

STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

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

Executive Session

TRANSCRIPT OF
PROCEEDINGS

VOLUME VI

Tuesday, November 21, 1972

28 W. State Street
Trenton, New Jersey

B E F O R E:

JOHN F. MC CARTHY, JR., Chairman
CHARLES L. BERTINI, Commissioner
WILFRED P. DIANA, Commissioner

A P P E A R A N C E S:

JOHN J. FRANCIS, ESQ.,
Special Counsel to Commission,
-and-
CHARLES D. SAPIENZA, ESQ.,
Counsel to Commission.

Reported by:

John J. Prout, Jr., C.S.R.

974-90

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1973 v.6

I N D E X

WITNESS

EXAMINATION

JOHN G. KOHL

Mr. Francis

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MARY BRENNAN

Mr. Francis

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DAVID A. BIEDERMAN (Page 1069)

The Chairman

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EXHIBIT

DESCRIPTION

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1970 Lawyers Diary & Manual

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Photostatic copies of diary
pages from October 29, 1970
through November 6, 1970

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Letter from Biederman & Mulligan,
dated December 3, 1971

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Letter from Biederman & Mulligan,
dated December 13, 1971

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1 THE CHAIRMAN: Will the record show, Mr.
2 Prout, that two commissioners, Mr. Bertini and my-
3 self, are sitting this morning and that Commissioner
4 Kohl is here to resume the answers to questions
5 posed by Mr. Francis and Mr. Sapienza.

6
7 J O H N C. K O H L, having been previously
8 sworn according to law by the Officer, resumed the
9 stand and testified further as follows:

10
11 EXAMINATION BY MR. FRANCIS:

12 Q Commissioner, you recall the hearing on the
13 Mal-Bros. debarment as a bidder?

14 A Yes, I do.

15 Q And I'm not talking about the one in which
16 Mr. Biederman appeared on the application to reinstate
17 them, I'm talking about the original one out of which
18 came the order to bar them as bidders for--

19 A Yes.

20 Q --the future. A I believe
21 that was in September or October of 1970.

22 Q And prior to that time had the department
23 advertised for public work to be done in the area of
24 the Newark Airport? A Yes. We had a

25 rather large project in connection with the Routes 1 & 9

1 and Interstate 78, several projects, in fact, that had been
2 delayed because of difficulties with right-of-way, and
3 there was considerable pressure to get those jobs underway.
4 And one of the major contracts had been advertised for
5 bid and bids received, I think it was, in August of 1970.

6 Q And did you have a low bidder?

7 A Yes.

8 Q And what company was that?

9 A Mal-Bros.

10 Q Now, do you remember the Addonizio criminal
11 trial in the Federal Court in Newark?

12 A Yes.

13 MR. FRANCIS: Excuse me for a minute.

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

16 Q I said the Addonizio criminal trial in
17 Newark. It was in Trenton, was it not?

18 A Yes. It was very well publicized.

19 Q And was that at about the time these bids
20 were taken? A Yes.

21 Q And you recall that at that trial there
22 was testimony given which involved the principals of
23 the Mal-Bros. Company in an unfavorable way?

24 A Well, there were several contractors including
25 Mal-Bros. that were listed as being involved in some of the

1 manipulations cited in the Addonizio testimony.

2 Q And as the result of that, when it appeared
3 that Mal-Bros. was the low bidder on the Newark Airport
4 project, did some question arise as to whether the contract
5 should be awarded to that company?

6 A Well, first there was a general question from the
7 Governor's office regarding all of the contractors; was
8 the State doing business with any of these contractors,
9 because it was his view and that of Judge Garven, his
10 counsel, that public policy dictated that we not do public
11 business with firms that were illegally involved.

12 Q I see. A And we were asked
13 to review all of the outstanding contracts to see whether
14 any of these contractors were included in our business,
15 and Mal-Bros. happened to be the only one involving the
16 Department of Transportation.

17 Q And at that time you had pending a decision
18 as to whether Mal-Bros. as the low bidder should get
19 this Newark Airport contract, did you?

20 A Yes. It was almost ready to be awarded.

21 Q And was there then discussion, particular
22 discussion, as to whether that contract should be awarded
23 to Mal-Bros.?

24 A Yes. I recall
25 a great deal of debate within the department and back and
forth with Judge Garven, because there seemed to be no

1 precedent for the situation in which we were in. Mal-Bros.
2 had submitted a bid as a prequalified bidder. This had
3 not come to the attention of the department previously.
4 So that when bids were received, they were on the qual-
5 ified bidders list along with the other, several others
6 who had submitted bids, and their record with the depart-
7 ment as far as performance on the job had been excellent
8 and there was--because of the pressure to get this work
9 underway, because of the submission presumably of a
10 qualified bid, there were many in the department who felt
11 that we had no grounds for rejecting them at this stage;
12 that this was after the fact, so to speak. So, there was
13 considerable debate at that time.

14 Q Well, after the debate pro and con did you
15 finally resolve the question?

16 A Yes.

17 Q What did you decide to do?

18 A Judge Garven was insistent that we reject Mal-Bros.,
19 and the question of legal liability arose. There were
20 several in the department who were afraid that if we re-
21 jected them, they would enter suit and further delay that
22 particular project. But after considerable discussions,
23 as I say, back and forth it was decided that we would base
24 our rejection on irresponsibility and would suspend Mal-
25 Bros. from the qualified list indicating to them that they

1 had the privilege of requesting a hearing to establish the
2 basis for a final decision on their qualifications.

3 Q And did you then reject the low bid?

4 A We rejected all of the bids and readvertised. We
5 took the position that there had been an irregularity in
6 the bidding. This unknown factor of qualification of one
7 of the bidders established grounds, we felt, for rejection
8 of all of the bids and resubmission; that it was unfair
9 to the other bidders to switch, reject one bid and switch
10 to another bidder; that we should reject all of them.

11 Q I see. And in terms of the descriptive
12 expression that you used for disqualification, was that
13 that the Mal-Bros. lacked moral integrity?

14 A I think at that time the irresponsibility was the
15 term used. The term moral integrity developed as a re-
16 sult of the hearing, oh, some weeks later.

17 Q I see. So that you rejected the low bid
18 and suspended Mal-Bros., having decided that Mal-Bros.
19 was an irresponsible bidder?

20 A Yes.

21 Q Now, after the suspension and after you had
22 notified Mal-Bros. that it was entitled to a hearing, did
23 they ask for a hearing? A Yes.

24 There was some uncertainty as to date, but finally a date
25 was established and it was some weeks after the rejection

1 of the bids.

2 Q I see. And you did have a formal hearing?

3 A We had a formal hearing.

4 Q And the issue there was whether Mal-Bros.
5 should be barred as a bidder?

6 A Yes.

7 Q Who represented the department?

8 A Mr. Biederman was the attorney representing the
9 department.

10 Q And did he put in the testimony, whatever
11 testimony was taken? A Yes.

12 Q And at the conclusion of the hearing did
13 you decide whether Mal-Bros. should be barred or not?

14 A Yes, we did.

15 Q And when you say "we," you are the boss of
16 the department? A Yes, editorial
17 "we," the department. I made the decision.

18 Q And what did you decide to do?

19 A To suspend--continue the suspension, bar them from
20 further bidding as a qualified bidder on the basis of
21 lack--demonstrated lack of moral integrity.

22 Q And the term moral integrity came into the
23 matter at that hearing, did it?

24 A I believe that was the first time that it arose.

25 Q I see. And did Mr. Biederman argue that

1 they lacked moral integrity? A I don't
2 recall discussions with Mr. Biederman on this issue. At
3 that point the facts had been pretty well established in
4 the discussions of the rejection of the bids some weeks
5 earlier and it was not really a matter of debate or dis-
6 cussion. The issue was rather clear.

7 Q I see. Well, then when you made the de-
8 cision to bar Mal-Bros. did you tell Mr. Biederman to
9 prepare the memorandum for a determination, a written
10 determination, for your approval and your signature?

11 A Yes, I did.

12 Q And do you remember how long it was after
13 that that he presented the determination for your signa-
14 ture or for your approval? A I believe it
15 was a matter of a few days.

16 Q I see. During the time that he was pre-
17 paring this determination for you did you come in to him--
18 strike that for the moment.

19 Mr. Biederman has testified that at the con-
20 clusion of the hearing you instructed him to prepare a
21 determination for your signature declining to bar Mal-
22 Bros. as a bidder. Did you give him any such instruction
23 as that? A No, I did not. I think

24 he may have been confusing the discussions previously
25 with respect to the rejection and the action following the

1 hearing.

2 Q I see. Well, then, after the conclusion
3 of the hearing, you're clear in your mind, you told him
4 to prepare a determination barring Mal-Bros.?

5 A Yes.

6 Q And he has testified, also, that while he
7 was preparing that determination you came in to him and
8 said to him that they were going to debar them and you
9 instructed him to change the opinion because you had re-
10 ceived a call from downtown and the opinion had to be
11 changed and now he was to prepare a determination barring
12 Mal-Bros. Did that happen?

13 A No, it did not. Again I think Mr. Biederman is
14 confusing the circumstances with that of the rejection of
15 the bids, because we were under, as I said earlier, con-
16 siderable staff pressure to award the bid. There was a
17 feeling on the part of the state highway engineer that
18 we had no real ground for rejecting the bid, and the
19 thirty-day limit was approaching and we had a strong in-
20 clination, because of the feeling that we were on very
21 thin ice as far as a legal basis for rejecting the bid,
22 to move at that time. And as I say, there was considerable
23 debate then and we did have further discussion downtown,
24 to use the expression, Judge Garven in particular who
25 insisted that we did have a strong legal ground and that

1 we should reject Mal-Bros.' bid and move to disqualify
2 them.

3 Q I see. Well, in other words, Judge Garven
4 presented a point of view to you to the effect that, in
5 his opinion, you had sufficient grounds to debar them and
6 there were other people in your department who felt the
7 other way? A That's correct.

8 Q Either that you were on thin ground or you
9 didn't have any ground at all to reject their bid. And
10 in the final analysis, you decided to reject the bids?

11 A I did.

12 Q And I suppose before you did that you gave
13 consideration to the arguments on both sides of the ques-
14 tion? A Yes, I did. This was un-

15 precedented in my experience and, very frankly, I was
16 uncertain as to the proper action in that instance.

17 (Whereupon, Commissioner Diana enters the
18 room.)

19 Q But in any event, including this other aspect
20 of it, there is no doubt in your mind that after the hear-
21 ing itself, the formal hearing, you reached the conclusion
22 to bar Mal-Bros. because of its lack of moral integrity
23 and told Biederman to prepare the determination for your
24 signature and that was the end of it?

25 A Yes.

1 Q And at no time did you come in to him while
2 he was preparing that and tell him you had instructions,
3 you had a telephone call from downtown and that the order
4 had to go--I got off on the wrong foot. Let me strike that
5 question.

6 Once you had reached the decision to bar
7 Mal-Bros. for lack of moral integrity, there was no dis-
8 cussion with Biederman about telephone calls or orders from
9 downtown to do anything about it other than what you had
10 already decided? A No, there were
11 no telephone or other conversations with respect to our
12 hearing on debarment.

13 I think it's important to recognize there were two
14 issues--one was the rejection of the bids earlier of a
15 presumably qualified bidder, the other was the matter of
16 suspension when facts had been established later at the
17 hearing--and the discussion centered around the earlier
18 instance of the award of bid and not on the suspension,
19 the disqualification-suspension.

20 Q Now, just for a moment I would like to
21 go way back in the history of this thing. There's been
22 some testimony here from Mr. Schuyler and Mr. Peterson
23 to the effect that after the plans and specifications for
24 this 46 improvement had been prepared and were ready for
25 public advertising to seek bids for the doing of the work,

1 that the Federal authorities made some requests for change?

2 A Modifications.

3 Q More particularly, a request for supereleva-
4 tion, I think they called it, of the curves?

5 A One curve.

6 Q And, also, a request that had to do with
7 provision of additional, or for drainage of the entire
8 project. Do you remember that?

9 A Yes.

10 Q Now, there's been testimony, also, that be-
11 cause of the urgency of getting the project underway, that
12 the notices were put in the newspapers soliciting bids
13 and the specifications were limited to the specifications
14 that your department had already prepared?

15 A Yes.

16 Q Do you remember that?

17 A Yes.

18 Q And the requests of the Federal agency for
19 the drainage situation and for the superelevation of the
20 curves, those aspects of it were not included in the adver-
21 tising for bids?

22 A No. They were
23 regarded as relatively minor changes, and this was not an
24 unusual circumstance; that in the Federal review often
25 minor details require some modification, and in order to
avoid going back through and changing all of the plans

1 and reissuing plans for the bidders, the bids are accepted
2 on the basis of the original plans with the understanding
3 that there would be extra work as a result of change orders
4 issued during the course of the contract.

5 Q Well, you are aware, are you, that Centrum,
6 when the work was finished, was paid more than \$100,000
7 more than its bid? A No, I was not
8 aware.

9 Q I've forgotten the exact figure. We had
10 it on the document. Let me just give it to you. Let me
11 show you, Commissioner, the original bid was 603,871. The
12 amount paid was \$731,175.07, roughly \$128,000 more than
13 the original bid? A Uh-huh.

14 Q Were you aware that the major portion of
15 that arose from the cost of the additional drainage re-
16 quirements imposed by the Federal agency and the handling
17 of the superelevation of the curves of the roadway?

18 A Only in a general way was I aware. I don't get into
19 the details of these when procedures are properly followed
20 for the issuance of the change orders; then, when we have
21 the safeguards of the Federal audit as well.

22 Q Well, you see, you remember when Mr. Mullen
23 recommended the rejection of all of the bids, among other
24 things, he mentioned a change of plan, also. And were
25 these additional changes requested by the Federal Government

1 part of the reference to change of plan in Mr. Mullen's
2 memorandum?

3 A Yes. Had we rejected
4 all of the bids, it would have been the practice to have
5 updated the plans to incorporate the requested modifications.
6 This would have taken some additional time.

7 Q And you will recall that the Centrum bid
8 was about \$3800 lower than Manzo Contracting Company's
9 bid?

10 A Yes, they were very
11 close.

12 Q So that if these extras, if you want to call
13 them that, or change-of-plan requirements had been in-
14 cluded in the original specifications, Manzo would have
15 been--all the bidders would have had additional specifica-
16 tions to consider in deciding what their bid should be
17 for the whole project?

18 A Primarily, the
19 amounts would have increased by the increase in quantities
20 required by the change in plans, and it's impossible to
21 tell whether the relative position of the bidders would
22 have been the same. The computation of the extra work
23 certainly would have been the same for any contractor on
24 the job.

25 Q Well, in that connection, and let me ask
you on the basis of your experience in the department,
supposing your department knew before the bids were sought
and advertising was put in the newspapers seeking bids,

1 the department knew that it was going to cost, say, \$75,000
2 more for these things that you were not going to include
3 in the advertising for bids, and when the low bid came
4 in, without giving any consideration, of course, to these
5 things required by change in plan, you picked the low
6 bidder and were deciding to award the contract to him,
7 or, in fact, did award it to him, and the second low
8 bidder came in and said, "This is unfair to me. I didn't
9 have a chance to bid on these things that you're now giv-
10 ing this contractor who submitted the low bid on the basis
11 of the specifications." Do you think that he would have
12 a substantial ground for attacking the award of the con-
13 tract to the low bidder?

14 A No, because all of the bidders were on the same
15 footing. None of them would have been aware of the changes
16 and their bids were competitive, so that the extra work
17 would have come into the picture after the fact of award,
18 not before.

19 Q Well, if the requirements for the doing of
20 the work to the extent of the drainage and the supereleva-
21 tion of the highway were known prior to the time of the
22 advertising of bids, under ordinary circumstances you
23 would include those in the specifications, would you not?

24 A If known prior to the advertising of the bid and
25 time permitted the revision of the plans and the resubmission

1 of updated plans to all of the contractors. But the
2 changes would not be published and were not known to the
3 contractors. They were all bidding on the same set of
4 plans. Their bids were evaluated on the plans and speci-
5 fications which they had received in conformance with the
6 advertising.

7 Q But they were considered without any evalua-
8 tion of whether the bids would have been the same rela-
9 tively if the bidders had a chance of considering the
10 additional drainage requirements and additional elevation,
11 paving requirements? A That is correct.
12 They're evaluated on the basis of the plans on which they
13 bid, not on the basis of any subsequent changes.

14 Q Well, supposing after these bids were adver-
15 tised for you decided to put in four new bridges or via-
16 ducts along there and you said, we know that this has to
17 be done, but we just won't include this in the advertising
18 for bids, we'll change the plans, and whoever is the low
19 bidder will get this, too, and that made the job cost
20 twice as much. Would you say that the second low bidder
21 couldn't attack your award of the contract on the ground
22 that the contract as awarded represented a substantial
23 change in the opportunity of the bidders to bid on the
24 total job? A Well, I think the ques-

25 tion revolves around the substantial change and where the

1 substantial change involves a change in the entire construc-
2 tion. Your example of adding several bridges would be a
3 complete change in the plans, whereas in the case in point
4 the changes were primarily in the quantities of material
5 involved, and presumably the contractors were bidding on
6 unit prices and the total bid was based on their extensions
7 of the units prices by the quantities involved as called
8 for on the original plans.

9 Q Well, do you think that contractors measure
10 the bid that they're going to give for a particular job to
11 some degree on whether there is a small quantity of ma-
12 terial or equipment required or a large quantity?

13 A Yes, within rather large limits. A requirement for
14 a hundred tons of asphaltic material would perhaps through
15 a change order require another ten per cent, this would
16 not be a material change in the total quantities in view
17 of the contract. But if the original were, say, for ten
18 tons and another ten tons required, you're down in the area
19 where a change in the quantity might have a substantial
20 impact.

21 Q In other words, a bidder would say to himself,
22 well, if I had the chance of bidding on 100,000 tons, be-
23 cause of the large quantity involved I can shave my price
24 a little bit as against a bid that I would make if there
25 were only 50,000 tons of asphalt, for example, involved?

1 A Well, there is a threshold beyond which there is
2 no significant change in the unit price, and the quantities
3 involved in this particular job were such that there would
4 have been no change in the unit price for--as I said
5 earlier, this is not an uncommon situation in which there
6 are these revisions in plans subsequent to the bidding.
7 The contractors are accustomed to this and it's an accepted
8 practice in the industry.

9 Q Well, not to push this too much farther,
10 but you say where conditions develop subsequent to the
11 award. But where you-- A Subsequent to
12 the advertising.

13 Q Yes. But when you have a situation where you
14 know prior to the advertising that the specifications do
15 not include everything that you're going to require for
16 that job, do you think it's fair or proper to go ahead with
17 the advertising when the advertising is incomplete from
18 the standpoint of prospective bidders?

19 A Not if there's time to modify the plans prior to
20 their distribution. But I think in this particular case
21 the recommendations from the Federal Government came after
22 the distribution of plans and after the advertising.

23 Q What would you consider a substantial change
24 in terms of money where you have a low bid of \$603,000?

25 A I would ordinarily say ten per cent. Beyond that

1 would be a substantial change.

2 Q So that in this case if the change known
3 in advance required a payment of more than ten per cent
4 of the low bid, you would regard that as substantial?

5 A Yes. I was not aware that these changes, and I
6 don't believe the department at that particular time was
7 aware, that these changes would result in substantially
8 higher prices.

9 Q I see. Well, was there any discussion with
10 you about them prior? A No.

11 Q And you didn't know what they were particu-
12 larly at the time? A No, I did not.

13 Q Did Mr. Schuyler ever discuss them with
14 you? A No.

15 Q Well, in any event, whatever the changes
16 were, you did feel when you got the report recommending
17 the rejection of bids from Mullen that these changes
18 formed at least one basis on which you could decide to
19 reject the bids? A That was a very
20 minor consideration. The major consideration was all
21 along the ability of the contractor to secure the material
22 and perform the job on schedule.

23 MR. FRANCIS: Do you gentlemen have anything
24 further?
25

EXAMINATION BY COMMISSIONER BERTINI:

1
2 Q Just one. As a general proposition, let us
3 suppose there were ten items to be bid upon. Let's say
4 they were all different types of books, ten different
5 types of books. Now, would a change order requiring the
6 supplying of chairs be a proper item to be covered by a
7 change order? A No.

8 Q Where the basic bid is books?

9 A No.

10 Q So that if there is a difference in the items,
11 you would not have a comparison on unit prices?

12 A That's correct.

13 Q Would that be a valid objection on the part
14 of the second bidder to say, "You have asked us to bid
15 on ten items and now you have twenty and this other ten
16 are completely different than the first ten, and, there-
17 fore, I haven't had the opportunity to bid on unit prices
18 in competition with the other man"?

19 A Yes, that, I think, is a proper interpretation. It
20 goes back to Mr. Francis' example of the inclusion of
21 some bridges--

22 Q Right. A --where there
23 is a complete change in the character of the work and not
24 in the quantities involved.

25 COMMISSIONER BERTINI: Thank you.

1 EXAMINATION BY THE CHAIRMAN:

2 Q Commissioner, did you ever ask Mr. Biederman
3 for a legal opinion delving into the moral integrity of
4 the contractors? A Yes. This came

5 about through the appeals to the courts to establish the
6 authority of the commissioner to suspend qualifications
7 based upon moral integrity.

8 THE CHAIRMAN: Okay.

9 MR. FRANCIS: Thank you very much.

10 (Witness excused.)

11 - - -

12 (Whereupon, a recess is taken.)

13 (After recess.)

14 - - -

15
16 M A R Y B R E N N A N, having been previously sworn
17 according to law by the Officer, resumed the stand
18 and testified further as follows:

19
20 THE CHAIRMAN: Mrs. Brennan, you were here
21 on November the 17th and testified, and we asked
22 you to return this morning. We have two members
23 sitting. I introduced you the other day to Mr.
24 Bertini. My name's John McCarthy. In a moment Mr.
25 Diana will probably return.

1 Mr. Francis has some further questions to
2 ask of you.

3
4 EXAMINATION BY MR. FRANCIS:

5 Q Mrs. Brennan, you will remember when we
6 were here on Friday we were discussing the problem whether
7 Mr. Biederman made any telephone calls to Mr. Jahos be-
8 tween, to cover a long period, Thursday, October 29th and
9 the end of Wednesday, November 4th.

10 A That's right.

11 Q And I think you indicated to us that you
12 kept a record of all of Mr. Jahos' incoming and outgoing
13 telephone calls?

A That's right.

14 Q And your notes with respect to those calls
15 were kept in a Lawyers Diary?

16 A That's right.

17 Q And you brought the Lawyers Diary along
18 with you on Friday?

A Yes.

19 Q We didn't mark that on Friday. But, for
20 the record, is this the diary that you brought along
21 with you?

A Yes, it is.

22 Q And that's for the year 1970?

23 A '70.

24 MR. FRANCIS: Let's give the diary a mark.

25 (1970 Lawyers Diary & Manual received and

1 marked Exhibit C-53.)

2 Q Does this diary of yours contain or show
3 any telephone call from Mr. Biederman to Mr. Jahos between
4 Thursday, October 29th and through the end of Wednesday,
5 November 4th? A No, it doesn't.

6 Q Let's go one day farther and include November
7 5th? A No, it doesn't.

8 Q Would you just open your diary to October
9 29th? A I have it.

10 Q And then just to make certain, turn the
11 pages, will you, through November 5th?

12 A (Witness complies.)

13 Q You have looked through those pages again,
14 and no such telephone call is noted there?

15 A That's right.

16 Q Now, we have photostated from your diary
17 the dates that we have spoken of. And I show you a photo-
18 stat, and would you just check that with your diary to
19 make sure that that photostat covers everything that you
20 have on those days? A It covers it.

21 MR. FRANCIS: All right. Supposing we mark
22 the photostats.

23 (Photostatic copies of diary pages from
24 October 29, 1970 through November 6, 1970, received
25 and marked Exhibit C-54.)

1 Q Do you keep a record of visits to Mr.

2 Jahos by any person? A No, I
3 don't, unless he has an appointment set up.

4 Q I see. And if Mr. Biederman had an appoint-
5 ment set up at any time between October 29th through
6 November 5th, you would have a record of it?

7 A Yes, it would be noted in the book.

8 Q And when you say "the book," you mean the
9 same diary-- A Lawyers Diary.

10 Q --you have before you?

11 A Yes.

12 Q Did Mr. Biederman have an appointment with
13 Mr. Jahos between October 29th and through November 5th?

14 A No, he did not.

15 Q And no such note appears in your diary of
16 any such visit? A No.

17 Q Do you have a record of visits Mr. Biederman
18 did make-- A Yes, I do.

19 Q --around this general time?

20 A Well, not during that time, but the early part
21 of October. October 2nd and October 13th.

22 Q Will you tell us what your record shows with
23 respect to any visits he made, say, in October, 1970?

24 A Well, October 2nd he had an appointment to see Mr.
25 Jahos to discuss his moral integrity affidavit.

1 Q And any other visits?

2 A October 13th at 10:30.

3 Q And do you recall what that one was about?

4 A Well, I think it was about the same thing, because,
5 I'm not sure, but I recall the first appointment was
6 cancelled because Mr. Jahos couldn't make it and it was
7 set for the 13th.

8 Q And do you make any note in your diary to
9 indicate whether the appointment was kept or not?

10 A No. Sometimes I mark it cancelled, but I didn't
11 do that in this case.

12 Q I see. Now, after the 13th of October,
13 when, if ever, did he have another visit to Mr. Jahos?

14 A He had no other appointments.

15 Q Do you know Mr. Biederman?

16 A Yes, I do.

17 Q How long have you known him?

18 A I can't really say. I guess since he became a
19 deputy attorney general. He was attached to the Division
20 of Law, and he used to come in and see Mrs. Schauer or
21 Attorney General Sills occasionally and he was especially
22 friendly with Mr. Handler, who was the first assistant at
23 that time. He used to come in and see him quite frequently,
24 and I used to share an office with Mr. Handler's secretary,
25 Mrs. Pullone. He used to have to go through our office

1 to get to the first assistant's office. That's how I got
2 to know him.

3 Q So, you knew him pretty well?

4 A Yes.

5 Q And certainly knew him to see?

6 A Of course.

7 Q And if Mr. Biederman had come in to see
8 Mr. Jahos between October 29th through November 5th, you
9 would have seen him? A Of course.

10 Q Do you recall whether you were in all of
11 those days? A Well, I'm pretty sure

12 I was, and I very seldom take a lunch hour. I usually
13 work through it if I have a lot of work. And you can tell
14 by the handwriting in my book whether or not someone else
15 sat in for me, and I think November 4th I was there all
16 day because there's no other handwriting there but mine.

17 Q Do you have a definite recollection that
18 during that period and particularly from October 30th
19 through November 5th you weren't sick or out for any
20 reason? A Well, I can check my book. I

21 was there on the 4th. Which dates did you say?

22 Q From October 30th through November 5th.

23 A I was there October 30th, November 2nd, November
24 4th, November 5th and the 6th.

25 Q I see. And you have determined that because

1 your handwriting appears on the diary--

2 A That's right.

3 Q --notes for each of those days?

4 A Right.

5 Q Well, if a man called on the 1st and made
6 an appointment for the 5th, would you make the note on the
7 1st but note it on the 5th?

8 A That's right.

9 Q I see. So would your notation that appears
10 in the diary on the 5th indicate that you were in there
11 on that day? A Yes.

12 Q How would that be? Supposing a man called
13 on the 1st of October and said, "I want to come in and
14 see Mr. Jahos on the 5th," and you'd say, "All right."
15 You would make the arrangements and you would write on the
16 5th, October 5th, this person was coming in?

17 A Yes.

18 Q So when you got to the 5th, that man's name
19 would be there and you would know he had an appointment.
20 But the fact that you had noted the name four or five days
21 in advance of that place in your diary, and your handwrit-
22 ing would be there on that day of October 5th, how would
23 that indicate that you were there that day?

24 A Because the incoming calls; my handwriting on the
25 calls.

1 Q I see. So that on the days that you re-
2 ferred to you have a record in your handwriting of all
3 the incoming calls that came in?

4 A That's right.

5 Q And so that convinces you that you were
6 there-- A Right.

7 Q --on those days? A Uh-huh.

8

9 EXAMINATION BY THE CHAIRMAN:

10 Q On the incoming calls, do they all go through
11 your telephone? A Yes, they do.

12 Q Mr. Jahos doesn't have what's commonly re-
13 ferred to as a hot line? A No. We
14 have a private wire, which is a State House extension,
15 which rings on my phone. Before we went to SCAN, which
16 was '68 or '69, we had an outside wire which I answered.
17 By "outside," a regular number.

18 MR. FRANCIS: Direct wire?

19 THE WITNESS: Yes.

20 Q What you're really saying is if Mr. Biederman
21 called between those dates of October 30th and November 5th,
22 the call would most certainly have to go through your
23 telephone? A That's right. I take
24 all of Mr. Jahos' calls whether they come in on his private
25 wire--the private wire is really a line we don't use very

1 much. It's mostly for incoming calls from the Governor,
2 or Attorney General or Colonel Kelly from the State Police
3 who have to reach him in a hurry. The calls are placed
4 on two other extensions and received on two other exten-
5 sions. But I handle all the calls and I make all Mr.
6 Jahos' calls.

7
8 EXAMINATION BY MR. FRANCIS:

9 Q And do you think if Mr. Biederman had come
10 in on November 4th or 5th with some memorandums and gave
11 them to you, or even left them on your desk, that you
12 would remember that he came in?

13 A Definitely.

14 Q And-- A Our dealings with Mr.
15 Biederman were so infrequent that I would have remembered
16 it. It's just that he came in that once or had the appoint-
17 ment with the moral integrity affidavit. That's about the
18 only appointment we have with him.

19 Q I see. Who would be in the office? Suppos-
20 ing you went to the girls' room. Who would take anything
21 that came in for Mr. Jahos? A Our re-
22 ceptionist.

23 Q I see. A The Division of
24 Law receptionist, because we--

25 Q Is she in your office or out in the corridor

1 into the file without having a stamp on it?

2 A You want my own personal opinion?

3 Q Yes. A Well, when I saw
4 it, I thought at the time that Mr. Brennan and Lt. Pagano,
5 who's now captain, were discussing with Mr. Crystal bid
6 procedures and on my own personal opinion was that someone
7 may have handed it to Mr. Brennan during a discussion of
8 these bid procedures and the changes they were going to
9 make in doing three-way checks on the vendors, and maybe
10 they may have just said to Mr. Jahos, "You ought to look
11 at this," and then we put it in the bid procedure file.

12 Q You will remember Mr. Jahos' handwriting
13 is on the corner? A Yes.

14 Q Assuming somebody said, have a look at this,
15 the fact that he marked "bid procedure file" is some indica-
16 tion that he did look at it, I suppose?

17 A Yes, and it indicates to me that maybe it was one
18 of the things they were going to change.

19 Q You will recall that the October 30th memor-
20 andum has on the left-hand corner "Personal and Confidential."

21 If you got documents like that, what would you do with
22 them? A Well, I would--most of them--

23 well, I would say a hundred per cent of the time they're
24 unopened when I get them in an envelope, and I would just
25 mark them with the date and give them to Mr. Jahos.

1 Q Would you keep the envelope?

2 A I would attach it to the letter. I don't know what
3 he would do with it.

4 Q Would you put the stamp on the envelope or
5 on the document itself? A On the

6 envelope, because I never open his personal and confidential
7 mail.

8 Q I see. So if something came in an envelope
9 closed up marked "Personal and Confidential,"--

10 A Right.

11 Q --you would stamp the envelope?

12 A That's right.

13 Q And give it to him that way?

14 A Yes.

15 Q If a document came in marked "Personal and
16 Confidential" not opened, not an envelope, you would stamp
17 the document itself? A I never received

18 anything opened in all the years I worked marked "Personal
19 and Confidential." It's always been sealed.

20 MR. FRANCIS: I think that's all, Mr. Chairman.

21 THE CHAIRMAN: I have no questions. Thank
22 you very much.

23 (Witness excused.)

24 (Whereupon, a brief recess is taken.)

25 (After recess.)

1 D A V I D A. B I E D E R M A N, having been
2 previously sworn according to law by the Officer,
3 resumed the stand and testified further as follows:
4

5 THE CHAIRMAN: I guess the record should
6 show, Mr. Prout, that we have two commissioners
7 sitting, Mr. Bertini and myself, and that Mr. David
8 A. Biederman has returned.

9 I believe at this time, Mr. Biederman, you
10 wish to put in the record a statement?

11 THE WITNESS: A brief statement.

12 THE CHAIRMAN: Is that all right with you,
13 Mr. Francis?

14 MR. FRANCIS: Oh, yes, sure.

15 THE WITNESS: There were just a couple of
16 matters I wanted to go over. I read part of the
17 transcript this far, and I think we have a couple of
18 typos, but there are a couple of matters I wanted
19 to go into just a little further.

20 One question was raised with respect to the
21 function of the division of investigation of the
22 Department of Transportation. In connection with
23 that, while I was there the division did have one--
24 there was one criminal matter that came to the de-
25 partment, not to the division, and that matter was

1 handled by downtown by the State Police. It was
2 handled by Martin Greenberg, who is now the chief
3 of CID for the Hudson County Prosecutor's Office.

4 Further, when counsel had asked could we have
5 held hearings on the Manzo allegation of collusion,
6 we could have. But, as I think I indicated in the
7 second half of my testimony, Title 27 confers ab-
8 solutely no criminal jurisdiction whatever on the
9 department. A.

10 B. The prior precedent had been that any-
11 thing criminal was handled by downtown, as indicated
12 by the matter handled by Mr. Greenberg; and, C,
13 the department had no subpoena power.

14 And I don't think, in view of those three
15 things, although we could have held a hearing on it,
16 that it was properly before us, or I thought it was
17 more proper that it should be handled downtown.

18 We did spend a great deal of time with
19 asphalt and with my letter to the commissioner of
20 October 30th. With respect to that, I think my
21 testimony was, is, that my conclusion was based on
22 a precondition, the facts of which only the commis-
23 sioner knew. There were three reasons given in
24 the press release as to why the rebidding would
25 take place. One of those reasons was contained in

1 Secretary Sherwin's letter to the commissioner, and
2 that was that the bids were above the engineer's
3 estimate. Now, Commissioner Mullen's memorandum of
4 October 26th stated that the bids were slightly over
5 the engineer's estimate, and the statute, which
6 counsel read to us, specifically states that only
7 when the bids are excessively over the engineering
8 estimate the commissioner should rebid. That's one
9 of the reasons I thought that that particular ground
10 had no efficacy and it was unusual to me, that they
11 relied on that ground because of those circumstances.

12 In addition, I knew that the department's
13 practice was that anything five per cent or over
14 was in the area where the commissioner would exercise
15 his discretion. This particular bid came in 4.2
16 per cent. So, it was well within the normal criteria
17 the department used. So, I thought that it was
18 unusual.

19 The other reason given was time. This had
20 been an emergency project. I think the newspaper
21 clips indicated that nine people had died on this
22 road and eighty people had been injured in the
23 previous year and a half, and it was a special
24 emergency project. And at the time I first got into
25 it the thirty-day period within which the department

1 normally awards or does not award was almost up,
2 and I thought for an emergency project they should
3 have decided that within a couple of weeks, cer-
4 tainly not to wait till the last minute. Well, I
5 thought that was unusual.

6 Lastly, the reason advanced by the commis-
7 sioner which did not find its way into the press
8 release, namely that the vertical profile had to
9 be changed, that was the reason he gave me on the
10 26th, which went into my memo on that date, was a
11 justifiable engineering reason. A change in design
12 to me was the most natural reason for which the
13 bids could have been thrown out. However, the
14 press clippings revealed that, in fact, the design
15 had already been changed at the specific direction
16 of the Federal Highway Department, so that it would
17 have meant that:

18 A, our engineers in design were erroneous
19 in the first instance and that their colleagues
20 over at Federal were erroneous in having it re-
21 designed and suddenly at the last minute, well after
22 the bids were out, they had discovered a change in
23 design. Well, that was possible. I didn't think
24 it was probable under the circumstances. So, I
25 thought that was a little unusual because design

1 has an excellent reputation for knowing what in
2 the world they're doing.

3 Lastly, we get to the asphalt reason.
4 Now, I refer to Commissioner Mullen at the trial,
5 which I heard. He was the assistant commissioner
6 for highways, and he testified--I happened to be
7 sitting there at the time. I went on next--that as
8 far as he knew there was only a recurrent rumor of
9 a potential asphalt shortage. But even assuming
10 arguendo that an asphalt shortage existed, and let's
11 assume that arguendo. It would seem to me if there
12 was a matter of importance like that in the depart-
13 ment, the customary department procedure was to
14 prepare what we call a policy memorandum, policy
15 and procedure memorandum, or if it was not such a
16 serious matter an informational memorandum, an
17 IM, which by the state highway engineer with the
18 concurrence of his staff sets policy as to what
19 will happen because of this problem, how the depart-
20 ment will treat. For instance, if we had an
21 asphalt shortage and bids came in and the shortage
22 was in existence, well, X would happen. If it
23 was prior to bids, Y would happen. But there
24 normally would have been a set procedure for some-
25 thing like that.

1 When the asphalt shortage was related as one
2 of the reasons for throwing out the bids, there was
3 no reference at all to any IM or PPM, which was
4 just an inditia that maybe reading that together
5 with the fifth paragraph of Commissioner Mullen's
6 memorandum to Commissioner Kohl of the 26th, where
7 he indicates that all of the contractors will
8 promise you the world on asphalt but we don't know
9 whether any of them will deliver, indicated to me
10 that the asphalt reason didn't have the efficacy it
11 might otherwise have had.

12 There is one additional thing on the asphalt.
13 Commissioner Mullen's memorandum of the 26th to
14 Commissioner Kohl says that we should rebid the
15 project right away. Now, assuming asphalt shortage
16 was the reason, did that asphalt shortage suddenly
17 disappear that the contract should be rebid right
18 away? I mean, if the shortage was there it just
19 made no logical sense that to simply rebid it right
20 away and give the contracts out again, still faced
21 with the same problem.

22 Anyway, that's the way I looked at it, and
23 all of these things I've just related were part of
24 the inditia which led me to take these materials
25 downtown; the original memo going to Commissioner

1 Kohl and the other memos, one going to the
2 Governor's office to Judge Garven and the other
3 to Mr. Jahos. I just thought that the situation
4 was unusual and should be brought to the attention
5 of other people, and primarily that was because all
6 of these rationales or reasons followed my initial
7 meeting with the commissioner, which I recorded in
8 my memo of October 22nd, because at our original
9 meeting none of these reasons were mentioned.

10 The only reason that was mentioned was the fact
11 that he told me after handing me Mr. Sherwin's
12 letter that Mr. Sherwin would like Manzo to have
13 another crack at the contract, and that it's not
14 a legal reason and that's what I told him, and all
15 of the rest of it followed.

16 Actually, my memorandum of the 30th, I think,
17 suggested. It didn't say. I used the words "if"
18 and "could" for that very reason, because I didn't
19 know what all the facts were. I told the commissioner
20 that if, indeed, what he told me, in effect, on the
21 22nd was true, that the reason for throwing this
22 thing out was because Sherwin wanted it, well, then,
23 I came to the conclusion stated in that memo and
24 the last paragraph and the next-to-the-last para-
25 graph. On the other hand, if these other reasons

1 had any efficacy, and they may have--I say "may
2 have," subject to the qualifications I stated, but
3 they may have. The commissioner was a professional
4 engineer. He was more competent than the so-called
5 professionals he was relying on. Mr. Mullen was not
6 a professional, he was a journalist by trade. And
7 Commissioner Schuyler, of course, he fired several
8 months later. Actions speak louder than words, and
9 he fired both Mullen and Schuyler within a short
10 time after the happening of these events. So, rely-
11 ing on their judgment, judgment which he to me had
12 questioned before this, was also a factor in the
13 consideration.

14 And that's all I wanted to expand on, be-
15 cause I didn't think I made it quite clear when I
16 went through the questions.

17 I may have discursed, and I'm sorry, Justice,--
18 well, Counsel, if I interfered with your flow and
19 train of thoughts during the testimony.

20 There is one other thing. Although I
21 couldn't comment on Van Jahos' competence because
22 that is not my area, I can comment on his character
23 because I knew him from the previous administration.
24 As far as I'm concerned, I think he is a completely
25 dedicated law-enforcement officer, and I wanted to

1 put that on the record, at least.

2 Gentlemen, that's all I have. Thank you.

3 THE CHAIRMAN: I wonder if I could--may I
4 ask you a question?

5 THE WITNESS: Sure.

6
7 EXAMINATION BY THE CHAIRMAN:

8 Q When you took the papers to Mr. Jahos'
9 office,-- A Yes, sir.

10 Q --can you describe who you gave the papers
11 to? A It was a secretary, and it
12 wasn't a very pretty one because if she were, I would
13 have remembered her.

14 Q Did you know her by name?
15 A No, I don't. I didn't know any of his staff at all.
16 In fact, that was the only time I was there in the course,
17 God, of the years I was there.

18 Q You're very certain it was Mr. Jahos'
19 secretary? A Well, there was a fence,
20 looks like a fence, which separates--which I think separated
21 his office or his enclosure from the rest of the--there
22 were secretaries in the outer office, and I went in and
23 I gave the girl that for him. I asked if he was in.
24 She said, "No." I said, "Well, please give this to him."

25 Oh, on that, I remember the commissioner asking me

1 in what manner I carried it down. It would have been
2 either one of this type of brown envelope or one of these
3 big yellow packages which could be sealed. That's what
4 my secretary, it is my recall, always gave me whenever I
5 carried anything around. It was either one of those two.

6
7 EXAMINATION BY MR. SAPIENZA:

8 Q A sealed envelope? A It would
9 be one of those big yellow--I guess like that sitting in
10 the shelf there except bigger.

11 Q Do you know Mary Brennan?

12 A Mary Brennan?

13 Q Yes. A No, I don't know the
14 name.

15 Q And you have been in to see Mr. Jahos on a
16 number of occasions, haven't you?

17 A Not really. I would say less than the fingers of
18 one hand over all these years.

19
20 EXAMINATION BY THE CHAIRMAN:

21 Q Did you occasionally go in to see Mr. Handler?

22 A Handler?

23 Q Yes. A Which Handler?

24 MR. SAPIENZA: First Assistant.

25 COMMISSIONER BERTINI: He's now a judge.

1 A Oh, Alan. We're very close, old personal friends.
2 I went to see him frequently. His office, though, was
3 on the second floor. Mr. Jahos, Criminal, when Alan was
4 there--this was under the old administration--Mr. Jahos
5 was right next door on the second floor. But the period
6 we're talking about was in 1970 and at that period of time--

7 Q Well, doesn't--

8 A --he was downstairs.

9 Q Didn't Mr. Jahos keep the same secretary?

10 A He might have kept the same secretary. He might
11 have.

12 Q You wouldn't know her by name?

13 A Not by name. I'm very bad on names. I hardly
14 remember my own secretary.

15 Q Can you describe her in appearance as the
16 person to whom you gave the envelope or folder?

17 A If I saw her, I might; if I saw her, I might. You
18 know, it was a very quick thing, maybe half a minute.
19 It would be very difficult to describe.

20
21 EXAMINATION BY MR. FRANCIS:

22 Q Do you recall that the envelope you handed
23 her was sealed and that there was an envelope?

24 A I don't recall. It could have been either one.
25 The only reason I reflect on that, I think it might have

1 been sealed, you know, with the little clips where you
2 open the clips up.

3 Q Do you remember what time of the day it
4 was? A It was in the late afternoon.

5 It was in the afternoon. That's why my testimony on the
6 November 4th memo was what it was. That was my assumption,
7 because I had very late in the day given the package of
8 Route 46 memos to Mr. Jahos' office and he wasn't even
9 there, and for him to have discussed it with the Attorney
10 General as related in the memo of November 4th the same
11 day, I thought it was impossible. So, the thing in my
12 judgment would relate to 35 and not 46. That's the reason
13 for that.

14 Q Just a couple of things more.

15 A Absolutely.

16 Q Do you remember the Barisi--

17 A Oh, yes.

18 Q --condemnation case?

19 I show you a letter of December 3rd.

20 A You're getting into the ethics area, Counsel. Judge,
21 Counsel. We went through this in the ethics case, and I
22 don't think it's really fit or relevant at all to get into
23 this here.

24 Q Well, it is for my purpose.

25 A All right.

1 Q Will you identify that? Is that your signa-
2 ture on the letter? A Yes, it is.

3 Q And I show you another one, dated December
4 13th, the same matter. Is that your signature?

5 A No, that's not my signature.

6 Q May I see that?

7 A I think if you look at both you will see that. I
8 don't know who signed that. It's not mine. Either my
9 secretary or partner signed that for me.

10 Q Did you dictate it? It has your initials
11 on it? A Yes, I dictated it.

12 Q In any event, the two letters are in the
13 same matter? A Yes, both the Barisi
14 matter.

15 Q One other letter, not from you, from
16 Lafferty, Rowe, McMahon & McKeon, dated December the
17 13th, simply noted on the bottom that a copy was to you?

18 A Yes.

19 Q Do you remember that?

20 A It would have went to us at our Academy Street
21 office. I don't remember seeing this. But I remember us--
22 we were having John Weigel to make a motion because we
23 couldn't proceed with the condemnation until we settled his
24 case. What happened was that Weigel was representing
25 Barisi. Actually, Weigel was representing the mortgage

1 company or the title company. And I think Mr. Bertini has
2 probably a lot of familiarity with this matter because it's
3 riparian. But Weigel on behalf of the mortgage company
4 had brought a suit to compel the State to condemn, and
5 nothing happened for nine years. And we had been retained
6 by Barisi in the condemnation if it ever got to condemna-
7 tion. So, Weigel made this motion to get something done
8 in the other case so that maybe we could get a resolution
9 on this. We got out of this case, too. We were substi-
10 tuted in that case, too.

11 Q Do you remember having received that letter?

12 A I don't, no. Bob may have received it and put it
13 in the file. Bob usually operated out of the Newark
14 office and I usually operated out of the Clark office.
15 So if that went to Newark, he probably would have seen it.

16 MR. FRANCIS: Will you mark the letter of
17 December 3rd, please.

18 (Letter from Biederman & Mulligan, dated
19 December 3, 1971, received and marked Exhibit C-55.)

20 MR. FRANCIS: And will you mark the letter
21 of December 13th, please.

22 (Letter from Biederman & Mulligan, dated
23 December 13, 1971, received and marked Exhibit C-56.)

24 Q Now, Mr. Biederman, in connection with that
25 Barisi matter,--

A Yeah, this one

1 wasn't signed by me, either.

2 Q --and the Mal-Bros. matter which we spoke
3 about the other day, I want to read you a section of the
4 Conflicts Bill. "No state officer or employee, subsequent
5 to the termination of his office or employment in any
6 state agency, shall represent, appear for, or negotiate
7 on behalf of, or agree to represent, whether by himself
8 or through a partnership in which he has an interest,
9 any person or party other than the state in connection
10 with any case, proceeding, application or other matter
11 with respect to which such state officer or employee shall
12 have made any investigation, rendered any ruling, given
13 any opinion or been otherwise substantially and directly
14 involved at any time during the course of his employment"--
15 "course of his office or employment. Any person who
16 wilfully violates the provisions of this section is a
17 disorderly person and shall be subject to a fine not to
18 exceed \$500 or imprisonment not to exceed six months, or
19 both."

20 Are you familiar with that section?

21 A I am now that you have just read it. I wasn't
22 before.

23 Q Do you consider that the Attorney General
24 has been remiss in his duty in not filing a complaint
25 against you for violating that section?

1 A No, sir, I don't.

2 Q All right. A Frankly, until
3 you read it I wasn't even aware of that section. And in
4 either case, the two cases you have mentioned, it was our
5 view, and that's the reason we did ask the Attorney General
6 for an opinion and we got out of the cases, that we didn't.
7 As far as Barisi, certainly had nothing to do with that
8 case when I was in Trenton except that it was in the
9 department. The other case, we considered it a different
10 matter, as I said, like a parole hearing is different from
11 the other. But since the Attorney General found to the
12 contrary, we did get out of both cases. But that's the
13 reason we did ask.

14 THE CHAIRMAN: Mr. Bertini.

15 COMMISSIONER BERTINI: I have no questions.

16

17 EXAMINATION BY THE CHAIRMAN:

18 Q I have two minor ones.

19 A Yes, sir.

20 Q You have testified earlier that you recall
21 putting in a telephone call to Mr. Jahos before you went
22 to his office? A Yes, sir.

23 Q Can you place when the call might have been?

24 A In time?

25 Q You know, a day before, an hour before, a

1 week before? A No, it would either
2 have been--I went on the 4th, and my memo to Mullen was
3 the same day. But I knew I was going to write to Mullen
4 after the 2nd when the commissioner directed me to do so,
5 so I would say it would be between the 2nd and the 4th.

6 Q Can you tell us what you told Mr. Jahos on
7 the phone? You just had a package to deliver to him?

8 A No. I told him that I had a package to deliver;
9 that I had previously discussed the matter with the
10 Attorney General; that it concerned a cabinet officer and
11 that I thought he'd find it interesting. That's all.

12 Q And then try to refresh your memory again
13 and describe, the best you can, what the secretary to whom
14 you gave the envelope or the file looked like?

15 A Oh, God. Well, she was not a blond. That much I
16 think I can remember. But that's as far as I go, because
17 she was sitting down so it's very hard to describe her.
18 I don't think she rose at all. She just sat there and I
19 handed it to her.

20 Q And your instructions were, "Give this to
21 Mr. Jahos"?

22 A I wasn't--my instructions
23 to her were, "Please give this to Van." We're on a first-
24 name basis. I call him Van.

25 Q Did she recognize you, this secretary,--

A I don't think so.

1 Q --as Mr. Biederman?

2 A I didn't recognize her. I don't think she did.

3 Q And it was late in the afternoon?

4 A I think it was late in the afternoon. It was after
5 I left Judge Garven. As I recall, it was in the afternoon.
6

7 EXAMINATION BY MR. FRANCIS:

8 Q I overlooked a couple of questions.

9 A Sure.

10 Q In connection with the Mal-Bros. case,--

11 A Yes, sir.

12 Q --after you say you got out of it did you
13 send a bill to Mal-Bros. for your services?

14 A No, we did not.

15 Q None whatsoever? A No. We
16 hadn't done anything. Why send a bill?

17 Q How about in Barisi?

18 A No, as far as I know we never billed Barisi at all,
19 and we never did. Bob handled the business affairs, but
20 my knowledge is that we never sent either one of them a
21 bill. Absolutely not.

22 MR. FRANCIS: That's all.

23 THE WITNESS: Gentlemen, thank you.

24 THE CHAIRMAN: Thank you, Mr. Biederman.

25 (Witness excused.)

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 STATE 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.



