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PUBLIC MEETING

before

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

To review the management and operations of the Division of Vocational Education in the Department of Education, focusing primarily on issues concerning the grant award process

April 19, 1988
Room 334
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Gerald R. Stockman, Chairman
Senator S. Thomas Gagliano
Senator Richard A. Zimmer

ALSO PRESENT:

Steven B. Frakt
Office of Legislative Services
Aide, Senate Legislative
Oversight Committee

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New Jersey State Legislature

SENATE

LEGISLATIVE OVERSIGHT COMMITTEE

STATE HOUSE ANNEX, CN-068

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**SENATE OVERSIGHT COMMITTEE MEETING ON MANAGEMENT AND
OPERATIONS OF DIVISION OF VOCATIONAL EDUCATION**

The Senate Legislative Oversight Committee will meet on Tuesday, April 19 at 10:30 a.m. in room 334 of the State House Annex to review the management and operations of the Division of Vocational Education in the Department of Education. The committee will focus primarily on issues concerning the grant award process. Commissioner Cooperman has been invited to testify.

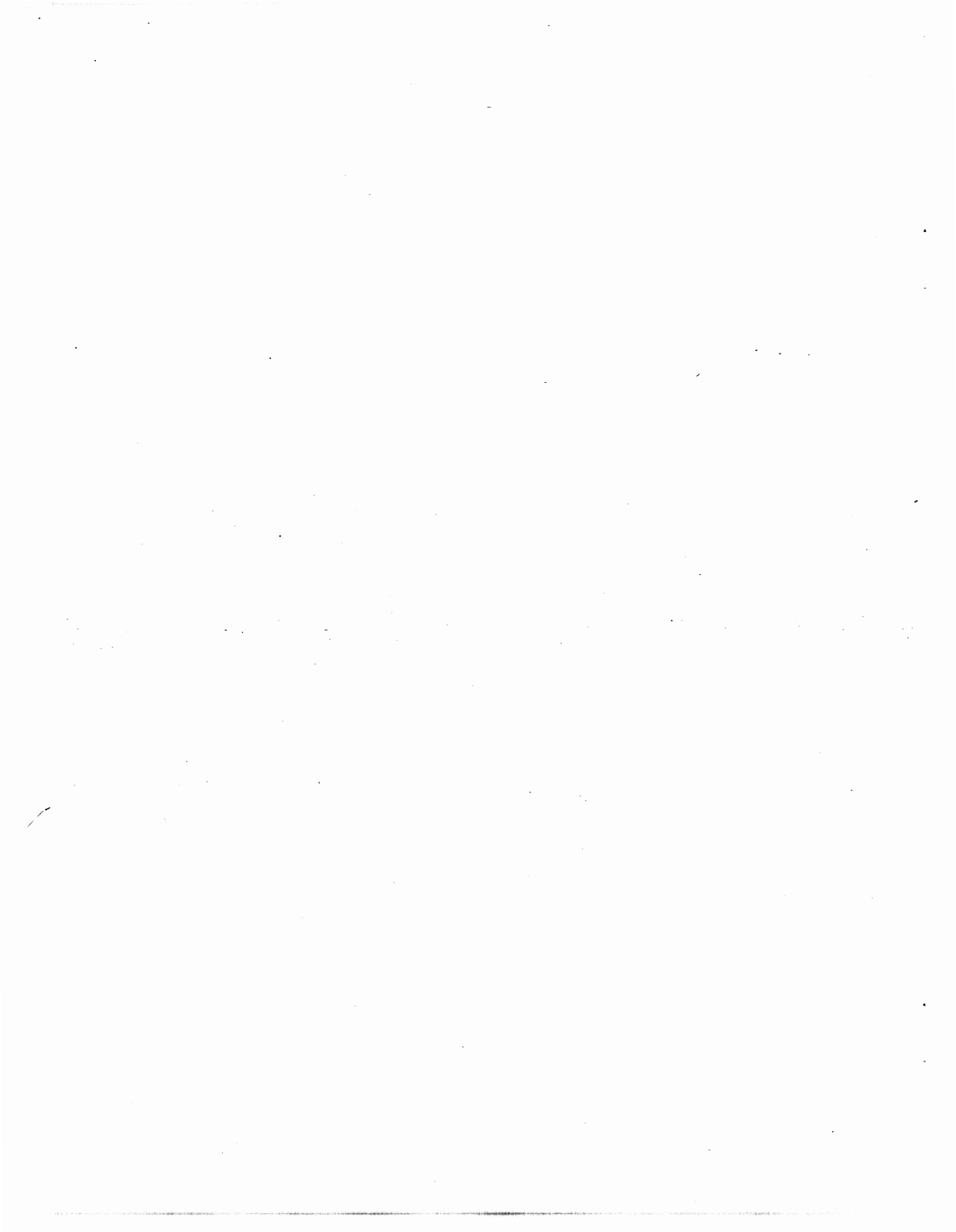


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SENATOR GERALD R. STOCKMAN (Chairman): If we can get the media calmed down, we will get going here.

The Senate Legislative Oversight Committee convenes today to review a tragedy -- a tragedy of both public administration and personal behavior. It appears to be a sad and shocking story of greed, arrogance, and contempt.

Many of the details of the manipulation of grants and the favoring of personal interests in the conduct of public business by former officials of the Division of Vocational Education have been laid before the public through the investigative reporting work of Robert Braun of The Star-Ledger. The schemes, the violations of public trust, and the disregard for fiduciary responsibilities, as outlined in his articles, have been since corroborated by the Department of Education in its own internal review of the charges. Even as we convene here, the Attorney General's office is presenting evidence before a grand jury that may very well result in criminal indictments.

What, then, do we aim to accomplish through these hearings?

First, an examination of the management and administrative vulnerabilities within the Department and the Division which, however unwittingly, were conducive to an environment in which, to quote the Department's own report, "sophisticated schemes involving collusion were developed by division personnel."

Second, a review of the Department's policies with respect to the pathways and protections afforded employees who suspect wrong-doing by their superiors or who, against their better judgment, are pressured or threatened into tacit acceptance of, or active participation in, questionable activities.

Third, an inquiry into the Department's commitment to vocational education. We should not forget that this latter

issue holds the more lasting and significant consequences for our society. Long after the contemptible actions of discredited administrators are aired and judged, the issue of how and what educational and job training opportunities we provide to our youth will continue to test us. We want to know whether the Department of Education is prepared to pass that test.

Commissioner, let me add, very frankly, that I perhaps was a little further impelled into inquiring into this issue, doing so through the Oversight Committee, as a result of the fact that on June 25, 1987, as you know, I met with you as a result of certain complaints that came to me about morale in the Vocational Education Department and, indeed, about a rumor that Gordon Ascher was, in fact, the subject of an investigation. I will say to you frankly, I very gingerly presented that suggestion to you in Mr. Ascher's presence on June 25, 1987. You, at that time, expressed complete bewilderment and surprise. Gordon Ascher, in fact, expressed surprise and denial.

Faced with that fact, I had to accept those representations at that time. Gordon Ascher called me a few days later and attempted to explore further with me the source of those rumors, and again repeatedly assured me that there was no merit or basis to them. I, at that time, thought I had to accept his representation, and your representation, about the matter and the likelihood that you would at least explore it further. In fact, in correspondence to me, you indicated that through Mr. DiPatri and through Mr. Blaustein, you did make some exploration, and that will be a subject of some questions I want to ask to you, and perhaps to them in this hearing.

I think you can understand and appreciate that that information having been presented at that time, and no real action having been taken until after the Braun story, have raised questions in my mind at least, and perhaps in the minds

of other Committee members, about just when you found out about these inproprieties and problems, what you did about them, how we can be sure they do not happen again, and what this means in terms of the commitment of the Department to vocational education.

You expressed interest in making a brief introductory statement, and I have no objection to that. I want to apologize to Senator Gagliano for not really introducing him. I guess he is the only Senator here at the moment. I do expect Senator Zimmer at some point. I would like to thank Senator Gagliano for being here. Unless he has an opening statement beyond mine, we will hear from the Commissioner.

SENATOR GAGLIANO: No, I don't have anything further. Thank you.

SENATOR STOCKMAN: Commissioner?

COMMISSIONER SAUL COOPERMAN: I will begin by directing myself to answer your first question: When did I find out about this? That was on November 16. On that date, I should say an employee of the State Department informed Rich DiPatri, who is to my right, that there was possible wrongdoing in two areas. One was the awarding of grants and contracts, and the other was in vocational student organizations. Within a day, Rich had determined that this was important enough to bring to my attention. On November 17 and during November 18, I read this information, met with them, and by November 19 had decided that we ought to investigate. The we meant that Rich DiPatri would head the team, with Richard Kaplan -- to DiPatri's right -- and Tom King. So, we took three people who had other responsibilities and other duties, and said, "Investigate this." I also directed a man by the name of Jake Piatt, who is an Assistant Commissioner, to begin work of an external team. I tried to figure out, between November 16 and approximately November 23, what the key questions involved here were. It seemed to me that if there

was any wrongdoing, what was the scope, who was responsible for the wrongdoing, and what actions could I take to prevent this in the future.

As far as what was the scope of the wrongdoing, we spent two months investigating. We presented our report on March 2 -- of which you have a copy -- to the State Board of Education, and that's public. Essentially -- not all, but essentially -- the scams involved three grants. One was called videotapes; one was called Modelnetics; and the third was called Diploma! They were all maneuvered through the Rutgers Vocational Education Resource Center. So it is almost as if there would be three points in a triangle. One would be three grants -- Diploma!, Modelnetics, and videotapes. The second point in the triangle would be Rutgers Vocational Education Resource Center. And the third point would be a number of people in the Vocational Department who manipulated this.

The second part of who is responsible-- I just want to get this out because a lot of people in the Department of Education serve at the pleasure of the Commissioner, and as Rich DiPatri or Rich Kaplan will attest, I took a long time before I took disciplinary action with anyone. I played the devil's advocate, and I had to be convinced that this was not going to be a reaction to something that was wrong, and people's careers would be ended.

We spent at least an hour on each person who was to be disciplined, and I was convinced, beyond a reasonable doubt, that these people had done wrong things. Furthermore, there were serious questions in my mind as to whether some people had profited from those activities. But, the AG will conduct that investigation. We don't have the talent, and we don't have the ability to conduct investigations.

The third question I had to ask was, what action can we take in order to prevent such occurrences in the future? One was, good people give you a good organization; bad people

don't. So, to appoint an Assistant Commissioner who is guided only by what is the best interest of students-- I believe I have done that. To reorganize the Division that needs reorganizing, based on OMB recommendations: Discussions have already begun. To implement the major findings of the External Review Panel. Most importantly, to put in a series of generic controls that will be superior to what we have now, and second, to concentrate the audit function.

SENATOR GAGLIANO: Excuse me, Commissioner. Through you, Mr. Chairman, may I ask a question at this point that I think is important?

SENATOR STOCKMAN: Sure.

SENATOR GAGLIANO: We may get to it, but is it permissible, and to what extent, for the people who work in your Department, or any other department, to engage in outside activities wherein they can make a profit?

SENATOR STOCKMAN: I think that is an important question.

SENATOR GAGLIANO: And, if so, must they report to you, or some member of your immediate staff, on an ongoing basis? Now, we read about this because of the articles by Mr. Braun, but the thing that popped out at me in the articles was, how can these people, who are making fairly substantial salaries in very high positions of State government, have so much time to do their own thing? Even if they are doing it legally, how can they be putting all this curriculum together, writing books, and all the rest of it? Is it permissible and, if it is, what checks and balances are there on it so we know we are getting their day's work for their day's pay, when they are supposed to be working for you in the Department, or any other department?

COMMISSIONER COOPERMAN: Okay. Let me answer your question, and then maybe to back and finish this up.

It is permissible. The permissibility is dependent upon the honesty of the person. There is a dual employment form which has to be submitted, and the dual employment form has to say what someone is going to do. Let me give you the situation with Gordon. I would say right now-- It pains me on lots of levels -- for his family, for his wife, for his kids -- but I would say the same thing -- I think the people who know me-- I would say the same thing if Gordon were sitting right next to me, where now he can't say to me, "Saul, that's not so." But I'm saying -- if there were a Bible here, I would put my hand on it and say, "I swear this is true--"

Gordon Ascher came to me in a very forthright manner, and said, "Saul, I have a wife who is sick, and I have a young boy who is going to go into medical school." He said, "I need to make some extra money." We talked at that time about whether a State department was the right place for him if he needed some more money.

SENATOR STOCKMAN: Will you tell us when that was?

SENATOR GAGLIANO: When was that, Saul?

COMMISSIONER COOPERMAN: It was before-- I could look up the two forms -- the dual employment forms -- but it was before that, so--

SENATOR STOCKMAN: Approximately?

COMMISSIONER COOPERMAN: Well, I can check it exactly, Senator.

SENATOR GAGLIANO: Mr. Chairman, I think that is the essence of what we are trying to find out here -- just how much can people do outside?

SENATOR STOCKMAN: Well, I certainly think that is one important question that was in the material.

COMMISSIONER COOPERMAN: Senator, April 3 of '84 and July 23 of '84, he submitted dual employment forms. Now, he came to me, which he didn't have to do, before that, and said he was going to submit these dual employment forms. He said

they were going to be for two purposes. Purpose number one was going to be motivation type seminars, basically for adults, kind of self-help, like a lot of self-help books we see. The second purpose was a program for kids who were going to go to college, a college adjustment type program. He said these would be given only on Saturday -- that he had already developed these programs -- or that he would take vacation days. He told me they would not be given in New Jersey; he would never use his vocational title, nor would he ever do anything in basic skills, because he had a real expertise in the area of basic skills.

I thought he was extremely forthright in telling me that. I approved both of those forms. In fact, I told both DiPatri and Kaplan, at times after that, that I thought he was a very forthright guy in coming and telling me what his needs were; what he was going to do, and it would not intrude on his job. So the answer to the question is, yes, there can be dual employment. Dual employment can range from anything-- There is one person in our Department who has a dog grooming business. Someone else might teach at a college. Activities such as this. He was forthright. He told me what he was going to do, and he lied through his teeth.

Now, if there is no follow-up, I would like to go back and--

SENATOR GAGLIANO: Go ahead. I'm sorry.

COMMISSIONER COOPERMAN: That's okay. What I am going to do between now and July is, we will be auditing the vocational student accounts. We have to make a decision on the Rutgers VERC. After what went on, Rutgers decided they did not want to continue the Vocational Education Resource Center, so we have to make a decision on that. And then, I asked the external team if they would come back in January of '89 and January of '90, to reaudit all of our departments, not only voc-ed, all of our departments, to see if whatever changes we have made have been carried out, and carried out as they wished.

There is one thing I mentioned right up front, and I don't think it is at all a cop-out. It was put in the report of the External Committee -- and I could quote it exactly-- Essentially that they said was, no matter what controls you have, if you have people bent on collusive acts, no control system will prevent that.

SENATOR STOCKMAN: Commissioner, let's go back to Gordon Ascher, incidentally, and his hiring. I have some information that suggests that he was not hired in a traditional way. What can you tell me about how you-- I gather you settled on Gordon Ascher, right?

COMMISSIONER COOPERMAN: Sure.

SENATOR STOCKMAN: As a matter of fact, someone suggested to me that there was a search committee to find someone for that position. That search committee met, developed, I assume, some effort, and recommended, I think, several people?

COMMISSIONER COOPERMAN: That's right.

SENATOR STOCKMAN: Gordon Ascher was not one of them?

COMMISSIONER COOPERMAN: That's wrong.

SENATOR STOCKMAN: Okay. Tell me about that, because I may be getting some misinformation.

COMMISSIONER COOPERMAN: Okay. He applied for the position. I recruited people two ways in the Department. One was-- I wasn't going to have a phony recruitment system. I was going to just reach out and bring people in. For example, Kaplan came with me when I started. I just brought Richard in. I hired Jake Piatt; I hired Sandy McCarroll. There were a couple of others. I said, "I am not going to deny my convictions and beliefs. I will stand by these people. I am hiring them, bringing them in."

With others, there was a legitimate, full-blown recruiting system. In short, I didn't know Rich DiPatri. He came through a recruiting system, and a lot of other people came through it. With Gordon Ascher--

SENATOR GAGLIANO: From my district.

COMMISSIONER COOPERMAN: Pardon?

SENATOR GAGLIANO:-- From my district.

COMMISSIONER COOPERMAN: Yeah. Gordon applied for the job. There was an Interview Committee headed by Jeff Osowski. There were five people on the committee. There were two vocational educators; there was someone from Business and Industry; there was a guy named Sandy McCarroll, who is in my office; and one other, who I can't remember. They interviewed a number of people. They rated Gordon Ascher number one in their group. They then sent him to me and Osowski, who is the head of the committee. We interviewed either three or four people. We felt Ascher had come out number one, but we wanted to do reference checks.

We did reference checks here. We did reference checks in Oregon. The people whom we called-- Undoubtedly, if there were clinks or cracks in the armor, we didn't find them. We interviewed him again. After the second interview, we offered him the job, based on a four-way check and further checks within the State. We ran a four-way check on Gordon. I required a four-way check on any division head in the Department. So, he was hired through a normal process. I just didn't reach out and say, "Gordon Ascher, you're coming in."

SENATOR STOCKMAN: Now, let's go back, Commissioner, to the meeting I had with you in June. At that time-- I'm sure you recall that meeting. Assemblyman Watson, as a matter of fact, was a moving force and was part of that meeting, as well, because of concerns about morale in the Division of Vocational Education, some disputes about transfers, and so on. But, you recall that I raised this question about Ascher being under investigation at that time.

I gather you-- What did you do after I left?

COMMISSIONER COOPERMAN: Okay. As you remember, what you say is right on the mark. You were concerned about

transfers; you were concerned, in a forthright way, about a person who was your constituent who had been transferred, and so was Assemblyman Watson. You were concerned about morale in the Department. You voiced it, as you usually do, in a pretty straightforward way. You said there was no need to get back to you, but I promised you that I would investigate.

This is what I did: I met with Rich DiPatri first, and asked Rich if he saw that there was any unusual problems in Vocational Education. He said he saw none.

SENATOR STOCKMAN: Let me stop you for a minute. I assume you told him I had suggested that Ascher was the subject of an investigation.

COMMISSIONER COOPERMAN: Let me get to that right now. In your letter to me, you said you had broached that at that meeting somewhat hesitatingly.

SENATOR STOCKMAN: Absolutely.

COMMISSIONER COOPERMAN: I don't remember, going back to June, but I would not deny if you asked that question. I take your word that you asked. My answer would have been then, an absolutely truthful answer. I knew of no investigation that was going on.

SENATOR STOCKMAN: Commissioner, I don't want to get too intense on this, but I indicate to you that I had some misgiving about suggesting to the Commissioner of Education, in the presence of Gordon Ascher, an employee, that I had gotten a rumor that he was the subject of an investigation. That was heavy stuff. I decided, in the context in which I found myself, that it was justified in being done, for a lot of reasons. I recall his surprise, and I recall your surprise, but his absolute denial, and your expression of -- I guess my inclination is of kind of bewilderment, that you didn't know anything about it.

Are you telling me today that you really don't recall that, but if I say it happened that way, you will accept it?

COMMISSIONER COOPERMAN: Not only will I accept it, but at that time there would be no knowledge whatsoever, on my part, that there was any investigation. ~~concerned about~~ ~~to~~ ~~be~~ ~~repa~~ SENATOR STOCKMAN: I don't doubt that. Incidentally, let me make publicly and abundantly clear, that I have no doubt that at that time, you were not aware of any investigation. What I am getting at is, as a representative having made that suggestion to you in his presence-- Incidentally, he called me several days later -- impressing me somewhat -- and explored, or attempted to explore-- Really, I shrugged him off, but having brought that to you, I am a little concerned -- I don't know how to put this -- that it wouldn't stick in your memory. When you tell me you then met with Mr. DiPatri, that you wouldn't have shared with him, I suppose, the question about, "Well, do you know of any investigation that has been undertaken, or is going on, or will you find out whether there is anything?"

Are you telling me that--

COMMISSIONER COOPERMAN: There was such a statement, Senator, at that time, because to go back, and to remember what was said, my clear recollection--

SENATOR STOCKMAN: How often do legislators come to you and, in the presence of one of your people, say, "I am getting--"

COMMISSIONER COOPERMAN: May I finish, Senator?

SENATOR STOCKMAN: All right, I'm sorry.

COMMISSIONER COOPERMAN: You came to me three times, and we talked about a lot of things -- intervention, takeover, and racial things.

SENATOR STOCKMAN: Maybe I came too often.

COMMISSIONER COOPERMAN: No, a lot of other people come in, too. I do see a lot of Assemblymen and Senators. But, the main conversation, at that time, had to do with transfers that you thought were not fair. That was the main thing.

The second thing was morale. I gave you my word that I would check on morale, to see whether there were any unusual grievances or whatnot within the Department. That you said, "Is there an investigation going on?"-- I am giving you a forthright answer: I don't-- I am giving you a clear answer that I have no recollection.

SENATOR STOCKMAN: Maybe Mr. DiPatri can help us, if I might ask him. When the Commissioner apparently came to you after that meeting I had with him, and that Assemblyman Watson had with him, did he make any mention to you of the fact that I had suggested that through rumor I was told that Mr. Ascher, himself, was the subject of an investigation?

A S S T. C O M M. R I C H A R D D I P A T R I: Primarily what the Commissioner and I talked about was the morale problem and the transfer issue, not about an investigation.

SENATOR STOCKMAN: But, when you say-- I am a lawyer, and I want to confess this publicly at the outset. I have a tendency to want to really focus-- Mr. DiPatri, when you say, "primarily," that is like a key word to me. You didn't say, "He didn't," and you didn't say, "He did." Now, it may be that you can't recall this, but I would like to know, for my own sense of where this thing went and why, whether the Commissioner asked you, or suggested to you -- or asked you to look into this question of an investigation of Mr. Ascher. I would think -- I may be wrong -- that if the Commissioner said to you, "Hey, some Senator who was in here said something about he heard a rumor, or understands that Ascher is under investigation, do you know anything about that?"-- I mean, that is how I would think the dialogue might have gone.

I gather you have no recollection of the Commissioner sharing with you that rumor.

ASSISTANT COMMISSIONER DiPATRI: No. We discussed transfers and morale problems in Vocational Education.

SENATOR STOCKMAN: So, you did not look into, I gather, whether or not indeed, Gordon Ascher was under investigation?

ASSISTANT COMMISSIONER DiPATRI: No, I did not.

SENATOR STOCKMAN: All right; okay. I'm sorry, Commissioner. Maybe we've--

COMMISSIONER COOPERMAN: I didn't finish. You asked what I did after that meeting. Since the meeting clearly, to me, was about a transfer, since the meeting clearly was about morale and grievances, what I did was follow up on what we talked about. Again, I am not denying, but it now seems like the whole focus was on investigation of--

SENATOR STOCKMAN: No, I don't mean to say that. But I thought -- and I may have been wrong -- especially when I read the Braun story, well, that it was a serious enough kind of a dialogue that it would have produced some further inquiry, beyond what apparently it did.

COMMISSIONER COOPERMAN: Jerry, I think you know well enough that when I say I will follow up on things, I follow up. I have been here now almost six years. If I tell a Senator or an Assemblyman, anyone, that I will follow up, I do it. If they want feedback, whether in another meeting, or in a letter, they get it, not sometimes, all the time.

I'll tell you what I did. I talked to DiPatri; I talked to Blaustein. I asked Steve Blaustein to get me a list of the grievances of every department, so I could cross check Vocational Ed against the others. There are 17 separate entities that would report to me. Number one being the most grievances, and 17 being the least, Voc-Ed ranked ninth. They had four grievances within the last three years, two by one person, and two that you came in to talk about, which were within a month of each other, which were transfers, and I think you are aware of the situation.

I also talked with Gordon Ascher. I told him that I was very concerned. I asked him what he was going to do. He wrote me a letter on July 16 -- which I give you a copy of. He was kind of upset about certain things, but he agreed to two of

the things I mentioned. One was that he was going to hold meetings with his top staff. These were going to be on a weekly or monthly basis -- this is in his letter -- and he was going to discuss goals. He was, in other words, going to deal more people into the process. At that point, I had absolutely no knowledge of any scams that were going on, and I believe he would do what he said he would do.

The second thing I suggested, because I was concerned that you were concerned, and Assemblyman Watson was concerned-- I said, "Let's get to the heart of this, one way or the other. You say there is no morale problem. You say they are small grievances. What Rich says tends to bear you out. What Steve Blaustein gives me tends to show that there are not an abnormal number of grievances -- three people, four grievances within three years." But I wanted to go further, so I said, "I want to hold an anonymous climate inventory." What I meant by that was, each person in Voc-Ed would get a piece of paper which would talk about climate, which is a fancy word for morale. This would be given to everyone. In Gordon's letter of July 16-- He sent it back to me, and he said he accepted the idea of the morale inventory, but could it be given after the move, because we were going to move at the end of October. I said, "Sure." Of course, at the end of October, we didn't move, and then this came out in November, and it was not given.

Those are the things I did. I followed up as I said I would. I talked to people. I looked at grievances. I reread the two grievances that came in on the proprietary schools, and we were going to have the anonymous morale inventory. That is what I did.

SENATOR GAGLIANO: What was the transfer issue, without naming names? Did someone who was a constituent of yours get transferred against his or her will?

SENATOR STOCKMAN: Right.

SENATOR GAGLIANO: And come to you?

SENATOR STOCKMAN: There were several employees in the Division of Vocational Education who were transferred around, primarily, my recollection is, at the direction of Gordon Ascher. They felt it was discriminatory, that it had to do, perhaps, with union activities, or with other things. So, it was blended into--

COMMISSIONER COOPERMAN: Yeah, I can elaborate just a little more.

SENATOR GAGLIANO: Was that where you got your rumors, Jerry, which prompted you to talk to the Commissioner about the issue?

SENATOR STOCKMAN: No, I got independent rumors.

SENATOR GAGLIANO: Not from the transferred people?

SENATOR STOCKMAN: Exactly.

COMMISSIONER COOPERMAN: The reason for the transfers was-- Some of our responsibilities are called "private -- proprietary schools." I was not convinced that we were doing all that we should do in monitoring all of the proprietary schools. Now, we had a bill in to get some extra people, because we thought we needed them, but the bill was not moving quite as fast as we would have liked. So, what we did -- and this was with my full knowledge, too, because I am trying to make the distinction of what's fair is fair-- Rich DiPatri came to me and said, "If we are going to do a better job in Voc-Ed" -- and he had talked to Gordon -- "we have to have more people there." If we couldn't get more people, because the legislative bill wasn't moving, we had to transfer people for a period of time -- approximately six months.

So, a number of people were transferred. Some who didn't agree with it, didn't want it. They were good employees; they had been with the Department for a long time.

SENATOR GAGLIANO: You transferred them into Voc-Ed, or out?

COMMISSIONER COOPERMAN: No, they were in Voc-Ed.

SENATOR GAGLIANO: Oh.

COMMISSIONER COOPERMAN: All of them were in Voc-Ed, but it was going to be a different assignment. So, instead of doing what you had been doing for 12 years, you had to go and do this proprietary school, until the bill would go through, which we were assured it would.

SENATOR GAGLIANO: Did Gordon Ascher agree with this?

COMMISSIONER COOPERMAN: Absolutely.

SENATOR GAGLIANO: He did?

COMMISSIONER COOPERMAN: He was the one, because he was the Division person-- He assigned the people. Now, I still don't know to this day whether in his heart was, "I'll seize on this to nail someone, because I have something against him," or was it a reasonable transfer, and a management prerogative. That is what it was about. It was a grievance, and it was settled.

SENATOR STOCKMAN: Commissioner, let's talk a little bit about the scandal, and about the mention of it, and also about this investigation question. The Governor was quoted as saying that Mr. Ascher was under investigation for over a year prior to the story that broke in The Star-Ledger. Correct? (no response) Have you gotten independent confirmation of that?

COMMISSIONER COOPERMAN: A distinction here. What the Governor said was that the Department had been under investigation -- the Division of Vocational Education. The reason I am making that distinction is, when we found something that was wrong-- DiPatri came to me, and we immediately started an investigation, not knowing what it would be. We got really three sources of input: Number one was someone in our Department who had been working for about seven months to try to say, "Hey, something's wrong." He went through channels, and the channels finally came to DiPatri.

The second person who, in August or September -- I've got it in my notes -- went to Steve Blaustein, who then went to

DiPatri. So, two things converged on DiPatri in November. One was this person who had gone through an audit of a vocational student organization; the second person was concerned with two grants. He was suspicious. The third was Bob Braun. Bob had been called, I guess. I really haven't discussed this with him in detail. He wouldn't tell me his sources anyway. But I guess people went to him, and said, "There are some things that are not kosher." Bob then called and asked for certain contracts.

So, I had three things coming at me all during the same period. That was the situation then, and that's--

SENATOR STOCKMAN: From your point of view. I was curious about what you learned about when the Attorney General's office had been introduced into this.

COMMISSIONER COOPERMAN: Okay, December 1.

SENATOR STOCKMAN: At least the public impression is that it was a year before.

COMMISSIONER COOPERMAN: Yeah. On December 1, while we were investigating--

SENATOR GAGLIANO: '87?

SENATOR STOCKMAN: '87.

COMMISSIONER COOPERMAN: '87, yeah. December 1, 1987, while we were holding our investigation, Rich Kaplan had occasion to call the Attorney General to check on something. They said, "What are you guys doing?" We said, "We are checking out some things in Vocational Education." By now we had been into it for two weeks, and we said, "We suspect wrongdoing, and we are following through. We have some questions we want to ask you."

Their initial reaction was, "Stop, don't do anything. We have been investigating for a year." What Cary said was 13 months. Now, when I discussed it with Cary the first time, two other names were mentioned. I was asked the question, "Do you know anything about Ascher?" or general questions about

Ascher. The focus of the investigation might have been very wide. I don't know to this day, because they haven't told me. But the questions they asked at that time focused on two other people. He was suspicious. The second was Bob Brown.

SENATOR STOCKMAN: People other than Ascher?

COMMISSIONER COOPERMAN: That's right.

SENATOR STOCKMAN: And, they suggested to you that their investigation had been ongoing for 13 months prior to December 1, '87?

COMMISSIONER COOPERMAN: That is correct.

SENATOR STOCKMAN: I gather they indicated they had shared this investigation, or at least the fact that it was ongoing, with the Governor's office?

COMMISSIONER COOPERMAN: Yes.

SENATOR STOCKMAN: Did they explain to you why they did not share it with you?

COMMISSIONER COOPERMAN: Yes, they did. At first, I will admit, I was very hot. "Why wouldn't you share with me. It seems like there is something wrong in my area. Why wouldn't you let me know, so I could act? Why 13 months?" The answer was, "First, you know, you're sincere, but you'll screw it up. You're a bunch of amateurs, and you are going to jeopardize our investigation." That is pretty much an exact quote. And, "We would really appreciate it if you would stay out."

The second thing was, "The normal inclination of a person is to investigate." He said, "We don't want that. While we are trying to gather evidence, you could blow it for us." In other words, "You could jeopardize our investigation." He said, "Our policy is, we never tell the Division head, at all."

SENATOR STOCKMAN: Or the department head or the Commissioner?

COMMISSIONER COOPERMAN: That's right. He told me, he said, "You've never been investigated, but how do we know that you're not involved in this? When we are starting to get into something, we don't know where the trail is going to go." So he said, "For all of those reasons, we never tell the Cabinet officer."

SENATOR STOCKMAN: Did he lead you to understand that they would share that information with people in the Governor's office?

COMMISSIONER COOPERMAN: I didn't know, when I talked with Cary the first time, because when Kap called the Attorney General, they say, "Gee, we've been in here. We had a meeting, you know, with Cary, Don Belsole." They were very nice; they explained. After I got through with my anger, "Why didn't you tell me?" they explained it. I said, "That seems to make sense." They were doing their job. I would possibly jeopardize it, and so on, so I understood that. Now, that they had told the Governor's office-- I found out about that later. That was not discussed at the first meeting.

SENATOR STOCKMAN: Did they give you, at any point, some indication as to why they would discuss it with the Governor's office?

COMMISSIONER COOPERMAN: No, we didn't discuss that at all.

SENATOR STOCKMAN: Now, incidentally, am I correct in understanding that to this day, you do not know the scope of their investigation, or what they may reveal to be misconduct in the Department of Education?

COMMISSIONER COOPERMAN: Absolutely. We give them lots of information, and they thank us very much.

SENATOR STOCKMAN: And we're well into April, so you're talking about a 17-month investigation, I gather, at this point -- or a little over. Correct?

COMMISSIONER COOPERMAN: Yes, that's right.

SENATOR STOCKMAN: You really don't know how much of that ties in to the Vocational Education Division of the Department of Education at this point, do you?

COMMISSIONER COOPERMAN: No, I don't.

SENATOR GAGLIANO: Mr. Chairman?

SENATOR STOCKMAN: Yes?

SENATOR GAGLIANO: Commissioner, if you can recall, the two people who were being investigated who you were told about, one of them not being Ascher-- Were they part of Vocational Education?

COMMISSIONER COOPERMAN: Absolutely.

SENATOR GAGLIANO: They were?

COMMISSIONER COOPERMAN: Absolutely. They were two people who I fired.

SENATOR STOCKMAN: Do you, Commissioner, think this problem goes beyond the Division of Vocational Education?

COMMISSIONER COOPERMAN: I don't know.

SENATOR STOCKMAN: Do you sense that it could, based on what you have learned about how things were done?

COMMISSIONER COOPERMAN: Sure. I will give you an example. Friday night, I took home a lot of this information, because I thought I would give it another go-through on the weekend. After I ate dinner, I thought, read the papers. I remember vividly what I read on Friday night. The first thing I read was, two people-- It's not the AG, it's the, what do you call him -- oh, Alito's office-- Two people there--

SENATOR GAGLIANO: Deputy Assistant U.S. Attorney General.

COMMISSIONER COOPERMAN: U.S. Attorney General, thanks, Senator. Two people there had gone over and dealt with drug dealers. There was a scam there. Alito exposed it, and it was two of his own people. I opened the paper, and I read about a tax scam of two very prominent people. I turned a couple more pages, and I saw that in New Jersey and

Pennsylvania there was a scam on coupons for supermarkets. I threw the damned paper down, and read the sports page, because I thought it was pretty clean.

So, sure it could. I am not going to sit here and say not.

SENATOR STOCKMAN: I didn't mean the question of evil and how far it spreads, but rather the kind of information you have gathered -- whether it in any way suggested that this matter might go beyond the Division of Vocational Education? I gather your investigation up to this point, suggests it was strictly limited within the Division of Vocational Education. Is that correct?

COMMISSIONER COOPERMAN: That is correct, but one of the things in the External Committee-- I told them to look at the whole Department, because my concern was, if the controls didn't catch it in Voc-Ed, could we, by strengthening controls, at least make it more difficult for someone in another area?

SENATOR STOCKMAN: Let me ask you this: How far back does it appear this misconduct goes? Can you give me some sense of that -- give the Committee some sense of that?

COMMISSIONER COOPERMAN: Yeah. You guys can correct me. (referring to staff) There were three contracts sent through the Rutgers Vocational Education Center. I think that was back in '84 or '85, wasn't it?

ASSISTANT COMMISSIONER DiPATRI: That's right. The first one was in the Cape May one contract -- Fiscal Year '85, the first incident we could determine.

SENATOR STOCKMAN: And that would have been, in terms of the calendar, some time in the spring of '85?

COMMISSIONER COOPERMAN: That is correct.

SENATOR STOCKMAN: It appears it goes back roughly three years.

COMMISSIONER COOPERMAN: A little less, yeah.

SENATOR STOCKMAN: Let me turn to this internal controls question, because some staff people have given me some questions that I think go to that. You have a vulnerability assessment -- internal control procedures -- I understand that. How does the Department meet that responsibility? How do they deal with this vulnerability assessment? Can you describe that?

SENATOR GAGLIANO: May I ask that another way?

SENATOR STOCKMAN: Sure.

SENATOR GAGLIANO: Let me just ask that another way. Supposing you have someone who is specializing in what we used to call the "primary grades." I am not sure what you call them any more. And they decide that this kind of a scam looks pretty good; that there are certain little booklets that are perfect for first grade, and they have written a couple of them on weekends. We'll assume they have done them on weekends or at night. Supposing they form their own little company, and they start, one way or the other, to put the arm on schools, whether private or public, to buy their publications. I think that ties in with the internal controls. How do you know it is happening? Is there any reporting requirement, where they have to file with you -- and I am not talking about suppressing someone's writing -- For example, if someone writes a beautiful book on Saturdays and Sundays, that's their business -- or nights. I don't have any problem with that. You can't censor it or anything like that.

But, how do you know that they are not starting this little company and selling to 30 or 40 school boards, either in this State or other places? What controls are there? Do they file something with you, which you, in turn, file with the Attorney General or with an ethical group, to decide whether or not this is appropriate for a person who is employed by the State, and making what we hope is a pretty fair salary?

COMMISSIONER COOPERMAN: I will try to get to both questions.

SENATOR GAGLIANO: If they are tied in. I would think they are.

COMMISSIONER COOPERMAN: They're tied, but the Senator's question, I think, is a broader one. Yours is more pointed in there. I think Senator Stockman's question is the over-arching question. Let me answer yours first.

SENATOR GAGLIANO: Go ahead.

COMMISSIONER COOPERMAN: Any teacher in this State, if he or she wants to, unless the local board has a policy or something, can tutor; they can have part-time jobs; they can write materials; they can get it copyrighted; they can sell it to other schools. Because we have a decentralized system, the school makes the decision on the materials they buy. And there are many people who are out there trying to sell schools their product. Within the Department, they have to fill out that dual employment form. If someone doesn't fill out the dual employment form, or fills out the dual employment form but does more than they said they were going to do, it is very difficult to check on that. The way most of these things come out, is because an honest person says, "Hey, wait a second. One and one doesn't equal three."

To answer Senator Stockman's question, you really have to go in-- Senator, if you don't want me to do this, I won't. Really, why the checks didn't work, and what the checks are-- I can explain the checks, and then if I run through the basic thread of how these scams work-- Do you see the distinction? If you had the checks, why didn't they work?

SENATOR STOCKMAN: Incidentally, in the course of doing that, I am led to believe that in some instances, some of these contracts were presented to an individual, and that individual was uncomfortable, and either outright refused, or-- And that the person seeking to accomplish this scheme would then try another person, and another, which, in my mind, raised the question of whether there oughtn't to be some system

whereby if an employee's judgment is sought -- an okay or approval or sign-off is sought -- and it is not obtained, that instead of that becoming a fading and a lost fact, that it has to be corroborated within your system. So, if Ascher, or someone immediately under him working with him, went to person "A," and he said, "Well, I'm uncomfortable with that," and then he went to "B," then "B" would have the benefit of knowing that "A" had not, in fact, approved.

But, why don't you take us through that journey you just mentioned.

SENATOR GAGLIANO: Commissioner, so that I may make myself clear, I said that this person in the Department, or in any department, would put the arm on another person. I am not talking about an open transaction, where they go to the school board and the press is there, and they say, "We are going to enter a contract to buy 100 books from this individual." I am talking about literally, under almost duress, saying, "If you don't buy my books, you may not get the grant you thought you were going to get from the Department."

COMMISSIONER COOPERMAN: Okay, let me tie those two together--

SENATOR GAGLIANO: Okay.

COMMISSIONER COOPERMAN: --because that is exactly how it appears to have worked. There were three big grants, and then there was one person who got a lot of consulting, which makes up almost the total amount of money here -- almost the total amount of money. The three grants had to do with-- One was videotapes on vocational ed. All right, it is one tape; it has 13 segments. It's-- I don't want to use slickly, because that has a connotation. It is professionally produced. You would have to judge it yourself on how much worth it has for the price. They sold some for \$1500, and some for \$1200.

The way this worked was, the Department, through Vocational Education, and Gordon Ascher and a couple of other

people, gave out two grants in Cape May. The two grants were to say, "What are the needs of vocational kids in the HSPT?" and design a plan--so that vocational kids can pass the HSPT. That was the start, as Rich said, back in '84. After that, individuals named Robert Rentz and David Roberts produced a videotape. So now they had a product. They produced this tape on their own, but they had to have a market. And here comes the ball bearing, or the fulcrum of the whole deal, which is the Rutgers Vocational Education Resource Center.

Rutgers bought the videotapes, but to say that Rutgers bought the videotapes would not be correct, because people in our Vocational Education Division were running -- were coercing VERC. The reason I can't say anything more explicitly is, we could not talk with-- DiPatri, Kaplan, and King could not talk with William Garner, who is the Director of Rutgers VERC, and Beverly Gennetta, who is the full-time administrator of Rutgers VERC. We are not allowed to do that. But I do know--

SENATOR GAGLIANO: Because of the investigation?

COMMISSIONER COOPERMAN: Because of Cary's investigation, yes. But we do know, fact, that they bought these videotapes. So, Rutgers VERC buys the videotapes. Number two, Modelnetics. Modelnetics has been around since 1971. It is a product of an organization called Main Event, in California. I think it is Sacramento. It is a management training thing. I have looked at that, and I thought it was pretty good. Modelnetics is sold through distributors. One distributor is called Encore. Encore is run by the head of Vocational Education in the State of Delaware, a gentleman by the name of Tom Welsh. Greg Buontempo, Gordon Ascher, John Wanat, and William Garner of Rutgers VERC, were trained Modelnetics trainers. Modelnetics, through Encore, sold VERC the Modelnetics training course.

SENATOR GAGLIANO: They sold it to themselves?

COMMISSIONER COOPERMAN: No. California makes a product called Modelnetics -- a management-training course.

SENATOR GAGLIANO: Right. . . .
COMMISSIONER COOPERMAN: They have a distributor in Delaware called Encore.

SENATOR GAGLIANO: And the distributor is a high-ranking official of the Delaware education system.

COMMISSIONER COOPERMAN: Numero uno.

SENATOR GAGLIANO: Numero uno. Is he still on his job?

COMMISSIONER COOPERMAN: Yes. We called down there, and they said they saw no problem with it; that he has the right -- the (indiscernible) is a right to have another job. Push that aside for a second.

Buontempo, Wanat, Ascher, and Bill Garner were trainers in Modelnetics. Rutgers VERC buys the Modelnetics training program, and vocational educators in this State are trained in Modelnetics. That's number two. I am going into these in more detail. Number three is Diploma! Diploma! is a series of booklets that help kids do better in reading and writing and mathematics. This was produced by a guy by the name of Joe Limanski, who, to me, is a figure like gossamer. We've never met him, never talked to him. He was a longstanding friend of Gordon's. He had never published a book before in his life. He subcontracts, or works with R&R -- Rentz and Roberts -- to produce Diploma! Diploma! is then bought by Rutgers VERC to help kids do better on the HSPT.

Now, let me just finish this by--

SENATOR GAGLIANO: Who funds Rutgers VERC?

COMMISSIONER COOPERMAN: Rutgers VERC is funded by two places, and then there are grants. First of all, Rutgers VERC has been around for 33 years, in one form or another. Rutgers got the contract in 1983. They received, last year -- I have to check my notes -- \$485,000 from the Division of Vocational

Education. They received a grant of \$141,000 over three years from the Feds. That pays for their 18 people. There are seven professionals and eleven support people. It pays for the light, the heat, and whatnot. Then, they try to get grants. They go out and submit for grants. The total amount of money involved here, counting everything, is \$1,325,160.

SENATOR GAGLIANO: And Rutgers VERC is the focal point?

COMMISSIONER COOPERMAN: Rutgers VERC is the focal point. Rutgers VERC is \$1,017,000 out of the \$1,325,000. Just to close this off, the Federal money involved is \$557,000; the State is \$767,000. Of the amount that we stopped-- When I was convinced, somewhere in mid-December, that clearly there was wrongdoing -- I couldn't quite squeeze it down yet, or I didn't really know who was involved -- we cut off all the money. We said, "We've got enough." Now, this was really a risk, because some people would say, "Hey, wait a second. We made a deal to get this Modelnetics, or this--" Anyway, we stopped the money.

So, right now, we -- call it salvaged -- I guess that is the term that is used -- \$60,000 in Federal money, and \$388,000 in State money. We think we can also save another \$112,000. In short, we see the money which is down the tubes because these various things were purchased-- We're talking specifically of \$267,000 in State money and \$497,000 in Federal money. That, in a nutshell, was how it worked.

Now, why didn't our controls catch it? Because the controls are predicated upon honest people in key positions. The whole idea, when a grant goes out-- Let's say a grant goes out from the Director of Vocational Education, and you're all school districts. You all have a fair shot at it. It comes in; two people should read it, they should grade it, and the best person wins. That is not the way it worked here, because what Rutgers VERC did was, they purchased a grant on a noncompetitive basis. Now, all I know about Mr. Garner, or Dr. Garner, is what I read in the paper. He says, and it may be

the absolute truth, "I was coerced; I was pushed; I was bullied by certain people in the Division of Vocational Education, to make me take these grants." Of course, the way it is set up for honest people is that when we contracted with Rutgers, they hired Garner. He was supposed to be an independent person, who made decisions independently.

SENATOR GAGLIANO: Is this a division of Rutgers University?

COMMISSIONER COOPERMAN: It's a contract between us and the Graduate School of Education at Rutgers University. That's what it is.

SENATOR GAGLIANO: So, it's sort of-- That's gossamer, too. It is not connected to the University, in the sense that Ed Bloustein has day-to-day jurisdiction over it, or does he?

COMMISSIONER COOPERMAN: Well, I can't speak for Ed Bloustein, but it's the same thing that-- There are things going on in my Department. If someone said, "Cooperman, do you know where the nutrition money is for the breakfasts?" I would say, "No." Then they would tell me who is in charge and what checks we have, but I don't know. I'm sure Ed Bloustein probably didn't even know about VERC, but his Graduate School of Education is -- I don't know if this is a fair parallel or not; it will probably break down -- like the Division of Vocational Education. He knows full well his dean, his programs, and so forth. He came to me to introduce the dean to me. So, Ed Bloustein knows about the Graduate School of Education.

My hunch is that he knew very little, if anything, about the Rutgers VERC, until this thing blew. But our contract is with Rutgers University, the Graduate School of Education, to run this center. What they are supposed to do is have books and training sessions for vocational educators. The purpose is laudable.

SENATOR GAGLIANO: Throughout the entire State?

COMMISSIONER COOPERMAN: Yes.

SENATOR STOCKMAN: Commissioner, let me run by you through this grant's application procedure, so to be sure I understand it. Can you describe the grant application and approval process for grants to these local education associations? For instance, what Department officials would be responsible for reviewing and approving applications of the nature approved by VERC? Who would they be?

COMMISSIONER COOPERMAN: The first person who would approve anything would be what we would call the Program Manager. In other words, let's say Kaplan were the head of Basic Skills within Vocational Ed, or Trade and Industry. Let me get that chart, too, and then we can both be going along the same thing. Will you guys get the chart for me? (speaking to members of his Department who are sitting close by) Oh, I have it here, thanks.

If you go along the chart, it says, "Application goes to the Project Manager." That's Kaplan. It would go to him. It says, "Makes funding decision." What he is supposed to do is have at least two independent people look at that grant and rate that grant. It stands in competition with other grants.

SENATOR STOCKMAN: Now, did Mr. Kaplan approve the grants that you have outlined -- the ones reported in The Star-Ledger story?

COMMISSIONER COOPERMAN: Oh, I'm sorry. I was just giving an example of how the process works. You know, I was talking about it generically, rather than each of these particular areas.

SENATOR STOCKMAN: Well, how about with regard to these particular contracts? What was the procedure within the Division as to--

COMMISSIONER COOPERMAN: It violated the whole procedure; it violated it all. With the grant on the tapes,

that was bought by Rutgers VERC. Now, why did Rutgers VERC buy that? Because some people in the Division of Vocational Education wanted it bought. Now, my sense is that they stood to gain; that there was profit to be made. But I can't prove that, because we can't subpoena records; we can't look at checks, and whatnot. So, it didn't go through the normal process. Modelnetics did not go through the normal process. It circumvented the normal process.

SENATOR GAGLIANO: Do you mean the normal process is to bid, or at least get proposals from several different groups or companies?

COMMISSIONER COOPERMAN: Yeah, that they be competitive, and it would be done honestly and straightforward. This was not done in that manner. So, you would have to have a number of people who would literally keep their mouths shut. That means people in Vocational Education who were in on this-- They knew what they were doing, and then either coerced Rutgers VERC, and said, "We want you to take this grant. We want you to buy Diploma! We want you to buy Modelnetics, and we want you to submit a proposal for it." They submitted a proposal. The proposal was approved, and then it went through the rest of this process. The rest of this process is checks on the accuracy of numbers. The key is, if someone does not bid competitively, and goes around the process-- If people know how the process works, they just abuse the process.

SENATOR GAGLIANO: I guess what I am thinking now is -- and I don't know if you said it yet-- But the threat, because there has to be a hammer if you are going to be able to carry out a threat-- It would seem to me the hammer was that Gordon Ascher could have said, "Well, forget it VERC, you're not going to get your \$500,000, or \$600,000, or \$700,000 next year. We are going to find another supplier of the teaching information and everything else we need."

COMMISSIONER COOPERMAN: Sure.

SENATOR GAGLIANO: "And the Commissioner is going to back me up," I mean, they would think.

COMMISSIONER COOPERMAN: Sure, but I can't prove

SENATOR GAGLIANO: So, VERC could be put out of business if it didn't go along with the Gordon Ascher scam.

COMMISSIONER COOPERMAN: I know what Bob wrote in the paper about Garner, and that, again, is my only source; that Garner said there were people's jobs on the line; that he was coerced; he was pressured into doing it.

SENATOR GAGLIANO: But he never picked up a phone and called you, or the Attorney General, or Ed Bloustein, or anyone else--

COMMISSIONER COOPERMAN: I don't know.

SENATOR GAGLIANO: --and said, "I am being coerced here, and I don't like it. I want you to investigate this." So, there was none of that?

COMMISSIONER COOPERMAN: This could have been stopped early on through a number of situations, if people would have spoken out. I had four people from the Vocational Division come to me, in the past several months. They didn't want their names mentioned. They didn't even know oversight was going to happen at that time. But, I asked them, "Why didn't anyone say anything?" I have my notes written down here. Let me just see if I can get to that. (pause while Commissioner goes through his notes)

SENATOR GAGLIANO: While you're looking-- You know, Mr. Chairman, this could happen in any department. It could very easily happen where you have people who are doing this so-called "part-time work," where almost any kind of publication can be used-- For example, I throw out Human Services, or any of the departments we have where they have tremendous grant systems. We put a lot of money out on the street, and people can work it out so that that money is funneled back into their own pockets.

SENATOR STOCKMAN: I don't think there is any question. This raises some difficult questions as to just how far employees, particularly at the level of Mr. Ascher, should be allowed to hold those --

SENATOR GAGLIANO: I mean, it does not seem to me that a form -- filling out a form -- is sufficient control. The work product should be filed. Of course, you can say, "Well, if they never filed a work product, we would never know they did it."

COMMISSIONER COOPERMAN: Yeah, but there is another thing, too. They are supposed to be competitive grants. Now, let's say something is not competitive. Let's say there is a grant to be given out by someone in Vocational Education. And they say to someone, "This money is discretionary money. It is not competitive." And they say to you, "We really know you do a good job for kids" -- you're flattered -- "and here's \$10,000. We would like a discretionary grant." You say, "Oh, okay," never thinking that someone is going to lie to you that it is a competitive grant.

I asked people in the Vocational Education Division, "Why didn't someone come forward? Why?"

SENATOR STOCKMAN: Commissioner, what about the fact that 98% of the people in Vocational Ed, as I understand it, are unclassified? What, if any, part do you think that played in this tragedy?

COMMISSIONER COOPERMAN: I think it is probably significant.

SENATOR STOCKMAN: Do you have any sense of how we can deal with that, or what further protection might be provided to them, in order for them to get to you?

COMMISSIONER COOPERMAN: I said before that I follow through on things, even though some people may not know this at times. I want to read from a letter I wrote on May 19, 1986, to Frank Mason. I will just read the significant part, because

I think it answers your question -- goes to the heart of what you're saying: To: Frank Mason, Re: lev. CWA Contract, Demands Unclassified Employees

SENATOR GAGLIANO: Who's Frank Mason?

COMMISSIONER COOPERMAN: He's the negotiator for the State. "On May 2, 1986, I met with Robert Purcell and two other CWA representatives regarding the union's bargaining demands and changes in contractual language pertaining to unclassified employees. The discussion focused primarily on issues of discipline, layoff, job posting, and vacation leave. While I was noncommittal, I did indicate that I would forward my recommendations to you for consideration, as negotiations continue.

"The Department of Education has approximately 530 unclassified employees covered by bargaining unit agreements, many of whom have long-term service with the State. It is my personal opinion that these employees should be entitled to some protections beyond those provided in the existing contract. My specific recommendations are as follows:

"I support unclassified appeal rights to a joint union/management panel for discipline cases involving suspensions or fines up to 30 days. However, the decision of the neutral panel members should be final and binding, with no further appeals to disciplinary action. In disciplinary cases involving suspensions or fines of more than 30 days, demotion or discharge, I support unclassified appeal rights to disciplinary arbitration."

I did not send that to the union, for obvious reasons. I told them, and gave them my word that I would follow through, and I did.

SENATOR STOCKMAN: So you think that some further procedures of the sort you outlined in that letter would make sense. What about a provision for protection for such

employees for revealing information they feel goes to the misbehavior of superiors? Do you see any need for some--

SENATOR GAGLIANO: Whistle blowing. Contingent demands

SENATOR STOCKMAN: Yeah, some further mechanism for that?

COMMISSIONER COOPERMAN: There are some things now that seem obvious to me. I give over 100 talks a year and am on panels. Probably 30% to 50% of the time, when I walk out to the car, there is someone there who hands me an envelope, and says, "It is of great urgency that you read this." I read them all. Ninety percent have to do with, someone should be hired or someone fired, and I should intercede on their behalf. Maybe 10% say there is something wrong. After I read it, I give it to Calabrese, or to Kaplan, or someone like that.

I just have the question-- I know maybe it's not fair to answer a question with a question, but I just wonder why people don't send something anonymously, or why don't they go through their union, as Purcell came to see me?

SENATOR STOCKMAN: Well, I came to see you, Commissioner, in June, I guess, of 1987, but maybe I--

COMMISSIONER COOPERMAN: You know, you can keep going on on that, but--

SENATOR STOCKMAN: All right, no, maybe that was an unfair comment.

COMMISSIONER COOPERMAN: You said an investigation, and I knew of no investigation. That was it.

SENATOR STOCKMAN: Let me ask you this--

SENATOR GAGLIANO: You didn't tell us about it, Jerry.

SENATOR STOCKMAN: If this Committee asks members of the Vocational Education Division to testify before it, what assurance can we give them that their testimony will not result in any kind of reprisals or recriminations?

COMMISSIONER COOPERMAN: I guess the only thing I would say is, there would be none. If the greater purpose here

is not to go back just to say, "This was wrong, that was wrong--". We pretty well know what was wrong. But, how do you make it better, and what do you do from now on, to build, or to protect, not only this organization, but other State organizations that people put trust in? I know Lloyd Newbaker, and he is right in this room. I know there would be no repercussions. But what I say and what people feel are two different things.

SENATOR STOCKMAN: One of the abuses the internal investigation found, was the practice of Division personnel writing and approving grant applications for local education agencies, apparently. How widespread was this practice, and did it exist in other divisions, as well?

COMMISSIONER COOPERMAN: We know it exists, or existed, in Vocational Education. We know it because of our investigation. And when we asked some people who did this-- We said, "This is not technical assistance. You are going far beyond helping." It is a parallel I would almost make with a teacher. You can ask a child questions, "Do you really want to write that," but then there is a point where you start writing it for the student. Clearly, people had gone over the line. I will turn to Mr. Kaplan, if he would like to speak now, because he was primarily our investigator. But what I got from Kaplan was, "People said, 'My job was on the line. If I didn't do what my boss said, my job was on the line.'" Rich?

RICHARD M. KAPLAN: That's accurate, Senator.

SENATOR STOCKMAN: Were these practices of Division personnel -- writing and approving the grants-- Did that practice go beyond the specific -- Peggy Road and the other two that have become very public?

MR. KAPLAN: Yes.

SENATOR STOCKMAN: How far beyond?

MR. KAPLAN: It went to degrees depending upon the types and definitions you would classify as technical

assistance. In some cases, we found evidence where well-meaning employees, offering reasonable understanding of technical assistance, would write to a school district and give them some suggestions.

SENATOR STOCKMAN: I think you would agree with me that that puts an unusual burden on that school district, in terms of how it responds, or whether, if it responds in the wrong way, it will become an unfavored school district within the operation of the Division.

MR. KAPLAN: It could, but you're mixing the two. The issues we saw in terms of where perhaps there was some overzealous technical assistance being given to school districts-- It did not take the form of districts that would be considered those that were in a favored group. So, they were sporadic, not necessarily line kinds of concerns. The areas where Department people actually wrote the grants, critiqued the grants, evaluated the grants, approved the grants, were those specifically that have been related by the Commissioner this morning. So, there is a range of goodness, if you will, in terms of activity within the Department, to determine whether or not, and to what degree these activities fell into areas of wrongdoing, versus a climate of the way things are done.

SENATOR GAGLIANO: I am assuming that the grants which were written for people-- They were sort of done as a favor, just to keep the process going, because if you don't have applications in, you don't get the grants out. Is there any possibility that any of the people in Vocational Education, or otherwise, would be writing grant applications on weekends and submitting them to a particular district or school, and then charging a consultant fee? And, if there is such a possibility, how do you guard against it? What do you do?

COMMISSIONER COOPERMAN: I could almost be ready to believe--

SENATOR GAGLIANO: I mean, it just sounds like an extension--

COMMISSIONER COOPERMAN: Yeah, school district and give
SENATOR GAGLIANO: --of what's happened here.

COMMISSIONER COOPERMAN: We don't know that that has happened, but you could go through almost any hypothetical scenario, and it could happen, because if you want to beat the system there are various ways. But what it must do-- It must require two things, duplicity -- premeditated -- and collusion. And if two people agree to something, to go around whatever we have-- In other words, when we had this external team come in, they were three high-powered people. They said to us essentially, "Your grant system is, in some divisions, very excellent; in some, it's so-so. But you can make it top flight if you take our advice," and they gave us the advice.

Now, they underlined-- The only thing they underlined in their whole report was, "No system of checks and balances can stop collusive activity." So, the person takes a risk, though. They take a risk that someone will turn them in. Take your example. Someone in the Vocational Division, on a weekend, writes a grant for a school district, and then charges the school district a consultant -- or a kickback, because, "Look, you're going to get a \$10,000 grant."

SENATOR GAGLIANO: They form a corporation, and nobody knows who owns the corporation. They say, "ABC Corporation, or company, consulted for us." The school board doesn't know, and they pay the voucher.

COMMISSIONER COOPERMAN: I don't know that anything like that happened. We haven't found that here. But what we do know-- Remember in the beginning I said one million was funneled through VERC. That was the key conduit; that was the essentials of the scam. But there was a couple of hundred thousand dollars. That couple of hundred thousand dollars went to someone by the name of Woodhull. Woodhull used to work in

the Department back in the '70s. He became a favored subcontractor, so undoubtedly what we feel -- and we can't prove it until we--~~If we could get--~~ We are not going to get Woodhull on the stand. But until we find out, "How come you got a subcontract here and a subcontract here and a subcontract here?" The way we think it worked is, the Department said to a person, "We've got a wonderful subcontractor for you. He has done great work in the past" -- almost like a referral. You know, so and so will help. And they, in all honesty, probably said, "Oh, that's great; that's wonderful of you," never knowing there was a link between a corrupt person in the Department and maybe Woodhull.

On the other hand, maybe they said to the district, "Now, you are not going to get your grant of \$10,000 or \$50,000, unless you use Woodhull." Oh, now there is a risk on the part of this person in the Department, because you need two for collusion. If that person said, "I am not going to stand for that. I am going to call so and so," then it would break. But it didn't, for two years, until Cary got into it. Until those three things converged on us in November, we did not know about it. If anyone wants to say, "You should have known," fine. We did not know.

SENATOR STOCKMAN: Let me turn to Senator Zimmer, who I think has some questions he would like to present.

SENATOR ZIMMER: Thank you. I think it would be useful to get a more precise understanding of what happened, but I think the most important function of this Committee is to try to devise ways, either administratively or legislatively, so that what happened will not happen again.

I am struck particularly by your statement that there is no defense against collusion, and your specific statement that the controls are predicated on honest people being put into key positions. I am reminded that ever since the founding of our republic, we have been advised not to put our faith in

the goodness of human nature; that men are not angels, and we do need laws and other safeguards to protect the public.

I would like you to describe, first of all, in some detail, what the outside consultants in the Treasury Department, as well as your internal review, suggested as permanent and structural reforms that could minimize the possibility of further abuses, and whether you really think that collusion is indefensible, except on the part -- except when someone blows the whistle, someone who is invited to participate in the collusion.

COMMISSIONER COOPERMAN: I think we can probably do better. Hindsight, of course, is easy, and what you ought to have done. But, one of the things which, you know, hurts me a lot, is that I was in the job one week, and I formed the first State Internal Audit Team. I asked the Department of the Treasury if we could take some of our money to get their auditors to monitor our people. In other words, I wanted it "in, but not of." I just didn't want our people monitoring our people. You know, it had never been done before, and all this sort of stuff. Within a couple of months, it was working.

An ironic thing was -- not lucky for me, but ironic, and very interesting -- in May, I asked Steve Blaustein, "Next year, who are you going to monitor?" The next division scheduled for monitoring was Vocational Education.

SENATOR ZIMMER: Had your internal audit turned up any wrongdoing or any significant collusion up until that point?

COMMISSIONER COOPERMAN: No. They find things wrong. Sometimes they find the money is not there. "You are putting it in this account. You can't do that. You have one person signing." They find, sometimes, things that are not so good, but not anything-- It is just sloppy, but not devious.

SENATOR ZIMMER: Could they have missed something like this -- something like what was going on in the Vocational Education Division?

COMMISSIONER COOPERMAN: Could have; could have. My hope would have been -- but this is all speculation-- The first division -- understand this is the second-- Getting the Internal Audit Team was one of the first things I did. The first Division I had audited was Vocational Education. That was back in 1982. Now they had come around for the second audit. They were the first group to be audited twice. Would they have found it, having said all of that? I don't know, because this was totally beyond the controls. People knew the controls. They knew how the system checked itself. So they had to go over the system, but it had to be predicated on a willing accomplice, either because money was given to the accomplice, they bullied the accomplice, or the accomplice just didn't want to hear, speak, or see any evil.

We can do a couple of things. One, we can strengthen the Internal Audit Team. I think, as Senator Stockman said, we can maybe somehow, somehow give workers better protection, so they know they are not going to be intimidated. We can maybe give them formal, as well as informal avenues to go to someone to whistle blow, so we can catch this before money goes out of the State coffers. I think we can do all that, and we can build even better control systems.

Now, I'm sitting here, the guy who is on top of this organization where it has happened, thinking there were good controls, they were good people who went to the extraordinary task of getting an inside auditing team, and still it happened. So, you know, once burned, is twice wary.

SENATOR ZIMMER: Could you review what the recommendations were of the--

COMMISSIONER COOPERMAN: Sure.

SENATOR ZIMMER: The structural reforms.

COMMISSIONER COOPERMAN: They said we should coordinate our audit functions. Our audit functions now-- We have an Internal Audit Team; we have an External Audit Team;

and we have auditors that do perfunctory things for Vince Calabrese. They said--

SENATOR ZIMMER: That is all within your Department? That is exclusive of the Treasury audit?

COMMISSIONER COOPERMAN: Correct. The Treasury audit, in '84 or '85, was phased out. They said they could no longer do it. They would not have an "in, but not of." So what we did was continue it. We tried to hire independent people, who wouldn't be folded into our organization, and then not be able to take a hard look. That's a bit of a problem. I would have liked it to be the other way, but, again, I think we've got good people -- two good people on that audit team.

What they suggested was, first of all, coordinate your audit, not necessarily put it under on, although they suggested that maybe we should centralize it. "You have to watch your linkages better." The second thing they suggested was generic controls. They said, "There are certain things you can do to make your controls even more powerful." They gave us about six pages of, "Here's how to set up your system. Now, if your system in any division is already doing this, fine. If there are Federal laws that you have to do more, then do it. But here is your generic controls."

The third thing they said was-- We called it "Curriculum Delivery System." They said that all of the divisions that report to Rich DiPatri, ought to continue -- ought to be on this Curriculum Delivery System. Not all of them are now.

Now, those were their three major recommendations. We are studying each of those recommendations. I have three sub-teams out, under the direction of Assistant Commissioner Piatt. They are going to come back and finalize that by July, and either at the July or August State Board meeting I will state publicly exactly what we are going to do.

SENATOR ZIMMER: Maybe it is premature for you to answer this question, but I would like to know, apart from whether these reforms are useful, ~~perspectively~~ ~~whether if they~~ were in place, ~~you would have been able to discover this scandal before it happened?~~

COMMISSIONER COOPERMAN: I don't know. I think he so went outside the bounds, that unless someone talked, unless someone said, "It's wrong--" Again, I asked people in the Department. Some people told me, "I didn't know anything was going on." Other people said, "I heard a little bit here or a little bit there." One person said to me, "I thought something was wrong, but my manager told me it was all right. Therefore, it was his fanny, not mine." I got that in confidence.

I had one person tell me he believed I was a college roommate of Gordon Ascher, and since we were such close friends, "going to Cooperman would get you no good, because no matter what you show him, he is a buddy of Ascher's." So, there were all different things people told me which, from their own point of view, justified their actions. A couple of people were very sad and very contrite, and said, "In hindsight, yes, we should have come to you. Maybe we should have come to you in force. We should have come to DiPatri." One person told me -- Rich won't like this; he's smiling because he heard it before -- "Don't go to DiPatri, because he is a wimp and Ascher will run all over him." (laughter) He's no wimp, but that is what they thought.

So, there were lots of reasons why a variety of people did not come forward. They finally did. One guy, when he was going to take over something called "VICA," which is a vocational student account-- He went through the system from the very first. It took him eight months to get through the system, because there were about six or seven months that we were auditing the very account that he wanted audited. But, why other people didn't come forward in other places, I don't know.

SENATOR STOCKMAN: Let me ask Mr. DiPatri a question for a moment, if I may. Mr. DiPatri, do I understand that you were Mr. Ascher's boss, so to speak--in the chain of command, you were above Mr. Ascher? I have been able to discover this

ASSISTANT COMMISSIONER DiPATRI: That is correct.

SENATOR STOCKMAN: During all of this time, did no employees of the Division of Vocational Education approach you, directly or indirectly, with any complaints that, at least from hindsight, if not from foresight, were an effort to reveal what was going on?

ASSISTANT COMMISSIONER DiPATRI: No, no one came to me.

SENATOR STOCKMAN: Why do you think that was? You don't project a negative image of the sort that the Commissioner mentioned, do you?

ASSISTANT COMMISSIONER DiPATRI: Are you asking, am I a wimp? (laughter)

SENATOR STOCKMAN: I wouldn't be that bold.

ASSISTANT COMMISSIONER DiPATRI: I don't believe so.

SENATOR STOCKMAN: Why do you think--

SENATOR GAGLIANO: I'll vouch for that; he's not.

SENATOR STOCKMAN: --there was no one-- Maybe you're-- What is the opposite of a wimp?

ASSISTANT COMMISSIONER DiPATRI: Well, I--

SENATOR STOCKMAN: Let's think this through. What is the opposite of a wimp?

SENATOR GAGLIANO: A whip.

SENATOR STOCKMAN: A whip?

SENATOR GAGLIANO: A whip.

SENATOR STOCKMAN: Would you agree with that, Mr. DiPatri?

ASSISTANT COMMISSIONER DiPATRI: If Tom says so, yes.

SENATOR STOCKMAN: Do you think it may be that the feeling was that you were too far at the other end, or not? I don't know.

ASSISTANT COMMISSIONER DiPATRI: No. I think part of the reason was -- as the Commissioner just mentioned a few minutes ago -- a little bit of information was spread in a number of directions, that is, no one -- Very few people knew all that was happening. So, if a person thought that this was wrong, that I was asked to review this proposal and look favorably upon it, for whatever reason, or whatever activity they were engaged in, they thought it was okay, and accepted it because the manager said it was okay. Or, they surely faced the fear of reprisal by either the manager or upper management.

SENATOR STOCKMAN: What part of your job involves the Division of Vocational Education? We have been focusing on that. I assume you have many other responsibilities.

ASSISTANT COMMISSIONER DiPATRI: That's right. There are six divisions that report through me to the Commissioner.

SENATOR STOCKMAN: And how much time, let's say in the last year -- in this year '87, when much of this was coming to a crescendo -- How much time do you think you put into your responsibilities within the Department with regard to the Division of Vocational Education -- 10% of your time, 20%, 5%?

ASSISTANT COMMISSIONER DiPATRI: Well, normally it would not be a high percentage; at least during my first two years on the job it was not a high percentage. But ironically, during this past year, it has been a pretty good percentage, more so than usual, primarily for a couple of reasons: One, a new initiative which we were working on, 10,000 Graduates, 10,000 Jobs; the State Panel on Vocational Education; and private vocational schools, which was something that related to the transfer you discussed earlier. Those three. I was working very closely with Gordon and, in some cases, a number of his staff members, on those issues. So there was an opportunity where someone could have mentioned something, had they known, or felt reasonably free to inform me.

SENATOR STOCKMAN: I'm sorry, Senator.

SENATOR ZIMMER: That's fine. To pursue the thing I had begun, from your description of this scheme, Commissioner, you imply that it was inherently doomed because it was only a matter of time before someone found some way to blow the whistle.

COMMISSIONER COOPERMAN: Absolutely. It was just so, you know, greedy, or outrageous. I don't know the terms, but it was three grants of a substantial amount of money, all funneled through VERC. Someone had to ultimately say something, and they did. From my understanding, they went to the AG. They chose that path.

SENATOR ZIMMER: Do you feel it would have been preferable if there were someone within your own Department they would have gone to first, or are you convinced by the Attorney General that his agency is the appropriate investigatory body?

COMMISSIONER COOPERMAN: I would have liked to have had it come to me, because I feel very, very strongly that we would have investigated. Now, I can't divorce myself from myself. So, sure, I think anyone-- If you are responsible for an organization, and you think on balance that it is pretty darned good, but you know there are going to be some things wrong with it -- it is never going to be perfect -- you would like to have that information, so you could have a shot at making it better and cleaning up your own mess.

Now, I can't say if I had got that information what would have happened. I would like to think that I would have acted, that I would have given it to the appropriate people, and they would have followed through. It didn't happen, so that is just hindsight.

SENATOR ZIMMER: Now, if they weren't so greedy, if they did it once, or maybe twice, and stopped, or maybe created another conduit, do you think it would ever have come to your attention, and to the attention of the Attorney General?

COMMISSIONER COOPERMAN: I would like to think -- again, this is just-- It was asked before a different way. When our Internal Audit Team would have gone into Vocational Education; they wouldn't be there just one day; they would have been there weeks, looking through the books.

SENATOR ZIMMER: And their audit procedures would have been sophisticated enough to turn up this sort of collusion?

COMMISSIONER COOPERMAN: No. I really don't know. Let me ask Tom King what his hunch is. My answer is, I don't know. My thought would be that if he were there for a couple of weeks, and everyone knew he was auditing the books, maybe someone would have come to him and said, "Look at this; look at that; look at such and such." That is the way we ultimately found out about it. I mean, these people were, I guess, crying out in different ways. They went to the AG. One person went through our audit system; one or more people went to Bob. Some people were trying; other people were not. They were going along and getting along. Either they didn't know, they knew a little, their boss said it was okay, or they were afraid for their jobs.

So, I think there are a lot of things we can do. We can remove the fear that a whistle blower is going to get nailed. We can somehow build in to maybe contract some things. I have a vacancy right now for an assistant, and I thought part of that person's duties -- I am just thinking it through my head -- would be kind of like an ombudsman type thing; to announce that this person talks with me frequently; that someone can give him information. And, even if you don't trust the system, so detail it. Give us the facts. Don't sign your name. I'm fooling around with that.

Tom, do you think you would have -- hindsight now -- caught it, based on your normal procedures?

THOMAS J. KING (speaking from audience): Well, it is mere speculation, but through the interview process, we do

meet with various individuals throughout a division while performing an audit. -- So, if it didn't come to our attention through the normal audit process, hopefully someone would have mentioned it they would be there just one day; they would have

SENATOR STOCKMAN: If I may ask this, Commissioner. Is there any reason why this might not happen in the Adult Education Division or the Special Education Division or Compensatory Bilingual? In other words, you have a number of divisions -- six or seven of them anyway. It happened in Voc-Ed. Is there some reason why it happened there, and is not likely to happen in other divisions, or not?

COMMISSIONER COOPERMAN: It could happen wherever there are grants. Wherever there is the ability to say someone wins something and someone doesn't, it could happen. When there are categorical funds, or equalization funds, that is all pumped out to the district, so that lessens the chances. So it can happen in other divisions in proportion to the number of grants and money. This has happened before in Vocational Education. It has happened in the nation.

One of the first things I did after I was convinced that there was wrongdoing, was call Greg Anrig on the phone. He is the head of ETS now, and he was in Massachusetts. I said, "Greg, I really think something smells in my Voc-Ed Division." I said, "I know you went through something like this. How can you help me? What can you tell me?" So, there is a history in that, but that does not mean it should continue to go on. But, it has gone on historically.

SENATOR ZIMMER: I just have two more questions. The reason I was asking the questions I was asking was not to take a retrospective look, but to see, as Senator Stockman was indicating, how susceptible we are, not just through your Department, but through every department, because every department has a system of awarding grants. It troubles me that, although this was a particularly ingenious and unique kind

of scam, there are a lot of bright people in government in all the departments who can devise their own ingenious and unique scams. I just wonder whether our internal audit system within the departments, or outside the departments, or in the Attorney General's office, are up to the challenge of ferreting out these scams where they exist, or whether we may just have blundered into one of many?

One way to approach this is the question of competitive grants versus noncompetitive grants. You said there were some grants that were supposed to be competitive that ended up not being competitive.

COMMISSIONER COOPERMAN: Absolutely.

SENATOR ZIMMER: Now, what percentage of the dollars you give out in grants are given out in competitive grants?

COMMISSIONER COOPERMAN: Rich?

ASSISTANT COMMISSIONER DiPATRI: The percentage in that particular Division is about--

SENATOR ZIMMER: No, Department-wide.

ASSISTANT COMMISSIONER DiPATRI: Oh, the Department. If you eliminate State aid, which is predominantly -- which is close to two and a half billion dollars that we put out in formula-- I would say if you exclude that, the rest of the money is put out in Special Education through the grant process, and Adult Education, Vocational, and others. I'm guessing now, but I would say about 40% to 50% would be competitive -- 40%.

SENATOR ZIMMER: That is a surprisingly low number.

ASSISTANT COMMISSIONER DiPATRI: Others are formula driven.

SENATOR ZIMMER: Oh.

ASSISTANT COMMISSIONER DiPATRI: You establish a formula that is--

SENATOR ZIMMER: Well, how many grants-- How much of your grant money can be given out as a grant that is not

mandated by statute or by some formal formula, where through these methods-- If someone comes in with unsolicited proposals so you don't do an RFP, or use some of these other loopholes, or if it is deemed because of the nature of the grant that it can't be competitive-- How many of these situations are there, in terms of the magnitude of your grant program?

COMMISSIONER COOPERMAN: In Voc-Education, last year, there were about 500 grants, and I think they totaled about \$6 million. I'm not sure of that, but I think \$6 million from both Federal and State. We put them both together. One way of solving this aspect of scams in government is, you don't have grants. That is one way to solve it. You just pump out everything in formula, and it goes to a district on a percentage basis. So that stops all this, but then the down side is, there are some grants which are pretty darned good, and if the grants work you can replicate them at low cost.

I think the message for the rest of the State departments -- although I am in the seat right now -- is, maybe some of the things we're doing-- Maybe they have some merit to see what is the auditing function within a department. We have one. The second is, what are your controls right now, and can they be improved? We would be willing to share what our External Committee did. We had a management type. We had one from Coopers Lybrand and one guy from the Treasury Department.

The other thing is, do you have a way for your employees -- a secure way for your employees to say what is going on, not so you are bedeviled with-- I met with the union in January, and one of the things we discussed was not to take this as an entree to come in every time there is a grievance, because, you know, there is a way of handling grievances, but when there is wrongdoing. I said to the head person in the union, "If you suspect there is wrongdoing, will you come?" and she said, "Absolutely."

I don't know whether ombudsmen is the answer, and internal audit-controls. I am sure there are a lot of other good ideas, but I am certain that our Department can be improved. Maybe some others can, too, but right now I am just looking at our Department how many of those situations are there.

SENATOR ZIMMER: Okay. I hope that will be the principal focus of your efforts from now on. Obviously, the continuing investigation is in the hands of the Attorney General. If you need legislation, I think those of us who care about this issue would be delighted to sponsor the legislation.

Thank you.

SENATOR STOCKMAN: Senator Gagliano?

SENATOR GAGLIANO: Commissioner, I am concerned about VERC. That seems to me to be an opportunity -- a special opportunity -- for a scam to work best, not VERC in and of itself, but an organization like VERC, which makes it rather easy, I think, for your people, even well-meaning people, to use this third party to contract with, to avoid some of the strictures you yourself might have, because they say, "We are going to send this to VERC, and VERC is going to do all the little things for us. They can make it so much easier for us. We get the money out into the system. We get what we want. We don't have to do so much competitive bidding. They are doing it all for us."

How many VERCs are there out there that you work with, because it almost seems like there is a separate planet out there? Here is your Department, and here's VERC, or whatever it is, funded by grants. It looks real good, because it is associated with a major university and, of course, a graduate program. It looks great. Then, it has tentacles out into all kinds of areas, some of which could be totally illegal, and apparently some were.

I guess my question to you is, how many VERCs are out there -- VERC-type places you deal with -- and is this common

among other departments that give grants for particular reasons, if you know? I just feel that in a sense, it is a process for giving up some of the controls you might have. The toughest controls in the world might be in your office -- in your group, your people -- but when you deal with a VERC organization, those controls don't mean anything, because they can contract with anybody on any basis. I guess that is what I'm -- I would like a little bit more explanation about that, and if there are any others you are dealing with.

COMMISSIONER COOPERMAN: In Vocational Ed, there is just VERC. We have a decision to make by July, either to continue VERC by going out the same way to some other organization; to pull VERC in to what we call our Regional Curriculum Service Units and establish a part of Vocational Education in each one of them; to pull it into the Department so there is no third party and it's clean -- if it's wrong, it's inside wrong; or to do away with it completely, and just distribute the assets. So, we've got decisions to make as far as VERC, and we are going to make them by July 1. But that is the only one in Voc-Ed. Now, there are some in other areas.

SENATOR GAGLIANO: How about other divisions?

COMMISSIONER COOPERMAN: I will ask Rich to comment on that.

ASSISTANT COMMISSIONER DiPATRI: There are two Adult Education Resource Centers, one located at Glassboro State and one at Jersey City State. We announced, in July of '87, that we were not going to support those any longer, and despite being in operation, I believe, for the last 16 years, we are not going to support the Adult Ed Resource Centers at Glassboro and Jersey City, beginning July 1, 1988. So, we will cease and desist.

SENATOR GAGLIANO: Were there any particular reasons for that, Rick, or is it just a process?

ASSISTANT COMMISSIONER DiPATRI: Well, a little bit different than this. As a matter of fact, in no way were there any of these kinds of relationships. They are separate, independent units, and they function that way. As a matter of fact, they seem to be advocates, at times, and opposed to some of our positions. So they were definitely independent.

The reason we are closing those two, or pulling support, is because their function has changed over the last four or five years, and we have come to recognize that. We have shifted responsibility in the Department from monitoring closely adult education programs. They were doing some of the monitoring in '84 and '85, and it is just not appropriate for an Adult Ed Resource Center to monitor. So that was one reason.

Second, we believe we can train--

SENATOR STOCKMAN: Mr. DiPatri, let me stop you, because we are running out of time right now. I think the question was more--

SENATOR GAGLIANO: But they don't process grants, and so on?

SENATOR STOCKMAN: We don't want to get into that.

SENATOR GAGLIANO: Oh, we don't?

SENATOR STOCKMAN: But I would like to finish up, and give an opportunity, at least, to a representative of the CWA to express themselves here today. I promised them that.

What I would like to do is ask you to sum up. If there is anything, Commissioner, any further statement you would like to make, any other observations to this Committee you would like to make at this time, or your top staff, I would like to hear them. Then I would like to hear very briefly from the representative of the CWA.

COMMISSIONER COOPERMAN: I didn't know someone was going to be here from the CWA. I will just mention two things I think are important, which I have had discussions with the CWA on. I just appreciate it, and maybe if you would call me

back, depending on what they say. But there are two things here.

The first had to do with an unfair labor practice. I mentioned there were four grievances in the last three years. One included an unfair labor practice. This unfair labor practice was settled. But, when I met with Marge Egarian in January, she mentioned at that time-- She said, "Have you read the unfair labor practice?" I said, "No." She said, "In it there was a statement on-- The person who is filing this said that they might go to the Commissioner, or they might go to the Assistant Commissioner, or they might go to the AG, because this person has heard about improprieties." She wondered, first, if I had read it, or, if I didn't read it, did some of my people read it, and did they somehow link the word "improprieties" with wrongdoing? I told her, "I never read it." But I talked to Steve Blaustein after that, and I asked him to get it and bring it up the next day, which he did.

I said, "How did you read that word? It might go to the AG because of 'improprieties.'" He said, "The whole unfair labor practice had to do with alleged hassling, vindictive behavior, threat of transfer, and you're not going to get a good grading on your sheet. It was all sort of vindictive behavior of management." He said, "My clear understanding when I saw improprieties, within that context-- I never would have thought that someone was talking about something else."

I asked Steve at that time, I said, "Who heard this unfair labor practice for management?" He said, "Art Spangenberg." So, I met with Art Spangenberg, and I said, "In any of the conversations when this unfair labor practice was being heard, was it ever mentioned in the terms of wrongdoing?" He said, "I will swear on my mother's grave, there was never one word mentioned of alleged wrongdoing. It was with the transfer and hassling and whatnot."

I then asked Steve to go further. I said, "Who represented the State in this unfair labor practice?" It is usually some lawyers. He said he had already checked that, and he would check again. He said, "Was any of this conversation whatsoever discussing wrongdoing or illegal or unethical actions, other than the hassling and the transfer and the vindictiveness?" He said not that he knew of, but he would check with the two attorneys. So he checked with a Ms. Kathleen Goodkin, of the Governor's Office of Employee Relations, and she said never was a word mentioned; absolutely not. Then with a Ms. Maureen Adams, a Deputy Attorney General, and she said, "That was never mentioned; to infer that that was ever said was a load of bullshit, and you can quote me on that," so I am quoting her. (laughter)

I forget what the other thing was I wanted to mention. (Commissioner consults with his staff) I can't remember the other thing I wanted to bring up.

SENATOR STOCKMAN: All right. Well, Commissioner, you may certainly submit to the Committee anything further in writing, or you may communicate with us at some later point. I appreciate, and the Committee appreciates your candor and your coming in to share this information with us. Thank you.

SENATOR GAGLIANO: Thank you, Commissioner.

COMMISSIONER COOPERMAN: Thank you.

SENATOR STOCKMAN: Mr. Trivelli? I am going to ask the representative of the CWA who had indicated an interest in making a statement, to appear before the Committee.

V I N C E N T T R I V E L L I: Thank you.

SENATOR STOCKMAN: Will you please identify yourself for the record?

MR. TRIVELLI: Yes. My name is Vincent Trivelli. I am the Legislative Coordinator for the Communications Workers of New Jersey. I am not here today to talk about the specifics of what happened. We have a lot of our membership that work in

the Department of Education, in the Division of Vocational Education. We have a lot of people who work very hard in that Division. But their morale, at this point, is extremely low, as you can guess. They have worked a long time under very extreme pressure. The pressure has come about from some things that have been mentioned here today. They had a fear of losing their jobs, if they had come forward, and they had a fear of having their careers ruined if they had come forward. This is because -- and, again, this has been alluded to here today -- 98% of these people are unclassified workers. Under law, they can be fired without notice; they can be fired without being told the reasons; and they can be fired without having any sort of an impartial hearing as to why they have been fired. This applies no matter how long they have been employed by the Division.

These employees would like to tell their story about what happened, but because of their status as unclassified workers, they feel the need for protection. They feel the need for protection before this Committee, and in the long run. Before this Committee, they feel the need to be subpoenaed here, so that at least if there is retaliation down the road, they can say they were required to come here; were required to speak to the Committee. They need protection in the long run. They need protection, because we cannot assure them that next week, six months down the road, or six years down the road, they may not be disciplined or fired because of what they said here. They would like to see some legislation come out of this hearing which would provide them with rights, so that if this sort of thing happens again, they can come forward without having the total fear of losing their jobs and having their careers ruined.

SENATOR STOCKMAN: At this point, this Committee does not have subpoena powers, but I think it is a question the Committee will take up in terms of requesting it or not

requesting it. I would want to talk with the rest of the Committee about that.

Is there anything further, Mr. Trivelli, in terms of the statement you wish to make at this time?

MR. TRIVELLI: No. Like I say, the people would like to come forward and tell their story, but they really feel that is an important ingredient. If they could get that, they would be here.

SENATOR GAGLIANO: Mr. Chairman?

SENATOR STOCKMAN: Yes.

SENATOR GAGLIANO: Through you, Mr. Trivelli, have any of your people gone before a grand jury or been interviewed by a representative of the Attorney General?

MR. TRIVELLI: Yeah. We have had people interviewed by the internal investigation and by the Attorney General.

SENATOR STOCKMAN: All right.

SENATOR ZIMMER: May I ask a couple of questions? (no response) Frankly, I don't understand the point about the subpoena. If someone was subpoenaed and told the truth and implicated their superiors, would they not be just as subject -- just as much subject to retaliation as though they came under their own volition?

MR. TRIVELLI: I think you could argue that their personal attorneys -- and some of them have felt the need to hire personal attorneys -- have said they should be subpoenaed to be here, and this would give them some protection, if they were compelled by the Committee to come forward. So, if they did want to file suit under the Whistle Blower Act, or something like that, they would have some evidence that they were compelled to come forward. It is not the best. They don't have their rights, which is what we're saying. But this is one thing they feel would give them some hook to protect themselves, which they do not have now.

SENATOR ZIMMER: You refer to the Whistle Blower Act. Is that the whistle blower provision, or the Civil Service reform law that we voted on? (interrupted) Mr. Trivelli: In some cases -- SENATOR ZIMMER: There is a whistle blower law which was passed by this body which provides people, after the fact, to go to court and potentially get their job back. We are talking about a situation where people want to be able to get some protections without having to totally risk-- They would also like to provide you with the law.

SENATOR ZIMMER: So, that is independent of the provision in the Civil Service law we voted on -- that we adopted last year?

MR. TRIVELLI: I believe so.

SENATOR ZIMMER: Are you familiar with that provision? (members of Committee all speaking at once)

MR. TRIVELLI: There are two different--

SENATOR ZIMMER: Do you believe there is further protection statutorily desirable for unclassified civil servants?

MR. TRIVELLI: Absolutely.

SENATOR ZIMMER: I would like to have your suggestions on that.

MR. TRIVELLI: Fine.

SENATOR STOCKMAN: Thank you very much, Mr. Trivelli. That will complete the meeting for today.

(MEETING CONCLUDED)



