



*State of New Jersey
Commission of Investigation*

LOCAL GOVERNMENT:
BOROUGH OF JAMESBURG

November 1994

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***State of New Jersey
Commission of Investigation***

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BOROUGH OF JAMESBURG

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State of New Jersey

COMMISSION OF INVESTIGATION

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November 1994

The Governor of the State of New Jersey
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation herewith formally
submits, pursuant to N.J.S.A. 52:9M, a report and recommendations
based upon its investigation into the Borough of Jamesburg.

Respectfully,

William T. Cahill, Jr.

Dante J. Sarubbi

Louis H. Miller

Justin J. Dintino

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It's all based on favors. You can get anything you want done, you can hire anybody you want, you can give anybody a raise you want if you know the right person. It's not based on merit, it's not based on need, it's based on who you know.

**HELEN MYCHALCHYK, ex-Treasurer,
Assistant Tax Collector and Sewer
Administrator, testifying about the
Borough of Jamesburg before the State
Commission of Investigation.
April, 1994.**

EXECUTIVE SUMMARY

The Commission launched an investigation into the governmental operations of the Borough of Jamesburg, Middlesex County, in February 1993 after receiving citizen complaints alleging political corruption and taxpayer abuse at the hands of key municipal officials.

The subsequent 21-month probe confirmed the worst of those complaints - and much more. The Commission uncovered a systemic pattern of official misconduct, nepotism and abuse of the public trust so pervasive in this community as to cause local budgetary hardships and jeopardize the local police department's ability to finance its operations.

Substantial sums of taxpayer money have been wasted, or stolen outright. Developers have reaped tax breaks and other favors in exchange for kickbacks. Political patronage has undermined the police department's budget. State election and campaign-finance laws have been violated routinely. Accumulated sick leave and compensatory time have been abused to the detriment of local taxpayers.

Underlying and facilitating all of this has been an utter lack of proper and effective mechanisms to ensure accountability and internal control, the very absence of which has made Jamesburg an easy mark for abuse by unscrupulous and overbearing

individuals intent on using public office for personal gain.

Major Findings

KICKBACKS/CONFLICTS OF INTEREST/FRAUD

* The son of Jamesburg Tax Assessor and Planning Board member Carmen "Pep" Pirre, Anthony Pirre, was placed on the payroll of two local land developers as a "security guard" as part of a kickback arrangement. The projects in question involved the Beaver Brook Run and Quarry Cove developments.

* At least one-third of the more than \$150,000 paid to Anthony Pirre between 1986 and 1992 by the developers of Beaver Brook Run and Quarry Cove was traced to Carmen Pirre. This arrangement coincided with tax and Planning Board decisions favoring both developers.

* Anthony Pirre also is employed by the Middlesex County Parks Department. While on paid leave from the department for injuries purportedly suffered on the job there, he continued to bill and be paid for supplying private security service to the two developers. Investigators found evidence, however, to suggest that Anthony Pirre actually performed little or no service in this security capacity.

* Evidence of the activities of the Pirres was borne out by Borough records and by the testimony of multiple witnesses. Throughout the investigation, Carmen Pirre, though subpoenaed, refused to testify before the Commission, citing through an attorney his Fifth Amendment privilege against self-incrimination.

CAMPAIGN AND ELECTION IMPROPRIETIES

* The Commission determined that the Jamesburg Democratic Party organization - of which Carmen Pirre served as both chairman and treasurer - failed to file periodic campaign-finance reports for one of its two fund-raising accounts with the state Election Law Enforcement Commission (ELEC), as required by law.

* A review of Jamesburg Democratic Party receipts that were reported to ELEC showed that most such contributions were made by individuals or companies engaged in a direct relationship with the Borough government, such as developers and professionals retained under contract.

* Between 1991-93, more than half of \$11,620 deposited into the Jamesburg Democratic organization's two accounts - a total of \$6,634 - found its way into Carmen Pirre's personal control. During November 1991, an election month, Carmen Pirre was the recipient of all \$2,350 worth of checks drawn on a fund-raising

account in the name of the Jamesburg Democratic Club. A review of the canceled checks showed that all were cashed and recorded in the Club's ledgers as having been issued for such purposes as "toys" and "food for the needy." There were no receipts or supporting documentation for any of these expenditures. In fact, the Jamesburg Democratic organization maintained no such programs.

* Political contributions were collected from local business owners and used as "street money" to pay campaign workers, some of whom also were paid with bottles of liquor. Witnesses told the Commission that Carmen Pirre paid them as much as \$200 cash apiece in exchange for political activities at election time.

PATRONAGE VERSUS FISCAL RESPONSIBILITY

* Municipal officials, including Police Chief Victor Knowles agreed to delay the purchase of a needed police patrol car in order to reserve funds for the hiring of Mayor Joseph Tonkery's grandson, Robert Tonkery, as a probationary police officer. Although Tonkery was hired, the car was purchased anyway, triggering a fiscal crisis.

* The initial decision postponing the patrol car purchase was made amid political infighting between Mayor Tonkery and

Carmen Pirre, who lobbied intensively to have his own son placed in a municipal job.

ABUSE OF ACCUMULATED SICK/COMPENSATORY LEAVE

* A review of Borough records and the testimony of various witnesses demonstrated that the untimely hiring of Tonkery's grandson coincided with payments to two retiring police officers for large amounts of accumulated leave time - payments that caused additional pressure on the police department budget.

* The payments for accumulated leave were made even though there were no official records on file with the Borough to corroborate the claims. Borough employees told the Commission of a haphazard record-keeping system. As one member of the Borough Council testified, "...everybody comes in after working...for 30 years with their little black book."

* * *

The Embezzlement

During the early stages of its probe, the Commission learned that the Middlesex County Prosecutor's Office had launched a separate investigation concerning the embezzlement of funds by Jamesburg's then-Chief Financial Officer, Helen Mychalchyk. The

Commission assisted with that investigation, referring information and evidence acquired in this matter by its own staff to the Prosecutor's Office for proper disposition.

On October 25, 1993, Mychalchyk pleaded guilty in Middlesex County Superior Court to a charge of theft in the second degree. As part of her sentence, she was ordered to make restitution to the Borough in the full amount of \$129,026.85.

Subpoenaed to testify before the Commission, Mychalchyk told of a municipal accounting and budgetary system so lacking in oversight and internal control that the stealing of property tax revenues and utility fees could be accomplished out in the open. Mychalchyk described how, when taxpayers came in to complain that they had received audit notices for non-payment of taxes which she had stolen, she referred them to the Borough's auditors. In fact, she said she actually helped fill out the required inquiry forms.

Of particular interest to the Commission was the fact that annual audits conducted by the Borough's auditors in accordance with government auditing standards for 1991 and 1992 - prior to the discovery of Mychalchyk's embezzlement - failed to reveal any irregularities involving real estate taxes or utility fees. In her testimony, Mychalchyk alluded to a complete breakdown in accountability:

Q. If everybody was doing their job you seem to be saying that you should have been caught.

A. I should have been, yes.

Q. Was there ever an incident or an instance when the auditor or someone came back to you and said, [']Look, these people say they paid their taxes, we are showing them delinquent, and they've got a receipt?[']

A. I would say I'll check on it and they would accept that. They trusted me completely, I guess.

COMMISSIONER LOUIS H. MILLER: For how long?

A. It was going on for three years.

* * *

The investigation of Jamesburg was part of a broad-based and continuing examination of local government corruption launched by the Commission in 1992. At that time, the Commission warned that despite vigilant law enforcement labors and the advent of many investigative and prosecutorial tools during the past two decades, the problems posed by municipal corruption persist at a significant level across New Jersey. In that vein, the Commission repeatedly has pointed out how vital it is for the citizenry and the news media, to say nothing of responsible elected officials, to watch local governments in action and to raise questions about matters that appear out of the ordinary.

In this instance, the Commission takes particular note of the number of citizen complaints received in the course of its Jamesburg probe. Many of the complainants provided invaluable information. These contacts, some in person, some by phone, some by letter, poignantly reflected the hopelessness and despair felt by many Jamesburg residents toward their local government. Some complained that municipal offices and jobs were open, not to all, but only to the chosen, connected few. Others said they felt threatened and afraid, at times even fearing for their physical welfare. Several reached out to the Commission, they said, as a last resort.

KICKBACKS/CONFLICTS OF INTEREST/FRAUD

The Commission determined that Jamesburg Tax Assessor and Planning Board member Carmen Pirre, who also holds a full-time job as head of Middlesex County's Central Vehicle Maintenance Department, obtained more than \$150,000 for himself and his family from local developers.

Between 1986 and 1992, \$150,675.50 was paid to Carmen Pirre's son Anthony by two developers in exchange for purported security services at two Jamesburg condominium projects, Quarry Cove and Beaver Brook Run. The Commission traced the proceeds of the Quarry Cove and Beaver Brook Run checks issued to Anthony Pirre and found that while approximately one-third of the money went directly to him, another one-third of the money went to Carmen Pirre, his bank accounts or to bank transactions connected to Carmen Pirre. The remaining one-third of the money was converted to cash and, as a result, became untraceable.

The total payments from the developers of both projects to Anthony Pirre are listed as follows:

**GROSS PAYMENTS TO ANTHONY PIRRE
1986 - 1992**

	<u>QUARRY COVE</u>	<u>BEAVER BROOK RUN</u>	<u>YEAR TOTAL</u>
1986		\$ 11,150.00	\$ 11,150.00
1987		19,887.50	19,887.50
1988		20,910.00	20,910.00
1989		22,360.00	22,360.00
1990	\$ 8,668.00	22,360.00	31,028.00
1991	16,380.00	2,580.00	18,960.00
1992	<u>2,520.00</u>	<u>23,860.00</u>	<u>26,380.00</u>
TOTAL	<u>\$27,568.00</u>	<u>\$123,107.50</u>	<u>\$150,675.50</u>

* * *

Although many Borough residents and public officials reported knowing that the Pirres were collecting income from local developers, the Commission determined that no steps were taken by appropriate authorities, including the Mayor and Council, to examine the propriety of this arrangement.

The Quarry Cove Connection

Anthony Pirre was on the Quarry Cove payroll from March 12, 1990, until February 1992, for which he was paid a total of \$27,568. Although initially paid as an hourly employee, he eventually received monthly checks of \$1,260 regardless of the number of hours or days worked. No deductions for taxes were made, and the income was not reported by Anthony Pirre for state or federal tax purposes. Quarry Cove did not file W-2 forms or 1099 forms concerning this money. Neither Pirre nor the project's developer could produce any records to substantiate the

actual dates and hours purportedly worked.

When questioned about Anthony Pirre's connection to Quarry Cove, George C. Petti, then-owner of the firm developing the project, acknowledged that he had never met Anthony Pirre. Petti also admitted that no terms of employment or duties were specified for Anthony Pirre. Petti said he hired Anthony Pirre on Carmen Pirre's suggestion and that handwritten "bills" were submitted by Carmen Pirre. It was also Carmen Pirre, Petti said, who called the Quarry Cove office to see if the paychecks were ready, and it was Carmen Pirre who picked up the checks.

Anthony Pirre was unable to provide any details concerning his "job" with Quarry Cove. He had little recollection as to how he became employed at Quarry Cove except to say that his father, Carmen Pirre, was involved. Anthony Pirre testified that his father wrote the handwritten bills to Quarry Cove and did his banking for him, including the cashing of checks. Anthony Pirre identified both his father's handwriting and his father's bank account number on some of the checks. On one check, Anthony Pirre testified, his father endorsed the names "Anthony Pirre" and "Carmen Pirre."

Collecting From Beaver Brook Run

Anthony Pirre also was employed by Wigwam Associates, the developer of the Beaver Brook Run condominium complex, from March

26, 1986 through January 1993, for which he was paid a total of \$123,107.50. He was carried as an hourly employee until 1990, when he became a salaried employee, a category he shared for two years with only the company's owner and general manager. John Gulya, Jr., Wigwam's vice president, said that he, at times, dropped Anthony Pirre's pay checks off at Carmen Pirre's home, where Anthony resides.

Gulya told the Commission that he utilizes off-duty police officers and firefighters for security services at job sites in other municipalities. The Commission determined that such moonlighting security service is available through the Jamesburg Police Department, but was not utilized in this case. Gulya said Anthony "volunteered" to serve as a watchman and Gulya placed him on the payroll. Pirre did not submit bills for his services. Gulya said Anthony Pirre's job was to "travel through periodically" when construction crews were absent. He testified the specific hours were "6:30 at night till about 6:00 o'clock in the morning." However, neither Pirre nor the developer had any records to substantiate the actual dates and hours of Anthony Pirre's employment.

No-Show Security

The Commission was unable, despite an exhaustive review of police patrol logs and investigative reports, to verify Anthony Pirre's presence at either job site. Witnesses, including

Jamesburg Police Chief Victor Knowles, told the Commission they saw both Anthony and Carmen Pirre at the construction sites on occasion, but no one could verify dates or the frequency of observations. Of particular significance was the fact that Chief Knowles said he knew first-hand that Carmen Pirre performed security services for his son Anthony at Beaver Brook Run. Knowles testified, "... I would pass through and Carmen would be there, then I would stop and I would, you know, pass the time of day with him." When asked if his father substituted for him, Anthony Pirre said he did not remember his father doing so, and he did not think that his father had done so, adding, however, "Anything is possible."

All but two calls logged for police assistance during the period of the Commission's review came from Gulya himself, from employees other than the Pirres or from local residents. A May 1990 police report contains the following officer's note: "*Chief request[s] to up patrols throughout Quarry Cove. Receiving numerous calls of vandalism, all officers be sure to check area.*" Since Anthony Pirre was paid by Quarry Cove for security service at the time, it is not clear what service he was performing in view of numerous on-site vandalism reports that month and the fact that the local police had to increase patrols at the construction site.

Abuse of Sick Leave/Injury (SLI) and Workers' Compensation Fraud

During the period covered by this inquiry, 1986-1992, Anthony Pirre reported suffering a number of incapacitating injuries while on his full-time Middlesex County Parks Department job. Despite the injury claims however, Pirre continued on the payroll as a security guard for the two developers. Two examples illustrate this work injury pattern.

Anthony Pirre was on injury leave from Middlesex County between November 10, 1991 and December 2, 1991 for shoulder pain from an injury reportedly related to carrying water pails at his county job. Less than two weeks after returning to work, Pirre claimed injury leave again, from December 18, 1991 to January 3, 1992, reportedly for neck pain suffered as a result of lifting an animal feed bag at a local park. During these extended absences, Pirre received full pay and benefits at the expense of Middlesex County taxpayers. Temporary disability and medical expenses for workers' compensation claims also were filed for both injuries.

When confronted with the fact that he was paid for night-time security services from the Quarry Cove and Beaver Brook Run developers, despite injuries purportedly rendering him incapable of working at his regular day job, Anthony Pirre refused to answer after consulting with his attorney:

Q. ... How were you able to juggle the three jobs given the sick leave?

MR. NOTO (Anthony Pirre's attorney): Can we step outside for a minute?

(Brief recess.)

MR. NOTO: I've advised Mr. Pirre to exercise his Fifth Amendment right with regard to questions where he took sick time off some days to work at the other job if, in fact, he did work the other job.

Q. And Mr. Pirre, do you intend to exercise your Fifth Amendment right?

THE WITNESS: Yes.

Violations of Union Contract and County Personnel Policy

Anthony Pirre's work schedule is one that can only be described as unbelievable. In addition to working virtually all night seven nights a week providing "security service" for two developers, Anthony Pirre was also a full-time employee of Middlesex County, working more than 40 hours per week as an animal keeper in a local park.

Anthony Pirre's work outside his public employment violated both the applicable union contract and Middlesex County's personnel policy. The contract provides for disciplinary action, including possible discharge, for any employee who engages in outside employment while on sick leave without approval of the department director. Likewise, the county's personnel policy prohibits full-time employees from accepting or engaging in outside employment without prior approval. It also expressly provides that permission will not be granted if the outside employment exceeds 20 hours per week. Anthony Pirre admitted, during questioning, that he neither sought nor obtained

permission from his department head for his "security guard" employment, which exceeded 20 hours per week.

QUID PRO QUO FOR DEVELOPERS

The Commission found that the "security" the developers of Quarry Cove and Beaver Brook Run actually bought by hiring Anthony Pirre was the facilitation of their projects through Jamesburg's Planning Board, favorable treatment by the Tax Assessor, and the general assurance that Carmen Pirre, a powerful and influential figure in Jamesburg's governmental machinery, would do them no harm.

Taxpayers Take a Bath at Beaver Brook Run

While Pirre's son was on Gulya's payroll for Beaver Brook Run - with one-third of the income going to Carmen Pirre - the Commission found that the project developer obtained a substantial tax break from the Borough. Carmen Pirre was both Tax Assessor and Planning Board Member in Jamesburg throughout this period.

An indepth analysis of the tax assessment on the Beaver Brook Run project revealed that in 1986, nearly half the property - approximately 20 acres - had been completely omitted from the local tax rolls. The omitted 20 acres of raw land, based on the previous year's assessment, should have been valued at approximately \$145,000 in 1986. When it reappeared on the tax rolls in 1987, the parcel was assessed at only \$25,000. Conservatively, the 1987 assessment was, in fact, undervalued by

\$437,500, based on a Commission analysis of the property which was in various stages of development that year.

Jamesburg's Assistant Tax Assessor, Eldo Magnani, Jr., described how he became "shell-shocked" upon learning from the Commission that the previously omitted Beaver Brook Run property was assessed at only \$25,000 when it reappeared on the tax rolls. In retrospect, Magnani told the Commission, the entire Beaver Brook Run project should have been put on the tax rolls the year after subdivision approval was granted, and split into 337 units for tax purposes. Magnani, however, had not been told when the Beaver Brook Run subdivision approval had been granted, despite the fact that Tax Assessor Pirre, who also served on the Planning Board which had approved it, surely knew.

Magnani could not recall any occasion when Carmen Pirre disqualified himself from a project because of a conflict of interest. According to Magnani, once the Commission's investigation commenced, Carmen Pirre made a point of claiming that he hired Magnani because he, Pirre, had a conflict involving Beaver Brook Run. However, Magnani had been hired by the Borough long before the Beaver Brook Run project got underway and Pirre had, in fact, been very much involved in the project. According to Magnani, John Gulya, Sr. dealt only with Carmen Pirre, who, in turn, relayed information about Beaver Brook Run to Magnani. Magnani also stated that although Gulya claimed the Beaver Brook

Run tax assessment was too high, Gulya did not file a tax appeal, nor did he provide necessary documentation to Magnani to support that contention. Magnani said he never met Gulya, Sr. Magnani explained why he believed that Pirre knew about the developer's problems:

A. ...[H]e had mentioned over the last week that there was problems with utilities, problems with road permits of some type, so he [Pirre] had to be aware of that and I guess the developer was contacting him and he, being political in the town, you know, would get to the right people to get things expedited.

Former Jamesburg Councilman and Council President Robert J. Chitren testified that during his tenure on the Planning Board with him, Pirre influenced decisions by "trying to create this allure that there was, I'll use the word, 'benefits' or 'plums' that could be there if we helped him." Chitren said Pirre told him directly that one of those "plums" was a "no-show" job for Pirre's son at Beaver Brook Run. Chitren told the Commission that Pirre reinforced this impression by showing Chitren cash:

A. ...[T]here were times when I could remember, before a Planning Board meeting, as ... Pirre was lobbying for a new addition to that development, he would reach in his pocket and show me a wad of money and say, [']Gulya is good to us['].

Q: He would show you a roll of cash?

A. Yes.

Chitren also told the Commission that each time Pirre sought to influence the Planning Board in favor of the Beaver Brook Run development over the years, he reminded Chitren how Gulya had provided the Pirres with income from a no-show security job:

A. This Beaver Brook development was being constructed over a period of many years, okay, and I probably talked with Mr. Pirre about that at least a half a dozen times. As various new plans were going to be submitted to the Planning Board he would tell me that he met with Mr. Gulya and it's important that he gets the additional expansion or whatever or this new plan approved. And each time that he would, I'll use the term lobby with me, he would always talk about - he would mention that Gulya was good to him in terms of hiring his son.

Q. He actually said that?

A. Yes.

Chitren also told the Commission that Carmen Pirre, on several occasions, said that he, like Anthony, had a no-show job at Beaver Brook Run.

Tax Assessor Pushes Quarry Cove Development

Project developer George Petti told the Commission that Quarry Cove's hiring of Anthony Pirre served two purposes for his firm: The project purportedly got the services of a watchman, and "... it keeps the peace." Asked by Commission investigators to elaborate, Petti explained that Carmen Pirre "runs the town" and "doesn't give anything, but he can hurt you."

Testimony before the Commission revealed that Quarry Cove also received substantial help from the father of its "security guard."

Petti described his first meeting with Carmen Pirre, which had occurred in the mid-80s at a Quarry Cove tax appeal hearing.

Petti was appealing Quarry Cove's real estate tax assessment, which had been tripled. Petti testified that the appeal was resolved by an agreement with Pirre whereby he agreed to withdraw the appeal and pay the disputed taxes, in return for which Tax Assessor Pirre would help move his project by supporting zoning changes sought by Petti:

A. ... I was to pay that and Mr. Pirre would ... would work to obtain a zoning for me which was agreeable to the town so I could go ahead and make some use out of the land.

Eventually, Petti told the Commission, his proposal was unanimously approved by the Jamesburg Master Plan Committee and the desired rezoning took place.

The property upon which the Quarry Cove project sits straddles Jamesburg and adjoining Monroe Township. Chitren told the Commission that Pirre unsuccessfully attempted to arrange for a change in the boundary line between Jamesburg and Monroe Township by meeting with Monroe officials to bring Quarry Cove completely within Jamesburg, which had less restrictive building regulations. In fact, Chitren said, "Mr. Pirre told me that if we could get this approved it would be very beneficial, in that the Quarry Cove people would be very generous."

Assistant Does the Heavy Lifting

Magnani testified that he has been certified as a tax assessor by the State of New Jersey since 1981. He has been associated with Jamesburg since 1978, when he was hired to assist Pirre on tax appeals. Magnani testified that he performed tax assessments, did subdivision work and handled taxpayer inquiries and tax appeals for the Borough. Magnani's testimony was corroborated by the terms of his written contract with the Borough. When questioned about what Carmen Pirre did as tax assessor, Magnani said Pirre had never put a value on any property during Magnani's tenure from 1978 to the present; Pirre did not handle tax appeals; Pirre did not attend County Tax Board hearings; and Pirre did not perform mathematical work or correlations, all of which functions would normally be carried out by the assessor.

Pirre, under the title of tax assessor, has been paid \$19,230 annually in both 1993 and 1994; while Magnani, has been paid \$600 per month, or \$7,200, in each of those years. These salaries appear to be inversely proportionate to the services rendered by these employees.

CAMPAIGN AND ELECTION IMPROPRIETIES

The Commission determined that the Jamesburg Democratic Party organization - of which Carmen Pirre served as both Chairman and Treasurer for many years until 1992 - failed to file periodic campaign-finance reports for one of its two fund-raising accounts, the Jamesburg Democratic Club, as required by state law. The filings that were made for the Jamesburg Democratic Fund, the party's other account, were inaccurate in their representation of both revenues and expenditures. Through the use of the second account, Pirre was able to hide and manipulate contributions. The Commission also found that thousands of dollars in donations to the local Democratic organization actually flowed to Carmen Pirre personally, that voters periodically were given cash at election time and that developers and professionals under contract with the Borough accounted for nearly all campaign contributions to the Jamesburg Democratic Party.

Campaign Money Diverted

The Commission found that between 1991-93, more than half of the \$11,620 deposited into the two accounts maintained by the Jamesburg Democratic organization - \$6,634 - found its way into Carmen Pirre's control. As Chairman of the Jamesburg Democratic organization, Pirre simultaneously held the position of Treasurer. Knowledgeable persons revealed that this practice was

implemented to insure that Carmen Pirre would have complete control over the Party organization, including its finances.

During one month alone, November 1991, Carmen Pirre was the recipient of all \$2,350 in checks drawn on the Club account. The checks were identified as being for such purposes as "toys" and "food for the needy." However, no receipts or documentation exists to support any such expenditures. Testimony and statements from those familiar with the Jamesburg Democratic organization support the conclusion that the local Democratic Party had no program of public assistance whatsoever financed through either the Fund or the Club accounts.

Listed below are a number of the checks payable to Carmen Pirre from both accounts during November 1991, all of which were converted to cash:

- Club check #357 for \$1,000 was issued on November 1, 1991. It was endorsed by Carmen Pirre and bore his personal bank account number. It was cashed on November 4, 1991.
- Fund check #377 for \$400 was issued on November 8, 1991. It was endorsed by Carmen Pirre and bore his personal bank account number. It was cashed on November 9, 1991. It bears the handwritten notation "gas flyers stamps." The check was signed "Carmen Pirre tres. Chairman."
- Club check #358 for \$1,000 was issued on November 12, 1991. It was endorsed by Carmen Pirre and bore his personal bank account number. It was cashed on November 12, 1991. It bears the handwritten notation "XMAS food baskets and toys."
- Fund check #379 for \$375 was issued on November 22, 1991. It bore Carmen Pirre's name and personal bank account number. It was cashed on November 22, 1991. The check was signed "Carmen Pirre, Tres Chairman" and bore the notation "XMAS toys & Food for the Needy."

- Club check #359 for \$225 was issued on November 22, 1991. It bore the name of Carmen Pirre and his personal bank account number. It was cashed on November 22, 1991. The check bore the memo "XMAS toys for the Needy."

- Club check #360 for \$125 was issued on November 28, 1991. It bore the endorsement of Carmen Pirre and Pirre's personal bank account number. It was cashed on December 2, 1991. The check, according to the notation on it, was for "XMAS baskets."

Election Irregularities

Witnesses, including Robert Chitren, Helen Mychalchyk and Donald Henry, Pirre's successor as Jamesburg Democratic Chairman, told the Commission that Carmen Pirre paid as much as \$200 to campaign workers in exchange for political campaign activities at election time. These witnesses, along with confidential sources, said political contributions in cash were collected from local businessowners and used as "street money" to pay campaign workers and voters, some of whom also were paid with bottles of wine. Carmen Pirre told Chitren directly that developers Gulya and Petti made political contributions that he converted into "street money." In an interview with a Commission staff investigator early in the investigation, Carmen Pirre admitted paying cash to campaign workers. The Commission staff found no such payments were reported to ELEC.

The Importance of Giving

For the three years reviewed by the Commission, 1991-93, campaign contributions reported to ELEC for the Jamesburg

Democratic Fund reflect that all of the reported donations were made by individuals or companies having a direct or indirect relationship to the Jamesburg municipal government, including developers and professionals under contract to the Borough.

Among the contributions not reported to ELEC was a \$1,000 check issued by Quarry Cove on October 11, 1993, and deposited into the Fund account on October 19, 1993. This contribution remained unreported until February 18, 1994, some four months later than it should have under the law and well after the Commission began its inquiry. At the time of the \$1,000 contribution from Quarry Cove, two \$50 contributions also were made by the children of Quarry Cove owner/developer George Petti. Although both checks were made payable to the Club, they were deposited into the Fund account.

George Petti testified that Pirre supplied him with names of suggested subcontractors to employ on Quarry Cove. After Petti fired one subcontractor for poor performance, Pirre complained that the subcontractor then refused to make political contributions. Petti explained, "... because of letting her go she used to contribute every year and this year she decided not to contribute...I guess she took it out on him [Pirre], you know."

Petti also told the Commission that Carmen Pirre began to

solicit contributions from him for the local Democratic party as soon as Petti began to seek municipal approvals for Quarry Cove. Petti recalled that at Carmen Pirre's request, he wrote a \$1,000 check payable to the Jamesburg Democratic Club.

The Commission also found that a substantial deposit to the Club account included a \$500 check from Gulya Realty Associates. The company, owned by John Gulya, Jr., vice president of the Beaver Brook Run project, had applications pending before the Jamesburg Planning Board while Carmen Pirre was its senior member. While the check was made payable to the Fund, it was deposited into an account maintained for the Jamesburg Democratic Club. This transaction was not reported to ELEC, as required by law.

PATRONAGE VERSUS FISCAL RESPONSIBILITY

The Commission found that nepotism and influence peddling took precedence over responsible government in Jamesburg and that several Borough officials disregarded their most basic duties and responsibilities to the citizenry in order to satisfy personal agendas. The handling of personnel retirements and hirings left Jamesburg's police department with budget constraints that placed the public's safety and security in jeopardy.

Carmen Pirre Angles for Jobs

Witnesses told the Commission that Carmen Pirre sought several Borough jobs for himself and, failing at that, tried to place his son Anthony into the post of superintendent with the Jamesburg Public Works Department. One Council member told the Commission in executive session that the Council came under intense pressure to award Anthony the job, describing it as "real blatant political patronage" in the context of taking care of Carmen Pirre.

Another witness told the Commission that Mayor Joseph Tonkery had, on more than one occasion, stated that he would agree to place Anthony Pirre in a municipal job as part of a trade-off in which his grandson, Robert Tonkery, would then receive favorable treatment in his bid to become a police officer, but that "the town went in an uproar." Mayor Tonkery

testified that Carmen Pirre wanted his son Anthony to become superintendent of Public Works for "top pay." Tonkery said he did not tell Pirre "no" outright. Instead, Mayor Tonkery said he put Pirre off, and Pirre became upset.

Nepotism and a Police Car

In Jamesburg, all probationary police officers are selected from the ranks of Special Police Officers (SPOs), a category created pursuant to the New Jersey Special Law Enforcement Officer's Act. When a permanent position becomes available on the municipal police force, policy calls for it to be offered to the most senior Class II SPO. If declined, the position is then offered to the next most senior SPO Class II.

Mayor Tonkery's grandson, Robert Tonkery, was the second-most senior SPO Class II at the time of the retirement of Lt. Henry Kowaleski. When offered the position, Tonkery accepted, the most senior SPO Class II having declined the permanent position.

The difficulty a prospective police officer encounters in Jamesburg is getting the initial job as a Special Police Officer. One witness, familiar with the process, explained to the Commission that, unless you were part of the "in crowd", it would not happen.

The Borough's budget, as approved in July 1992, provided for the purchase of a new police car and only funding sufficient to cover Lt. Kowaleski's position until September, 1992. By letter of July 28, 1992 to Mayor Tonkery and members of the Borough and Council, Police Chief Victor Knowles agreed to delay the police car purchase until November 1992 - in order to hire Robert Tonkery immediately. There was insufficient money at that time to do both.

Knowles told the Commission he wrote the letter at the Mayor's request. That same day, the Council, by resolution, decided to postpone the purchase of the police car and, instead, to hire the Mayor's grandson as a police officer. Mayor Tonkery said he and then-Treasurer Mychalchyk met with Chief Knowles and asked him to put off buying the car until the transfers of funds were available in November, an idea with which the Chief agreed. Mychalchyk said she typed the July 28 letter which Chief Knowles signed.

Budgetary Abuse

The day after the Council's action postponing the car purchase, Council member James Main, the Borough's Police Commissioner, ordered Knowles to go ahead and effect the purchase, utilizing a purchase order which had been signed in blank by Mayor Tonkery several months earlier in anticipation of

approval of the 1992 budget.

With Robert Tonkery on the payroll, Treasurer Mychalchyk, as chief financial officer, refused to authorize the purchase of the police car due to insufficient funds. Councilman Main then supplied a second signature on the old purchase order. Both Mychalchyk and Mayor Tonkery testified that the Mayor was not present when Main directed Knowles to buy the police car, although Main and Knowles both testified to the contrary. Knowles tried to explain why he purchased the police car the day after he had agreed not to do so:

A. ...The Police Commissioner comes into my office and directs me to purchase a patrol car.

Q: Did you have any discussion with him about it or did you tell him...

A. No, no. I mean like he came right out of left field. He came in and he said, ['']I'm directing you to buy the patrol car.['']

Q. And that's Councilman Main?

A. Councilman James Main.

Q. Now, you had, according to what you've told us, in the memo agreed on the 28th not to purchase the car?

A. Right.

Q. And had you had any discussions with him prior to that day?

A. Nothing.

Q. Did he tell you why he wanted a car purchased?

A. No, nothing. I mean, like...

Q. Nothing?

A. It literally came out of left field. I mean, I was not expecting this. I mean, it was like...

Q. You had no advance warning from anyone else...

A. No, nothing at all. I mean, he just ... the budget was passed. The car was there. Money was appropriated for the car.

He came into my office. I have no idea ... well, I suspect why, because there were some political differences between him and the Mayor, I assume that, I mean, that's ... but he came in, and he sat in my office. He said, I'm directing you to purchase a patrol car.

I said, this is great, you know. I mean, I've got a full-time officer and I'm getting equipment, you know. So I said, I'm not going to purchase it without a purchase order. He says, you have one. I says, Yes, but that's signed by the Mayor and I don't think it would be appropriate.

At that time, the Mayor came into my office.

Q. While Main was there?

A. While Main was there.

Q. Okay.

A. He ... I said to Commissioner Main, I said, ['w]ould you please indicate to the Mayor what you just said to me?['] And he says, [']I have directed the Chief to purchase a new ... the new patrol car.['] And I said, all right, if that's what you want, I said okay.

Police Commissioner's Testimony Contradicted

When Councilman Main testified before the Commission, he was asked to explain his actions as Police Commissioner in buying the police car after the Council had resolved to postpone the purchase in order to hire Tonkery's grandson. Main's version of what had transpired contradicted both the available evidence and sound fiscal policy.

Main testified that the question of hiring Robert Tonkery as a permanent police officer suddenly "showed up" one night on the Council agenda. As Police Commissioner, Main said he was unaware that Robert Tonkery was to be hired imminently. Main explained

that, although Tonkery was next in line for a permanent position, there was insufficient money in the Borough budget to hire an officer at the time.

Main testified that he became angry because, while the business of running the police department was his responsibility as Police Commissioner, the department was being run behind his back. Main testified that despite his position, no one had discussed with him the idea of foregoing the purchase of a new police car in lieu of putting the mayor's grandson on the police force:

A. What were you angry about?

Q. I was angry at being cut out of all the business of the police department and it really going behind my back.

Q. You felt that had happened?

A. Oh, yeah, definitely.

. . . .

Q. Now, you indicated earlier at least to some degree that it's fair to say you were angry and I'm trying to get a feel for what you were angry about...

A. Yes.

Q. ... That there was some maneuvering going on behind your back to...

A. There was maneuvering in the ... in the ... maybe in the background and as police chief ... as Police Commissioner I was not consulted about it or I knew nothing about it.

Q. Were you directly or indirectly focusing on the fact that there was an officer about to be hired that you knew nothing about it or were you focusing on the foregoing of the car or...

A. Both, both items upset me very much, and I think you have to understand that the police committee had no knowledge of what was going on and I was the head of the police committee.

A review of the Borough Council's tape-recorded minutes revealed that they contradict Main's testimony. The minutes confirm that on July 28, 1992, the Council reached agreement to hire the new police officer as long as the purchase of a new police car was put off until November. The tapes confirm that contrary to his Commission testimony, Main was not only present at the Council meeting, but he also participated in the discussion and voted to forego buying the police car in favor of hiring the police officer.

Recorded Conversations Confirm Nepotism

The Commission subpoenaed tape recordings of telephone conversations from Robert Chitren. The conversations had been recorded on August 9 and 10 of 1992 by Chitren while he was a member of the Borough Council and prior to the initiation of the Commission's investigation. The tapes, made contemporaneously with the events in question, confirm several of the issues discussed in this report and, in some instances, the recorded conversations differ from witnesses' testimony.

In one conversation, Chief Knowles told Chitren that the problem concerning Pirre's son and the police car could be resolved if the Mayor hired Anthony ("Tony") Pirre as a foreman in the Borough's Road Department:

KNOWLES: I suggested to the Mayor, and, he just gave me a letter telling me not to work on the car until further notice.

CHITREN: Right.

KNOWLES: Which is his right and I understand that. But I also told him the car has been legally purchased and it's not going to go anywhere. It's not going back. All right?

CHITREN: Okay.

KNOWLES: Secondly, and he's adamantly opposed to it, but what I suggested to him was that he put Tony on at the next meeting.

CHITREN: Tony!

KNOWLES: Carmen's son.

CHITREN: Put him on?

KNOWLES: As a foreman on the Road Department. Not as the superintendent, but as a foreman. Umm, and I am sure it is going to be one for one. If not, Robby [Tonkery] is not survivable.

In the same conversation, Chief Knowles also advised Chitren as to what he should do to salvage his own political career, since Pirre and the local Democratic Party organization were no longer supporting Chitren:

KNOWLES: It's impossible. What you have to do is you got to make your bones with him [Pirre]. The Mayor has to put the kid on, as, not as the superintendent, but as the foreman. You know? And I'm sure that will placate him and that'll be the first step in bringing the organization back to and I'm sure if you put the kid on Carmen is going to support you, and if he supports you then the Democrats support you. All right? And even with the support, Bob, I don't even know if, you know, the election is survivable.

I mean, that's my own opinion.

CHITREN: Yeah.

Carmen Pirre Feels Betrayed

Although Carmen Pirre through his attorney refused to testify before the Commission, a recorded telephone conversation between Chitren and Pirre spells out clearly that Pirre thought he had an agreement with Mayor Tonkery for his son to get a Borough job and, in return, for the Mayor's grandson to become a police officer that fall. The conversation highlights Pirre's anger upon learning that the Mayor's grandson was put on the Borough police force while Pirre was out of town. Pirre told Chitren what he had said to Mayor Tonkery:

...Tony was going to get the job. At the last minute you turned against me. I said [to the Mayor], I can't accept [that] because you've been my friend for 45 years. I said, you and I could've stuck together and got both of these things done without all this bullshit. He agreed. Then all of a sudden I'm up in New Hampshire and I come back they tell me they appointed Robby. I couldn't understand that.

Meeting in a Junkyard

Such matters in Jamesburg often were decided in secret. Typically, Council members would meet at locations, including Pirre's home, to decide matters in advance of formal Council meetings in apparent violation of New Jersey's Sunshine Law. A preplanned cover story of Democratic Club meetings was used to explain the gatherings, if questions were asked. Testimony revealed that participants even took care to park their cars in a neighboring driveway or at the nearby Quail Run Condominium to avoid discovery of these meetings.

On one occasion, a brief meeting was held between Carmen Pirre, Mayor Tonkery and Don Henry, Pirre's successor as Jamesburg's Democratic Chairman, at a Jamesburg junkyard, Red and Black Auto Wrecking Co. on Lincoln Avenue. At that meeting, the deal to hire Pirre's son for a Borough position was discussed and agreed upon. Henry said he heard the Mayor tell Pirre, "I'll support your kid."

ABUSE OF SICK/COMPENSATORY LEAVE

Jamesburg has a population of about 5,800 residents and a police force consisting of 10 regular officers and 2 SPOs. In a small municipal police department, the practice of carrying non-working employees on the payroll for an extended period can cripple a budget and cause particularly severe manpower shortages that can impact public safety. Certain employees in the Jamesburg Police Department were permitted to accumulate inordinately large amounts of leave, obligating the Borough's taxpayers to foot the bill at the time of their retirement. Borough records and testimony demonstrate that in 1992 and 1993, the Jamesburg Police Department budget suffered as a result of the retirements of two lieutenants. This budgetary pressure coincided with the untimely hiring of Mayor Tonkery's grandson and the purchase of the police car.

Although Jamesburg maintained certain procedures in order to track and assess retirements, including referrals to appropriate personnel and policy committees of Council, these review mechanisms were not followed uniformly. When Lt. Henry Kowaleski retired in 1992, he stopped working and yet remained on the Borough's payroll for six months at full pay in order to "use up" undocumented leave to which he claimed to be entitled. Moreover, he was paid \$1,500 for additional undocumented leave time.

Police Chief Knowles told the Commission that Kowaleski was

in charge of maintaining the police department's compensatory time records, including his own. The Commission attempted to obtain the records supporting Kowaleski's retirement package but was informed by both the police department and the Borough finance office that those records could not be found. Interestingly, the Borough did possess such records for other employess.

Councilman Main testified as to the problems faced by Jamesburg, or any municipality, when a long-time employee comes up for retirement:

A. ...[E]verybody comes in after working for some place for 30 years with their little black book.

. . . .

Q. But it's their own records?

A. It's their own records.

Q. As opposed to official...

A. No, but you've got to give some weight to them; otherwise, you'll end up in a court of law.

Sick Leave "Bank"

In the case of Lt. Eugene Zielinski, records reflect that as of September 16, 1992, Zielinski was carrying 165 days of accumulated sick time. Zielinski exercised an option to remain on the payroll for 150 unused "sick" days until his retirement on May 31, 1993, in accordance with the 1993-94 contract. This option was not part of the 1990-92 PBA contract, which was in effect at the time Zielinski began to deplete his sick day

"bank." Zielinski also received compensation at the rate of \$75 per day for the remaining 15 sick days, for a lump-sum payment of \$1,125.

The Commission does not take a position that a municipality cannot, through regular means, establish a protocol for dealing with police or other employees to compensate them in whatever way is deemed appropriate upon retirement. The danger is in failing to take into account the impact of such arrangements upon the municipal budget.

CONCLUSIONS AND RECOMMENDATIONS

1. The Commission refers to the following agencies the matters noted, for whatever action is deemed appropriate:

a. Attorney General: Evidence concerning possible violations of the law concerning the "employment" of Carmen Pirre's son Anthony by two developers, election law violations, workers' compensation fraud and other matters.

b. Election Law Enforcement Commission: Evidence concerning possible violations of New Jersey's election laws.

c. Department of Community Affairs, Division of Local Government Services, Local Finance Board: Evidence of possible violations of the Local Government Ethics Law.

d. Department of Community Affairs, Division of Local Government Services: Evidence of procedural and administrative weaknesses in the Borough's financial and accounting systems, and resultant problems in detecting these weaknesses in the audits. The manner in which the Borough handles its budgets should be reviewed. Powerful public officials should not be able to disregard approved budgets and create fiscal mayhem in a municipality, as has occurred in Jamesburg.

The Commission recommends that the Division of Local Government Services also determine if proper audit standards were followed in the course of this community's audits and, if so, whether additional audit procedures are needed to detect such defalcations.

e. *Department of Treasury, Division of Taxation, Property Administration:* Evidence relating to the tax assessor certificate of Carmen Pirre, good cause having been shown that he has misused that office for personal gain and that his certificate should be revoked.

f. *Department of Treasury, Division of Pension and Benefits:* Evidence concerning possible improprieties relative to pension benefits.

2. *Carmen Pirre should be removed as Tax Assessor and Planning Board member:* At the very least, Pirre, in his capacity as a public official, should have disqualified himself from all matters relating to the Quarry Cove and Beaver Brook Run developments. The evidence developed concerning Pirre and local developers demonstrates that Pirre has violated the public trust for personal gain. It would also appear that Pirre has delegated virtually all of his duties as Tax Assessor to his assistant, Eldo Mangani, Jr.

3. *Complete review of duties, responsibilities and salaries of employees and public officials should be conducted by the Council of the Borough of Jamesburg:* Based upon what has been set forth in this report, and other information provided to the Commission throughout this investigation, the Borough of Jamesburg should undertake a review of all employee and other funded positions to make a determination as to whether individuals holding such positions are, in fact, performing their jobs; whether the positions are needed; and whether the salaries are appropriate for the tasks and performance. Based upon the Commission's findings in this investigation, Jamesburg appears to be a perfect candidate for participation in the Local Government Budget Review Program sponsored by the Department of Treasury.

Especially today, with public dollars becoming increasingly scarce, there is no room for nepotism, no-show positions, political cronyism or any other practice that permits people to occupy the public payroll without performing their jobs fully and faithfully for the benefit of the taxpayers.

4. *Open, competitive criteria should be established for the hiring of police officers by the Borough of Jamesburg:* While promotion within the Jamesburg Police Department occurs based on seniority and completion of certain programs, it was clearly demonstrated throughout this investigation that there is no open process in the Borough of Jamesburg for entry level Special

Police Officer positions from which candidates for permanent positions historically have been selected.

The Commission recommends that Jamesburg adopt open, fair and competitive hiring procedures, such as those outlined in Civil Service requirements, for entry level Special Police Officer positions. In addition, permanent police officer positions should be filled based upon open competition among a pool of candidates beyond the Borough's Special Police Officers.

5. *Procedures should be established for the tracking, use and accumulation of compensatory time:* This Commission has previously recommended in its August 1994 report, Local Government: Point Pleasant School District, that municipalities and boards of education should have in place a mechanism to track all accumulation and use of employee time. The Commission renews this recommendation for the Borough of Jamesburg. There should be no question as to the entitlements of employees. An individual should never be the sole custodian of his or her own records of leave time.

6. *Payment policy should be set forth for accumulated time:* Municipalities and boards of education should consider a policy to cap payment for unused sick leave and to limit accumulation of vacation, compensatory and personal leave for all employees, as was also recommended in Local Government: Point Pleasant School

District. Such a policy would discourage the wholesale use of accumulated sick leave without legitimate medical justification.

The retirement arrangements permitted in Jamesburg for police officers have created a serious budgetary problem for the police department. Keeping non-working police officers on the payroll for months at full salary without that money having been separately set aside can jeopardize the public safety and security, especially where a municipality must pay overtime to other officers to cover the manpower needs, or be short, at times, on police coverage.

The State of New Jersey's policy of limiting payment for accumulated sick leave to a lump-sum representing one-half of the employee's unused sick leave, calculated at the employee's current salary, up to \$15,000, may serve as a guide, along with policies limiting the accumulation of vacation and compensatory time. Such policies are important because Governmental Accounting Standards Board (GASB), Statement No. 16, dated November 1992 - "Accounting for Compensated Absences" - calls for the measurement of accrued compensation time to be included in the liabilities of state and local governmental entities. Funds should be reserved annually based on anticipated (future) compensated absences for which employees will be paid. Otherwise, the fiscal burden on any public body could prove staggering.

During the course of this investigation, the Commission learned that the Department of Community Affairs is drafting legislation on this subject. The Commission urges that such legislation be reviewed in light of the findings and recommendations of this report.

This report is the product of an investigation conducted by Counsel Charlotte K. Gaal, Special Agent Raymond H. Schellhammer and Investigative Accountant Michael R. Czyzyk.

