, "bring your file." He said, "I want
11 to talk to you about Route 46." That's all he said, I
12 think.

13 Q And Kohl came down with his file?

14 A Yes.

15 Q Did he take papers, documents, out of the
16 file?

A Yes, he did.

17 Q And among those papers did you see the docu-
18 ment dated October 29th, 1970, with some handwriting on the
19 side?

A Yes.

20 Q That said "Biederman discussed with Garven"?

21 A Something to that effect.

22 Q "11/4. Garven to speak to Sherwin"?

23 A Yes, uh-huh.

24 Q Was there any discussion with Commissioner
25 Kohl about that note?

A As I recall again,

1 Commissioner Kohl in the course of telling us about this
2 matter said that he just asked Biederman to convey through
3 Judge Garven that, to Secretary Sherwin, that the award
4 was going to go to Centrum, or words to that effect. And
5 he said, "See, there's a little note here on the side of
6 my memo to that effect." And that's the only discussion
7 I recall on it.

8 Q Did Commissioner Kohl say anything about what
9 the nature or what he considered the nature of Sherwin's
10 request to be?

A Yes, Commissioner
11 Kohl said that he thought that Sherwin was trying--Paul
12 Sherwin was trying to do a political favor for someone.
13 As he put it, he thought that Sherwin was trying to do a
14 favor for John Dimon, the Republican State Chairman. That's
15 what he told us at that time. And I think he--I'm just
16 guessing, I don't know. He probably refreshed his memory
17 by reading the file as he was coming down in the car, which
18 if he read, reread, Biederman's memo, that's what it had
19 in there; that John Dimon was involved with the thing some-
20 how as counsel for--and that's who he assumed that Sherwin
21 was going to do the favor for. That's what he told us at
22 that time. And he didn't--he said first the asphalt--there
23 was an asphalt shortage, and when the low bidder--they
24 had first determined to throw it out, and when the low
25 bidder--I didn't remember the names, but I now know it to

1 be Hale or Centrum--satisfied the people in the department,
2 whoever they had to be, satisfied that he could deliver
3 asphalt, they again determined or they switched back and
4 decided to award it to the low bidder, and that's about
5 what his story was.

6 Q And that was the substance of what Commissioner
7 Kohl said to you at the time?

8 A Yes.

9 Q Did you send for, or the Governor send for,
10 the Secretary of State then?

11 A Yes.

12 Q And he came over and attended the conference
13 with you, did he? A He just came in
14 separately. Commissioner Kohl went into another room.

15 Incidentally, Commissioner Kohl told us that he
16 knew about this matter. He had--Route 46 jogged him
17 up right away because he had been contacted by the U. S.
18 Attorney's Office and asked to be there either the next
19 day or day after or something, so he looked up his records
20 on the matter. Coincidentally, the Governor called him
21 right after that, and he told us when he was there, "I'm
22 supposed to go up and see the U. S. Attorney about this
23 matter. And the Governor told him, "By all means, make
24 yourself available. Give them whatever records they need."
25 Then he went out and then the Governor called in Secretary

1 of State.

2 Q Oh, Paul was not in there when--

3 A Oh, no; oh, no. We never discussed it.

4 Q So that Secretary of State Sherwin was in
5 there, then, alone with you and the Governor?

6 A Yes, and Judge Garven, as I recall, was in and out.
7 I know that--I think he's the one that had Kohl's file
8 copied so that we'd have a photostat to make some sense
9 out of it when we questioned him.

10 Q That date? A Yes.

11 Q He took it to have it copied?

12 A Yes, a very brief time and gave it back.

13 Q During the times that he was in and out,
14 and particularly after he had had the file copied, did he
15 make any comments about the Kohl handwriting on the side
16 of the October 29th memo, "Biederman discussed with Garven"?

17 A Did who, Kohl?

18 Q No. Did Judge Garven make any comment after
19 he saw that? A Not that I recall.

20 No, I don't believe that he did. It's possible, but I
21 just don't recall any conversation with Pete Garven at all
22 concerning that, his part in this at all at the time.

23 Q Did the Governor say anything to Judge
24 Garven? "Well, what about this? Did you talk to Sherwin"?

25 A No, not while I was there, that I recall, no. There

1 wasn't anything thought about it because Kohl had explained
2 what that note meant.

3 Q I see. How was this matter put to Secretary
4 of State Sherwin?

5 A Well, the Governor
6 called him in and showed him, I think, some of the docu-
7 ments, or read them to him, I guess. I didn't participate
8 at that moment except to sit there. And the Governor asked
9 him, you know, "Did you write this letter?" and showed him
the letter, I think. That was the letter from--

10 Q October 8th. A --Sherwin
11 to Kohl at his home.

12 And then asked him about--showed him some of the
13 other documents, not too many of them, but questioned him
14 about it. And Sherwin said, "All I can recall"--he was
15 pretty vague about it. He said, "I remember some matter
16 that I tried to do a favor for Loughran on, a fellow named
17 Loughran," and he said, "It wasn't anything involving
18 Dimon at all, the one I'm talking about. The thing I'm
19 talking about," he says, "I do remember an asphalt shor-
20 tage because I remember writing to Secretary Hickle about
21 it under your name," he said to the Governor. "You didn't
22 even know about it. In other words, I addressed a letter
23 from the Governor to Secretary Hickle about an asphalt
24 shortage." He said, "I remember that, but I just don't
25 remember the details at the moment except that I believe

1 that I was not able to do the favor for Loughran or some-
2 thing as it worked out." And he said, "I'll try to find
3 my file."

4 When he came over, he didn't know what it was about.
5 In other words, he wasn't told ahead of time. And he
6 tried to find the file, and all he could find was a--oh,
7 some material. He had changed secretaries, and he found
8 some material, as I recall it, involving something that a
9 memo that was pretty curt that went out to Transportation
10 involving Manzo, but it didn't have to do with this par-
11 ticular matter.

12 And he said, "Well, I remember this memo because I
13 didn't write it and that's the only time I gave Helen
14 Mann hell," or something to that effect. I think it was
15 the--

16 Q July 20th memo? A I don't
17 know the dates now.

18 Q Well,-- A And he
19 said, "I think there's some more. I must have a copy of
20 that letter I wrote to Kohl somewhere, but we can't find
21 it." He said, "As soon as I find it, I'll dig it up and
22 we'll see if there's anything more."

23 He later, and I again don't know how long, it wasn't
24 that day and it wasn't the next day, but maybe two or three
25 days later he found a folder with a copy of the letter to

1 Kohl, a memo. As I recall, it was on yellow heavy paper,
2 obviously a carbon. I mean, it looked like a carbon. It
3 was what some people use as carbon. It was a yellow-type
4 paper. They don't use it around here. I don't use it in
5 my office, but I've seen it before. And it had typing, a
6 memo to the file talking about an asphalt shortage; memo
7 to the file of some kind.

8 Q Did that relate--

9 A Yes.

10 Q --to a conversation that he had with
11 Commissioner Kohl about a shortage?

12 A Yes.

13 Q After he wrote the--

14 A Yes.

15 Q --October 8th letter?

16 A Yes, it did.

17 And the Governor again instructed him he, you know--
18 I asked the Governor, I think when I went in there, "Please
19 don't tell these people that the U. S. Attorney's investigat-
20 ing it." But as soon as Kohl indicated that he was already
21 called up there, I guess the Governor said, "Well, you make
22 yourself available to whoever, you know, the U. S. Attorney,
23 if he calls you, and hang on. Take those records with you
24 when the time comes."

25 Q Did anybody say to Sherwin then, "Why did

1 you send that letter to Kohl's home?", the letter of
2 October 8th?

3 A I think that was
4 discussed, and I think he said that Kohl was ill at the
5 time, or he said that there was a period he remembers
6 writing other memos to Kohl at his home and that he was
7 ill, and that probably was the reason that he sent it to
8 his home. That's what he told us.

9 Q Did anyone ask him why he said in that
10 letter of October 8th, "I prefer that all these bids be
11 rejected and if you will call me on the telephone on
12 Tuesday, I will give you my reasons"? Was there any
13 comment or conversation about that?

14 A His story, once he got his papers together and we
15 talked again with the Governor about it, his statement was
16 that he was trying to do a favor for Loughran and he under-
17 stood that there was some problem with the engineer's
18 estimate and, also, he was told when he called over there
19 that there was an asphalt shortage. He said, "At the time
20 I remembered the asphalt shortage myself because I played
21 a part in it writing to Washington," and he said that's
22 what he told Kohl over the phone. He said he just tried
23 to get him to do a favor for this guy, if he could legally,
24 that's the way he put it, and then it was later told to
25 him by somebody, whoever it was, whenever he found out that
he couldn't do the favor, that it was going to go to

1 Centrum. Why, he just thought that was the end of it.

2 Q By the way, we have very little so far in
3 this record about Loughran. Can you tell us something
4 about him and what his connection was, if any, with the
5 Republican Party? A Well, I only
6 know what I have heard. I didn't--I met Loughran, but I
7 had very little contact with him and I really don't know.
8 I think personally, personal knowledge, I have heard that
9 Loughran started out fund raising for his church. That's
10 what's been told to me. I have heard that Loughran then
11 engaged in a fund-raising activity for the Democratic
12 Party; that he was very good at this. He has a lot of
13 imagination. He could put on very nice balls, as, indeed,
14 I think he was in charge of the Inaugural Ball which I
15 attended and it was a beautiful affair. And then when
16 they were looking around for somebody to do the Inaugural
17 Ball, somebody suggested this fellow, that was either to
18 Paul Sherwin or someone else, and then they used him for
19 that and he did that and did the Golden Dome Ball, I've
20 heard. And he wanted to come with the administration, be-
21 cause I know he was sent over to see me. We discussed
22 whether he could fit anywhere in the State Law Enforcement
23 Planning Agency in any capacity, or any other type of
24 administrative job, and as it worked out there just wasn't
25 anything that matched his qualifications in my department

1 that I knew of. But I know Paul Sherwin wanted to, you
2 know, felt that this man had done a lot for the party
3 and he wanted to help him if he could. He didn't have a
4 reputation that he was job hungry or needed a job to eat,
5 but, you know, he wanted to join the administration, as I
6 understood it.

7 And I remember Paul saying after this thing came
8 out that--he said, "I finally thought there was a chance
9 to help Loughran, that was so good to everyone and never
10 got anything out of it for himself."

11 Q After that meeting at the Governor's office,
12 at any of the other meetings, formal or otherwise, cabinet
13 or otherwise, did you ever talk to Judge Garven about
14 what he had discussed, if anything, with Sherwin after
15 Biederman had spoken to him?

16 A I've seen so many things here, I just can't remember
17 whether I talked to him or talked to people that talked to
18 him. In other words, I know that Stier, Ed Stier and Pete
19 Richards, went to see him, and I think they've shown me
20 their memo that they prepared of that conversation. So,
21 that could be affecting my memory as to what he says he
22 said, and I really don't recall specifically discussing
23 this with Pete Garven at all at anywhere around that time.

24 Q Let me see if this spurs a recollection of
25 any kind. When Commissioner Kohl was last here, he testified

1 that a few weeks after November 4th, 1970, he had, he said
2 it was, a casual conversation either with you or with
3 Judge Garven and later he put the emphasis on Judge Garven,
4 but in that conversation, whichever one of you he said it
5 was, he was told that Judge Garven had spoken to Sherwin;
6 that there would be no more interference in contract
7 matters in his department.

8 First, did you say that to Commissioner Kohl?

9 A Absolutely not.

10 Q Did Commissioner Kohl say to you that Judge
11 Garven had said that to him?

12 A No, he never told me that he talked to Judge Garven
13 at all. He told us that he delegated Biederman to talk to
14 Judge Garven.

15 Q I see. A I never asked him
16 whether he talked to Judge Garven, so I don't mean to
17 indicate that he denied it. I'm just saying that I never
18 discussed it with him.

19 Q See, we're talking about a later time.

20 A I understand.

21 Q Some weeks after this was all over.

22 A I understand what you're talking about.

23 Q Kohl said-- A This is the first
24 I ever heard that story.

25 Q I see. But, in any event,--

1 A When you interviewed me.

2 Q --it was not you who said that to Commissioner
3 Kohl? A Absolutely not. I did not.

4

5 EXAMINATION BY COMMISSIONER BERTINI:

6 Q I want to fix the time when you say Kohl
7 told you something. This is after or at the conference
8 in the Governor's office? A Yes.

9 Q Which is 1972? A Yes.

10 Q Did you ever talk to Sherwin again about it
11 after that conference in the Governor's office?

12 A Oh, yes. Yes, I have.

13 Q Would you tell us how many times you talked
14 to him, or give us some idea?

15 A After I talked to Stern the second occasion. I
16 talked to Stern on two occasions; once by telephone, once
17 in person. I indicated to Stern that briefly what had
18 happened and that I had talked to the Governor, and, also,
19 that I agreed with him that he should go ahead with the
20 investigation and I would not take part in it. I told him
21 that the Governor had had Kohl in and had had Sherwin in,
22 as I had indicated he probably would when I talked to him
23 in person, and I told him just briefly what they had said
24 and said it didn't look like anything serious to me; it looks
25 like somebody was trying to do a political favor for someone

1 else and it didn't work out that way. And I said, "The
2 Governor directed them both to cooperate with you and make
3 themselves available."

4 Stern then said to me, "Shall I arrange through you
5 for the Secretary of State or do you want me to arrange it
6 directly?" And I said, "Well, it's probably better if you give
7 me a call and I'll see that he gets up there." And then
8 I passed that information on to Sherwin, the Secretary of
9 State, who had indicated that he was going to go up there
10 and be interviewed and not take any Fifth Amendment or take
11 any lawyer with him or anything else; just tell him whatever
12 he knew about it and show him his files. And I guess that's
13 exactly what he did at a later time.

14 Q Let me interrupt.

15 A Between--

16 Q Let me interrupt you there. When you had
17 this telephone conversation with Stern that same day,
18 later in the day after you had been over at the Governor's
19 office, in the course of that do you have a clear recollec-
20 tion as to whether you did or did not say as part of the
21 conversation to Stern, "This was the only time we ever had
22 any trouble with"--"we" meaning the administration "had any
23 trouble with Sherwin and that Garven spoke to him and that's
24 the end of it"?

25 A Absolutely not.
I never said any such thing.

1 Q You have a clear recollection that you did
2 not? A I have a very clear
3 recollection on that, because it simply is not so that I
4 told him that.

5

6 EXAMINATION BY MR. FRANCIS:

7 Q In any of the conversations that you had
8 subsequently with Sherwin was there ever anything said,
9 or any inference that you drew, which conflicted at all
10 with his original statement that he was trying to do some-
11 body a political favor?

12 A No, not at all. And I--you know, I never heard
13 anything different from that story. I know what he testi-
14 fied to in the grand jury, our grand jury. I remember
15 when the investigation was going on. I was kept advised,
16 and I don't think there was anything different in that
17 testimony.

18 Q Well, in the conversation at the Governor's
19 office you did learn, did you, that the contract had been
20 awarded to the low bidder, Centrum?

21 A Oh, yes.

22 Q Now, to come back to the conversation of
23 April 26th, was it, with Stern and Goldstein, in the course
24 of that conversation did you say to them--well, anyway,
25 first let me get hold of it.

1 First, I have already asked you if you said in
2 that conversation, as you were looking at the documents
3 you paused, and said, "Well, this is the only time we had
4 any difficulty with Sherwin and Garven spoke to him and
5 straightened him out"? A Did I say
6 that?

7 Q Did you say that?

8 A Absolutely not.

9 Q As part of that conversation did you say,
10 "Well, as I see these documents, there's nothing to this
11 and, anyway, the contract went to the low bidder, Centrum"?

12 A I asked them, "What happened to the contract? Who
13 got the bid?" and they said to me, "Well, apparently it
14 went to Centrum," because I didn't know. They were just
15 feeding me documents at that point.

16 Q Well, I thought you knew that from the con-
17 versation at the Governor's office that afternoon?

18 A I thought--

19 Q Oh, this is before you went.

20 A No, I hadn't talked to the Governor yet. No, I
21 didn't know. I said--well, they showed me the press
22 release, as I recall it, showed me the letters and some
23 of the memos, and I didn't study them carefully, and they
24 had a lot of material in these memos and it was obviously
25 some question about a bidding problem and somebody asked

1 you know, Sherwin asking Kohl to throw out the bids. And
2 I asked them while they were there, I said, "Were the bids
3 thrown out?" They said, "Apparently not. It apparently
4 went to Centrum."

5 Q Well, do you remember one of the memorandums
6 given to you by Stern was one of November 4th from
7 Biederman to Mullen? A Yes.

8 Q Saying, "Award this contract. The
9 commissioner has decided to award it to Centrum"?

10 A Yes.

11 Q Well, does that spur any recollection that
12 when you were looking at a memorandum you looked up and
13 said, "Well, there's nothing to this. Anyway, the contract
14 did go to the low bidder, Centrum"?

15 A Well, when they told me it went to the low bid,
16 of course, those memorandum didn't tell you it did go to
17 the low bid. Those memorandums told you it should go to
18 the low bidder and a decision was made. I couldn't say it
19 happened.

20 I knew they talked to Biederman and probably had
21 done some investigation, and I asked them, and they said,
22 yes, it had. So, I said, "It doesn't look like anything
23 wrong here to me."

24
25 EXAMINATION BY MR. SAPIENZA:

1 Q Did they agree with you at that point that
2 on the face of those memorandums, and in view of the fact
3 that the low bid did go to Centrum, that there could very
4 well be nothing wrong in the situation?

5 A Well, Stern kept making the pitch, at least three
6 or four times, "This doesn't look like anything and it
7 would be"--"If this is going to be washed out, it would
8 be better that our office wash it out, because for you to
9 do it in your grand jury would, when a fellow cabinet
10 officer"--these are not exact words, but words to that
11 effect; it would make it look--people would question it.
12 And he said, "It doesn't look like anything to us, and it
13 would be better." And he kept saying, "We just have to
14 look into it." And I said, "Well, if you feel you have
15 to look into it, I'm not trying to stop you from looking
16 into it. By all means, look into it." And I think he
17 must have said that three or four times.

18 I, as I looked upon it the next day before I called
19 him, or that afternoon before I called him, whatever it
20 was the second conversation, I intended to agree with him
21 that it would be better to have more or less an independent
22 body look into it rather than a fellow cabinet officer.
23 So, that's why I agreed with him that we would not get
24 into it.

25 My staff was angry with me later because I think

1 they sort of felt that I didn't--felt that maybe I didn't
2 have the confidence in them, but, of course, that's not
3 so.

4
5 EXAMINATION BY MR. FRANCIS:

6 Q After that conference did you have any
7 further telephone calls from Mr. Stern?

8 A No, no type of conversation with him about this
9 case at all.

10 Q Mr. Stern has testified that he did. As he
11 put it, he called you several times after that, but
12 specifically he mentioned two instances; one, he had
13 served a subpoena duces tecum for the Manzo records. That
14 was one conversation he said he had with you in which he
15 gave you that information.

16 A That's true.

17 Q That's true? A But I think
18 that came in the second conversation that I had with him,
19 the only phone conversation about this matter. I believe
20 he told me at that time that they had already served the
21 subpoena, and I think you indicated to me that he thought
22 I called him here in Trenton. My recollection is that
23 I called him, at any rate, to tell him that Sherwin's
24 available. At that time he told me that he either had
25 subpoenaed or was intending to subpoena the records of

1 Manzo.

2 Q I see. That was the very day, afternoon of
3 the day that he had been in to see you?

4 A Well, that could be. I can't place that. It's
5 very close. Either that afternoon or the next day.

6 Q I see. He said, also, that he telephoned
7 you later and told you that he had Kohl down, as it was
8 put, with his original documents. Do you recall such a
9 telephone conversation?

A No, I don't.

10 Q I put it in terms of recollection. Are you
11 clear that there was no such telephone call?

12 A I don't think there was. It's possible, I suppose,
13 that my--I don't recall it, but I don't remember that
14 conversation. Kohl went down very shortly after, my recol-
15 lection is, our conference with the Governor, either the
16 next day--and I knew that he was going. He told us he
17 was going, and that's where I learned that. I don't
18 think that Stern discussed that with me at all.

19 Q At the conference you had with Stern and
20 Goldstein, did he say to you that he did not want you to
21 notify Jahos about his impending investigation because the
22 October 30th memorandum of Biederman had a notation, "bcc:
23 Jahos"?

A No, he did not.

24 Q Did Stern offer any protest when you told
25 him you had talked to the Governor, and Sherwin and to Kohl?

1 A Not at all. In fact, when I told him that I intended
2 to go over and talk to the Governor, and to that extent
3 must go back on my original statement to him when he walked
4 in that I wouldn't disclose what he was about to tell me,
5 he said, "Well, I can understand that." Something to the
6 effect, "He's your boss and I think you should go to see
7 him."

8 Q Now, both Mr. Stern and Mr. Goldstein have
9 testified that in addition to the Biederman memorandums
10 that they gave you at that conference, they also handed
11 you a memorandum, that I think we showed you the last time
12 you were here, of Bruce Goldstein, which set down the
13 conference that he had with Biederman when Biederman
14 first came in and complained about this matter.

15 A No, that is not so. They did not show me that
16 memorandum. The first time I saw that was in this office
17 here. My staff does not have that in their files, to my
18 knowledge, and I have never seen it before showing it to
19 me here in this office.

20 Q By the way, our record--

21 THE CHAIRMAN: That's C-35 you're referring
22 to, Mr. Francis?

23 MR. FRANCIS: Yes.

24 THE WITNESS: Yes, I remember you asked me
25 this before.

1 Q This is a little off the track at the moment,
2 but it is not in our record yet. Do you know that Secre-
3 tary of State Sherwin has an appeal pending from his
4 conviction in this matter? A Yes.

5 Q By the way, there is some indication in the
6 record that you talked with Loughran a short time before
7 his grand jury testimony. Is that so?

8 A Absolutely not. I have never discussed this case
9 with Loughran at all.

10 Q Have you ever talked to Mr. Stern since at
11 about the time of the indictments or since the indictments
12 about this matter? A No. He
13 promised to keep me advised, and I know that, but to my
14 knowledge he never called except the day I left for Europe.
15 When I got back from Europe, I found that there had been
16 a call waiting for me from the U. S. Attorney, middle or
17 late afternoon. I left pretty early that day because I
18 had a lot to do to get ready, and I told my secretary,
19 "Unless it's an emergency or the Governor, don't tell any-
20 body where I am because I don't want to be bothered," and
21 I guess she did that. I later learned that Stern had
22 tried to get me because he thought I'd gone back on his
23 word, on my word or something, and that my staff was then
24 investigating unbeknownst to me. I didn't realize they
25 were.

1 Q I think this is in the record, but we
2 better make sure about it. Were you aware that Mr. Jahos
3 had gotten a telephone call from Judge Stamler?

4 A Yes.

5 Q About a case being tried before him?

6 A Yes.

7 Q That, the report shows, was May 31st, 1972.
8 Did Mr. Jahos tell you about the subject matter of that
9 conversation with Judge Stamler?

10 A Jahos told me very shortly before I went to Europe,
11 like a day, maybe the day I left or the day before, a
12 couple of days, that we were down at the cafeteria and he
13 said that he had gotten a call from Judge Stamler and
14 some guy up there on the stand was saying that--there was
15 some kind of a civil suit, and there was some guy up there
16 on the witness stand saying that he had given a big con-
17 tribution to the Republican Party, and to get a matter
18 taken care of or something like that. The judge had told
19 him that he advised him to take the Fifth, and he better
20 get somebody up there to find out what the facts were,
21 something to that effect. And I said, "Well, you better
22 get somebody up there right away. That doesn't sound
23 good to me." And he said, "Well, we already have." Bob
24 Cowen went up, I think he told me, and I didn't hear any
25 more about that till I got back from Europe, and that was

1 the same case, which, of course, I didn't know at the time.

2 Q And you talked to Jahos after you came back
3 from Europe, did you? A Oh, yes, Jahos,

4 and Stier and Richards, I think, all of them.

5 Q When did you first learn that there was a
6 connection between a ten-thousand-dollar payment by Manzo

7 and Sherwin? A The day I got back
8 from Europe they came down to my house telling me of this
9 whole case.

10 Q And you came back on the 19th of June,
11 didn't you? A Uh-huh, Saturday. If

12 I have my book here, I think I can tell you what date it
13 was. No, it wasn't the 19th. That's a Monday. I came
14 back on the Saturday, the 17th, the day before Father's
15 Day. Sunday was Father's Day, and I believe they came
16 down Sunday. I'm sorry. I believe it was then. I got
17 back late Saturday.

18 Q Well, I think it was on that day that they
19 told you there was an allegation that there was a connec-
20 tion between Loughran, Sherwin and a ten-thousand-dollar
21 payment by Manzo to seek a rejection of the bids on Route
22 46? A They discussed their

23 whole investigation with me at that time up to that point
24 and they pretty well had it completed.

25 Q Well, you see-- A And their

1 problems with Stern, I think.

2 Q The reason I ask about the date is that they
3 did not get the testimony from Judge Stamler until, the
4 receipt shows, the 21st of June, and of course they
5 wouldn't have the full specifics of the testimony until
6 that testimony was given.

7 A I think
8 they had some depositions, they told me, and that they
9 had some information from the Judge, and I think they had
10 interviewed Commissioner Kohl at that point. This is my
11 recollection now. You'll have to get it from them just
12 what they had done at that point. But it seems to me they
13 discussed it all with me at that time.

14 Q And did you have any--

15 A And then many conversations after that, of course.

16 Q Did you have any active participation in the
17 matter beyond this conversation that you had when you
18 came back from Europe?
19 A I didn't
20 participate in any interrogation or any grand jury. I was
21 kept completely advised, however.

22 Q I have a note that when you were last here
23 you said that you had talked to Kohl,--I don't have a
24 note of the date--who thought that after the award to
25 Centrum, that was the end of the matter and he'd put it
out of his mind.

A That's what he
told us in the Governor's office, yes.

1 Q I see. That's when that conversation did
2 take place. He had dismissed it from his mind after the
3 Centrum award was made? A Uh-huh. I think
4 he said--he didn't think any more about it is the way he
5 put it.

6 MR. FRANCIS: I think that's all I want to
7 ask the Attorney General. Do you gentlemen have
8 anything.

9 THE CHAIRMAN: Mr. Bertini? Mr. Diana?

10 COMMISSIONER DIANA: No.

11
12 EXAMINATION BY THE CHAIRMAN:

13 Q General, I just want to make it clear, and
14 I tried the last time to ascertain to the best of your
15 recollection what documents you believe were handed to you
16 by Mr. Goldstein or Mr. Stern, and I have three more. I
17 would like to ask you whether or not you can recall having
18 these given to you to look over on April 26th, '72. The
19 first one is marked C-6.

20 A I'm not sure that--whether or not this was shown
21 to me or not. I've seen most of these documents so many
22 times, other than the inter-office memos of the U. S.
23 Attorney which I have never seen before. I don't think,
24 however, that I saw this at that time. It's not my
25 recollection. The only thing I saw at that time was the

1 letter from Sherwin to Kohl, a copy of the memorandum from
2 Biederman to Kohl, a memorandum from Biederman to Mullen,
3 and, as I recall, either an actual photostat of the news-
4 paper ad or a thing entitled "Press Release," something to
5 that effect, about the problem. That's all they showed me
6 at that time.

7 Q How about a memorandum to the files, what
8 we marked C-34 from David Biederman?

9 A No. Let's see if I have ever seen this one. Let
10 me see.

11 No, I don't recall that memo being shown to me at
12 that time, and I'm not sure that I've ever seen that
13 one before.

14 Q And then the last one is marked--

15 A I keep seeing more memos all the time. I don't
16 know where all these are coming from.

17 Q I think we will compile all of them eventu-
18 ally. We have plenty of them.

19 C-9, inter-office communication, Paul Sherwin
20 to Commissioner Kohl?

21 A I have
seen that before, but I don't believe that I saw it--

22 Q April 26th? A No, when
23 Stern was there.

24 Q That supposedly had attached to it the memor-
25 andum previous, October 5th, 1970.

1 A No, no, that's--it seems to me this is the thing
2 that Sherwin--something connected with this is what Sherwin
3 found in his file originally. I don't know whether--

4 Q I believe you testified earlier that the
5 October 29th, 1970 memorandum was produced by Commissioner
6 Kohl in the Governor's office?

7 A The October what?

8 Q 29th, 1970, and that this was written,
9 "Biederman discussed with Garven 11/4. Garven to explain
10 to Sherwin."

11 A Well, I--you
12 know, it's funny. I recall those things. This shows you
13 how--being perfectly honest with you, I recall this thing
14 doesn't have anything to do with the Route 46 matter.
15 This memorandum, and I've seen this memorandum since that
16 time without this material on it, and I--the thing I re-
17 call that had these, Kohl's note on it, was not this
18 memorandum. I just don't recall it that way, but obvious-
19 ly it did.

20 Q But you don't recall having this handed to
21 you on April 26th by Mr. Stern and Mr. Jonathan Goldstein?

22 COMMISSIONER BERTINI: Either with or with-
23 out those.

24 A Oh, no. No, we didn't discuss--they didn't show
25 me any papers connected with anything other than the Route
46 matter and that case, and I don't think that memo has

1 to do with Route 46.

2 Q That's correct, it does not.

3 A And I--you know, I didn't recall till right this
4 minute, and I still don't recall it, that the note by Kohl
5 was on that type of memo. I just remember him showing us
6 the note and saying, "Look, I discussed it with Biederman
7 and told him to talk to Garven," and I assumed it was one
8 of those memos, but I guess I'm wrong. It must have been
9 in his file, if that's where it was.

10 MR. FRANCIS: Are you finished?

11 THE CHAIRMAN: Just one more question,
12 General.

13 MR. FRANCIS: Please, don't think I'm rushing
14 you. I just wanted to make a comment about this 29,--

15 THE CHAIRMAN: Well, go ahead.

16 MR. FRANCIS: --because I think we went over
17 this with you before with the October 29th memo and
18 the October 5th memorandum. They both related to
19 the collusive bidding, and that the memorandum--I
20 don't have them before me at the moment, but Bieder-
21 man says that he has arranged a meeting with Manzo
22 about the collusive bidding and do you want--no, I'm
23 wrong about this. This says a meeting is being set
24 up to discuss the problems of the Manzo Contracting
25 Company, and the October 29th memorandum says, "This

1 memo was sent to me with your initials," wondering
2 whether you actually sent this memorandum, whether
3 it was made by one of your employees. These, of
4 course, are at separate times. And there is a memor-
5 andum of Biederman's, referring to a meeting set up
6 to discuss the problems of the Manzo Contracting
7 Company for October 14th and asking if Jahos
8 wanted to be there or have a representative there,
9 as the result of which Jahos told Biederman to
10 attend the conference himself.

11 But you remember those memos having to do
12 with the collusive bidding allegation?

13 THE WITNESS: Yes.

14 BY THE CHAIRMAN:

15 Q Was there ever any conversation, General,
16 to the best of your recollection, between you and Secretary
17 of State Sherwin, prior to your going to Europe, about the
18 Manzo contribution to the party?

19 A I don't think so, no.

20 Q So that, to the best of your recollection,
21 when you first learned of this was the day after you re-
22 turned from Europe? A Yes, I think
23 that's correct.

24 Q And you had some knowledge of a road con-
25 tract or paying for a road job prior to going to Europe,

1 but it was never pieced together that that particular one
2 might have been Manzo? A Oh, no, I didn't

3 connect whatever--you mean what Jahos told me?

4 Q Yes. A I didn't connect
5 that with the Sherwin case at the time, no. He told me
6 the story very cryptically, you know, and I don't think
7 they--they had--I think they, as I heard the story later,
8 I think they subpoenaed or went over and interviewed some
9 poor guy in Transportation, whose name was similar to what
10 the judge had told them, somebody like Lockwood or some-
11 thing that they told me later, and the whole time it
12 happened to be Loughran, but they didn't have enough papers
13 to determine that at the moment. They only had the
14 judge's notes and, I think, some depositions that were
15 made available to them. So they--so it was just very
16 cryptic to me, and I knew it involved the Republican Party
17 and an alleged contribution, something, did something for
18 it. I don't remember. I don't remember whether he men-
19 tioned the names, Mr. Chairman.

20 Q Was there any conversation, that you can
21 recall, with Secretary of State Sherwin that involved his
22 telling you that he had nothing to do with this matter;
23 that he had ascertained from Treasurer McCrane about the
24 contribution, but that he was not involved in it?

25 A Yes.

1 Q When did that take place?

2 A Well, sometime, my recollection is, after I got
3 back from Europe. But you must keep in mind that the
4 Secretary of State operated in his job and I met with him
5 on numerous occasions about many things entirely dis-
6 connected from this matter while that case was being in-
7 vestigated. And at one occasion, I believe it was after
8 we got back from Europe, and of course always he insisted
9 in the grand jury and everywhere else he's been that he
10 never knew about the contribution, and after he once found
11 out about it he said, "I never knew anything about it at
12 the time." And Loughran apparently took that same position,
13 although, as I understand, it didn't come out at the trial,
14 and in spite of a lot of pressure put on him by the U.
15 S. Attorney's Office that he could have witness immunity
16 and so forth, Loughran apparently, I've been told now,
17 did not change his story and always insisted that Sherwin
18 knew nothing about his, Loughran's, solicitation of the
19 ten-thousand-dollar contribution.

20 Q As to various times that you might have
21 seen Mr. Biederman, would he on occasion attend meetings,
22 say, from November the 4th, 1970 until he left the service
23 of the State? Would you on occasion have meetings with
24 him, or would he sit in on any meetings of, say, a cabinet
25 level and so forth?

1 MR. SAPIENZA: Biederman?

2 THE CHAIRMAN: Mr. Biederman, now.

3 A I'm not quite sure what your question is. Dave
4 Biederman never sat in on a cabinet meeting, that I know
5 of, that I ever attended. Dave Biederman was in some
6 meetings in which cabinet officers were present, I am sure
7 of that, on transportation problems.

8 Q That's what I had in mind.

9 A Yes.

10 Q And you would have had occasion to be in on
11 some of those meetings in November?

12 A Yes, and some I was not.

13 Q And he never took an occasion to ascertain
14 from you whether or not you were doing anything about this
15 group of memos--

A On, no.

16 Q --that were left with Mr. Jahos, supposedly?

17 A Biederman never discussed this case with me at any
18 time, never, and I saw him many, many, many times after
19 the time of these, this incident. I have numerous memor-
20 andum, memoranda, from him. He had a propensity for writ-
21 ing, for using hyperbole or exaggeration. As a matter of
22 fact, at one time, in fact, Marilyn Schauer, my first
23 assistant, has a file over there that she's kept ever
24 since she was there, which she had to take up problems
25 with him, called the Biederman file and it has many

1 memorandums in it where he makes very flamboyant state-
2 ments. I think that was his style. He liked to be in the
3 forefront. He liked to carbon copy the Governor's office,
4 or he was--his style was blind carbon copies and that type
5 of thing, and he wanted the Governor's office to know
6 that he existed, and that was obvious.

7 And I remember one time he wrote to a high school--
8 the Governor's office referred some matter out that some
9 high school kid had written in about some problem involv-
10 ing transportation, that was referred out there to prepare
11 an answer for the Governor; rather, bucked to Transporta-
12 tion. He got ahold of it somehow and wrote back to the
13 high school kid and said at the end of it, "I can't
14 understand why anybody in high school would use such
15 atrocious grammar," or make so many misspellings or some-
16 thing like that, and it got back to the Governor and there
17 was a little flap over that. I remember that specific
18 incident.

19 I talked to Dave Biederman many times. He handled
20 workmen's compensation--you know, condemnation matters.
21 He'd have to call me on the phone about them, or one of
22 his staff would be in the middle of a case, whether it
23 could be settled. Many, many contacts with Dave Biederman.

24 Q And the only telephone conversation that
25 you have relative to Manzo was probably in connection with

1 the Route 35 collusive bidding matter?

2 A That's right.

3 Q You have no recollection of a telephone
4 conversation pertaining to the Route 46 matter?

5 A No, I do not.

6 Q And you have no recollection of any conver-
7 sation you might have had with Mr. Jahos as to his supposed-
8 ly getting a copy of this October 30th, '70--

9 A Not contemporaneously with the event.

10 Q That's what I mean.

11 A No, I discussed it with no one, Route 46 or, we'll
12 call it, the Sherwin matter. And no one discussed it
13 with me.

14 EXAMINATION BY COMMISSIONER DIANA:

15 Q Just by way of clarification, your conver-
16 sations with Biederman in the fall of '70 related to the
17 allegation of bid rigging, and although you had occasion
18 to see him numerous times thereafter he never brought any
19 other matter to your attention that he was allegedly con-
20 cerned about involving some wrongdoing in the bidding
21 process?

22 A No, and we were talking
23 on the phone, as I look at my memos there, on the bid-
24 rigging problem. He wrote me several memos. I know I
25 talked to him on the phone at least once about that and

1 discussed it with Mr. Jahos. This other matter never came
2 up at all at that time.

3

4 EXAMINATION BY COMMISSIONER BERTINI:

5 Q So that the memo, then, that you sent
6 stating "Neither Van Jahos nor I feel that any further
7 investigation is required" related to bid rigging?

8 A Oh, absolutely.

9 Q It didn't relate to Route 46 at all?

10 A No. It was in answer to a series of three memos
11 concerning the bid-rigging problem.

12

13 EXAMINATION BY MR. FRANCIS:

14 Q May I ask one more thing before you go, and
15 I meant to inquire about it before.

16 You recall the immunity controversy that
17 you had with the United States Attorney's Office at the
18 time of the, I guess, Jersey City criminal trials?

19 A I certainly do.

20 Q What has happened to that case?

21 A That case, we were ordered to show cause by the
22 late Judge Shaw; to appear in the Federal Court as to why
23 our indictment, our state indictment against John J.
24 Kenny, should not be dismissed. One of my deputies appeared
25 and argued the case and we were ordered--it was ordered

1 dismissed, and a declaration of immunity, whatever that was,
2 was entered.

3 We then took an appeal to the Third Circuit. I
4 argued the case myself and the Third Circuit Court of
5 Appeals reversed Judge Shaw.

6 We then moved the case for trial and Mr. Robinson,
7 the attorney for John J. Kenny, filed a motion before
8 Judge Shaw in Mercer County Court alleging that--many
9 grounds, but essentially that his witness had been given
10 immunity by the Federal Court and he should not go to
11 trial. Judge Shaw denied the motion, whereupon they moved
12 for a leave to appeal to the Appellate Division.

13 The Appellate Division denied their leave to appeal,
14 and the last I heard there was a petition for certification
15 to the New Jersey Supreme Court. If that's cricket, I
16 don't know, but that's what they call it.

17 Q Well, now, prior to the time the immunity was
18 offered to the witness in the Federal Court, was your
19 consent sought to that, to the granting of that immunity
20 by Mr. Stern's office?

21 A Well, in that sense, Mr. Stern's office never sought
22 our consent, no. He approached us on the basis that it was
23 on the eve of a big dinner in Newark, and I believe it was
24 the Legislative Correspondents Dinner. He knew I was
25 coming up there and he said, "Could I see you a few

1 minutes," whatever date that--that's the first he discussed
2 it with me. I wasn't even very much familiar with the
3 case at that time.

4 He said, "You can take credit for part of the
5 case if you come into court when we grant this man immunity
6 and give up your indictment." And these were all--this
7 was strange to me because I didn't know the details. Of
8 course, I knew something about the Hudson County indict-
9 ments and it was never--at that time he had already con-
10 sulted the United States Attorney and gotten whatever
11 papers he needed, and I was told by the chief of the
12 Criminal Section that that was a violation of their rules;
13 that they had to get--they were supposed to get the con-
14 sent of the state, any state, before they granted immunity
15 that would wipe out a state indictment. That's what he
16 told me in Washington. I think it's even in their manual,
17 but I have never seen their manual. That's what he told
18 me. And it wasn't put in any form that we had any choice
19 to consent or not to consent. He just said we could share
20 some of the credit if we come into court and, you know,
21 make a big hoopla, or our being magnanimous enough to give
22 up the case that these people had worked so hard on and
23 developed before the U. S. Attorney's Office developed any
24 case. And then, of course, things developed rapidly after
25 that.

1 Q Did you tell him, no, that you would not
2 consent?

3 A No, I told him absolutely
4 no and I wrote. I said, there is no reason why your case
5 is connected with ours at all, and that it should have no
6 effect on your prosecuting this man and that you can prose-
7 cute him without destroying our state court indictment,
8 and I'm asking you to do everything you can to keep from
9 treading on our case, and we had very, very strong words
over it. No question about that.

10 Q That was my next question.

11 A We had a very bad fight, and I went to Washington
12 over it because he lied to me at that time and he and
13 Goldstein told me two different stories.

14 Goldstein at that time told me, when I talked to him
15 on the phone, that they had agreed with counsel for Kenny
16 that they would, that they would get us to give up our
17 indictment. Stern said that that's not so, and one of
18 them, therefore, was not telling me the facts and I was
19 furious. And he kept waving the United States flag and
20 playing the National Anthem to me, and I had words with
21 him that, we're all in the same state and we ought to cooper-
22 ate in these matters and not do these things.

23 Since that time he's, in a later indictment that
24 Prosecutor Gaulkin has against John J. Kenny, entirely
25 disconnected from either of these matters, he's threatened,

1 and cajoled, and begged Prosecutor Gaulkin not to indict
2 John J. Kenny. To no avail, I might say. Indictment was
3 returned.

4 Q What about your relations at the present
5 time over the past year and a half or so?

6 A With the U. S. Attorney?

7 Q Yes, with Mr. Stern.

8 A The relations with the U. S. Attorney have not been
9 good, I don't think. I wouldn't say that they were good.

10

11 EXAMINATION BY THE CHAIRMAN:

12 Q I hate to keep asking one further question,
13 but I would like to make sure I'm clear in my mind about
14 a further matter that goes back to the first meeting on
15 April 26th, I guess the only meeting, April 26th, '72,
16 that you had with Mr. Stern.

17 Did either Mr. Stern or Mr. Goldstein advise
18 you that they felt that the State had apparently disregarded
19 this matter for well over a year and that it was their
20 view that the State ought not to commence an investigation
21 now only after Biederman had come to their offices?

22 A Absolutely not.

23 Q Did they ever explain to you, General, that
24 in the event the investigation revealed that Mr. Sherwin
25 had done nothing wrong, then the integrity of the

1 integrity of the investigation would be suspect if the
2 State were to jump in now and begin one?

3 A Yes, in so many words. He kept saying, "It's better
4 for us because this doesn't look like much and we seem
5 to have a disgruntled deputy on our hands who's filed a
6 formal complaint." And if it's to be washed out, I don't
7 know that we used those particular words, but, in effect,
8 dismissed or whatever had to be done with it, it would
9 be better for us to do it, speaking U. S. Attorney-wise,
10 than to have you do it. That's what they kept saying.

11 Q Well, did you get the impression that the
12 reason U. S. Attorney officials visited your office was
13 to advise you that, in their opinion, they should investi-
14 gate a fellow cabinet member, or, in the alternative, to
15 advise you that they thought that you should have done
16 this and didn't do it?

17 A Not the latter, no. No one ever suggested to me
18 that, and never has to this date from the U. S. Attorney's
19 Office, that I should have done anything, and they were
20 there to simply inform me of their investigation, as I
21 gathered it. They wanted me to know about it, and they
22 said they would keep me advised, and there was no sugges-
23 tion that they were critical of me or anyone in my office
24 at that time.

25 Q And as they handed you these various

1 documents, did they indicate that they wanted to, first
2 of all, ascertain whether or not they were authentic?

3 A I don't remember anything like that. They could
4 have said that. I think they said they wanted to go out
5 to Transportation and get the records, and I said, "Well,
6 I'm sure the records will be available to you."

7 Q And it's your recollection that either later
8 that day or the next day in the telephone conversation with
9 Mr. Stern he did indicate that a subpoena was about to
10 be served on Manzo's records?

11 A Yes, either had served it--that he was to appear
12 or that they were about to serve it. I forget the way
13 he put it.

14 Q And after that you have no recollection of
15 any other telephone conversations with Mr. Stern?

16 A No, I do not.

17 Q However, didn't he advise you at one stage
18 that as he went along with his investigation he would keep
19 you advised as to how he was doing?

20 A Yes, when he was first there, and, I believe, in our
21 conversation on the phone, he kept--he said to me several
22 times, "We will keep you advised of developments," particu-
23 larly after I told him that it was his ball; he had the
24 ball and that we were going to stay out of it after I agreed
25 with that, because at first I did not agree to it. I said

1 I would think about it and let him know. Whenever that
2 conversation was in which I told him I agreed, he should
3 do it exclusively, he said again, "I will keep you advised.
4 We will keep you advised."

5
6 EXAMINATION BY MR. FRANCIS:

7 Q One thing more about the immunity matter.
8 Has it come to your attention that at the trial in the
9 Federal Court defense counsel were asked to inquire on
10 cross examination of the prosecution witnesses as to the
11 facts which would support your indictment in order to give
12 legal strength to the argument of immunity?

13 A Yes, somebody told me that defense counsel were
14 approached to ask questions concerning our indictment, yes.

15 Q Can you tell us specifically who approached
16 defense counsel? A I was told that
17 it was Mr. Robinson, Donald Robinson, counsel for John J.
18 Kenny.

19 Q Robinson said that he was approached to ask
20 the questions on cross examination?

21 A No, no, he didn't tell me that. No, no, sir. I
22 heard, and I don't know whether this is true, so, please,
23 I'm not saying this happened. Of course, Robinson repre-
24 sented the--

25 Q I think perhaps if we don't know that someone

1 in authority--maybe it's not the kind of thing I ought to
2 put into the record now. A It's
3 perfectly all right with me. I don't know that anybody
4 approached anybody. I just heard a story that it was done.

5 Q And you don't know of any affidavits that
6 have been prepared indicating that defense counsel were
7 asked by someone in authority in the Federal system to
8 cross examine on these subjects that would affect Kenny's
9 indictment?

A No, sir, I don't.

10 MR. FRANCIS: All right. Well, that's all
11 I have.

12 THE CHAIRMAN: Thank you very much, General
13 for coming over.

14 (Witness excused.)

15 -----

16 (Whereupon, a brief recess is taken.)

17 (After recess.)

18 THE CHAIRMAN: Mr. Cowen, this afternoon--
19 although it is rather late, it's still the after-
20 noon--we have Commissioner Bertini on my right;
21 Commissioner Diana on my left. My name's John
22 McCarthy. You have been asked to come here, and
23 you have come here voluntarily to testify before
24 us. Mr. Francis and Mr. Sapienza will handle the
25 questioning.

1 At this time would you stand up, sir, to be
2 sworn.

3
4 R O B E R T E. C O W E N, having been duly sworn
5 according to law by the Officer, testified as
6 follows:

7
8 MR. SAPIENZA: Mr. Cowen, before we begin
9 I'm going to read to you the same warnings we give
10 to all witnesses no matter what their status before
11 us. Number one, you are appearing voluntarily.
12 Your answers will be taken down by the stenographer,
13 and they are under oath. For that reason if you
14 feel your answers may tend to incriminate you, you
15 may refuse to answer. If at any time during these
16 proceedings you feel you would like to be repre-
17 sented by counsel, just tell us to stop and we'll
18 stop.

19 Your testimony is being taken in executive
20 session. However, the Commission has the right to
21 publish your testimony later on in a report, or even
22 take the same testimony at a public hearing if they
23 should pass a resolution. You understand that,
24 don't you?

25 THE WITNESS: Yes.

1 MR. SAPIENZA: You're ready to proceed to-
2 day?

3 THE WITNESS: I am.

4 MR. SAPIENZA: Thank you.

5 THE CHAIRMAN: Mr. Francis.

6
7 EXAMINATION BY MR. FRANCIS:

8 Q All right. Mr. Cowen, you are a deputy
9 attorney general of New Jersey?

10 A I am, sir.

11 Q And have been for how long?

12 A Approximately at this time a year and a half.

13 Q Did you, in the course of your duties, have
14 occasion to interview David A. Biederman, a former deputy
15 attorney general?

A Yes, I did.

16 Q And when did you interview him?

17 A May I refer to my notes to refresh my recollection?

18 Q By all means.

19 A I interviewed Mr. Biederman on June 12th at my
20 office. I had, previous to that date, called him and re-
21 quested him to appear voluntarily without the necessity of
22 subpoena, to appear at my office for the purpose of inter-
23 view.

24 Q You say June 12th. You mean of this year,
25 '72?

A '72, yes.

1 Q And was your interview in connection with
2 what has come to be commonly known as the Sherwin matter?

3 A At that time I had been assigned what--to what was
4 the Manzo investigation as far as I was concerned. It
5 turned out to involve Mr. Sherwin, and the subject of my
6 interview concerned those matters, yes.

7 Q I see. Then I take it at the time you inter-
8 viewed Mr. Biederman you did not relate the subject of
9 your interview in your own mind to Secretary of State
10 Sherwin?

A Not directly. The
11 investigation at the time I had been handling it that date
12 was relatively new and it was more or less still open-
13 ended insofar as the exact targets were concerned.

14 Q I see. During the course of that interview
15 did Mr. Biederman advise you of the memorandum, dated
16 October 30, 1970, that he had prepared?

17 A Is the October 30th one, Justice, is that the one
18 from Kohl?

19 Q Biederman to Kohl.

20 A Yes, I saw that memorandum.

21 Q And did he have it?

22 A I interviewed him in general terms, and I think I
23 requested of him if he had any literature, data of any
24 nature about the matter to which we were talking, and he
25 said he just happened to have it in his car.

1 Q I see. A I asked him to
2 go to his car and get it and would he mind if I photocopied
3 it without having to subpoena it and he said--

4 Q And he did produce the October 30th, 1970
5 memorandum from himself to Kohl?

6 A Yes, sir.

7 Q Did he tell you what he did with that memor-
8 andum? A Well, he said he had
9 sent it to Commissioner Kohl. He said he sent a copy to
10 the Attorney General, referring to Mr. Kugler, and he said
11 he had sent a blind copy to Mr. Jahos, referring to Evan
12 Jahos, director of the division of which I'm employed.

13 Q I gather from the way you put it that he
14 distinguished between the original, which went to Kohl,
15 and then a copy of that to the Attorney General, and then
16 a blind copy to Deputy Attorney General Jahos; is that it?

17 A I'm not quite sure I know exactly what you mean
18 when you say I distinguish them.

19 Q Well, you said the original memorandum was
20 directed to Commissioner Kohl, and you said he said he
21 sent a copy of it to the Attorney General, and then you
22 said he sent a blind copy to--

23 A Assistant--

24 Q --Assistant Attorney General Jahos?

25 A Yes.

1 Q Was the one to the Attorney General a blind
2 copy, too, or was that--

3 A No, no. He was quite emphatic, as a matter of fact.
4 That's why I recall this. He said he--naturally the
5 original had gone to Commissioner Kohl. He said he had
6 advised the Attorney General with the copy of the original
7 which he had given to Commissioner, or sent to Commissioner
8 Kohl, and he said he had sent a blind carbon copy of the
9 same memo to Jahos.

10 Q And how did he say he got the copy to the
11 Attorney General? A He said to me
12 that he sent them. By that I took it that he either
13 mailed or inter-office mail. I didn't go into detail as
14 to how it actually went from his hand to the Attorney
15 General. He said he sent them.

16 Q Is it clear in your mind that he said he
17 sent or gave a copy to the Attorney General as distinguished
18 from a statement that he spoke to the Attorney General
19 about the matters contained in the memorandum?

20 A Well, I'm fairly confident that he told me he sent
21 these, a copy, to the Attorney General and he sent a blind
22 copy to Mr. Jahos.

23 Q I see. Did you make some notes of your
24 conversation with him?

25 A Not in regard to that particular matter, no, sir.

1 Q Was there any further discussion with him
2 about the copies beyond just his statement he sent one to
3 the Attorney General, a blind copy to Assistant Attorney
4 General Jahos?

5 A Only that he
6 told me he sent this information to these authorities and
7 that nothing transpired of it.

8 Q Well, do you want to give us the whole con-
9 versation that you had with him?

10 A Well, in essence, Justice, you mean in reference to
11 the sending of these copies or to the entire matter of my
12 interview?

13 Q Yes, to the matter of your interview.

14 A Well, I had been assigned this matter May 31st, '72,
15 and after an interview with Judge Stamler and some in-
16 formation which had come to my hands, I--and I don't re-
17 member exactly why--deemed it appropriate to interview
18 Mr. Biederman. His name came to my attention in some way,
19 the exact nature of which at this time I can't recall.

20 I knew he had been Commissioner Kohl's attorney
21 and that he was in the DOT, and, as I can best recollect,
22 his name came to my attention through some information
23 that I had in the case.

24 I called him up and I told him I wanted to inter-
25 view him in reference to a contract dealing with Route 46
involving one Manzo. When I called him up, he was well

1 acquainted with the subject matter of which I wanted to
2 interview him and he consented to come to my office with-
3 out the necessity of my subpoenaing him to the grand jury.

4 I told him that I had been assigned to the job of
5 looking into the propriety of the award of the Route 46
6 job, these sections, and he said to me--and again I don't
7 know the exact words, I'm giving it to you in essence--
8 that he knew about the matters, and there was a big flap
9 in the DOT over it and he was in the middle of it because
10 he felt there were certain transgressions of the bidding
11 law that were being made and that he fought for the mat-
12 ter to be awarded to the lowest bidder.

13 I asked him during the course of our conversation
14 whether or not he had any data at all which could aid me
15 in my investigation and he said, "I just happen to have
16 numerous papers in my car." And I asked him if he would
17 allow me to view them and he said yes.

18 He showed them to me and I asked if I could photo-
19 copy them without subpoena. He said, "Go right ahead."

20 I went over the various documents with him, since
21 having the--well, these papers have been commonly referred
22 to around the office now as the Biederman papers. There's
23 six or seven different communications. I went over each
24 of these in detail with him as to what is involved in each
25 one insofar as he knew.

1 Q These are ones he produced out of his
2 car and handed to you that day?

3 A That's correct, and I told him that in all probab-
4 ility I would have to get back to him as soon as I do some
5 more ground work, and he said he would be available and
6 we left it at that.

7 Q Can you identify for us the papers that he
8 showed you that day? A Well, I can if
9 you show them to me.

10 I'll tell you, see, what happened was, after my
11 entire investigation, when we got ready to go to the grand
12 jury we made up witness lists and, in effect, I took my
13 entire file up to that point and put it in each folder
14 in reference to that particular witness, so that I don't
15 have the exact things which he gave me to photocopy at
16 this time.

17 Q You say you thought there were five or six
18 documents? A Numerous. I said five
19 or six. I'm not going to be exact in that.

20 Q Well, one you're sure of that he showed you,
21 the October 30th, 1970 memo?

22 A Correct, correct.

23 Q Do you have a recollection that he showed
24 you one of November 4th?

25 A If I see them, I can identify them.

1 All right. There has been handed to me the October
2 30th memorandum from David A. Biederman to Commissioner
3 Kohl. This is one of the documents which he did produce
4 for me. Attached to that are numerous newspaper--photo-
5 copies of newspapers articles. He also produced those
6 for me, Justice, and I recall he remarked about these
7 newspaper articles that this particular section of the
8 46 had caused quite a stir because the people in the area
9 were quite concerned with--it was dangerous; it was pot-
10 holed, and that the DOT had made numerous representations
11 to the public that it was going to be completed, and that
12 until he got active on the backs of the various people
13 there, they were going to just disregard all these promises
14 they had made.

15 Q I see. Then the October 30th memorandum,
16 which he showed to you, had at that time clipped to it
17 these newspaper articles?

18 A I'm not going to say that the newspaper articles
19 were clipped to the October 30th memorandum. They were
20 part of the papers which he gave me. I'm not going to.

21 Q All right. A I can't represent
22 that they were clipped to the October 30th.

23 COMMISSIONER BERTINI: Is that marked as an
24 exhibit?

25 MR. SAPIENZA: It's C-8.

1 MR. FRANCIS: C-8.

2 COMMISSIONER BERTINI: Do you mind referring
3 to that?

4 THE WITNESS: It's C-8, dated 11/13/72.

5 MR. SAPIENZA: Is that October 30th memorandum,
6 C-8A, is that the one he told you he sent to Mr.
7 Jahos and Mr. Kugler?

8 BY MR. FRANCIS:

9 Q Well, particularly, did the one that he showed
10 you have any note, BCC to anybody?

11 THE WITNESS: To answer the first question,
12 this October 30th, '70 memo is the one which he told
13 me he sent to the Attorney General, blind copy to
14 Jahos.

15 MR. SAPIENZA: He didn't tell you that he
16 sent any of the other memoranda he gave you to--

17 THE WITNESS: No, he just said he sent this
18 one.

19 MR. SAPIENZA: Okay.

20 A To answer your question, Justice, what was it again?

21 Q The one he showed you of October 30th, did
22 it have any notations about copies on it?

23 A I see the one that you have before me now does have
24 "bcc: Evan Jahos." I don't recall whether I saw that
25 on the copy he gave me. I can't honestly say I saw that

1 on the copy he gave me. It may have been, it may not have
2 been. I didn't take particular note at that time. I
3 never thought this thing was going to mushroom to this
4 extent.

5 There's another memo been placed before me marked
6 Exhibit C-7. It's a memorandum from Biederman to Mullen,
7 dated November 4th, '70.

8 Yes, this is one of the memos which he gave me at
9 the time I initially interviewed him on June 12th.

10 I'm shown an exhibit marked C-5. It's a letter
11 dated October 8, '70, from Paul Sherwin, addressed to John
12 Kohl. This is one of the documents which he gave me at
13 the time I initially interviewed him.

14 I'm shown Exhibit C-1, a memorandum from David
15 Biederman to George Kugler, dated October--August 7, '70.
16 Yes, this is another one of the documents which Mr.
17 Biederman gave me at the time I interviewed him.

18 Q All right. Did you ever talk to him again
19 after that? A I think I called him
20 in reference to his appearance to the grand jury. I think
21 we were going to subpoena him for the grand jury and he
22 wanted--he had a closing or something. I spoke to him
23 over the phone, and then I saw him up at the grand jury,
24 of course.

25 Q And that's the only contact you had with him

1 after your conference?

A That's

2 true.

3 MR. FRANCIS: I guess that's all. Do you
4 gentlemen have anything?

5 Well, thank you very much.

6
7 EXAMINATION BY THE CHAIRMAN:

8 Q I think I might have one, if I could just
9 get organized here just a minute.

10 Did Mr. Biederman ever indicate that he sent
11 a copy to Judge Garven's office?

12 A No, Judge Garven's name was never mentioned. He
13 never indicated he sent this to--sent anything to Judge
14 Garven. The name never arose.

15 Q Did the memo that you saw of October 30,
16 1970, that Biederman showed you, have on it "bcc: James
17 Petrella"?

A At this time I can't
18 recall, you know, whether it had this bcc anyone on it.
19 But Mr. Petrella's name was never mentioned. Mr. Garven,
20 Judge Garven's name was never mentioned. These names--
21 and I interviewed him at length. These names never arose
22 in any conversation we had in reference to this case.

23 Q And you are very certain that he said he
24 talked to Attorney General Kugler about this?

25 A No, I didn't say he talked to him. I said he

1 indicated to me that he--

2 Q Advised? A --sent, sent a
3 copy of this memorandum to the Attorney General, and he
4 told me he sent a blind copy to Jahos.

5 Q I thought you indicated that he said he
6 advised the Attorney General?

7 A If I said that, I was in error. He told me he
8 sent it to the Attorney General.

9 Q How long did the interview last?

10 A I'll say it was a half-hour, a good half-hour.
11 Approximately a half-hour.

12 Q Did he know why you were asking him the
13 various questions? A Well, I indicated

14 to him I had been assigned the investigation involving
15 the award of a contract on Route 46, the sections. He
16 knew generally what I was talking about.

17 As a matter of fact, as soon as I called him he
18 knew the subject of the inquiry and he knew what I was
19 aiming at, more or less. He didn't know any target in-
20 formation at that point. Neither did we, for that matter.
21 But he was acquainted with the subject, yes.

22 Q And did he point out anything that might
23 deal with how the Attorney General's Office had handled
24 this? A He merely told me that

25 he had sent these copies of the memorandum and nothing had

1 been done. That's what he said to me, nothing, or words
2 to that effect. Nothing had been done, nothing became of
3 it or something like that.

4 Q Did he indicate to you whether he had done
5 anything in the year that he was in there after the memos
6 were sent? A What do you mean if he
7 had done anything?

8 Q Well, he was a deputy attorney general,
9 wasn't he? A Yes, he was.

10 Q Did he indicate whether or not he had done
11 anything supposedly from the time he had sent the memos?

12 A Well, the only thing he indicated to me is he
13 brought this matter to the attention of the Attorney
14 General and the Assistant Attorney General in charge of
15 criminal prosecutions by sending them copies of this
16 memorandum, and that was it.

17 THE CHAIRMAN: Mr. Bertini?

18 Thank you for coming, Mr. Cowen.

19 (Witness excused.)

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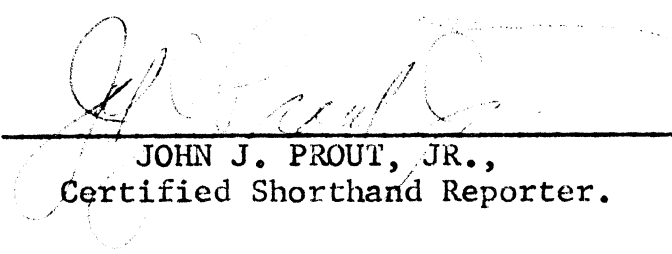
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STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

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IN THE MATTER OF THE INVESTIGATION : CERTIFICATE
OF THE OFFICE OF THE ATTORNEY : OF
GENERAL OF THE STATION OF NEW JERSEY : REPORTER
----- :

I, JOHN J. PROUT, JR., a Certified Shorthand
Reporter and Notary Public of the State of New Jersey,
do hereby certify that the foregoing is a true and
accurate transcript of my stenographic notes, as taken
by me on the date and at the place hereinbefore set forth.



JOHN J. PROUT, JR.,
Certified Shorthand Reporter.

