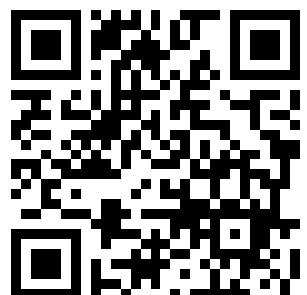
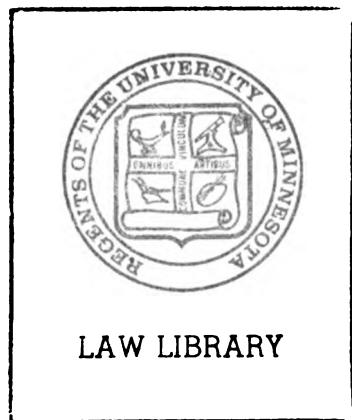

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Notation of
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

OS-
12/31
D-71
7-27-81
V.1

No. 81-2

September Term 1981

Division for the Purpose of
Appointing Special Prosecutors
Ethics in Government Act of 1978

Before: Robb, Senior Circuit Judge, Presiding, Lumbard, Senior
Circuit Judge and Morgan, Senior Circuit Judge

// REPORT OF THE SPECIAL PROSECUTOR

Volume 1

Jun 25, 1982

Leon Silverman
Special Prosecutor

Naetor
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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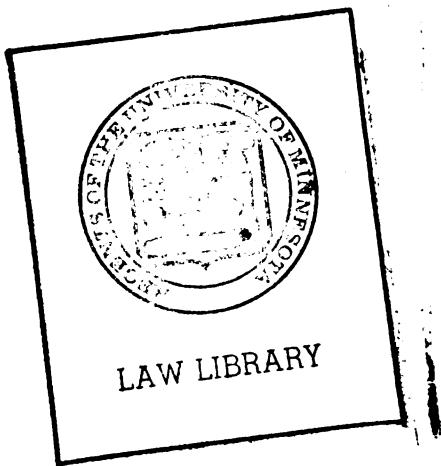
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Leon Silverman
Special Prosecutor



US- J1.2/2: D71 arb# v.1

Silverman
Report of the special
prosecutor

US-
J1.2/2:
D'71
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NOTICE

This is the edited version of the four-volume, 1025-page Report of the Special Prosecutor, released pursuant to Court Order. All grand jury material and certain informant information--including entire allegations--which, if disclosed, could jeopardize the lives of the informants, has been deleted. None of the conclusions has been modified in substance.

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United States Court of Appeals
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of ~~Appointing Special Prosecutors~~ FILED JUN 28 1982

Ethics in Government Act of 1978 GEORGE A. FISHER

In Re Secretary of Labor
Raymond J. Donovan

No. 81-2

Before: Robb, Senior Circuit Judge, Presiding, Lumbard,
Senior Circuit Judge and Morgan, Senior Circuit Judge

ORDER

Leon Silverman, Esquire, the Special Prosecutor
appointed December 29, 1981, pursuant to 28 U.S.C. § 593,
having filed his final Report pursuant to 28 U.S.C. § 595
(the "Report"), it is

ORDERED that the Report be accepted; and it is
further

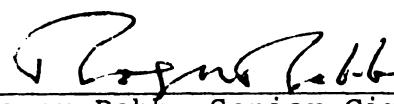
ORDERED that the Special Prosecutor is authorized
to retain in his possession one copy, and deliver to the
Attorney General of the United States for use in the
performance of his official duties one copy of the Report
as filed with this Court; and it is further

ORDERED that without further order of this
Court, the Special Prosecutor shall not make any disclosure
of the contents of the Report except as authorized by this
Court; and it is further

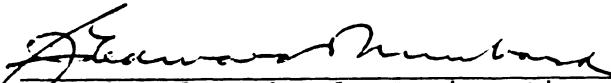
ORDERED that the redacted version of the Report

as annexed hereto shall be released to the Congress and
the public; and it is further

ORDERED that as soon as practicable the Special
Prosecutor shall deposit with the Court all originals and
copies of investigatory records procured or generated
during the investigation and that these records shall
not be disclosed without further order of the Court.



Roger Robb, Senior Circuit Judge



J. Edward Lumbard, Senior Circuit Judge



Lewis R. Morgan, Senior Circuit Judge

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PART THREE: CONCLUDING MATTERS

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Appendix

Exhibits

PART ONE: INTRODUCTION

I. PRELIMINARY STATEMENT

Pursuant to 28 U.S.C. § 595(b), this Report of the Special Prosecutor (the "Report") is submitted to the United States Court of Appeals for the District of Columbia Circuit, Division for the Purpose of Appointing Special Prosecutors (the "Court").

II. BACKGROUND MATTERS

A. Report of the Attorney General

On December 23, 1981, the United States Attorney General filed with the Court an application captioned: Report of the Attorney General Pursuant to 28 U.S.C. § 592(c)(1) Subject: Secretary of Labor Raymond J. Donovan (the "Application"). In the Application, a copy of which is appended as Appendix A, the Attorney General set forth an allegation (the "Prudenti's allegation") received by the Department of Justice ("DOJ" or the "Department") concerning United States Secretary of Labor Raymond J. Donovan (the "Secretary"):

On September 21, 1981, an informant told an attorney in the Criminal Division of the Department of Justice that he was present at a meeting in May or June 1977 in a restaurant in Long Island City, New York when an official of Schiavone Construction Company made an illegal cash payment to a union official in the presence of Secretary of Labor Raymond J. Donovan, who at the time was Executive Vice-President of Schiavone Construction Company. I was informed of this matter for the first time on December 2, 1981.

Appendix A at 1.

The Prudenti's allegation, if true, stated a violation of Section 302 of the Taft-Hartley Act, 28 U.S.C. § 186, which, with certain irrelevant exceptions, prohibits all payments from an employer to a union official. Noting that the union official who allegedly received the payment at Prudenti's Restaurant declined to be interviewed and that, by virtue of the Special Prosecutor provisions of the Ethics in Government Act, 28 U.S.C. § 591, et seq., the Department was precluded from compelling the official's testimony, the Attorney General requested that a Special Prosecutor be appointed.

I recommend that the jurisdiction of the Special Prosecutor include the investigative and prosecutive actions arising out of the allegation regarding the \$2,000 payment. In addition, the Special Prosecutor's jurisdiction should include any allegations concerning the truthfulness of Secretary Donovan's testimony at his confirmation hearings on matters relating to the informant's allegation.

Id. at 3.

B. Appointment and Mandate of the Special Prosecutor

The Court issued its Order Appointing Special Prosecutor on December 29, 1981 (the "December 29 Order," a copy of which is appended as Appendix B). The December 29 Order appointed Leon Silverman Special Prosecutor

to investigate the allegation that in May or June 1977, at Long Island City, New York, Secretary of Labor Raymond J. Donovan, who at that time was Executive Vice-President of Schiavone Construction Company, was present when an official of the company made an illegal cash payment to a union official, in violation of 29 U.S.C. § 186. . . and to

prosecute for any violation of Federal criminal law disclosed by his investigation. . . .

Appendix B at 1.

The jurisdiction of the Special Prosecutor was further defined in the December 29 Order's second and third decretal paragraphs, in which the Court

ORDERED that the Special Prosecutor shall have jurisdiction to investigate any allegation or evidence that Secretary Donovan's testimony concerning this matter [i.e., the Prudenti's allegation] at his confirmation hearings before the Labor and Human Resources Committee of the United States Senate was untruthful, and the Special Prosecutor shall have jurisdiction to prosecute for any violation of Federal criminal law disclosed by his investigation; and it is further

ORDERED that the Special Prosecutor shall have jurisdiction to investigate any other allegation or evidence of violation of any Federal criminal law by Secretary Donovan developed during the Special Prosecutor's investigations referred to above, and connected with or arising out of those investigations, and the Special Prosecutor shall have jurisdiction to prosecute for any such violation.

Id. at 1-2.

C. The Special Prosecutor's Staff

The Special Prosecutor appointed three Assistant Special Prosecutors to his staff: Michael H. Rauch and Gregory P. N. Joseph on December 30, 1981, and Bart M. Schwartz on January 8, 1982. The Special Prosecutor also secured, in January 1982, the exclusive services of three Special Agents of the Federal Bureau of Investigation ("FBI" or "Bureau") for the pendency of the investigation: Ronald Wetherington, Thomas R. French and Alan V. MacDonald. The FBI agents were directed to report exclusively to the Special

Prosecutor and consider themselves to be on detached service from the Bureau. In addition, two Special Agents of the Internal Revenue Service ("IRS") Criminal Investigation Division, Raymond J. Lee, Jr., and Michael J. O'Brien, and one private investigator, James T. McShane, joined the Special Prosecutor's staff in January 1982.

The Special Prosecutor's staff also included three paraprofessionals, John R. Firestone, Thomas J. Arata and John P. Lykos, and the administrative assistant, Teresa W. Duggan. For the limited purpose of reviewing 899 tape recordings of conversations intercepted pursuant to court order in connection with certain Federal and state law enforcement investigations, six private investigators served for approximately four months on the Special Prosecutor's staff; they were: Edward M. Ancin, Ambrose W. Conroy, James B. Davidson, Lawrence J. Doyle, Francis E. Dwyer and Thomas Krall.

III. SUMMARY OF THE INVESTIGATIVE PROCESS

A. Scope

The Prudenti's allegation was the initial focus of the investigation. However, shortly after the December 29 Order was issued, numerous other allegations were received from and through a variety of sources. Pursuant to decretal paragraph 3 of the December 29 Order, the Special Prosecutor and his staff (the "Special Prosecutor") undertook to investigate all such allegations ostensibly predicated upon specific information that Secretary Donovan may have committed a

Federal criminal offense. The results of that investigation are set forth in Part Two of this Report.

B. Substance

The investigation commenced promptly after the Special Prosecutor's appointment. On the application of the Special Prosecutor, a grand jury was empanelled on January 20, 1982, in the United States District Court for the Eastern District of New York, the judicial district in which the acts underlying the Prudenti's allegation allegedly occurred. From that date forward, the Special Prosecutor maintained and coordinated simultaneous investigations outside of, and before, the grand jury.

1. Non-Grand Jury Investigation

a. In General

Outside the grand jury, the Special Prosecutor and his Assistants personally conducted thirty-four principal interviews, in addition to dozens of interviews of grand jury witnesses immediately preceding their testimony. Agents on the Special Prosecutor's staff interviewed 218 persons. Additionally, at the Special Prosecutor's request, FBI agents conducted thirty-six other interviews in the United States and Europe, and forwarded the results to the Special Prosecutor. Extensive requests for information and for the services of photographers, artists, polygraph examiners and others were also directed to the FBI and met with uniformly prompt and responsive action.

b. Confidential Information

Certain leads pursued by the Special Prosecutor derived from anonymous sources whose lives, the Special Prosecutor was informed, would be jeopardized if their anonymity were breached. To avoid compromising any such source, the Special Prosecutor coordinated with the FBI his investigations of the respective anonymous sources' allegations. Each such investigation was conducted in a fashion tailored to ascertain the material facts concerning the allegation without divulging, even inadvertently, the identity of the source.

c. The Senate

On January 6, 1981, the Special Prosecutor requested from the United States Senate Committee on Labor and Human Resources ("Senate Labor Committee" or "Committee") all appropriate documents and materials gathered by, or in the possession of, the Committee relating to Mr. Donovan. On January 11 and 23, 1982, members of the Special Prosecutor's staff met with members of the Committee staff, who provided certain information. By letter dated February 2, 1982, the Committee's Chairman and Ranking Minority Member responded to the Special Prosecutor's January 6 letter, reporting that the Senate authorized production to the Special Prosecutor of only "executive department documents, public records, correspondence with executive departments, and media reports compiled by the Committee."

In a letter dated February 22, 1982, the Special Prosecutor requested the Senate to consider releasing to him "all documents" relating to the Secretary. The Committee, by letter dated April 1, 1982, responded by furnishing what it described as "all significant information generated or gathered by the Committee concerning Secretary Donovan. . . ."

2. The Grand Jury

The grand jury sat for a total of 47 days from February 1, 1982, through June 22, 1982. It heard testimony from 156 witnesses, from several of those on more than one occasion; 21 witnesses testified under the compulsion of court orders directing them to testify, thereby conferring statutory use immunity with respect to such testimony. The grand jury record included 6,948 pages of transcript and 162 exhibits, consisting of many hundreds of pages.

PART TWO: RESULTS OF INVESTIGATION

General Summary

In accordance with the December 29 Order, the Special Prosecutor's investigation (the "investigation") initially focused on the Prudenti's allegation. Exhaustive efforts were undertaken in the search for any corroboration, testimonial or documentary, for the assertion of the source of the allegation, Mario Montuoro. As Section IV of this Report reflects, no such corroboration was forthcoming from any source. It is the conclusion of the Special Prosecutor that there is insufficient credible evidence upon which to base a prosecution of Secretary Donovan with respect to the Prudenti's allegation. The grand jury so concluded on June 8, 1982, when it unanimously returned a no true bill with respect to that allegation.

In addition to the Prudenti's allegation, other allegations were presented by Montuoro and others. Pursuant to decretal paragraph 3 of the December 29 Order, the Special Prosecutor investigated all such allegations. Each of the additional allegations made by Montuoro, however, related to alleged wrongdoing which, Montuoro acknowledged, did not necessarily involve Secretary Donovan. Montuoro presented no facts implicating the Secretary. The Special Prosecutor's investigation of those additional Montuoro allegations led to the conclusion that there was no evidence linking Secretary Donovan

to any of the alleged wrongdoing. The grand jury declined on June 18, 1982, to indict the Secretary for any offense with respect to his testimony before the grand jury concerning the additional Montuoro allegations.

However, the investigation revealed evidence corroborating one of the Montuoro allegations--that there were so-called "no-show" employees on one of Schiavone Construction Company's New York City construction projects. Moreover, in the view of the Special Prosecutor, there is evidence that perjury was committed before the Special Prosecutor's grand jury with respect to the no-show allegation. However, because that perjury was not committed by Secretary Donovan, and because it did not involve or implicate the Secretary or any other person covered by the Ethics in Government Act, the Special Prosecutor determined to refer that matter to the Department of Justice for further action.

Aside from Montuoro, a number of other sources, many of them anonymous, alleged that Secretary Donovan was in one fashion or another connected to reputed organized crime figures. More than two dozen organized crime ties were alleged, many of them by more than one source. Extensive investigation produced insufficient credible evidence upon which to base any prosecution that the Secretary was untruthful in his denials, either before the Senate Labor Committee or the grand jury, of any and all such associations. The Special Prosecutor concluded that, despite the disturbing number of

such allegations, a prosecution would not be warranted.

On June 18 and 22, 1982, the grand jury unanimously returned a no true bill with respect to all organized crime allegations put before it.

Shortly after the Special Prosecutor's appointment, there surfaced in the media an allegation that Secretary Donovan had in 1978 made an illegal payoff to a union leader in connection with The Trib, a short-lived New York City newspaper. Some months later, an anonymous source made a similar allegation. The Special Prosecutor's investigation disclosed that the anonymous source's charge was unsupported. The investigation also produced no evidence that any illegal payoff had in fact been made. In the absence of sufficient credible evidence that Secretary Donovan testified falsely before the grand jury concerning The Trib, the Special Prosecutor concluded that no prosecution was warranted. The grand jury unanimously voted not to indict the Secretary with respect to that allegation on June 18, 1982.

As a result of information that came to the Special Prosecutor during the investigation, the Special Prosecutor also investigated to determine whether Secretary Donovan had committed any violations of the Federal Elections Campaign Act of 1971 in connection with the Secretary's campaign efforts on behalf of Ronald Reagan during the Presidential campaign of 1979-1980. A detailed investigation into the Secretary's, and Schiavone Construction Company's, campaign

activities produced no evidence of violations sufficient under the established guidelines of the Department of Justice to warrant the recommendation of a criminal prosecution. In conformance with DOJ policy, the matter is being referred to the Federal Election Commission to determine whether any action within its jurisdiction is appropriate.

Three other allegations of Taft-Hartley Act violations were also investigated by the Special Prosecutor. In two of the three cases, there was no evidence that any such violation had occurred. The third case did not involve the payment of money to any union officials but, rather, the entertainment of union officials at Fiddler's Elbow Country Club, a Schiavone Construction Company subsidiary. Although an arguable, technical violation may have been committed, the Special Prosecutor determined that no prosecution was appropriate under settled Department of Justice prosecutive guidelines.

The Special Prosecutor also investigated an allegation that the Secretary was involved in certain improprieties on New Jersey Turnpike Authority projects. The allegation included a charge that Mr. Donovan received inside information from the Turnpike Authority's Executive Director. The investigation revealed no evidence of any bid-rigging, provision or receipt of inside information or any other wrongdoing on the part of Secretary Donovan, and the Special Prosecutor determined that no prosecution was warranted. On June 18, 1982, the grand jury voted unanimously not to indict Secretary Donovan on that charge.

In sum, there was insufficient credible evidence to warrant a prosecution of Secretary Donovan on any charge. The grand jury declined to indict the Secretary with respect to every allegation it considered. The Special Prosecutor concludes that no prosecution of the Secretary, on any of the allegations investigated, is warranted or could successfully be maintained.

IV. THE PRUDENTI'S ALLEGATION

The December 29 Order appoints the Special Prosecutor to investigate, inter alia, "the allegation that in May or June 1977, at Long Island City, New York, Secretary of Labor Raymond J. Donovan, who at that time was Executive Vice President of Schiavone Construction Company, was present when an official of the company made an illegal cash payment to a union official in violation of 29 U.S.C. § 186 . . . "

A. Summary

1. Allegation

The Prudenti's allegation is the charge of Mario Nicholas Montuorol that, in 1977, Mr. Donovan attended a luncheon at Prudenti's Vicin O Mare Ristorante ("Prudenti's" or the "restaurant") in Long Island City, Queens, together with Schiavone Construction Company ("SCC") Chairman and President Ronald A. Schiavone, Senior Vice President Joseph A.

1 Mario Nicholas Montuoro's ("Montuoro") personal history is set forth in Section IV.J., infra.

DiCarolis, and Project Manager Gennaro (Jerry) Liguori, and two New York City union officials, Louis C. Sanzo and Montuoro himself. During the luncheon, Montuoro maintains, DiCarolis handed an envelope containing \$2000 to Sanzo in plain view of all in attendance, with words to the effect that the envelope contained a token of appreciation from SCC. Mr. Donovan was allegedly sitting beside DiCarolis, who, in the SCC corporate hierarchy, was Mr. Donovan's subordinate.

2. Results of Investigation

Each of the other persons identified by Montuoro as having attended the alleged luncheon categorically denied Montuoro's allegations. Both of the individuals whom Montuoro also claimed to have seen at the restaurant specifically denied Montuoro's assertions as related to them. None of Prudenti's waitresses employed in 1977, nor the bartender nor any of the three family members who owned the establishment, corroborated Montuoro's charges.

In an exhaustive search, no documentary evidence of the alleged luncheon was found to exist. Moreover, none of Montuoro's efforts to fix the date of the luncheon proved availing; quite the contrary, they conflicted irreconcilably with one another. Furthermore, substantial physical evidence contradicted elements of Montuoro's story--a story which varied in significant detail each time it was repeated.

The grand jury unanimously returned a no true bill on June 8, 1982.

The Special Prosecutor concludes that no credible evidence exists that a luncheon as alleged by Montuoro ever occurred.

B. Mario Montuoro's Various Versions of the Prudenti's Allegation

1. Prior to the Appointment of The Special Prosecutor

Prior to the appointment of the Special Prosecutor on December 29, 1981, Montuoro had stated the Prudenti's allegation to different persons on a total of at least five documented occasions, only one of which antedated Mr. Donovan's nomination as Secretary of Labor.² Montuoro's statements concerning the Prudenti's allegation prior to December 29, 1981, were memorialized in three types of documents: (a) undated interview notes from March or April 1979, and a memorandum dated November 27, 1981, prepared by an attorney with the Organized Crime Strike Force for the Eastern District of New York ("Brooklyn Strike Force"); (b) the memorandum of a December 3, 1981, interview of Montuoro by agents of the Federal Bureau of Investigation and underlying handwritten notes; and (c) two interview-based articles in the press--a December 11, 1981, New York Times article and a December 18, 1981, Washington Post article.

2 Montuoro also claims to have made the Prudenti's allegation to at least 11 other persons prior to Secretary Donovan's nomination to the Labor post. For the results of the investigation into this claim, see Section IV.G., infra.

a. Statements to the Brooklyn Strike Force

i. Non-Grand Jury Material

A. January 12, 1982, Interview

During a January 12, 1982, interview with the Special Prosecutor (the "January 12 interview"), James D. Harmon, Jr., Assistant Attorney-in-Charge of the Brooklyn Strike Force, stated that Montuoro had discussed the Prudenti's allegation with him, first, in March or April of 1979 and, again in September of 1981. Harmon said that he also had briefly discussed certain facts relating to the allegation during the latter part of December 1981 or early in January 1982, after the Prudenti's allegation had become a subject of intense media attention.

Harmon provided the Special Prosecutor with a pair of undated sheets of legal-size paper which, Harmon said, were his handwritten notes of a discussion with Montuoro in March or April of 1979 (the "spring 1979 interview").³ On the second of these two pages, under the heading "PAYOUT," appear the words:

"Joe DiCarlo

Liquori

'77 - \$2000 payoff

at Prudenti."

Exhibit 1 at p. 2

³ A copy of Harmon's notes of the spring 1979 interview is annexed as Exhibit 1. All of the following references to Harmon's statements are references to statements made at the January 12 interview with the Special Prosecutor, except as otherwise noted.

Harmon advised that these notes referred to the Prudenti's allegation. He said that the words "at Prudenti" were probably added at some time after the spring 1979 interview but that the remainder was written at that interview.

The "Joe DiCarlo" referred to in the notes is Joseph A. DiCarolis, currently President of Schiavone Construction Company and one of the four principals of the company.⁴ Montuoro consistently has mispronounced DiCarolis' name as "DiCarlo"--to the press, to the FBI and to the Special Prosecutor. "Liquori" is Gennaro Liguori, currently a Second Vice President of SCC and, in 1977, the project manager

4 The four senior officers and principal stockholders of SCC in 1977 were:

1. Ronald A. Schiavone, Chairman, President and owner of 49.64% of SCC's then-outstanding stock.
2. Raymond J. Donovan, Executive Vice President and holder of 37.96% of SCC stock.
3. Joseph A. DiCarolis, Senior Vice President and holder of 5% of SCC stock.
4. Richard C. Callaghan, Senior Vice President and holder of 5% of SCC stock.

After Mr. Donovan's confirmation as Secretary of Labor in February 1981, DiCarolis became SCC President; Schiavone remains Chairman and Chief Executive Officer. Special Prosecutor documents nos. ("S.P. nos.") 351046, 351048, 354242-44.

of SCC's Vernon Boulevard job.⁵ Although Harmon's notes reflect only the names "DiCarlo" and "Liquori," Harmon stated that Montuoro told him that Schiavone and Donovan were also present, together with Montuoro, Secretary-Treasurer of

-
- 5 In 1974, SCC in a joint venture with its wholly-owned subsidiary, Edward B. Fitzpatrick Jr. Assoc., Inc. (the "Fitzpatrick-Schiavone" joint venture), was awarded a subway tunnel contract, no. D-20106, by the New York City Transit Authority (the "NYCTA") and the Metropolitan Transportation Authority "For Construction of a Part of a Rapid Transit Railroad Route 131-A (Remodified)" at 41st Avenue, from Vernon Boulevard to 22nd Street, in Queens, New York. This project, which remains under construction, is commonly referred to as the "Vernon Boulevard job." It is one portion--Section 6--of a major expansion of the City subway system, extending from 63rd Street in Manhattan, under the East River, and for several miles into Queens.

SCC, in another joint venture, subsequently was awarded two additional portions of the same subway system expansion by the NYCTA: contract no. C-20111 (Section 5A; on East 63rd Street from Park Avenue to Third Avenue in Manhattan) in 1976; and contract no. C-20112 (Section 5B; at East 63rd Street from Third Avenue to FDR Drive) in 1978. SCC's joint venture partners on Sections 5A and 5B are an Italian firm, Impresit, Giriola, Lodigiani, Inc. ("Impregilo"), and Thomas Crimmins Contracting Co. ("Crimmins") of New York City (collectively, the "S-I-C joint venture" or "S-I-C"). Both Sections 5A and 5B (either and both of which are referred to as the "63rd Street job") currently remain under construction.

Impregilo, it should be noted, is a major Italian construction concern and leading international contractor specializing in heavy construction. It comprises three participating companies (Impresit is a subsidiary of Fiat S.P.A. Holding Co.) and operates in several countries. S.P. nos. 103069-103099.

As used in this report, "SCC" includes S-I-C, Fitzpatrick-Schiavone and the other joint ventures in which Schiavone Construction Company participates as well as all of Schiavone Construction Company's subsidiaries and affiliates.

Blasters, Drillrunners and Miners Union Local No. 29 of the Laborers International Union of North America AFL-CIO ("Local 29") and Louis C. Sanzo, its President and Business Manager.⁶ Montuoro said that Sanzo received a \$2,000 payoff on that occasion. Harmon did not recall that Montuoro was more precise in dating the incident than providing the year in which he said it occurred--1977.⁷ Harmon said that he did not go into detail concerning the Prudenti's allegation during the spring 1979 interview.⁸

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- 6 Louis C. Sanzo has served as business manager of Local 29 since 1970 and as President of the Local since 1975. Sanzo was convicted, in 1981, of two counts of tax evasion (26 U.S.C. § 7201) and one count of conspiracy (18 U.S.C. § 371) for actions unrelated to the Prudenti's allegation. See United States v. Sanzo, et al., No. CR-89-00151 (E.D.N.Y. June 23, 1981). Sanzo was subsequently found to be a person "involved in Organized Crime" by Judge Mark A. Costantino. United States v. Cavalieri, et al., CR-81-00149/150/151, Record at 3 (E.D.N.Y. Aug. 14, 1981). Montuoro testified against Sanzo in the prosecution of Sanzo. Montuoro unsuccessfully ran against Sanzo in at least two Local 29 elections. See generally Section IV.J., infra.
- 7 On January 7, 1982, at a meeting with the Special Prosecutor, two Assistant Special Prosecutors and three other Justice Department attorneys, Harmon stated that, when Montuoro "first" told him of the Prudenti's allegation, Montuoro said that the payoff occurred in September or October of 1977. The date of the alleged luncheon, Harmon said, apparently pivoted around a letter which Montuoro sent to President Jimmy Carter. Montuoro claimed to have written his letter to Mr. Carter approximately one month following the Prudenti's luncheon. (Montuoro's letter to President Carter, which by some accounts became something of a cause celebre within Local 29, is dated September 26, 1977; a copy is annexed as Exhibit 2.)
- 8 Harmon stated that, in March-April 1979, he was focusing on allegations against Sanzo. For his purposes, Harmon
(Footnote Continued)

At the end of September 1981, at the direction of Thomas P. Puccio, Attorney-in-Charge of the Brooklyn Strike Force, Harmon reinterviewed Montuoro concerning the Prudenti's allegation (the "September 1981 interview").⁹ Harmon provided the Special Prosecutor with his notes from the September 1981 interview,¹⁰ which read:

"Liquori
Donovan
Ronny Schiavone --
DeCarolis --
Sanzo

Mario

Schiavone picked up tab

subway tunnel

8 (Footnote Continued)

said, he felt that he did not "need" this allegation. The only witness to the alleged offense was Montuoro and, Harmon believed, another witness would be necessary to prosecute the allegation successfully. He thought it unlikely that anyone else would come forward to corroborate Montuoro.

9 Puccio had been contacted in September 1981 by Walter Sheridan, minority staff investigator for the United States Senate Committee on Labor and Human Resources. Sheridan notified Puccio that Sheridan had learned of the Prudenti's allegation in June 1981 from two New York State Commission of Investigation investigators, Edward J. Barnes and Michael Moroney, who advised Sheridan that Harmon evidently was aware of the allegation. Sheridan informed Puccio of the substance of the allegation and said that it came from Montuoro, who was then a witness in certain pending prosecutions of the Brooklyn Strike Force. Puccio told Sheridan that he was unaware of the allegation and would pursue it. Both Sheridan and Puccio confirmed the foregoing in separate discussions with the Special Prosecutor.

10 A copy is annexed as Exhibit 3.

good job
\$200 to Mario in car
gave white envelope
in Mario --"

Exhibit 3 at 1.

Montuoro told Harmon that the luncheon occurred in September or October of 1977, Harmon said. Montuoro also said that Sanzo had notified him, the day before the Prudenti's luncheon, that Sanzo and Montuoro were to go to lunch with the big boss from Schiavone on the following day. Montuoro told Harmon that he had not met Donovan before that luncheon.

Montuoro advised Harmon that at the lunch DiCarolis carried the conversation, primarily discussing SCC's New York City subway projects. DiCarolis allegedly stated that Local 29 had done a good job on the Vernon Boulevard project, and SCC wanted Local 29 to do a new portion of the job on 63rd Street in Manhattan. DiCarolis allegedly also said that SCC could not afford the "sandhogs."¹¹ DiCarolis, according to Montuoro, passed an envelope containing \$2,000 to Sanzo at the luncheon, saying that it was a "token of appreciation" from SCC. Harmon said that it was not clear, from the September

11 The "sandhogs" are members of the tunnel workers union-- specifically, in New York City, The Compressed Air and Free Air Foundations, Tunnels, Caissons, Subways, Cofferdams, Sewer Construction Workers, Local No. 147 of New York, New Jersey States and Vicinity, AFL-CIO ("Local 147"). Like Local 29, Local 147 is an affiliate of the Laborers International Union of North America.

1981 interview, whether SCC was ostensibly paying off Sanzo for work well done by Local 29 in the past or in respect of an upcoming portion of the subway project.¹²

Harmon stated that the phrase, "Schiavone picked up tab," in his September 1981 interview notes, referred to Montuoro's statement that someone from Schiavone Construction Company picked up the tab--not to Ronald Schiavone personally. Montuoro said that, after the lunch, Sanzo told him that Sanzo would have to "turn in" \$1,600 of the \$2,000 contained in the envelope. Montuoro understood that the \$1,600 was to be turned over to Sam Cavalieri, Sr.¹³

Harmon said that the entire September 1981 interview took less than half an hour.

12 See note 5, supra, concerning the sequence of contracts awarded to SCC and its joint venture partners by the NYCTA.

13 Samuel Cavalieri, Sr. ("Cavalieri Sr."), was convicted of criminal contempt on May 4, 1981, for refusing to answer questions concerning, inter alia, his awareness of any illegal payoffs to Louis C. Sanzo, despite Cavalieri Sr.'s having been ordered to testify and conferred immunity with respect to such testimony, pursuant to 18 U.S.C. § 6002. See United States v. Cavalieri, No. CR-81-00149, Record at 3 (E.D.N.Y. May 4, 1981). Cavalieri Sr. was subsequently found by Hon. Mark A. Costantino, Judge of the United States District Court for the Eastern District of New York, to be a person "involved in Organized Crime." United States v. Cavalieri, et al., No. 81-00149/150/151, Record at 3 (E.D.N.Y. Aug. 14, 1981). In testimony presented to Judge Costantino, Cavalieri Sr. was identified as a member of the Luchese crime family. United States v. Cavalieri, et al., No. CR-81-00149/150/151, Record at 58,81 (E.D.N.Y. Aug. 7, 1981).

In addition to his handwritten notes, Harmon recorded the September 1981 interview some two months later in a November 27, 1981, memorandum sent over Puccio's signature to D. Lowell Jensen, Assistant Attorney General in charge of the Criminal Division of the Department of Justice (the "November 27 memorandum").¹⁴ The November 27 memorandum, which was the first notification received by the Department of Justice in Washington, D.C., of the Prudenti's allegation, stated the allegation as follows:

a.) In September or October 1977, Donovan, Ronald Schiavone, co-owner of Schiavone [Construction Company], Gennaro Liquori [sic], subway tunnel project manager, Joseph DiCarolis, Schiavone [Construction Company] operations vice-president, Louis Sanzo, president of Local 29, Blasters Drillrunners and Miners Union, and Mario Montuoro, a member of the Blasters Union dined together at Prudenti's Vicino [sic] Mare restaurant located in Long Island City, New York. During the course of the dinner, Donovan told Sanzo that the Blasters' Union was doing good work on the subway tunnel being constructed under the East River. In the presence of all those at the restaurant table, Donovan handed Sanzo an envelope saying words to the effect "That's for you, Louie." Later, when Sanzo and Montuoro left the restaurant together, Sanzo opened the envelope in Montuoro's presence and found that it contained two thousand dollars (\$2000) which he kept, except for two hundred dollars (\$200) which Sanzo gave to Montuoro. . . .

Exhibit 4 at 1.

Harmon informed the Special Prosecutor on January 12, 1982, that the November 27 memorandum is in error in two respects. First, Montuoro never said that Donovan, rather than DiCarolis, made the \$2,000 payoff. Second, Montuoro had

14 A copy of which is annexed as Exhibit 4.

not told Harmon that the payoff was made at the evening meal ("dinner") rather than at lunch. Harmon said that the November 27 memorandum otherwise reflected the facts as Montuoro related them in the September 1981 interview.

In the latter part of December 1981 or early January 1982, after the Prudenti's allegation became a subject of national media attention, Montuoro told Harmon that he had recognized a man in Prudenti's on the date of the alleged payoff: a fellow named "Mancuso" from Hallen Construction Company. Harmon added that, within the two weeks immediately preceding the January 12 interview--i.e., after the Special Prosecutor's appointment--Montuoro had further advised Harmon of the existence of a second potential witness at Prudenti's during the luncheon: Paul Panica. Montuoro informed Harmon that Panica was a representative of another labor union who had aided Montuoro in connection with other union-related affairs in the past.

B. April 23, 1982, Interview

On April 23, 1982, James D. Harmon, Jr., told the Special Prosecutor, inter alia, that shortly after the November 27 memorandum was issued, he informed the Department of Justice in Washington that that memorandum was inaccurate in its recitation that Mr. Donovan had allegedly passed the envelope containing \$2,000 to Louis Sanzo. By memorandum dated December 4, 1981 (Exhibit 84, annexed), Harmon reported that, according to Montuoro,

Joseph DiCarolis was seated at the table in Prudenti's restaurant between Donovan and Sanzo. While seated next to Donovan, DiCarolis removed the envelope from his pocket and handed it to Sanzo.

Exhibit 84. The December 4 memorandum was telecopied to Washington on or about December 4, 1981.

ii. Grand Jury Testimony

James D. Harmon, Jr., testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

b. Statement to the FBI

On December 3, 1981, Montuoro was interviewed by three special agents of the FBI at the Brooklyn Strike Force offices (the "December 3 interview"). Harmon also attended the interview, as did Jerry Toner, an attorney with the Organized Crime Section of the Justice Department's Criminal Division. The attending FBI agent's report of this interview (the "report of interview")¹⁵ recited, in pertinent part:

In 1977, MONTUORO was employed by the Blasters and Drillers Union, Local 29 and carried numerous titles including Field Representative, Secretary-Treasurer and Union Trustee and Assistant Administrator of Local 29.

Mr. MONTUORO stated that in 1977, a construction project was in progress which MONTUORO termed the Vernon Boulevard project. The contractor operating this project was Schiavone Construction Company. Members of Local 29 worked this project exclusively in its area of labor jurisdiction.

Mr. MONTUORO explained that Local 29's major competitor in its area of labor jurisdiction was Local

15 A copy of which is annexed as Exhibit 5.

147, whose members he termed as sandhogs. Members of Local 29 he referred to as blasters. Although the labor jurisdiction of these two locals differed in certain areas, there was also a common ground whereby these locals would be in direct competition for certain construction projects. The Vernon Boulevard project was one such project. Another project, termed by MONTUORO as the 63rd Street Project, was in its preliminary construction stages at that time and would also fall into the category of direct competition between Local 29 and Local 147.

Mr. MONTUORO stated that there was a substantial difference from the contractor's point of view as to which local worked its projects. This stemmed from the individual contracts of each union local. Local 147's contract called for higher wages, more fringe benefits, and certain on the site benefits than did Local 29's contract. All of these costs were borne by the contractor.

In approximately May or June, 1977, Mr. MONTUORO was told by LOU SANZO to be available for a meeting with people from Schiavone Construction Company. MONTUORO stated that LOU SANZO is the President, Business Manager, and a member of the Executive Board of Local 29. MONTUORO was not told the names of the individuals who would be at the meeting. However, SANZO told MONTUORO they were going to Prudenti's Restaurant to meet the bosses of Schiavone Construction Company.

On the day of this meeting, MONTUORO and SANZO drove to Prudenti's Restaurant in Long Island City, New York. On the way to the meeting, MONTUORO and SANZO stopped at the Vernon Boulevard project. SANZO exited the car to speak to SONNY PETITO, the foreman on the job for Local 29. MONTUORO does not know the nature of this conversation.

MONTUORO and SANZO arrived at Prudenti's sometime between 12:00 noon and 1:00 PM, and were the first to arrive. MONTUORO and SANZO were seated in the restaurant and MONTUORO sat with his back to a movable partition. MONTUORO recalls he ordered Harveys Bristol Creme. SANZO introduced MONTUORO to the owner of the restaurant whose name he could not recall. SANZO also talked to the waitress who seemed to know SANZO. The table at which they were sitting was round.

After approximately ten minutes from their arrival, MONTUORO and SANZO were joined by JERRY LIGORI,¹⁶ RONNIE SCHIAVONE, RAY DONOVAN and JOE DI CARLO.¹⁷ DONOVAN was introduced to MONTUORO as a Vice President of Schiavone and to RONNIE SCHIAVONE; neither of whom he had ever met. MONTUORO identified LIGORI as the project manager for Schiavone Construction Company for the Vernon Boulevard project, and JOE DI CARLO as the project manager of the 63rd Street project for Schiavone Construction Company.

Mr. MONTUORO stated that the seating arrangement at the table was as follows: MONTUORO, with his back to a portable partition, then clockwise JERRY LIGORI, RON SCHIAVONE, RAY DONOVAN, JOE DI CARLO, and LOU SANZO.

Mr. MONTUORO stated that initially the members of the party engaged in social conversation, then ordered drinks and food. At one point in the meeting, JOE DI CARLO began talking about the Vernon Boulevard project to LOU SANZO. DI CARLO told SANZO that the Vernon Boulevard project was a good job and that they (Schiavone) were very satisfied with the men from Local 29. DI CARLO took an envelope out of his jacket pocket and gave it to SANZO telling SANZO that this was a little token of our appreciation. SANZO took the envelope and placed it in his jacket pocket.

At a later point in the meeting, DI CARLO talked to SANZO about the new 63rd Street project. (MONTUORO explained that this was a large project which already had some men from Local 29 on the site but was not yet in full operation). DI CARLO told SANZO that he (DI CARLO) wanted Local 29 to handle the entire 63rd Street project. Further, that SANZO would have to fight for the new project and would have to file a complaint with the General Contractors Association. (MONTUORO explained that the General Contractors Association was the arbitrator for union jurisdictional disputes.) DI CARLO made it very plain to SANZO that Schiavone Construction wanted Local 29 to handle the 63rd Street

16 Viz., Liguori.

17 Viz., DiCarolis. See Section IV.B.1.a.i., supra.

project but that SCHIAVONE as the contractor, could in no way be involved in a union dispute or in expressing preference for one union over another. This had to come in the form of a complaint from Local 29. DI CARLO stressed that everyone (Local 29 and Schiavone Construction) would benefit by having Local 29 win a dispute with Local 147 and that if Local 147 prevailed in this matter, that we (Schiavone) would lose money in addition to other problems which would occur with Local 147. DI CARLO told SANZO that SANZO would have to set up a meeting with the General Contractors Association and that he (DI CARLO) could not be involved.

MONTUORO stated that the entire meeting lasted approximately an hour. The bill for the food and drink was paid by JERRY LIGORI by credit card.

MONTUORO stated that after returning to his car with SANZO, SANZO took out the envelope which had been given to him by DI CARLO. SANZO told MONTUORO that there was \$2,000 in the envelope and gave MONTUORO \$200, which he accepted. SANZO further told MONTUORO that he (SANZO) would keep \$200 and "turn in" the remaining \$1600. MONTUORO stated that the term "turn in" referred to payments to organized crime but refused to further comment. MONTUORO and SANZO returned to the union hall and held no further discussion on this subject.

Exhibit 5 at 1-4.

The author of this report of interview, William H. Lynch, Jr., was interviewed by the Special Prosecutor on March 11, 1982. At that time, Lynch was afforded the opportunity to review his handwritten notes of the December 3 interview, which were already in the Special Prosecutor's possession. Lynch confirmed the report of interview accurately reflected the contents of his notes and Montuoro's statements. An independent review of Lynch's handwritten notes reveals that they correspond to the report of interview without significant discrepancy. [GRAND JURY MATERIAL DELETED.]

In his January 12, 1982, interview with the Special Prosecutor, Harmon mentioned that, during the December 3 interview, Montuoro had stated that the Prudenti's luncheon occurred approximately one month prior to the date on which Montuoro sent his letter to President Jimmy Carter.¹⁸ Lynch, speaking to the Special Prosecutor on March 11, did not recall this reference, which does not appear in his notes.

c. Statements to the Press

Following the December 3 interview, Montuoro was in frequent contact with the press. Two interview-based articles concerning the Prudenti's allegation appeared--in the New York Times and the Washington Post--prior to the Special Prosecutor's appointment on December 29, 1981. Both articles purportedly set forth assertions by Montuoro concerning the Prudenti's allegation.

i. The December 11
New York Times Article

The December 11, 1981, edition of the New York Times carried a front page article¹⁹ which was ostensibly based upon interviews with Montuoro.²⁰ The December 11 article read in pertinent part:

18 See note 7, supra, and Exhibit 2 annexed.

19 Maitland and Oreskes, "U.S. Prosecutor May Weigh Charges Involving Donovan," New York Times, Dec. 11, 1981, at A1, col. 3 (the "December 11 article"). A copy is annexed as Exhibit 6.

20 Montuoro confirmed to the Special Prosecutor that he had indeed given a number of interviews to Michael Oreskes of the New York Times.

Mr. Montuoro said Mr. Donovan attended a lunch in 1977 at which an official of Mr. Donovan's company handed an envelope to Louis C. Sanzo, President of Local 29 of the Laborers International Union. Mr. Montuoro said the envelope contained an illegal \$2,000 payment.

Mr. Montuoro, the former secretary-treasurer of the Blasters Drillers and Miners Union, repeated the charges in interviews with the New York Times.

* * *

Mr. Montuoro's charges, which he says he forwarded to the Federal Government as early as 1978, focus on the lunch he said took place at Prudenti's Restaurant in Long Island City, Queens, in the fall of 1977.

He said he attended the lunch with Mr. Sanzo; Mr. Donovan, who was then executive vice president of Schiavone; Ronald Schiavone, then President of the Company and now Chairman of its Board; Joseph DiCarolis, who was then the company's vice president for operations and is now its president, and Jerry Liguori, another company official, who is now its second vice president.

Mr. Montuoro said Schiavone officials wanted to know whether Local 29 could gain jurisdiction for tunneling on the 63d Street subway project from the East Side of Manhattan to Queens. Local 29's wage rates and work rules are less costly to the employer than those of Local 147 of the Laborers Union, whose members also do tunneling, according to construction industry sources.

During the lunch, Mr. Montuoro states, Mr. DiCarolis produced a white envelope and handed it across the table to Mr. Sanzo. According to Mr. Montuoro, Mr. DiCarolis said the envelope was an appreciation for Mr. Sanzo's help.

Mr. Montuoro said that after lunch he watched Mr. Sanzo open the envelope, and it contained \$2,000 in cash.

Exhibit 6 at A1, A23.

ii. The December 18
Washington Post Article

The December 18, 1981, edition of the Washington Post similarly carried a front page article²¹ which recited that it was based upon a December 16 interview with Montuoro.²² The December 18 article reported:

It wasn't long after the shrimp cocktail, according to Mario Montuoro, when an executive of Schiavone Construction Co. pulled out an envelope containing \$2,000 and handed it to the head of Montuoro's union.

The Schiavone executive did all the talking, Montuoro says. But he also says Raymond J. Donovan, now President Reagan's secretary of labor, was sitting in the next chair when the exchange took place back in the fall of 1977.

Did Donovan, who was executive vice president of Schiavone Construction at the time, know there was \$2,000 in cash in the envelope?

"I don't know," says Montuoro who was, at the time, secretary-treasurer of Laborers Local 29 here. "Ask him."

* * *

Montuoro says the Schiavone executive--whom he remembers as Joe DiCarlo--enunciated his words quite clearly in handing the envelope to Local 29 president Louis Sanzo.

* * *

Montuoro says the executive said, "'Here, Louie, here's a token of appreciation for the help you did

21 Lardner, "Donovan Placed At Lunch Where Cash Was Passed," Washington Post, Dec. 18, 1981, at A1, col. 2 (the "December 18 article"). A copy is annexed as Exhibit 7.

22 Montuoro confirmed to the Special Prosecutor that he had been interviewed by George Lardner of the Washington Post on a number of occasions.

for us.'" The bulky Sanzo, Montuoro says, took the plain white packet and stuffed it into a vest pocket of his gray silk suit.²³

Montuoro, who related these events in an interview with The Washington Post on Wednesday night, says he didn't find out what the "token" amounted to until after the 1977 luncheon at Prudenti's restaurant in Long Island City. He says he attended it at Sanzo's invitation the day before and they drove off together after it was over.

"After we got in the car, Sanzo opened the envelope right away," Montuoro said in the interview. "I was driving. He was counting. They were all one hundred dollar bills. It came to \$2,000."

"He gave me \$200 and he kept \$200 for himself," Montuoro declared. "He [Sanzo] said, 'The other \$1,600, I got to turn it in.'"

"I told the Justice Department I don't know where he turned it in and I don't want to know," Montuoro insists.

Samuel (Big Sam) Cavalieri has been identified in court records as a member of the Luchese family of the Mafia and the real "boss" of Local 29. Montuoro did not implicate Cavalieri in the alleged transaction.

According to Montuoro, who was fired from his union job in 1978 for what he says were his reform efforts, the 1977 luncheon was called primarily to discuss a forthcoming intra-union jurisdictional tussle.

"Sanzo told me the day before, 'Don't make no appointments. We got a luncheon date with the people from Schiavone. It's about a jurisdictional fight with the sandhogs,'" Montuoro recalls.

23 The author of this article informed Assistant Special Prosecutor Rauch, in a telephone conversation on February 6, 1982, that "vest pocket," as used in this article, refers to the inside pocket of Sanzo's suit jacket--not to the pocket of a vest (which, Lardner said, he denominates the "watch pocket").

More precisely, Montuoro says, Schiavone wanted Local 29, a predominantly black union with relatively low wage rates, to keep the better-paid "sandhogs"--Local 147 of the Laborers--from taking over an upcoming subway project in midtown Manhattan.

"It's more expensive to go with Local 147," Montuoro said. For instance, he said, "the sandhogs get showers" and all sorts of other on-the-job amenities. "We get a shanty. We work like animals."

But Schiavone Construction, the former union official adds, didn't want to offend Local 147. The company had used Local 29 on the Vernon Boulevard, a subway project in Long Island City, but it also employed Local 147 on another subway project further out in Queens along Archer Avenue.

"The meeting at Prudenti's was because Schiavone didn't want to take sides," Montuoro said. Instead, he says, the company wanted Local 29 to fight the sandhogs for the work in Manhattan while Schiavone laid back. The jurisdictional squabble, if there was one, would have to be settled by the General Contractors Association, a New York City organization that rules on such matters.

Those who showed up for the lunch besides himself and Sanzo, Montuoro said, were "DiCarlo," company president Ron Schiavone, company project manager Jerry Liguori, and Donovan, the only one Montuoro had never met before.

"Liguori introduced me. He said, 'This is Ray Donovan. He's vice president of the corporation,'" Montuoro said. But as the luncheon proceeded, he said, "I thought DiCarlo was the boss because he was talking all the words. He [Donovan] didn't say nothing."

According to Montuoro, the "token of appreciation" came first, evidently in connection with the Vernon Boulevard project where Local 29 and its officials were assertedly granted no-show jobs and other favors. Then, he said, "We got into the 63rd Street b...s..."

The executive, identified as "DiCarlo" by Montuoro, "didn't want the sandhogs to find out that he wanted us."

Montuoro said he can't say for sure whether Donovan saw the envelope change hands.

But Montuoro, who said he was sitting next to Sanzo, says he saw the exchange. "What, am I blind?" he demands.

He also says he heard "DiCarlo" clearly denote it as "a token of appreciation."

"And I'm half-deaf," Montuoro said.

Exhibit 7 at A1, A18.

2. After December 29, 1981

After the appointment of the Special Prosecutor Montuoro stated the Prudenti's allegation twice to the Special Prosecutor, during two lengthy interviews, and he testified on the subject before the grand jury.

a. To the Special Prosecutor

i. January 8 Interview

On January 8, 1982, from approximately 3:15 to 7:20 p.m., Mario Montuoro was interviewed by the Special Prosecutor (the "January 8 interview"). Montuoro's counsel was present throughout.

The bulk of the January 8 interview, as it related to the Prudenti's allegation, consisted of efforts to pinpoint the date on which the luncheon allegedly occurred; at that time, Montuoro definitively dated it as falling between the second week of June and the first week of July 1977.²⁴

24 See Section IV.D.1., infra, for a summary of Montuoro's attempts to specify by month or season the date of the Prudenti's luncheon.

However, five facts concerning the alleged luncheon emerged from that interview.

First, Montuoro said that Sanzo had advised him, on the day preceding the Prudenti's luncheon, that the two of them were to meet with the bosses from SCC on the following day. This occurred in Local 29's offices on a weekday, Montuoro said, and Local 29 bookkeeper Joyce Cole was present.

Second, Donovan, DiCarolis and Schiavone came to Prudenti's wearing dark suits--looking like "three undertakers."

Third, Montuoro identified a man who, he alleged, was present at Prudenti's at the time of the luncheon, as one "Mancuso" from Hallen Construction Company. Montuoro said that he saw "Mancuso" at the bar in Prudenti's when Montuoro went to the restroom during the lunch meeting.²⁵

Fourth, Montuoro referred to another potential witness to the luncheon: an unnamed waitress whom Montuoro described as a person known to Jerry Liguori and who, he said, might have been working at Prudenti's on the day of the lunch.

Fifth, Montuoro did not mention the presence of Paul Panica or of any other potential witness at Prudenti's on the day of the lunch. Nor did he indicate that there were any others present whom he could identify.

25 Montuoro stated that he had advised Harmon and Puccio on December 9 or 10, 1981, of "Mancuso's" presence at Prudenti's on the date of the alleged luncheon.

ii. January 21 Interview

On January 21, 1982, beginning at 2:12 p.m. and continuing for several hours thereafter, Montuoro was again interviewed by the Special Prosecutor (the "January 21 interview"). Montuoro was once more represented by counsel. The Prudenti's allegation was the substantive focus of the January 21 interview.

Montuoro said that, on the day prior to the Prudenti's luncheon, Sanzo instructed Montuoro not to make any plans for the following day because the two of them had to meet with the "bosses of Schiavone" for lunch. Sanzo did not identify who those bosses would be, except that he did mention Jerry Liguori's name. Sanzo also instructed Montuoro to dress up--to wear a sports jacket or suit--for the Prudenti's lunch.

Montuoro said that Sanzo told him about the forthcoming lunch at Prudenti's while in Local 29's offices. He was not certain as to the time of day of that conversation but guessed that it might have been around noon. In contrast to his January 8 assertion that Joyce Cole was present, on January 21 Montuoro was uncertain as to who might have overheard Sanzo's remarks. He suggested that Joyce Cole, Julietta Fernandez and Sam Cavalieri, Jr.,²⁶ were possibilities.

26 Julietta Fernandez was, like Joyce Cole, employed as a bookkeeper at Local 29 during 1977. Samuel Cavalieri, Jr. ("Cavalieri Jr."), is the administrator of the Local 29 Pension and Welfare Funds and the son of Samuel Cavalieri, Sr. (note 13, supra).

He further said that he did not recall whether Cavalieri Jr. was present.

The next morning, Montuoro said, he arrived at Local 29's office to open it to members at about 7:00 a.m. Sanzo arrived at approximately 9:00 to 10:00 a.m. They left the office together sometime between 11:00 a.m. and noon in the Chevrolet provided Montuoro by the Union.

Montuoro said that he drove Sanzo to the Vernon Boulevard job on the way to Prudenti's because Sanzo wanted to speak with Sonny Petito.²⁷ En route to the Vernon Boulevard job, Sanzo told Montuoro that SCC wanted Local 29 to do the entire job at 63rd Street--i.e., without any members of Local

27 Amadio (Sonny) Petito was, in 1977, the SCC foreman and Local 29 member serving as chief blaster on the Vernon Boulevard job. Petito succeeded Montuoro as Secretary-Treasurer of Local 29 on May 15, 1978. Welfare and Pension Fund, Local 29 v. Montuoro, Case No. 2-CA-15905, slip op. at 8 (N.L.R.B. Dec. 31, 1979). Petito was convicted on July 2, 1981, of criminal contempt for refusing to testify before a grand jury despite the existence of an outstanding order entered pursuant to 18 U.S.C. § 6002 directing him to testify and conferring use immunity with respect to such testimony. The grand jury was investigating into, inter alia, illegal payoffs to Local 29. Petito subsequently did testify before the same grand jury under that immunity order, and he was subsequently convicted of perjury, also on July 2, 1981, for giving false testimony concerning attendance at a meeting with Samuel Cavalieri, Sr., on May 4, 1978, the day that Petito was nominated/ elected to succeed Montuoro as Secretary-Treasurer of Local 29. See United States v. Amadio Petito, No. CR-81-00150 (E.D.N.Y. July 2, 1981). Petito was, with Cavalieri Sr. and Sanzo, found to be a person "involved in Organized Crime" by Judge Mark A. Costantino in United States v. Cavalieri, et al., CR-81-00149/150/151, Record at 3 (E.D.N.Y. Aug. 14, 1981).

147 working on the job. According to Montuoro, Local 29 had done the Vernon Boulevard job without Local 147, and SCC was pleased with Local 29's performance. However, Sanzo said, SCC was having trouble with Local 147.

When they arrived at the Vernon Boulevard job, Montuoro parked the car in the shopping mall and Sanzo departed. Petito's office, which was called the "Powder Shack," was located downstairs in the mall. Montuoro waited in the car for the half hour that Sanzo was gone.

They drove to Prudenti's upon Sanzo's return to the car. They arrived at Prudenti's between noon and 12:30 p.m. Immediately upon their arrival, the valet parked their car.

They entered the restaurant. Montuoro said that there was in 1977 a waiting room at the entry into Prudenti's. He described a wall or trellis with flowers separating the front door from the dining area.

As they entered the restaurant, Sanzo introduced Montuoro to the owner, a heavy-set fellow with a moustache, perhaps 5' 4" in height and 40 to 50 years of age. No one from SCC had yet arrived. Sanzo and Montuoro were seated at a big, round table.

Montuoro sketched the physical layout of Prudenti's.²⁸ He described Prudenti's as having two parts

28 A copy of this sketch is annexed as Exhibit 8.

with a partition between them.²⁹ The table at which he and Sanzo were seated abutted the partition; Montuoro's back was against it. Sanzo was seated to Montuoro's right. The table was large and round. Montuoro did not know how many persons it would accommodate, but it was not crowded when six people sat around it.

Montuoro and Sanzo were seated ten to fifteen minutes before any SCC representatives arrived. Montuoro drank Harvey's Bristol Creme. Montuoro did not know who brought the drinks to the table. Sanzo did not pay for them.

When the SCC representatives arrived, Liguori spotted Sanzo seated at the table. Liguori was wearing a checkered sportscoat, brown pants and glasses. Montuoro stated that DiCarolis, Donovan and Schiavone were all dressed in conservative suits. He repeated that they looked like "three undertakers."³⁰

29 Prudenti's in 1977 had two dining rooms--the so-called Red Dining Room and Green Dining Room--which were separated by a permanent partition (i.e., a wall, not "movable" or "portable" partition, as Montuoro had previously described it to the FBI). See Section IV.F., infra. A scale drawing of Prudenti's prepared by a Special Agent of the FBI is annexed hereto as Exhibit 9.

30 See Section IV.B.2.a.i., supra. Montuoro did not recall whether Donovan was wearing glasses. He described Donovan as plain; Schiavone as grayish, with his hair down, mild-looking. DiCarolis, he said, had his hair back "nice" and looked, to Montuoro, to be streetwise. Sanzo was wearing a gray silk suit with no vest. Montuoro was wearing a brown suit which, from his description, seemed to be a leisure suit.

Liguori introduced Donovan, Schiavone and DiCarolis to Montuoro. Montuoro had previously met Liguori. Montuoro said that he did not recall previously having met Donovan, nor did he recall whether he had previously met Ronald Schiavone. (He thought that he might possibly have met Schiavone at the 1976 SCC summer "clam bake" which is held for all men working on SCC construction projects.)³¹ Montuoro said that he was "pretty sure" that he had previously met DiCarolis at the same clam bake.

After the introductions, Liguori sat to Montuoro's left and Sanzo to his right. Going clockwise around the table from Montuoro, the seating arrangement was: Liguori, Schiavone, Donovan, DiCarolis and Sanzo.

Montuoro thought that all ordered drinks. Montuoro estimated that he had two or three drinks during the course of the meal. He described the meal as "dinner" but, upon questioning, stated that he was referring to the noontime meal.

The waitress came with menus. Montuoro did not recall what they ate. He thought that he might have eaten a steak or something similar because of his "bad stomach." He said that he was healthy and that everyone else seemed to be well. No one had a broken arm or broken leg; no one came in a wheelchair or on crutches.³²

31 See Section IV.D.4.e., infra.

32 See Section IV.C.5.b-c., and IV.I.4., infra.

Liguori and Schiavone, during the meal, lauded Local 29's performance on the Vernon Boulevard job. Donovan said nothing.

As the discussion was proceeding, DiCarolis took an envelope from his "vest pocket"--which Montuoro promptly amended to his inside coat pocket--and gave it to Sanzo. Montuoro stated that this may have occurred before the meal--he was "not too sure;" there was food on the table but he was uncertain whether it was merely bread and celery or whether it was the meal.

Sanzo took the envelope and put it in his inside jacket pocket. In response to a direct question, Montuoro stated that Sanzo did not put the money in his vest pocket as Sanzo had no vest on. He reiterated that Sanzo put the money in his inside suit pocket.

Throughout the luncheon, DiCarolis carried the conversation. DiCarolis said that SCC was satisfied with Local 29 and did not want Local 147 "baloney."³³ According to Montuoro, DiCarolis wanted Local 29 to press the jurisdictional issue with the General Contractors Association of New York, Inc. ("GCA")³⁴ in order to secure jurisdiction over the

33 As an example of Local 147 "baloney," Montuoro said that when a crew of, e.g., ten Local 147 workers is short one man, the entire crew refuses to descend into the hole. Local 29 perseveres in working even when short-staffed, Montuoro said.

34 The GCA is a trade association of more than 100 heavy (Footnote Continued)

entire 63rd Street job. Local 147 also wanted the work, however, and its members were already doing shaft work at the time of the luncheon.

Local 29's jurisdiction includes work "coming down from the top," Montuoro said, and any other work not involving compressed air.³⁵ DiCarolis said, according to Montuoro, that wherever there was no compressed air, Schiavone wanted Local 29 to perform the work. There was no compressed air on the 63rd Street job, to Montuoro's knowledge.

DiCarolis made it clear, however, that SCC did not wish to be seen taking sides in a jurisdictional dispute. According to Montuoro, SCC was still working on the Archer Avenue construction project in Queens³⁶ and was using Local 147

34 (Footnote Continued)

contractors in the New York City metropolitan area. ("Heavy" construction refers essentially to civil-engineered construction--for example, subways, sewers, water tunnels, waterfront structures, roads, airfields and bridge and building foundations (but not superstructures).) SCC and S-I-C were and are members of the GCA, which, among other things, represents its members in administering their collective bargaining agreements, including representation of GCA members in resolving jurisdictional disputes among competing unions. [Per William C. Finneran, Jr., Esq., General Manager, Director of Labor Relations and General Counsel of the GCA, in his January 26, 1982, interview with the Special Prosecutor (the "January 26 Finneran interview").]

35 Montuoro stated that all compressed air work fell within Local 147's exclusive jurisdiction and that Local 147 had concurrent jurisdiction with Local 29 over free air work.

36 The Archer Avenue project was yet another extension of
(Footnote Continued)

on that job. Consequently, DiCarolis told Sanzo that Local 29 had to raise and press the jurisdictional complaint with the GCA. At or near the end of the Prudenti's meal, Montuoro said that he and Sanzo would do what they had to do in this regard.

During the luncheon, Montuoro said, neither Schiavone nor Donovan said anything that he remembers. They may have spoken a word or two to each other but "nothing of importance."

At some point during the luncheon, after the envelope had been passed and while the demitasse or cappuccino was on the table, Montuoro excused himself from the table to go to the men's room, he said.³⁷ En route to the men's room, Montuoro saw and passed "Mancuso," whose first name he did not know, and Paul Panica, both of whom were seated at the bar.³⁸ Montuoro said that, from the table at which he was

36 (Footnote Continued)

the 63rd Street subway project. SCC had been awarded the contract for the Archer Avenue project in 1975. Joseph A. DiCarolis so stated in his January 15, 1982, interview with the Special Prosecutor (the "January 15 interview").

37 Montuoro did not recall that anyone else left the table at any time during the luncheon.

38 At the beginning of the January 21 interview, after a brief discussion, Montuoro said that he had told the Special Prosecutor about "Mancuso's" presence at Prudenti's during the January 8 interview but that he had, at the same time, stated that he did not remember the "other guy's name." [This is inaccurate; Montuoro had made no (Footnote Continued)]

having lunch, the bar was not visible. The bar was, however, situated between that table and the men's room; Montuoro's diagram of Prudenti's so reflected.

Mancuso and Panica were seated at the bar, Mancuso sitting to Panica's left. Montuoro greeted Panica--said "Hi"--but said nothing to Mancuso, whom he identified as a Hallen Construction Company ("Hallen") employee.

Montuoro was questioned whether he was certain that the Hallen employee he saw was "Mancuso" rather than Roy Murray of Hallen. Montuoro described the man as approximately six feet, stocky, 40 to 45 years in age, with black hair. Montuoro said that he had seen him at Hallen's offices before. The man at the bar was not wearing glasses, but Montuoro had seen him wearing glasses at Hallen. He was

38 (Footnote Continued)

reference to any "other guy" during the January 8 interview.] Since the January 8 interview, Montuoro said, he had been apprised by Harmon that Harmon had revealed to the Special Prosecutor the other man's identity. Montuoro said, and repeated several times, that he feared for his personal safety and he wanted "protection" if he were to talk about the other guy and that, in fact, he would not talk about anything at all unless he got "protection."

In response to questioning, Montuoro said that there was no problem in discussing the Prudenti's allegation--i.e., nothing triggering the need for protection--except the reference to Paul Panica, whom Montuoro had earlier described to Harmon as a fellow union officer who had aided Montuoro in the past. (See Section IV.B.1.a.i, supra.) After considerable discussion, Montuoro agreed to discuss the Prudenti's allegation fully. When Montuoro was offered the opportunity to enter the U.S. Marshal's Witness Protection Program, he declined to do so.

wearing a dark suit; Montuoro did not recall whether he was wearing a tie. Montuoro said that the man at the bar had to weigh over 200 lbs. and did not look streetwise.

Montuoro said that he had previously seen the man whom he saw at Prudenti's, but added that he learned some time after the date of the luncheon that his name is Mancuso. Montuoro preferred not to reveal where or how he had learned the man's name but acknowledged that he obtained it from a third person.³⁹ Under specific questioning, Montuoro said that he did not believe the man he saw at Prudenti's to be Roy Murray of Hallen. He stated that he could not describe Murray. He was adamant that the man with Panica was Mancuso.

Montuoro said that he returned to the table after greeting Panica. The waitress then brought a small tray to the table which bore a slip of paper, green bills of unknown denomination and some coins, and she presented it to Liguori. Montuoro did not know whether the slip of paper on the tray was a credit card receipt, whether it reflected a tip or whether Liguori retained it. Nor did he know whether the money on the tray represented change from a cash payment or whether it was a gratuity. Liguori talked to the waitress with the tray, who was positioned between Liguori and

³⁹ Montuoro later disclosed that the third person was Joseph Cipollone.

Schiavone. Montuoro did not know whether there was a charge card on the tray; all he recalled was that there was a slip of paper, some green bills and loose change.

Montuoro twice denied that he had ever told anyone that Liguori paid for the meal by credit card.⁴⁰ He said he did not know whether the bill had been paid in cash. He also did not recall anyone taking any money out of his pocket, nor did he see anyone sign for the bill.

Montuoro was not certain who left the restaurant first, whether it was he and Sanzo or the SCC representatives, but thought that "maybe we did." The valet got their car. Montuoro drove out of the lot, and Sanzo removed the envelope from his suit pocket. Sanzo opened the envelope, which contained all hundred dollar bills. Sanzo counted them and said that he had \$2,000.

Sanzo gave \$200 to Montuoro, who put the two bills in his pants pocket. Sanzo said he would keep \$200 and, as for the remainder, would "turn it in." By this, Montuoro understood that it would go to Sam Cavalieri, Sr.⁴¹ Sanzo then tore up the envelope and threw it out the window.

From Prudenti's, Montuoro said, they drove over the 59th Street Bridge to the union offices in Manhattan's upper east side. They arrived between 2:00 and 3:00 p.m.

40 See Exhibit 5 at 4; see also Section IV.D.6.a.i., infra.

41 See Section IV.I.2., infra.

Montuoro said that that luncheon which he attended with Sanzo, Liguori, Schiavone, DiCarolis and Donovan was the first and only time that he ever visited Prudenti's.

Montuoro also stated that he was never present at any other meeting with any SCC representatives at which an envelope was passed. He said he knew of no other payoffs to Sanzo from Schiavone Construction Company.

b. To the Grand Jury (Immunized)

Mario Montuoro was subpoenaed to appear before the grand jury on February 1, 1982. He appeared but advised the Special Prosecutor, prior to testifying, that he would refuse to testify concerning the Prudenti's allegation, relying upon his Fifth Amendment right against self-incrimination. Montuoro stated that he would testify only if he were conferred court-ordered use immunity in connection with his testimony, specifically with reference to testimony concerning any portion of the illicit payoff that he may have received from Louis Sanzo following the alleged Prudenti's luncheon. On February 1, 1982, Judge Charles P. Sifton of the United States District Court for the Eastern District of New York issued an order pursuant to 18 U.S.C. § 6002 directing Montuoro to testify, thereby conferring use immunity with respect to his grand jury testimony. Montuoro testified before the grand jury on February 1, 2 and 3, 1982. [GRAND JURY MATERIAL DELETED.]

3. Summary of Principal Internal Consistencies
and Conflicts within Mario Montuoro's
Statements

Montuoro's statements of the Prudenti's allegation consistently have affirmed that Secretary Donovan was present at Prudenti's Restaurant when DiCarolis made a \$2,000 payoff to Louis Sanzo in order to spur Sanzo to seek to aggrandize Local 29's jurisdiction on SCC's 63rd Street Project at the expense of Local 147. [GRAND JURY MATERIAL DELETED.] Aside from that basic allegation, however, Montuoro's statements diverged widely in three significant respects.

a. Date. In his September 1981 interview with Harmon of the Brooklyn Strike Force--the interview which prompted the Attorney General's preliminary investigation under 28 U.S.C. § 592(a) and led ultimately to this Court's appointment of the Special Prosecutor on December 29, 1981--Montuoro stated that the Prudenti's lunch occurred in September or October 1977. Similarly, the December 11, 1981, New York Times article reflects that Montuoro also told the Times reporters that the luncheon payoff was made "in the fall of 1977."⁴² To the FBI, on December 3, 1981, however, Montuoro

42 The "fall of 1977" date also appears in the December 18, 1981, Washington Post article. However, the author of the Post article telephonically advised the Special Prosecutor on February 17, 1982, that Montuoro had refused, during his interview, to specify when the luncheon occurred, except to say that the weather was cool but not cold. When the reporter asked whether that meant the fall, Montuoro told him that that was "close enough."

gave a "May or June, 1977," luncheon date. Moreover, when he was interviewed by the Special Prosecutor approximately one month later, on January 8, 1982, Montuoro definitively dated the luncheon between the second week of June and the first week of July 1977.⁴³ [GRAND JURY MATERIAL DELETED.]

b. Method of Payment for Luncheon. Montuoro told the FBI on December 3, 1981, that Jerry Liguori paid for the alleged Prudenti's luncheon by credit card. Such a credit card payment would presumably have produced a readily-ascertainable documentary trail leading in short order to the date of the luncheon itself. However, little more than six weeks after making this statement to the FBI, Montuoro disavowed it. In the January 21 interview, he took the position that, while he knew that Liguori paid for the lunch, he was ignorant of the method by which payment was made.⁴⁴

c. Witnesses. Until late December 1981 or early January 1982, Montuoro never hinted to anyone that he had observed, in Prudenti's, potential witnesses to the luncheon. On January 8, 1982, he told the Special Prosecutor that he had seen "Mancuso" of Hallen Construction at the restaurant and denied that he knew of any other possible witnesses.

43 See also Section IV.D., infra, concerning Montuoro's efforts at dating the alleged Prudenti's luncheon by reference.

44 See also Section IV.D.6., infra, concerning the Special Prosecutor's investigation into methods of payment for the alleged Prudenti's luncheon.

Four days later, Harmon informed the Special Prosecutor that he had learned from Montuoro that Montuoro had also seen Panica in Prudenti's on the date of the luncheon. On January 21, 1982, having previously been advised by Harmon that the Special Prosecutor was now aware of the alleged sighting of Panica at Prudenti's, Montuoro so apprised the Special Prosecutor. At the same time, Montuoro inaccurately added that he had on January 8 told the Special Prosecutor that he had seen a second potential witness at Prudenti's but had not recalled that witness's name.⁴⁵

C. Responses of the Alleged Attendees at Prudenti's

1. Raymond J. Donovan

a. To the FBI

On December 10, 1981, Secretary Donovan was interviewed by Special Agents of the FBI with respect to the Prudenti's allegation (the "December 10 interview"). Also present during the interview were Mr. Donovan's counsel, Dean Burch, and Paul Coffey, Assistant Chief of the Organized Crime and Racketeering Section of the Criminal Division of the Department of Justice. The FBI report of the December 10 interview⁴⁶ recited, in relevant part:

45 See also Section IV.E.2-4., infra, for the evidence gathered with respect to Mancusi and Panica.

46 A copy of which is annexed as Exhibit 10.

Donovan said he is unaware of any payments made by any Schiavone [Construction Company] employee to any union official at any time in any fashion. He stated he cannot recall ever being present with other company employees during which an envelope of any type was passed.

Donovan said he has not attended any functions with Lou Sanzo other than attending a company picnic, and a country club outing a few times that he can remember. He said he never met with Sanzo to discuss union/company business at any time.

Exhibit 10 at 3.

Mr. Burch independently took notes during the December 10 interview. He supplied the Special Prosecutor with a copy of his notes, transcribed December 10 or 11, 1981,⁴⁷ and which reflected, inter alia:

Q. Do you know Mario Montuoro?
A. No.

(NB, this is the only time Mario Montuoro's name was mentioned throughout the interrogation.)

* * *

Q. Did you ever eat at Prudenti's Restaurant in Long Island City across from the U.N.?
A. I know the name, but I don't think I ever ate there. It's possible but not likely.

* * *

Q. Were you ever present when payoffs to a union were made?
A. No.

* * *

Q. Do you recall being at a table at Prudenti's Restaurant at which an officer of Schiavone

⁴⁷ With a few trivial exceptions, the Burch notes are substantively in accord with the FBI report of interview.

- Construction Company passed an envelope containing money to any union official?
- A. Hell, no. I am a street-smart individual, and I can assure you that I have never been present when one of our people made a payoff to a union official, because we don't do it.

* * *

At the conclusion of the last question by Mr. Coffey . . . [Secretary Donovan] stated that at no time was he present at a meeting when money was passed in an envelope to a union official.

S.P. nos. 300061, 300063-65.

b. To the Attorney General

On December 22, 1981, Secretary Donovan dispatched a letter to the Attorney General concerning the Prudenti's allegation (the "December 22 letter").⁴⁸ In the December 22 letter, among other things, Mr. Donovan requested that the Attorney General appoint a Special Prosecutor; he also set forth his response to the Prudenti's allegation, as follows:

Mr. Mario Montuoro is a damnable and contemptible liar.

Not only have I never had lunch at Prudenti's restaurant with Mr. Montuoro and Mr. Sanzo, I have never been in Prudenti's restaurant in my entire life. I honestly have no knowledge--and I absolutely and unequivocally deny--that any officer or employee of Schiavone Construction Company has paid any sort of bribe to Mr. Sanzo or anyone else at any time or any place.

Exhibit 11 at 1.

c. To the Press

Simultaneous with his dispatch of the December 22 letter to the Attorney General, Mr. Donovan released copies of

48 A copy of which is annexed as Exhibit 11.

the letter to the press and issued a public statement from which the following is excerpted:

I have taken this extraordinary step because it is not fair to the public, or to me, or to my company, or to the Administration to continue to be besieged by false statements, leaks, and innuendo.

So there will be no misunderstanding, I want all of you to know that I am sick and tired of being bludgeoned constantly by a man who has convictions for possession of 5 oz. of heroin--and a deadly weapon. He has also previously been charged with stabbing an officer while he was in the military--⁴⁹ a man who I wouldn't know if he walked into this room.

Because the Attorney General is limited by the Ethics in Government Act to a "preliminary investigation" --and precluded therefore from service of process, use of grand juries and the like--a Special Prosecutor is necessary to conduct the sort of investigation t[ha]t is required when dealing with the likes of Mario Montuoro.

S.P. no. 200576.

d. To the Special Prosecutor

Secretary Donovan was interviewed by the Special Prosecutor on January 18, 1982 commencing at 3:00 p.m. (the "January 18 interview"). Mr. Donovan was accompanied by his counsel throughout the interview.

49 The Special Prosecutor found no evidence to support the contention that Montuoro was ever charged, while in the military, with stabbing an officer. In his January 18, 1982, interview with the Special Prosecutor, Secretary Donovan stated that he had received this information from his counsel who, in turn, advised that he had been so informed by counsel for Louis Sanzo. On January 16, 1982, counsel for Sanzo informed the Special Prosecutor that, according to Sanzo, Mario Montuoro boasted of the stabbing incident. No other reference to the alleged stabbing incident was discovered.

Among other things, Mr. Donovan said that he had never been inside Prudenti's Restaurant. He did travel to Prudenti's between December 19 and 25, 1981, with his son, one of his attorneys and an SCC office manager, he said. They drove to Prudenti's at about 3 p.m. on a business day which he could not date precisely. Having seen the outside of Prudenti's, Mr. Donovan was adamant that he had never set foot inside the building. Nor did he enter the restaurant on that day. He further stated that he did not think that he had eaten at any Long Island City restaurant. He said that he ate in Manhattan when he was in the City and assumed that, if in Long Island City--an event which he characterized as rare⁵⁰--he would have eaten in Manhattan.

Mr. Donovan stated that he had never been at any restaurant for any meal at which either Sanzo or Montuoro was present. He did not recall ever having met Montuoro. He had seen a photograph of Montuoro on television and, from that picture, would say that he has never met the man.

The Secretary stated that he first learned of Montuoro's allegations in the newspapers. From the December 10, 1981, Washington Post, he knew that there were new allegations; however, that article did not identify Prudenti's or

50 The Secretary stated he visited the Vernon Boulevard job site on only one or possibly two occasions.

Mario Montuoro by name. Mr. Donovan thought that he first learned Montuoro's name during the December 10 interview. As of that FBI interview, Mario Montuoro's name meant nothing to him.

The Secretary was never at any meeting with labor representatives where money was passed. He never paid anything of value to a labor leader, nor did anyone at SCC--or anybody else--do so in his presence or to his knowledge.

The Secretary further stated that no one in his presence had ever passed an envelope to a labor representative in circumstances such that the Secretary had reason to believe that there was anything of value contained in that envelope. Nor did any SCC employee ever tell him that he or she had provided anything of value to any labor leader.

e. To the Grand Jury

Secretary Donovan testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

2. Joseph A. DiCarolis

a. To the Attorney General

Under a cover letter dated December 18, 1981 (the "December 18 letter"), counsel for Mr. Donovan and SCC furnished to the Attorney General an affidavit of Joseph A. DiCarolis, President of SCC, in which DiCarolis responded to the Prudenti's allegation (the "DiCarolis affidavit").⁵¹

51 Copies of the December 18 letter and DiCarolis affidavit are annexed as Exhibits 12 and 13, respectively.

The DiCarolis affidavit recited, in relevant part:

5. I did not make a payoff to Mr. Sanzo at Prudenti's Restaurant in 1977 as is alleged by Mr. Montuoro nor did I do so at any other time or place.

6. I have never had lunch in Prudenti's Restaurant when Mr. Donovan and Mr. Schiavone were present.

7. I have never had any social or business transactions with Mr. Montuoro at any time or any place.

8. I have never paid, directly or indirectly, any money to Mr. Sanzo at any time for any purpose.

Exhibit 13 at 2.

b. To the Special Prosecutor

Mr. DiCarolis, in the presence of his counsel, was interviewed by the Special Prosecutor on January 15, 1982, commencing at 10:05 a.m. and concluding at 3:00 p.m.

In the course of the January 15 interview, DiCarolis stated that he first met Louis Sanzo in late 1974. He did not recall when or where he met Sanzo, but he was certain that the meeting was job-related. DiCarolis suspected that Jerry Liguori, who had known Sanzo for more than twenty years, probably introduced him to Sanzo.

In 1977, DiCarolis saw Sanzo perhaps as frequently as once a month in connection with SCC's Vernon Boulevard and 63rd Street jobs and associated problems. Those were the

only two SCC jobs in which Local 29 had an interest in 1977.⁵² DiCarolis met with Sanzo in New York or Queens.

DiCarolis probably lunched with Sanzo a half dozen times during 1977. From a review of his 1977 credit card receipts,⁵³ DiCarolis knew that he had eaten with Sanzo at an upper east side Manhattan restaurant on at least one occasion. However, DiCarolis did not recall any specific lunch with Sanzo during 1977.

Prudenti's was among the most likely restaurants for DiCarolis' lunches with Sanzo, DiCarolis said. He specifically remembered having lunched with Sanzo at Prudenti's, probably more than once, but he did not remember whether that (or those) occurred in 1977. He on occasion lunched with Sanzo alone; however, he did not recall whether they ate alone at Prudenti's.

DiCarolis probably lunched with Sanzo and Liguori together, he said. He doubted very much, however, that he had ever lunched with Sanzo, Liguori and Mario Montuoro. DiCarolis did not remember when he first met Montuoro, but his contact was in any event extremely limited: "My recollection

52 DiCarolis noted that, as of 1977, only the Section 5A portion of the 63rd Street job (from Park Avenue to Third Avenue) was under construction. See note 5, supra.

53 Copies of the charge and credit card receipts for all SCC principals and Mr. Donovan were furnished to the Special Prosecutor by SCC counsel and were subpoenaed by the Special Prosecutor from the various charge and credit card companies. See generally Section IV.D.6.b., infra.

of Mario Montuoro is that if I met him twice that's about the size of it." DiCarolis thought that he had spoken with Montuoro on two occasions, and may have seen him a total of three times in all. He did not know how or where he met Montuoro but stated that it was probably on a job site. He further stated that, although he did not recall, he probably met Montuoro in Sanzo's company.

DiCarolis thought that he had not attended any lunch with Sanzo and Ronald Schiavone. He also thought that he had never attended a lunch with Sanzo at which Mr. Donovan was present. He said that he could not take his oath, however, that a lunch involving himself, Sanzo and Mr. Donovan did not occur.

DiCarolis did not recall any lunch with Sanzo and Montuoro but acknowledged that such a lunch may have occurred. He doubted very much, he said, that he attended any lunch with Sanzo, Schiavone and Mr. Donovan. Moreover, he "ruled out" the possibility of his having lunched with Sanzo, Schiavone, and Montuoro--saying that he "can't imagine that happening."

He also "absolutely" could not remember any lunch at which Sanzo, Schiavone, Montuoro, DiCarolis himself and Mr. Donovan were present. He again stated that he could not imagine that it had happened. To begin with, DiCarolis said, such a lunch would have required that the three principals of Schiavone have been together at mid-day which in itself was

unusual in 1977. Adding to the improbability, he said, was Liguori's alleged presence with the other three from SCC. He stated, however, that he would take his oath that such a lunch did not happen at any time.

It was uncommon for even the three SCC principals --Messrs. Donovan, DiCarolis and Schiavone--to be together under normal circumstances in 1977, DiCarolis emphasized. DiCarolis was in the field at that time, and considered himself lucky to catch Mr. Donovan and Schiavone together once a week. They tried to touch base with one another but, "it was hard."

DiCarolis conceded that it was possible that the three of them were together in Queens in 1977, and he did not dispute the accuracy of the SCC helicopter logs which, on at least one occasion, so reflect.⁵⁴ However, he did not recall any lunch with Donovan and Schiavone in 1977 nor any lunch with them at Prudenti's at any time.

DiCarolis never attended any lunch with Sanzo, Liguori, Schiavone and/or Mr. Donovan at which money was given to Sanzo. He did not recall any meeting with Sanzo at which he gave Sanzo money. Nor did he recall any meeting with Sanzo at which he gave Sanzo an envelope. He stated that, if ever he gave Sanzo an envelope, it contained only papers in it. Asked whether he had indeed done this,

54 See Section IV.D.7., infra.

DiCarolis said that he had not, that his prior answer was facetious.

No representative of SCC ever gave Sanzo an envelope or cash in DiCarolis' presence. Nor did anyone associated with SCC ever tell him that he had given, or intended to give, Sanzo any cash. DiCarolis never told anyone that someone from SCC had given Sanzo any money, he added.

DiCarolis never gave any money to any member of Local 29, nor had he witnessed any other SCC representative give money to anyone from Local 29. Neither DiCarolis nor any other SCC representative suggested to Sanzo or any other Local 29 representative that Local 29 should attempt to obtain work on the 63rd Street job at the expense of Local 147.

After reviewing his affidavit, DiCarolis acknowledged his signature on the last page. The affidavit was drafted by one of his attorneys; DiCarolis then reviewed it, was satisfied with it, made no changes in it and signed it. DiCarolis stated that everything recited in the affidavit was true.

Any lunch he attended with Jerry Liguori at Prudenti's, DiCarolis said, he would expect Liguori to have charged to SCC's house account, if the house account were active. In the absence of an active house account, DiCarolis said that he would likely have put any such Prudenti's tab on his American Express card. DiCarolis did not usually pay cash for meals in 1977 and doubted very much that he would

have done so at Prudenti's. He stated that he customarily carried only \$10-\$15 cash on his person in 1977.

c. To the Grand Jury

Joseph A. DiCarolis testified before the grand jury on February 4, 1982. [GRAND JURY MATERIAL DELETED.]

3. Louis C. Sanzo

a. To the Press

The December 11 New York Times article⁵⁵ recited that its authors had telephonically contacted Louis C. Sanzo for his response to the Prudenti's allegation. The article reflects that they received from Sanzo a firm repudiation:

Mr. Sanzo, reached at his union office in Queens, denied accepting any payoff or ever attending such a luncheon.

"It's not fair--this never took place," he said. "Mr. Donovan is an honorable man, and his company is an honorable company. As far as any hanky-panky, it never took place. It's just not right what's going on."

Mr. Sanzo later called back to request that his statements not be published and asked that he be quoted instead as saying only, "No comment."

Exhibit 6 at A23, col. 1.

b. To the Special Prosecutor

On January 16, 1982, from approximately 9:45 to 10:15 a.m., Louis Sanzo was interviewed by the Special Prosecutor (the "January 16 interview"). Throughout the interview, Mr. Sanzo was represented by counsel. The interview

55 Exhibit 6 annexed; see Section IV.B.l.c.i., supra.

was strictly confined to the subject of the Prudenti's allegation; as to all other matters, Mr. Sanzo asserted his Fifth Amendment rights and declined to respond to questions.

Sanzo stated, inter alia, that he first went to Prudenti's in early 1975, a few months after work on the Vernon Boulevard job commenced. He described Prudenti's as a neighborhood restaurant. He had not eaten at Prudenti's prior to the time that he became President of Local 29 in 1975.

During the years 1975 through 1977, Sanzo estimated that he patronized Prudenti's on an average of 15 to 20 times per year. Aside from lunch, he visited Prudenti's for drinks in the late afternoon and for dinner in the evening.

Sanzo lunched at Prudenti's with SCC personnel. He identified Jerry Liguori, whom Sanzo said he had known for 25 years, as one such SCC employee. In addition to lunching with Liguori alone, Sanzo ate at Prudenti's with Liguori and a carpenter superintendent who worked with Liguori. At the times Sanzo ate at Prudenti's with Liguori, they did not always sit at the same table.

Apart from Liguori, Sanzo lunched with Joseph DiCarolis at Prudenti's once or twice. He dated the lunches to a period "toward the end of the [Vernon Boulevard] job," 1978 or 1979. He was uncertain whether he had lunched with DiCarolis in 1977 and was unable to recall specifically any meetings with DiCarolis during that year. Sanzo was

similarly uncertain whether he had dined with DiCarolis at Prudenti's during 1977. He added that, when he lunched at Prudenti's with DiCarolis, Liguori may also have been present. Sanzo summarized by saying that he lunched with DiCarolis once a year since the Vernon Boulevard job started, but not necessarily at Prudenti's.

Sanzo stated that he had never taken a meal at Prudenti's with Ronald Schiavone or Raymond Donovan. Nor had he ever taken a meal at Prudenti's with Joseph DiCarolis and either Schiavone or Donovan or both of them. Moreover, Sanzo never ate at Prudenti's with Liguori and either Donovan or Schiavone or both.

Mario Montuoro was once, and only once, present at a lunch with Sanzo and Liguori. Sanzo was unable to date that luncheon precisely but said that it occurred after Montuoro's nephew Dominic was seriously hurt in a fall on an SCC job. Sanzo said that there was concern that young Dominic receive full and adequate compensation for his injuries. Liguori advised that SCC was insured and that a claim should be filed.

Montuoro was not present at any other lunch involving Sanzo and an SCC representative. Sanzo "categorically" excluded the possibility that Montuoro may have attended more than that one such lunch.

Sanzo noted that he lunched at Prudenti's with Liguori at least once a month. Many times, Sanzo picked up the tab. He always paid for lunches in cash, out of his own

pocket and did not seek reimbursement from the union, which provided him with no expense account.

Sanzo denied that he had ever received cash or an envelope from any SCC representative at Prudenti's. He said that his denial expressly included receipt of such from DiCarolis, Schiavone, Liguori, Mr. Donovan or any other employee of SCC. He was emphatic that he had never received cash or any envelope from SCC.

Further, Sanzo said, he never met, and did not know, the owner of Prudenti's.

At the conclusion of the interview, Sanzo's counsel reiterated that Sanzo would not testify about any other matters absent a court order conferring upon Sanzo immunity with respect to the use of his testimony.

c. To the Grand Jury (Immunized)

Louis Sanzo appeared before the grand jury on February 16, 1982. On that date, Judge Charles P. Sifton of the United States District Court for the Eastern District of New York issued an order pursuant to 18 U.S.C. § 6002 directing Sanzo to testify, thereby conferring use immunity with respect to such grand jury testimony. Sanzo thereafter testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

4. Gennaro Liguori

a. To the Attorney General

Under cover of the December 18 letter, counsel for Mr. Donovan and SCC furnished to the Attorney General an

affidavit of Gennaro (Jerry) Liguori concerning the Prudenti's allegation (the "Liguori affidavit").⁵⁶ After reciting the substance of the Prudenti's allegation, the Liguori affidavit stated:

5. No such transaction ever took place in any restaurant or elsewhere to the best of my knowledge. I do know Mr. Sanzo and have known him for many years and I know Mr. Montuoro slightly. There never was an occasion at any place or at any time when I was present at a meeting involving Mr. Sanzo, Mr. Montuoro, Mr. DiCarolis, Mr. Schiavone and Mr. Donovan and I was certainly never present when the eposode [sic] described by Mr. Montuoro is alleged to have occurred.

6. I do not recall ever having had a meeting at Prudenti's Restaurant during 1977 when Mr. Donovan was present.

Exhibit 14 at 2.

b. To the Special Prosecutor

On January 13, 1982, from approximately 9:30 a.m. to 1:00 p.m., the Special Prosecutor interviewed Gennaro Liguori in the presence of his counsel.

Concerning matters related to the Prudenti's allegation, Liguori stated, inter alia, that during 1977 he lunched with Louis Sanzo--whom he has known for more than 20 years--once every 2-4 weeks, or approximately 12 to 20 times in total. He lunched that year with Sanzo and Mario Montuoro, to whom he was introduced by Sanzo in late 1974 or early 1975, perhaps half as frequently as he lunched with Sanzo

56 A copy of the Liguori affidavit is annexed as Exhibit 14; the December 18 letter is Exhibit 12.

alone. He estimated that he lunched with Montuoro approximately 12 times during 1977.

Another man associated with Local 29 attended some of Liguori's luncheons with Sanzo and Montuoro. Liguori could identify the individual only as "Jay"; he did not recall Jay's surname except that he thought it was monosyllabic. Liguori thought that Jay might have been an accountant who performed services for Local 29 and he described Jay as 5' 10", 180 lbs., clean-cut, a "suit and tie" type. At one time, Liguori said, he thought Jay was as a lawyer for the union. Jay was rarely at lunch with Sanzo, Montuoro and Liguori, attending perhaps twice a year.⁵⁷

57 Jay Carr, who is the investment advisor to Local 29's Pension and Welfare Funds and who physically resembles Liguori's description (Section IV.C.4.b., supra), was interviewed by the Special Prosecutor on January 22, 1982. Carr admitted that he had met Jerry Liguori on a number of occasions but could not recall any meal with Liguori at Prudenti's. Carr said that he could remember patronizing Prudenti's only once--twice was remotely possible--but not with Liguori. Furthermore, Carr said that he expected that he would recall meals with Liguori at Prudenti's if they had occurred.

Carr testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

Liguori then revised his earlier estimates and stated that he lunched with Montuoro and Sanzo approximately 8 to 10 times in 1977 and with Sanzo alone an additional dozen times.

SCC Vice President Al Magrini, Liguori's immediate superior and an immediate subordinate of Joseph DiCarolis, also lunched with Liguori and Sanzo. Liguori estimated that he, Magrini and Sanzo lunched together three or four times in 1977-1978.

Moreover, Liguori recalled having lunched with DiCarolis, Sanzo and Montuoro on one occasion, and with DiCarolis and Sanzo an additional three or four times in 1977.

Ninety percent of the foregoing lunches, Liguori said, were eaten at Prudenti's.

Sanzo paid for some of the lunches that the two of them ate together. Liguori did not recall that Montuoro ever paid. Liguori said that all lunches he ate with Sanzo were not necessarily business related and, therefore, not all tabs were submitted to SCC for reimbursement.

Prior to the January 13 Liguori interview, SCC furnished to the Special Prosecutor copies of the monthly Prudenti's statements to SCC for the year 1977 and the corresponding individual meal chits submitted to SCC by Liguori.⁵⁸ Liguori was questioned concerning those chits bearing references to Local 29 and responded as indicated in the chart below.

58 The chits were of two sorts: (a) Prudenti's house account "charge account memos" and (b) the serrated portion torn by the waitress from the check itself.

<u>Date</u>	<u>Amount</u>	<u>Handwritten Notation</u>	<u>Liguori's Identification of Attendees</u>
1/19/77	\$42.75	"Lunch Self & Local 29 BA to discuss jurisdictional dispute poss. w/ Loc. 731."	"BA" referred to Sanzo, Business Agent of Local 29. ⁵⁹
3/17/77	\$48.34	"Lunch BA & Sect. Loc. 29. Discuss men K.O. in Rain."	"BA" referred to Sanzo; "Sec." referred to Montuoro. ⁶⁰
4/4/77	\$71.16	"Lunch Self BA Loc. 29 Sectr.-Tres. Loc. 29 & Pres. Loc. 29 Discuss minority status w/ impend layoff."	Liguori stated that the three individuals with whom he lunched were Sanzo, Montuoro and Jay. He was unable to explain why he identified them as business agent, secretary and president.
5/13/77	\$76.11	"Self Pres. Loc. 29 BA " 29 Lawyer " " Discuss layoffs in connection w/keeping minority % as is w/i this local."	"Pres." referred to Sanzo; "BA" to Montuoro; and "Lawyer" to Jay.
6/24/77	\$37.88	"Lunch BA Loc. 29 & Self to Discuss Blaster takeover for Supt."	"BA" was Sanzo.

59 As noted above, Sanzo has been business manager of Local 29 since 1970 and President of the Local since 1975.

60 Montuoro was at this time Secretary/Treasurer of Local 29 and Assistant Administrator of its Pension and Welfare Funds. See Section IV.J.3., infra.

<u>Date</u>	<u>Amount</u>	<u>Handwritten Notation</u>	<u>Liguori's Identification of Attendees</u>
7/14/77	\$42.65	"Lunch w/Loc. 29 BA. Disc. minority layoff & & Driller to be repl. w/Blasters as they are not needed as Blasters."	"BA" was Sanzo.
7/25/77	\$71.70	"Pres.-B.A. Sectr. Tres. Loc. 29. Disc & initiate plans to stop men from leaving."	Liguori stated that he could not identify the participants but he imagined that they might have been Sanzo, Montuoro and Jay.
9/26/77	\$63.10	"Dinner self & Pres.-Sect.- BA Loc. 29. Discuss L.O. & Minority req."	Might have been Sanzo, Montuoro and Jay.
9/29/77	\$43.26	"Self Pres. Loc. 29 BA " Discuss impend- ing dir. on female empl. in field forces."	"Pres" was Sanzo and "BA" was Montuoro.
10/25/77	\$109.60	"Self BA Loc. 29 Fire Dept. Chief Two Fire Dep. Insp. Discuss movement of powder magazine to a new loc. & nec. of Alarm System."	"Pres" was Sanzo and "BA" was Montuoro.
[Undated; December 1977]	\$47.65	"Self-BA & Loc. 29. Dis- cuss cutting down crews & minority repl."	"BA" was Sanzo and "Sec." was Montuoro.

<u>Date</u>	<u>Amount</u>	<u>Handwritten Notation</u>	<u>Liguori's Identification of Attendees</u>
1/30/78	\$55.58	"BA & Pres. Loc. 29. Discuss poss. job shut down depend. on 282 job action."	"Pres" referred to Sanzo and "BA" to Montuoro. Although the front of this chit reflected that four people were served, Liguori could not identify who the fourth person in attendance might have been.

Liguori wrote the foregoing annotations on the chits he received from Prudenti's some time after he had eaten the meals. He said that he routinely pocketed the chits at the restaurant and only later, at the office, filled in the names of his luncheon guests and the other information appearing on the chits. Sometimes, he conceded, he found blank chits perhaps as much as a week or more after the meals to which they related, and he annotated them at that time.

At least twice while being questioned concerning the chits, Liguori repeated that, when he filled them out, he was doing so solely for the purpose of obtaining lunch reimbursement. He stressed that he did not expect them ever to be subjected to such scrutiny.

Liguori observed that he had a favorite table at Prudenti's, and he sketched it on a rough diagram of the restaurant. The table he sketched was situated in the Red Dining Room, approximately in the middle of the row immediately adjacent to the partition between Prudenti's two dining rooms. Nine times out of ten, Liguori said, the waitress who

served him was Linda Ranieri, whom he dated on perhaps a half dozen occasions during the latter 1970s.

The SCC house account records failed to reflect the full extent of Liguori's patronage, he said. However, he believed that virtually all of his lunches with Sanzo were reflected in those records. Liguori added that, on occasion he lunched with Sanzo, with or without Montuoro, and did not pick up the tab himself. Sanzo, for example, sometimes paid. On at least one occasion, DiCarolis, who was seated at another table in the restaurant, paid their bill.

No lunches with DiCarolis were reflected on the SCC house account records, Liguori noted. If DiCarolis was present, DiCarolis paid the tab on DiCarolis' American Express card.

Liguori recalled that Ronald Schiavone ate at Prudenti's on one occasion with Liguori, Magrini and perhaps DiCarolis. Liguori thought that this occurred near the beginning of the Vernon Boulevard job which would have been in 1974-1975, but he could not date the meal.

Liguori did not recall any lunch or dinner with Mr. Donovan at Prudenti's. Nor did he recall whether he had ever seen Montuoro in Mr. Donovan's presence.

Neither Liguori nor DiCarolis nor Schiavone nor Mr. Donovan had ever paid any money to Sanzo or to Montuoro, Liguori stated. Nor did DiCarolis, Schiavone or Mr. Donovan ever give any envelope to Sanzo or Montuoro in Liguori's

presence or to his knowledge. Finally, Liguori said that he never delivered to Sanzo or Montuoro any envelope whose contents were unknown to him.

c. To the Grand Jury

Gennaro Liguori testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

5. Ronald A. Schiavone

a. To the Attorney General

Under cover of the December 18 letter, counsel for Mr. Donovan and SCC furnished to the Attorney General an affidavit of Ronald A. Schiavone concerning the Prudenti's allegation (the "Schiavone affidavit").⁶¹ The Schiavone affidavit provides, in pertinent part:

5. Such a luncheon never took place in 1977 at any restaurant or at any other place or time. I have never attended a luncheon or other conference anywhere with Mr. Montuoro and I do not recall ever having met him. Mr. DiCarolis certainly never made any such payment to Mr. Sanzo or anybody else and the entire story is totally false from beginning to end.

Exhibit 15 at 2.

b. To the Special Prosecutor

On January 13, 1982, from approximately 2:00 to 4:40 p.m., Ronald Schiavone, in the presence of his counsel, was interviewed by the Special Prosecutor.

Among other things, Schiavone stated that he had been to Prudenti's only twice, most recently in 1976, to the

⁶¹ A copy of the Schiavone affidavit is annexed as Exhibit 15. The December 18 letter is annexed as Exhibit 12.

best of his recollection. He did not recall being in Prudenti's in 1977 and doubted that he was. Schiavone stressed the point, asserting that he would be shocked if it could be proved to him that he was in Prudenti's during 1977.

Schiavone never lunched with Sanzo at Prudenti's, he said. He met Louis Sanzo in 1975 or 1976, he said, probably at a GCA dinner or similar industry function. He never even met Sanzo at a job site.

Nor did Schiavone ever lunch with Mario Montuoro. Schiavone said that he did not know Montuoro and did not know that he ever met him. Schiavone had seen Montuoro's photograph recently in a newspaper or periodical, and the face did not look familiar.

Schiavone expressly denied that he ever lunched with Sanzo or with Montuoro at Prudenti's.

Moreover, Schiavone believed he had never lunched with Mr. Donovan at Prudenti's. Schiavone stated that he did not have either lunch or dinner during 1977 with Messrs. Donovan, DiCarolis and Liguori together at any restaurant.

Never, Schiavone said, was he present at any meeting with a member of Local 29 at which money or an envelope was passed. Nor was he ever present at any similar meeting with members of any of the other unions involved in the Vernon Boulevard or 63rd Street jobs. Schiavone stated "absolutely and categorically" that he did not know anyone

associated with SCC who had passed money to any union concerning the Vernon Boulevard or 63rd Street jobs.

On January 1, 1977, while tobogganing on the Fiddler's Elbow Golf Course, an SCC property in New Jersey, Schiavone fractured his right hip. He underwent two surgical procedures, the second in late January 1977. According to Schiavone's medical records⁶² at the Hospital for Special Surgery, Schiavone walked with the aid of crutches until some time after May 11, 1977. On May 11, 1977, the records reflected, he was permitted to ambulate with a cane, which he used until August or September of that year. Schiavone said that he never wore a cast as a result of that injury but that he did rely on crutches and a cane as reflected in the medical records.

c. To the Grand Jury

Ronald A. Schiavone testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

6. Summary of Alleged Attendees' Responses

All five of the individuals alleged by Montuoro to have attended the Prudenti's luncheon unequivocally denied that any such luncheon ever occurred. Secretary Donovan denied ever having been at Prudenti's Restaurant and, other than Montuoro's allegation, there was no evidence to the contrary. While the four alleged attendees other than

62 S.P. nos. 351706-351708.

Mr. Donovan acknowledged having eaten at the restaurant, two with some frequency, all four denied ever having done so with the Secretary. Only two--Sanzo and Liguori--admitted having eaten at the restaurant with Montuoro. Moreover, all of the alleged attendees denied that a luncheon (or meeting) involving the six individuals named by Montuoro ever occurred, at Prudenti's or at any other place. In short, the alleged attendees uniformly repudiated the Prudenti's allegation.

D. Dating the Alleged Prudenti's Luncheon

1. Introduction

Montuoro's attempts to pinpoint by month or season when the alleged Prudenti's luncheon occurred produced a series of widely divergent responses: among others, from September or October 1977,⁶³ to "the fall of 1977",⁶⁴ to "May or June, 1977,"⁶⁵ to sometime between the second week of June and first week of July 1977.⁶⁶ [GRAND JURY MATERIAL DELETED.]

In addition to these efforts to date the luncheon by month or season, however, Montuoro also referred to a series of benchmark events to which he temporally related the alleged luncheon. The benchmarks were:

63 See Section IV.B.1.a.i., supra.

64 See Section IV.B.1.c.i., supra; cf., note 42, supra.

65 See Section IV.B.1.b., supra.

66 See Section IV.B.2.a.i., supra.

- a. The clearing and levelling of a certain piece of property located at 43-35 Tenth Street in Long Island City, New York, on a weekend shortly after the alleged Prudenti's luncheon (the "land clearing incident" or "land clearing operation");
- b. A meeting involving Montuoro, Sanzo and representatives of SCC, the GCA and other unions concerning SCC's 63rd Street job held shortly after the alleged Prudenti's luncheon (the "GCA meeting");
- c. The Fourth of July, 1977; and
- d. Montuoro's letter to President Jimmy Carter, dated September 26, 1977.

Each of these alleged benchmarks was investigated by the Special Prosecutor as part of the effort to ascertain the precise date of the alleged Prudenti's luncheon.⁶⁷

Moreover, the Special Prosecutor also investigated the method by which the bill for the alleged Prudenti's luncheon was, or could have been, paid in order to fix the alleged luncheon date.⁶⁸ Finally, a multitude of other documents reflecting, inter alia, the location of each of the

67 See Section IV.D.2.-5., infra.

Further, the land clearing incident, according to Montuoro, involved SCC's provision of heavy machinery to a labor union officer free of charge. Therefore, the Special Prosecutor investigated to determine whether the land clearing incident constituted a violation of Section 302(a) of the Taft-Hartley Act, § 29 U.S.C. § 186. For the results of that investigation, see Sections IV.D.2. and V.A., infra.

68 See Section IV.D.6., infra.

alleged attendees at material times during 1977 were requested, subpoenaed and analyzed by the Special Prosecutor.⁶⁹

2. The Land Clearing Incident

a. Mario Montuoro

Mario Montuoro stated on several occasions that the Prudenti's luncheon occurred no more than two weeks prior to the date that a certain piece of Long Island City property was levelled and cleared. He further attempted to, or did, date the land clearing operation five recorded times outside the grand jury: (i) in an affidavit dated December 19, 1978; (ii) in a statement to Brooklyn Strike Force Attorney James Harmon in 1979; (iii) in testimony in the June 1981 trial of United States v. Sanzo, No. CR-89-00151 (E.D.N.Y. June 2-23, 1981); (iv) in testimony in the December 1981 trial of United States v. Trainello (I), No. CR-81-151 (E.D.N.Y. December 2-[28,] 1981); and (v) in a statement to the Special Prosecutor. [GRAND JURY MATERIAL DELETED.]

i. Affidavit of December 19, 1978

Mario Montuoro executed a two page affidavit dated December 19, 1978 (the "December 19 affidavit"), concerning, among other things, the land clearing incident.⁷⁰ The December 19 affidavit, in which Montuoro's surname was consistently misspelled "Monturo," recited in relevant part:

69 See Section IV.D.7., infra.

70 A copy of the December 19 affidavit is annexed as Exhibit 16.

That, in or about July or August of 1977, I, my brothers, William Monturo [sic] and Sam Monturo [sic] along with Joseph Cipollone and Louis Sanzo worked on Saturday and Sunday with bulldozers, etc., for the purposes of cleaning and grading the yard located at 43-35 Tenth Street, Long Island City, New York; said yard, I believe, is owned by Berthange Realty Corp.⁷¹ and I further believe, is used as an office and yard--home base for Cipico Construction Company.⁷²

Exhibit 16 at 2.

ii. Statements to
Brooklyn Strike Force

In his January 12 interview with the Special Prosecutor, James Harmon, Assistant Attorney-in-Charge of the Brooklyn Strike Force, stated that Montuoro had reported the land clearing incident when Harmon first spoke with Montuoro in March or April of 1979. That portion of Harmon's contemporaneous notes pertinent to the land clearing incident reads:

Clearing yard (Cipico)

'77 cleared yard
Sat-Sun

Schiavone sent trucks

-
- 71 Berthange Realty Corp. is a corporation whose sole stockholders are Bertha (wife of Louis) Sanzo and Angela and Joseph Cipollone. Berthange Realty Corp.'s sole asset is the property located at 43-35 Tenth Street, Long Island City, New York. [Per Joseph Cipollone, in his February 9, 1982, interview with agents of the Special Prosecutor.]
- 72 Joseph Cipollone is one of the two principals of Cipico Construction. Joseph Cipollone, February 9, 1982, interview with agents of the Special Prosecutor.

McGriffin (black)
Harlem - tractor trailer

bulldozers from Sch. job
DeFillipis [sic] trucks
Eugene Griffin Trucking, Jamaica

Exhibit 1 at 2.

Montuoro told Harmon that the land clearing and grading had consumed both a Saturday and Sunday. Montuoro initially said that the trucks used in the land clearing were probably provided by McGriffin, a minority contractor used by Robert D. DeFilippis Crane Service, Inc. ("DeFilippis Crane Company" or "DeFilippis"). Subsequently, Montuoro informed Harmon that he had checked his facts and determined that Griffin, rather than McGriffin, was the trucking contractor involved. Later yet, on a date which Harmon could not specify, Montuoro told Harmon that Louis Nargi was the trucking contractor whose trucks were used in the land clearing incident.⁷³ Montuoro never told Harmon the source of his information.

In late 1981, Harmon memorialized the information which he had received from Montuoro concerning the land clearing incident in the November 27 memorandum:

73 From approximately 1975 until January 1, 1977, Louis Nargi, through his Nargi Contracting and Trucking Co., was an SCC subcontractor on the Vernon Boulevard job. Louis Nargi, February 24, 1982, interview with agents of the Special Prosecutor; S.P. nos. 352666-671.

The Special Prosecutor determined to trace the equipment allegedly used in the land clearing incident in an effort to seek out possible documentation reflecting the date such equipment was used for that purpose.

b.) By mid-1977, Sanzo held an undisclosed interest in Berth Ange Realty which owned real property consisting of a building and an adjoining vacant lot. The building and lot were leased by Cipico Construction, which was owned by Joseph Cippollone [sic], a friend of Sanzo's. Before it could be used to store construction equipment of Cipico and Jo-Lo Leasing Corp. (another company in which Sanzo had a hidden interest), the vacant lot had to be levelled and cleared. Sanzo made arrangements to have two heavy bulldozers transported to the Cipico vacant lot on a weekend in July or August 1977. There, in the presence of Cipollone, Sanzo and Liquori [sic], the lot was cleared by two bulldozers operated by Montuoro's brothers. The bulldozers were believed to be owned by Schiavone [Construction Company] and used on the subway tunnel job. The bulldozers may have been transported on flatbed trucks belonging to "Louis Naji" (phonetic) who did trucking work for Schiavone. No payment was made for the use of the bulldozers which, otherwise, would have cost about six thousand dollars (\$6000). There is no known personal involvement of Secretary Donovan in this matter.

Exhibit 4 at 1-2 (emphasis in original).

iii. U.S. v. Sanzo Testimony

On June 4, 1981, Montuoro testified for the Brooklyn Strike Force in the tax evasion and labor racketeering prosecution of Louis Sanzo.⁷⁴ Under cross-examination by counsel for one of Sanzo's co-defendants, Montuoro testified concerning the land clearing incident:

Q. At any time during July or August of 1977 did you or your brothers do any work for [Cipico Construction Company]?

A. Yes.

Q. Can you tell me who was present when you did that work?

⁷⁴ See note 6, supra.

A. There was a lot of people, there was Mr. Sanzo, Joe Cip[o]llone, my brother, my other brother and some laborers there, and dump trucks and everything.

Q. Can you tell me to the best of your recollection what work was done?

A. We were cleaning up the yard.

United States v. Sanzo, No. CR-89-00151, Record, vol. 3 at 388 (E.D.N.Y. June 4, 1981).

iv. U.S. v. Trainello (I) Testimony

On December 3, 1981, Montuoro testified for the Brooklyn Strike Force in United States v. Trainello (I) in the Eastern District of New York.⁷⁵ On cross-examination, he was asked questions relating to the land clearing incident, most pertinently:

Q. Did you or your brother at any time with Mr. Sanzo do any work in Cipico's yards?

A. Mr.--my two brothers, ran bulldozers that Mr. Sanzo got him from Schi[a]vone, and they were on his property. I thought that property was Mr. Sanzo's, and Mr. Cipollone spent a piece of the property for his business. That's why I brought the brothers, the bulldozers.

United States v. Trainello (I), No. CR-81-00151, Record, vol. 4 at 246 (E.D.N.Y. Dec. 3, 1981).

⁷⁵ No. CR-81-000151 (E.D.N.Y. December 1981). Trainello was originally a co-defendant in United States v. Sanzo, but the case against Trainello was severed several days into the Sanzo trial. Trainello's December 1981 trial resulted in a hung jury. He was retried and convicted in March 1982.

v. Statement to the
Special Prosecutor

During the course of his January 8 interview with the Special Prosecutor, Mario Montuoro was asked when the alleged Prudenti's luncheon occurred. His initial response was May or June of 1977, although he subsequently amended that to sometime between the second week of June and first week of July 1977. Montuoro was asked how he arrived at the luncheon date.

Montuoro proceeded to date the alleged luncheon to several events, prominently including the land clearing incident. He said that Sanzo had purchased some property in Long Island City, New York, in late May or early June 1977 for approximately \$90,000. The Prudenti's luncheon occurred some time after the property had been purchased, perhaps in the second or third week of June. Moreover, Montuoro said, his brothers levelled this property after the alleged Prudenti's luncheon.

Montuoro stated that the levelling occurred no more than a week after the luncheon at Prudenti's. He said that the levelling was completed in a single day, a Saturday. He was unable to recall the day of the week on which the Prudenti's luncheon occurred, but he deduced that it could not have been a Monday because he recalled that Sanzo had informed him, in Local 29's offices on the day preceding the luncheon, that they were to meet with the bosses from SCC on the following day. He was certain that he received that

information--and went to the lunch--on a weekday, not a weekend. Consequently, as of January 8, 1982, Montuoro was of the view that the land clearing operation was performed on the Saturday following the Prudenti's luncheon, which occurred on a Tuesday, Wednesday, Thursday or Friday.

vi. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. William Montuoro

i. Affidavit of January 3,
1982

At the time of the January 8 interview, Mario Montuoro furnished to the Special Prosecutor copies of affidavits executed on January 3, 1982, by his brothers William Montuoro ("William") and Saverio Montuoro ("Saverio"). Before the grand jury, Mario testified that his counsel requested that William and Saverio execute these affidavits for submission to the Special Prosecutor (T. 220-221). William Montuoro's affidavit, which is mis-dated January 3, 1981,⁷⁶ stated:

1. I am an operating engineer and a member of Local 15, International Union of Operating Engineers. Among the types of machinery that I operate is a 977 Caterpillar tractor.

2. I have three brothers, among them Mario Montuoro and Saverio Montuoro.

3. From 1975 to 1978, I worked at a jobsite on 41st Street [sic], Astoria, between Vernon Boulevard and 21st Avenue. The contractor there was Schiavone Construction Company. When I started

76 A copy of this affidavit (the "William Montuoro affidavit") is annexed as Exhibit 17.

work there, my brother Saverio was already working there; both of us worked for Louis Nargi, a subcontractor. Later, both of us were transferred directly to the Schiavone [Construction Company] payroll.

4. Late in June or early July 1977, my brother Mario telephoned me and asked me to do a favor for Louis Sanzo, president of Local No. 29, Blasters, Drillrunners and Masons [sic] Union, LIUNA, by levelling off land on property owned by him. I agreed.

5. At the Schiavone jobsite, I discussed the matter with my brother Saverio Montuoro. It was understood between us that we would both go over to Sanzo's property on a Saturday and perform the work. We did not expect to get paid.

6. Sanzo's property was near the jobsite where Saverio and I worked. I have been advised that it was at the corner of 43rd Street [sic] and 10th Street, and this sounds correct to me.

7. On the agreed-upon Saturday, either in late June or early July 1977, my brother Saverio and I went over together to Sanzo's property. While we were there, a lowbed trailer owned by the DiFillipis [sic] crane company, which had cranes on hire to Schiavone, drove up with a 955 Caterpillar payloader on it. Saverio unloaded the payloader.

8. When we arrived, a 977 Caterpillar tractor was already there. Louis Sanzo, who was present, told Saverio and myself that the tractor belonged to Bobby Blandford. I know Blandford to be the owner of a construction company.

9. I operated the 977 tractor and Saverio operated the 955. Together, we leveled off the property [sic]. In addition, three dump trailers were operating. I recognized the trailers and the men operating: the men drove [sic] the trailers for Nargi on the Schiavone [i.e., Vernon Boulevard] jobsite.

10. Sanzo gave us directions as to what work was to be done and we followed his directions.

11. The work took us nine hours to complete. When it was done, Sanzo tipped Saverio and myself \$50 each. We received no other remuneration.

Exhibit 17 at 1-2.

ii. Statement to the
Special Prosecutor

On February 2, 1982, William Montuoro was interviewed by agents of the Special Prosecutor. William stated that, as a favor to his brother, Mario, he participated in levelling Long Island City property owned by Louis Sanzo. William, whose nickname is Chubby, stated that on a prearranged Saturday in 1977, his brother, Saverio, drove him from his home in the Bronx to the Long Island City property. William could not recall the exact address but remembered that it was located not far from the Vernon Boulevard job site.

When William and Saverio Montuoro arrived at the location, at approximately 7:30 a.m., Louis Sanzo, Joe Cipollone and Mario Montuoro were there. So, too, was a 977 Caterpillar front-end loader which William Montuoro operated throughout that day. The 977 unit belonged to Bobby Blandford; William understood that Blandford was a friend of Louis Sanzo.

Sometime after William and Saverio Montuoro arrived, a 955 Caterpillar loader arrived on a flatbed truck owned by DeFilippis Crane Company. William stated that he was ignorant of the relationship, if any, between Sanzo and Robert DeFilippis, the principal of DeFilippis Crane Company.

William Montuoro said that the levelling operation took approximately nine hours to complete. During the course of the day, Louis Nargi stopped by the site. William said that Nargi provided three trailer dump trucks for purposes of hauling away the debris cleared off the Long Island City property. He further said that he recognized one of Nargi's drivers but did not know his name. William was uncertain where the debris was dumped but assumed it was a Brooklyn dump site.

William also said that he was rather certain that none of the equipment used on the land clearing operation came from SCC's Vernon Boulevard job site.

Concerning the date of the land clearing incident, William advised that it was completed during warm weather, most likely in June or July. William also remembered that, at some point during the clearing and levelling, Sanzo excused himself from the scene for a period of hours to attend the confirmation or first communion of one of his children. Sanzo returned to the site later in the day.

Although William and Saverio had agreed to perform the labor without pay, Sanzo nonetheless tipped each of the two brothers \$50 at the end of the day. The 977 Caterpillar unit, which William ascribed to Blandford, was left at the site. The 955 Caterpillar unit, he said, was taken from the scene by a DeFilippis flatbed trailer.

iii. Grand Jury Testimony

William Montuoro testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

c. Saverio Montuoro

i. Affidavit of January 3, 1982

As did William, Saverio Montuoro executed an affidavit relating to the land clearing incident on January 3, 1982.⁷⁷ The Saverio Montuoro affidavit recited:

1. I am an operating engineer and a member of Local 15, International Union of Operating Engineers. Among the types of machinery that I operate is a 955 Caterpillar payloader.

2. I have three brothers, among them Mario Montuoro and William Montuoro.

3. From 1975 to 1978, I worked at a jobsite on 41st Street [sic], Astoria, between Vernon Boulevard and 21st Avenue. The contractor there was Schiavone Construction Company. When I started work there, I worked for Louis Nargi, a sub-contractor; later i [sic] went directly on the Schiavone payroll. My brother William, also an operating engineer and a member of Local 15, worked on the same jobsite.

4. Late in June or early July 1977, my brother Mario telephoned me and asked me to operate a payloader to level off land on a property owned by Louis Sanzo. I knew that Sanzo was the President of Blasters, Drill-runners and Masons [sic] Local 29. I agreed.

5. At the Schiavone jobsite, I discussed the matter with my brother William. It was understood between us that we would both go over to Sanzo's property on a Saturday and perform the work.

⁷⁷ A copy of this affidavit (the "Saverio Montuoro affidavit") is annexed as Exhibit 18.

6. Sanzo's property was near the job-site where William and I worked; I have been advised that it was at the corner of 43rd Street [sic] and 10th Street, and this sounds correct to me.

7. On the agreed-upon Saturday, either in late June or early July 1977, my brother William and I went over, together, to Sanzo's property. While we were there, a low-bed trailer owned by the DiFillipis [sic] crane rental company, which had cranes on hire to Schiavone, drove up. A 955 Caterpillar payloader was on the trailer. I unloaded the payloader.

8. When we arrived, a 977 Caterpillar tractor was already there. Louis Sanzo, who was present, told me and William that the tractor belonged to Bobby Blandford. I know Blandford to be the owner of a construction company.

9. I operated the 955 tractor and William operated the 977. Together, we leveled off the property. The work took nine hours for the two of us to complete. In addition, three dump trailers were operating, picking up the debris. The dump trailers and the men operating them were all known to me. The trailers were owned by Louis Nargi, the subcontractor for whom I had worked at the Schiavone jobsite. I recognized the drivers as men who drove the trailers for Nargi on the jobsite.

10. Sanzo instructed us as to what work was to be done, and we followed his directions.

11. When the work was done, we parked the machines. Sanzo tipped William and myself \$50 each; neither of us received any other remuneration. We had agreed to work without pay.

Exhibit 18 at 1-2.

ii. Statement to the
Special Prosecutor

On February 2, 1982, Saverio Montuoro was interviewed by agents of the Special Prosecutor. Concerning the land clearing incident, he stated, among other things, that in either June or July of 1977, he was contacted by his brother, Mario, who asked whether he would be willing to level some property in Long Island City for Louis Sanzo.

Saverio, whose nickname is Sam, agreed to assist in the levelling operation as a favor to Mario. He made arrangements with his brother, William, with whom he worked on the SCC Vernon Boulevard job, to perform the levelling on a Saturday.

On the pre-arranged Saturday, Saverio picked up William and drove him to the Long Island City property which was located on 43rd Avenue and Tenth Street in Queens, not far from the Vernon Boulevard job. Louis Sanzo and Mario Montuoro were at the site when William and Saverio Montuoro arrived at approximately 8 a.m.

The property to be levelled was immediately adjacent to a gray building owned by Sanzo. Saverio estimated that the debris on the lot rose to approximately three feet above curb level.

Upon their arrival, Sanzo instructed the Montuoro brothers as to what was to be done to the property. William operated a 977 Caterpillar payloader which was on the lot at the time they arrived. Although there were no identifying

markings on that 977 unit, Sanzo told Saverio that the machine belonged to Blandford Construction Company ("Blandford"). To the best of Saverio's recollection, Blandford had no equipment on SCC's Vernon Boulevard job.

A short time after the Montuoro brothers' arrival, a DeFilippis Crane Company low-bed trailer, driven by a DeFilippis driver, delivered a 955 Caterpillar payloader to the site. Saverio drove this payloader off the flatbed and onto the site; the DeFilippis trailer--driven by a man unfamiliar to Saverio--departed. Because DeFilippis had no 955 Caterpillar payloader on the Vernon Boulevard job, Saverio concluded that this equipment did not come from that job site.

In addition to the DeFilippis and Blandford equipment, three dump trailers from Louis Nargi's firm were used to remove the debris from the premises. He estimated that 20 to 25 truckloads of debris were removed during the day. He believed that the debris was dumped at the Brooklyn public sanitation dump off the Belt Parkway because he thought that to be the only dump which (a) would have been within a half-hour's ride from Sanzo's property and (b) would have been open on Saturday. Although Saverio recognized the three drivers as regular Nargi drivers who worked on the Vernon Boulevard job, he was ignorant of their names.

Saverio Montuoro stated that he and his brother worked for nine to nine and a half hours levelling the property,

completing the operation at approximately 5:30 p.m. They each received a \$50 tip from Sanzo for their labors. Mario Montuoro was at the site during the entire day. Louis Nargi, Robert DeFilippis, and possibly Joseph Cipollone stopped by at various times during that Saturday. Louis Sanzo, who was present at the time of the Montuoro brothers' arrival, left the site for several hours in order to attend a communion or confirmation ceremony for one of his children; Sanzo did return, however, in the afternoon.

iii. Grand Jury Testimony

Saverio Montuoro testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

d. Louis C. Sanzo

i. Statement to the Press

The December 11 New York Times article recited Montuoro's allegation concerning the land clearing incident and quoted Louis Sanzo's response:

According to Mr. Montuoro's testimony in Mr. Sanzo's Brooklyn trial, the [Schiavone Construction Company did other favors for the union leader. Mr. Montuoro said he and his brother cleared a piece of property owned by Mr. Sanzo in Queens, using a Schiavone Construction bulldozer.

Mr. Sanzo, when asked for comments, said Mr. Montuoro's account was "all lies." He said the union was currently suing Mr. Montuoro for filing claims believed to be false with its pension and welfare fund. Mr. Montuoro, in turn, is suing the union for back pay.

Exhibit 6 at A23, col. 4.

ii. Statement to the
Special Prosecutor

During his January 16 interview with the Special Prosecutor, Sanzo declined, on Fifth Amendment grounds, to be questioned on any subject other than the Prudenti's allegation.⁷⁸

iii. Grand Jury Testimony (Immunized)

Pursuant to a court order, Louis C. Sanzo testified before the grand jury.⁷⁹ [GRAND JURY MATERIAL DELETED.]

e. William Masselli

William Masselli testified before the grand jury.
[GRAND JURY MATERIAL DELETED.]

f. Holy Trinity Parish

On February 3, 1982, the Reverend James Haggerty, Pastor of Holy Trinity Parish, was contacted by agents of the Special Prosecutor who inquired whether any child of Louis Sanzo was confirmed on any Saturday in May, June or July of 1977. Father Haggerty advised that Louis Sanzo, Jr., was confirmed on Saturday, May 14, 1977.

On February 22, 1982, agents of the Special Prosecutor contacted Sister Virginia, the Principal of Holy Trinity Parish Grammar School, to inquire whether any child of Louis Sanzo had graduated from the school in 1977. Sister

78 See Section IV.C.3.b., supra.

79 See Section IV.C.3.c., supra.

Virginia stated that Louis Sanzo, Jr., graduated from the Eighth Grade at Holy Trinity Parish Grammar School at 3 o'clock p.m. on June 18, 1977.

g. National Climatic Center Records

The Special Prosecutor obtained a certified copy of the Local Climatological Data reports, prepared by the National Climatic Center of the National Oceanic and Atmospheric Administration, which reflected weather conditions in New York, New York, during the year 1977.

Those records, reporting conditions at LaGuardia Airport in Queens, New York City, revealed that the highest temperature reached on May 14, 1977, was 69°F, that the low was 51°F, and that there was no precipitation. On June 18, 1977, the highest temperature reached was 86°F; the low for the day was 68°F; and there was no precipitation. [GRAND JURY MATERIAL DELETED.]

h. Joseph Cipollone

i. Statement to the Special Prosecutor

On February 9, 1982, Joseph Cipollone was interviewed by agents of the Special Prosecutor. Cipollone stated, among other things, that the property at 43-35 Tenth Street in Long Island City was purchased by Cipollone and by Sanzo but placed in the name of Berthange Realty Corp. That property, he said, was Berthange's sole asset.

Cipollone further stated that Sanzo undertook to make all necessary arrangements to have the land cleared and levelled. Cipollone arrived at the site at approximately 10:00 a.m. on the designated Saturday morning. Louis Sanzo, Mario, Sammy and Chubby Montuoro were already present. Cipollone did not spend the entire day at the site and was therefore unable to say who else may have been involved in, or stopped by during, the land clearing operation.

Sammy and Chubby Montuoro operated bulldozers. Cipollone was unaware of the source of the bulldozers and trailers used to clear the site. Sanzo, Cipollone said, arranged for any payments made to the workers. Sanzo never told him whether any of the equipment was obtained from any SCC job site.

ii. Grand Jury Testimony

Joseph Cipollone testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

i. Louis R. Nargi

i. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Louis R. Nargi on February 24, 1982.

Nargi was unable to recall any land clearing operation at 43-35 Tenth Street in Long Island City, New York. He said that, to have any hope of remembering, it would be necessary for him to see the jobsite.

In 1975-1976, Nargi Contracting and Trucking Company

("Nargi Contracting") was awarded a subcontract to perform excavation and hauling work on SCC's Vernon Boulevard job. However, Nargi's company began to experience severe financial difficulties in 1976-1977, stemming in large part from the discovery of a No. 6 oil leak in the earth it had contracted to excavate and haul. Hauling costs increased substantially but compensation for these costs, Nargi said, had to await completion of the job. Serious cash flow problems resulted.

As a consequence, Nargi turned to his friend, William Masselli, for financial assistance. Prior to commencement of Nargi Contracting's work on the Vernon Boulevard job, Masselli had loaned Nargi \$50,000. A number of additional loans from Masselli followed.

Ultimately, Masselli's company, Jopel, then a subcontractor on a different SCC job, assumed the Vernon Boulevard job subcontract from Nargi Contracting. Nargi could not date that assumption. Following Jopel's commencement of work at Vernon Boulevard, Nargi became a superintendent for Jopel at two SCC job sites for some period of time; finally he just "walked away" from the business.

ii. Grand Jury Testimony (Immunized)

Louis R. Nargi appeared before the grand jury on March 10, 1982. However, Nargi's counsel advised the Special Prosecutor that his client would not testify, relying upon his Fifth Amendment rights, in the absence of an order directing such testimony, thereby conferring use immunity with

respect to it. On March 10, 1982, Judge Charles P. Sifton of the United States District Court for the Eastern District of New York issued an order pursuant to 18 U.S.C. § 6002, and Mr. Nargi thereafter testified. [GRAND JURY MATERIAL DELETED.]

j. Gennaro Liguori

[GRAND JURY MATERIAL DELETED.]

k. Robert D. DeFilippis

i. Statement to the
Special Prosecutor

On February 8, 1982, Robert D. DeFilippis, owner of DeFilippis Crane Company, was interviewed by agents of the Special Prosecutor concerning the land clearing incident. DeFilippis Crane Company is in the business of renting and leasing equipment. DeFilippis said its customers include SCC.

DeFilippis could not remember lending his 955 Caterpillar frontend loader to clear a lot located at 43rd Avenue and Tenth Street in Long Island City during the summer of 1977. DeFilippis said that he knew, and was friendly with, Joseph Cipollone, a good customer of DeFilippis. Moreover, DeFilippis indicated that it was entirely possible that he had loaned the 955 unit to Cipollone because such an equipment loan to a good customer, for the purpose of clearing personally-owned property, he would consider a personal favor and not particularly unusual. Although DeFilippis knew who Louis Sanzo was, he did not consider Sanzo a friend. DeFilippis had no direct dealings with Local 29.

If DeFilippis did loan the 955 Caterpillar unit, he said, his diaries and equipment logbooks should reflect that loan. In addition, had such a loan occurred, one of DeFilippis' trailers would necessarily have been used to move the equipment to the site. The only trailer driver employed by DeFilippis Crane Company during 1977 he identified as Thomas Piali.

ii. DeFilippis Crane Company Records

DeFilippis Crane Company's equipment logbook reflected that in 1977 the company possessed one 955 Caterpillar frontend loader. That unit was located at the following locations on the following dates:

<u>Date</u>	<u>Location</u>
5/1-24/77	In DeFilippis Crane Company yard, Whitestone, Queens
5/24-27/77	LaStrada, 144th Street & St. Anne's Ave., Bronx
5/28-31/77	In DeFilippis Crane Company yard, Whitestone
5/31/77-6/17/77	Crow Crimmins, Jamaica Pollution Plant
6/18-20/77	In DeFilippis Crane Company yard, Whitestone, Queens
6/21/77-7/22/77	LaStrada, Matawan, New Jersey
7/22/77-8/2/77	In DeFilippis Crane Company yard, Whitestone, Queens

iii. Grand Jury Testimony

Robert D. DeFilippis, President of Robert D. DeFilippis Crane Service, Inc., testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

1. Thomas Piali

On March 19, 1982, agents of the Special Prosecutor interviewed Thomas Piali of DeFilippis Crane Company.

Piali stated, among other things, that he had a vague recollection of Joseph Cipollone telephoning Robert DeFilippis to request a machine for use in clearing land located at 43rd Avenue and Tenth Street in Long Island City. Because Piali remembered Cipollone as a good customer of DeFilippis in the mid-to latter 1970s, it was Piali's belief that DeFilippis would have responded favorably to such a request. Piali, however, could not recall delivering a frontend loader to Cipollone's yard on a Saturday in May or June of 1977, although he had a general recollection of having delivered equipment to Cipollone in the past. A review of DeFilippis' records did not refresh Piali's recollection.

m. Blandford Land
Clearing Company

Agents of the Special Prosecutor interviewed Archibald Blandford, one of the three partners who own Blandford Land Clearing Company, on February 9, 1982.

Blandford's company owns one 977 Caterpillar front end loader which, when it is not being used by the company on a construction project, is leased to third parties, Blandford said. Blandford reviewed his company's records, which reflected that the 977 unit was leased to Amoruso Construction Company from May 9 through 23, 1977.

Bernard Panto, a Blandford employee, informed agents of the Special Prosecutor on March 10, 1982, that from May 23 through 31, 1977, there was no record of the 977 unit's having been in use. Panto advised that this reflected that the loader was in the Blandford yard or undergoing repairs during that period.

From June 1 through 10, 1977, Panto said, Blandford was using the 977 unit on a job for New York City's Housing Preservation Department. Thereafter, from June 10 through August 5, 1977, the loader sat in the Blandford yard.

During his February 9, 1982, interview, Archibald Blandford stated that he was unfamiliar with Louis Sanzo, Joseph Cipollone and Mario Montuoro. He further was unaware that any of his equipment may have been used, at any material time, on property located at 43rd Avenue and Tenth Street in Long Island City. Blandford said that he was familiar with Louis Nargi--that, indeed, one of his partners was closer to Nargi than was Blandford. But Blandford could not recall ever leasing his 977 unit to Nargi nor did he believe that his partner ever did so. Blandford observed that his company never lent its equipment to anyone without billing them.

n. Amoruso Contracting Corporation

On February 11, 1982, Roy Alessi of Amoruso Contracting Corporation ("Amoruso") was interviewed by agents of the Special Prosecutor. Alessi was questioned about the

location of the 977 Caterpillar frontend loader which his company leased from Blandford during much of May 1977.

Following a review of Amoruso records relating to 1977, Alessi stated that, on May 9, 1977, the Blandford 977 unit was delivered by Amoruso to Migs Construction Company's ("Migs") Douglaston Parkway project. It remained on Migs' project, until May 11, 1977.

On May 12, 1977, Alessi said, the Blandford 977 unit was leased to A.G.C. and Manes Construction Company for the day. On the following day, May 13, 1977, the 977 unit was leased to Willets Point Construction Company ("Willes Point") for use at a project located at 73rd [Avenue] and Parsons Boulevard in Queens. There the equipment remained until May 24, 1977. However, Amoruso's records reflected that Willets Point was not billed for the unit over the weekends of May 14-15 and May 21-22, 1977. The lack of billing reflected, per Alessi, that the 977 was not being utilized at the Willets Point job site on those four days.

o. Willets Point
Construction Company

On March 9, 1982, the office manager for Willets Point Construction Company, Patrick Ryan, was interviewed by agents for the Special Prosecutor.

Ryan confirmed that on May 13, 1977, Willets Point received a 977 Caterpillar frontend loader from Amoruso. Willets Point was charged by Amoruso for eight hours' use of the unit on that day.

The foreman's report did not reflect any activity for the 977 unit over the weekend of May 14-15, 1977, Ryan said. Willets Point was subsequently charged by Amoruso for a full day's use each day between May 16 and May 20, 1977, and additionally on May 23, 1977. The Willets Point records did not reflect, Ryan said, any use of the 977 unit on May 21-22, 1977.

The 977 unit was returned to Amoruso on May 23, 1977, according to Ryan. Ryan said that the foreman's report did not suggest that the unit had been moved from the 73rd Street and Parsons Boulevard job site at any time during the May 13 through 23, 1977 period. He mentioned the possibility that the foreman, Armand Castaldi, neglected to record in his report movement of the unit, but he considered that possibility remote.

Armand Castaldi was interviewed by agents of the Special Prosecutor on March 19, 1982. Castaldi remembered using, on Willets Point's Parsons Boulevard project, a 977 frontend loader which had been rented from Amoruso. However, Castaldi did not recall that the 977 unit ever left the job site. He further stated that no one from Willets Point was authorized to move that equipment without his approval.

Since Willets Point was not charged for use of the 977 unit over the weekend of May 14-15, 1977, Castaldi stated, the owner of the machine could properly have removed it, provided that it was returned to the job site by Monday morning.

Castaldi could not recall any such weekend removal of the 977 frontend loader.

Finally, Castaldi advised that he was unfamiliar with both Louis Sanzo and Joseph Cipollone, and he said that he would not in any event have lent out the 977 frontend loader for any reason.

p. Old Colonial Yard

On February 22, 1982, agents of the Special Prosecutor contacted Joseph Bernardo, Secretary-Treasurer of Bay Crane Company of Long Island City, New York, concerning the Old Colonial Yard. Bernardo stated that the Old Colonial Yard is located adjacent to the Driers Yard in Long Island City, New York, not far from the intersection of Vernon Boulevard and Broadway. Bernardo added that SCC rented the Driers Yard during 1976-1977. He said that Old Colonial Yard has been closed for several years.

Neither SCC nor Jopel--nor the Federal authorities in the Southern or Eastern Districts of New York, which had subpoenaed documents from each--had any records reflecting dumping in the Old Colonial Yard.⁸⁰

80 In response to a written request from the Special Prosecutor, the City of New York Department of Sanitation ("Sanitation Department") reviewed its records to determine whether any of the companies or individuals allegedly, or possibly, involved in the land clearing incident were recorded as having used the lone Sanitation Department Brooklyn landfill accessible on Saturdays during May, June or July of 1977. (See Section IV.D.2.c.ii, supra.) By letter dated March 16, 1982, Francis J. (Footnote Continued)

q. Summary: Impact of Land Clearing
Incident Evidence on Dating the
Alleged Luncheon

Despite the dearth of documentary evidence to fix the date with certainty, the conclusion clearly emerging from all of the foregoing is that the land clearing incident occurred on Saturday, June 18, 1977. This date is consistent both with the allegation of Mario Montuoro, who placed the event some two to three weeks after the Long Island City property was purchased on June 7, 1977, and with the statements of each of his brothers who believed it to have occurred in late June or early July of that year, among other reasons because of the heat in which they worked. Moreover, the June 18 date is not inconsistent with any of the evidence.

Perhaps most convincingly, [GRAND JURY MATERIAL DELETED], both William and Saverio Montuoro independently remembered that Louis Sanzo left the land clearing operation for a period of hours to attend a ceremony--perhaps a graduation, confirmation or first communion--involving one of Sanzo's children. Holy Trinity Parish records reflect that Louis Sanzo, Jr., graduated from elementary school on June 18, 1977. While the church's records also reflect the same child was confirmed on

80 (Footnote Continued)

Valentino, Sanitation Department General Counsel, advised that none of those companies or individuals was recorded as having dumped at the Sanitation Department's Fountain Avenue Truckfill located off the Belt Parkway, at any time during May through July 1977. S.P. no. 460001.

May 14, 1977, this date is eliminated from serious consideration because the temperature that day was too mild to correspond with the Montuoro brothers' sharp recollection that they labored under hot summer weather conditions.

The alleged Prudenti's luncheon occurred, according to Mario Montuoro, one to two weeks prior to the land clearing incident. Further, he stated, the luncheon occurred on a Tuesday, Wednesday, Thursday or Friday. The clear inference from the foregoing is that the alleged Prudenti's luncheon necessarily occurred if at all on June 7, 8, 9, 10, 14, 15, 16, or 17, 1977.

3. The GCA Meeting

a. Mario Montuoro

The second benchmark event to which Montuoro temporally related the alleged Prudenti's luncheon was a meeting which he attended with Sanzo, certain representatives of SCC and the GCA and other union representatives relating to SCC's 63rd Street job. Montuoro made documented statements concerning the GCA meeting on at least three occasions outside the grand jury: (i) in his December 3 interview with the FBI; (ii) in a mid-December 1981 interview with a reporter from the Washington Post; and (iii) in statements to the Special Prosecutor. [GRAND JURY MATERIAL DELETED.]

i. Statement to the FBI

In his December 3 interview with the FBI, Montuoro was questioned concerning the sequelae of the alleged Prudenti's

luncheon. With respect to the GCA meeting, the report of interview reflected:

Mr. MONTUORO stated that approximately a week or two after the meeting at Prudenti's Restaurant, SANZO told MONTUORO and DONNIE MAGLIORE (phonetic) (ph) that a meeting would occur with the General Contractors Association concerning the 63rd Street project. At this meeting, SANZO, MONTUORO, and MAGLIORE (ph) represented Local 29. Representing Local 147 was RICHARD FITZSIMMONS, President of Local 147. Also presented was JOE SALABINO, President of Local 731 (Laborers Local), and JOE GAMBINO and MARIO CAMPANELLA, who were both delegates of Local 731. Either TED KING or BILL FINERAN (ph) represented the General Contractors Association. Schiavone Construction was represented by JOE DI CARLO. Two other contractors were also present, as the 63rd Street project was a joint venture. Crimmins was the name of one of the contracting firms and MONTUORO could not recall the name of the third firm. Other individuals were also present whom MONTUORO did not know.

During this meeting, Locals 29 and 147 argued over the jurisdiction of the 63rd Street project. At one point, MONTUORO had an argument with DI CARLO and told DI CARLO that if the men from Local 29 did not do the job then nobody would do the job. MONTUORO stated that this argument had been staged for the benefit of all present and that SANZO had directed him (MONTUORO) on what to say to DI CARLO. MONTUORO stated the General Contractors Association would decide who worked on the project.

MONTUORO stated that sometime subsequent to the above meeting, Local 29 received approximately one third of the 63rd Street project.

Exhibit 5 at 4.

Special Agent William Lynch, who authored the report of interview, confirmed to the Special Prosecutor on March 11, 1982, that the report accurately reflected Montuoro's statement on December 3, 1981, that Local 29 obtained jurisdiction over approximately one-third of the 63rd Street job

following the GCA meeting. In his grand jury testimony of the same date, Lynch repeated that Montuoro had said on December 3 that Local 29 was given jurisdiction over approximately one-third of the 63rd Street project following the GCA meeting (T. 3089). Lynch added that Montuoro implied, if he did not state outright, that this jurisdiction was awarded as a direct result of the GCA meeting (T. 3089-3090).

ii. Interview with the Press

The December 18 Washington Post article recited that Montuoro made statements to the interviewing reporter concerning the GCA meeting:

About a week or two later [i.e., following the alleged Prudenti's luncheon], Montuoro says, he made a presentation on behalf of Local 29 at a contractors association meeting, but by his account, it didn't do much good.

According to a spokeswoman for the New York transit authority, the Manhattan project, which includes a tunnel under the East River to Queens, is simply divided. Local 29, she said, does the "open cut work" along city streets, and Local 147 does "the underground excavation, the electrical and concrete work."

Montuoro said, however, that he believes the sandhogs "got more than us" of the work that he believes ought to be in Local 29's jurisdiction.

Exhibit 7 at A18, col. 5.

iii. Statements to the Special Prosecutor

During the January 8 interview, Mario Montuoro attempted to order chronologically the alleged Prudenti's luncheon, the land clearing incident and the GCA meeting.

The luncheon, he said, occurred after Sanzo [i.e., Berthangel] purchased the Long Island City property. The land clearing incident followed the luncheon. The GCA meeting occurred after the land clearing incident and before July 4, 1977. He recalled the GCA meeting as occurring at the end of June or early July.

Montuoro acknowledged that there were approximately four or five meetings of which he was aware involving the GCA and SCC; only one, however, dealt with a jurisdictional dispute on SCC's 63rd Street job. Further, he said, the GCA meeting to which he referred was the only such meeting attended by Joseph DiCarolis.

According to Montuoro, the GCA meeting was held at the S-I-C joint venture headquarters in a hotel located at 63rd Street and Lexington Avenue in Manhattan. Those attending were:

From the GCA:	Ted King
From Local 29:	Sanzo, Montuoro, and Donnie Maglione, Jr.
From Local 147:	Fitzsimmons and some Irishman
From Local 731:	"A bunch of delegates," including Salimbene
From SCC:	DiCarolis, Liguori and Capogrosso

Montuoro stated that he did not know whether Mr. Donovan attended.

During his subsequent January 21 interview with the Special Prosecutor, Montuoro said that he had been told by

Sanzo, upon their return from Prudenti's after the alleged luncheon, that Sanzo would get in touch with the GCA. An hour later, Montuoro said, Sanzo informed Montuoro that a call had been placed to William C. Finneran, Jr., Executive Director of the GCA.

Contrary to his assertion of January 8, 1982, Montuoro said on January 21 that the GCA meeting occurred after July 4, 1977. It was held at the offices of the S-I-C joint venture in the Barbizon Hotel, 63rd Street and Lexington Avenue, Manhattan.⁸¹ Those he listed in attendance were not precisely the same as he identified on January 8; they included:

From the GCA	Ted King; Montuoro did not recall whether Finneran was present.
From Local 29:	Sanzo, Montuoro and Donnie Maglione, Jr.
From Local 147:	Richie Fitzsimmons and Eddie McGuinness.
From Local 731:	Andy Arena, Mario Campanella, Joe Salimbene and Paulie Panica.
From SCC:	DiCarolis Jerry Liguori, Mario Capogrosso, Lyle Smith and possibly some other men.

⁸¹ Montuoro, as did other witnesses, referred to the Barbizon Hotel offices as belonging to "Schiavone" and did not specify SCC or S-I-C. The "Schiavone" name was commonly used by witnesses as a shorthand reference to either and both entities.

The meeting to which Montuoro referred was, he said, the one and only meeting involving a jurisdictional dispute on an SCC job that he ever attended. He insisted that he attended no such jurisdictional dispute meeting in which Local 147 was not represented. He was certain that the GCA meeting took place at the Barbizon Hotel and not at the GCA's offices.

Montuoro said that he had, on other occasions, attended meetings with GCA representatives; they sat as trustees of Local 29's Pension and Welfare Funds. Trustee meetings, he said, were held both at the 42nd Street offices of the GCA as well as in Local 29's offices. However, these meetings did not relate to jurisdictional disputes on SCC jobs.

During the course of the GCA meeting, Montuoro said, he told DiCarolis that he would shut down the 63rd Street job if Local 29 did not get the work it sought. According to Montuoro, DiCarolis responded that it was a jurisdictional matter between the union and the GCA and that SCC should not bear the brunt of any disagreement between them. Fitzsimmons, who Montuoro thought was not a party to the staged dispute, argued against Montuoro's position in order to protect Local 147's membership.

Montuoro's ultimatum to DiCarolis was prearranged between Sanzo and himself, Montuoro said. Sanzo had told Montuoro to put on an act--to say that he would shut the 63rd Street job down--at the GCA meeting. This had, however, not been discussed at the Prudenti's luncheon with the SCC representatives.

With respect to the underlying jurisdictional issue, nothing was resolved at the GCA meeting, Montuoro said.

Finally, Montuoro said that, in 1977, no officer of Local 29 other than he was named "Mario."

iv. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. GCA Representatives and Records

i. Theodore E. King

A. Statement to the Special Prosecutor

On January 26, 1982, from approximately 5:45 to 7 o'clock p.m., Theodore E. King, Assistant General Manager and Assistant Director of Labor Relations of the GCA for the past decade, was interviewed by the Special Prosecutor (the "January 26 King interview"). King was represented by counsel throughout the interview.

King furnished to the Special Prosecutor copies of "all notes" currently in the possession of the GCA relating to jurisdictional disputes during 1977 involving Locals 29, 147 or 731 or SCC. The notes consisted of King's handwritten minutes of three meetings held at the GCA's offices on 42nd Street in Manhattan relating to SCC's 63rd Street job. The first set reflected a meeting convened on May 25, 1975 (the "May 25 meeting"), attended by the following:

From the GCA: Theodore King and
 William Finneran.

From Local 29: Louis Sanzo and
 "Mario Merola."⁸²

From Local 731: Joseph Salimbene
 Paul Panica, Mario
 Campanella and Joseph
 Giammarino.

From SCC: Joseph DiCarolis,
 Ronald Schiavone and
 Andy Amisano.

The other two meetings, held on September 8 (the "September 8 meeting") and 21 (the "September 21 meeting"), 1977, were attended by representatives of the GCA and Local 29, but not by anyone associated with Local 147, Local 731 or SCC. King stated that those records reflected all jurisdictional dispute meetings involving Locals 29, 147 or 731, or SCC, held during 1977, to his knowledge.

It was King's practice, he said, to take notes at all the meetings that he attended at which labor relations problems, including jurisdictional disputes, were discussed. The handwritten minutes of the May 25, September 8 and September 21 meetings represented such notes. Those minutes--specifically the minutes of the September 8 and September 21 meetings--

82 There is no question that "Mario Merola" does not refer to the man of that name who serves as District Attorney for Bronx County, New York. As reflected below, each of the attendees was questioned concerning the accurate identity of the person designated as "Merola" and no one placed the District Attorney or any other person named Merola at the May 25 meeting or suggested that a person by that name had any conceivable relationship with any of the events referred to in this Report.

reflected the only meetings that King and Montuoro ever attended together, aside from the meetings of the trustees of various Local 29 Funds.

King did not recall any meeting with Local 29 members convened other than at the GCA offices or Local 29's offices. He recalled no meetings with representatives of SCC and Local 29 at the Barbizon Hotel.⁸³ The May 25, September 8 and September 21 meetings were all convened in the GCA's offices, King said.

With respect to the May 25 meeting, King recalled that late in the day on May 24, 1977, he learned from William Finneran that Locals 29 and 731 were asserting a jurisdictional complaint on the 63rd Street job. Finneran asked King to retrieve a jurisdictional letter agreement signed by representatives of S-I-C, Local 147 and the GCA on April 20, 1976 (the "April 20, 1976, letter agreement").⁸⁴ Finneran told King that a union representative had telephoned to request a meeting for the following morning concerning the jurisdictional problem.

The notes of the May 25, 1977 meeting reflected that thirty minutes prior to the scheduled 9:30 a.m. meeting,

83 In his January 26 interview, King stated that he had attended meetings at the S-I-C offices at the Barbizon but, to the best of his recollection, no union representatives were present. He did not recall the subject of any such Barbizon Hotel meetings nor who attended (other than that the attendees were not union representatives).

84 A copy of the April 20, 1976, letter agreement is annexed as Exhibit 19.

there was a caucus among King, Finneran, Joseph DiCarolis, Ronald Schiavone and Andy Amisano of SCC but did not reflect what was discussed. King did not recall the substance of the discussion during this premeeting caucus except that Finneran and King were informed (he believed by Amisano) that Louis Sanzo had heard a rumor that there were to be a number of "raisers" on the 63rd Street job and that Sanzo was quite upset because of it.⁸⁵

At the May 25 meeting, Sanzo was the principal spokesman for the union representatives; he received verbal support from Salimbene. Sanzo complained that Local 29 was being deprived of certain of its jurisdictional rights, and he engaged in heated argument directed at Finneran and the SCC representatives. To the best of King's recollection, Finneran alone responded; the SCC people did not.

Referring to his notes, King did not know who "Mario Merola" was. He did not know whether that referred to Mario Montuoro. Nor did he recall whether Mario Montuoro was present at the May 25 meeting. King did not remember Montuoro, if he were present, saying anything at that meeting.

85 A "raiser" or "riser" is a shaft excavated upward from below. According to Ronald Schiavone and William Finneran, such a shaft is clearly within Local 147's jurisdiction, whereas the same shaft--if excavated downward from above--would lie within Local 29's jurisdiction. During his January 13 interview, Ronald Schiavone further stated that at one point SCC considered the use of such raisers at the intersection of 63rd Street and Lexington Avenue but that the plan, never formally adopted, had been abandoned long prior to May 1977.

King had no recollection of the May 25 meeting independent of his handwritten notes. He did recall Montuoro's presence at the September 21 meeting and, by inference, the September 8 meeting. At the September 21 meeting, he recalled that Montuoro actively participated.

King did not remember whether anyone at the May 25 meeting took the position that he or his principal would shut down the 63rd Street job if Local 29 did not obtain the jurisdiction it demanded. However, King said, the upshot of the May 25 meeting was that the Locals' respective jurisdiction on the 63rd Street job remained unchanged. Nothing was said to the contrary and, according to King, nothing was subsequently done to the contrary. King did not recall ever having again discussed the subject matter with anyone following the May 25 meeting.⁸⁶

Aside from the two meetings in September, and meetings of the trustees of Local 29's Funds, King did not recall ever having met with Mario Montuoro.

86 The subject matter of the September 8 and 21 meetings differed from that of the May 25 meeting. In both September meetings, the issue was whether Local 29 was entitled to have a member present on the second shift of the 63rd Street job while debris which had been blasted by Local 29 members during the first shift was hauled away. In the May 25 meeting, aside from the "raiser" issue, the question under discussion concerned the right of Locals 29 and 731, as opposed to Local 147, to haul away debris that, after blasting, fell into certain portions of the excavation. Multiple shifts were not at issue.

B. Grand Jury Testimony

Theodore E. King testified before the grand jury.

[GRAND JURY MATERIAL DELETED..]

ii. William C. Finneran, Jr.

A. Statement to the
Special Prosecutor

William C. Finneran, Jr., General Manager, Director of Labor Relations and General Counsel of the GCA, was interviewed by the Special Prosecutor on January 26, 1982, from approximately 2:20-5:30 p.m. Finneran was represented by counsel throughout the interview.

Finneran did not recall ever having attended a meeting with representatives of Local 29, Local 147, Local 731 and SCC at the Barbizon office of the S-I-C joint venture. He had been to that Barbizon office "maybe three times." On one occasion, he attended a meeting, but no union representative was in attendance. That meeting, which he could not date, involved problems with the NYCTA.

However, Finneran did recall a dispute involving Locals 29, 147 and 731 concerning the 63rd Street job in 1977. As he recalled it, Local 29 claimed jurisdiction over all of the shafts on that job. On or about the day prior to the May 25 meeting, he received a telephone call either from Louis Sanzo or from someone on the 63rd Street job who informed him that there was a "big problem." Finneran believed that the call was placed by Andy Amisano, an SCC representative.

The caller told Finneran that Locals 29 and 731 were at the Barbizon Hotel office of S-I-C and were fuming. The caller further said that there was a dispute regarding what Finneran and S-I-C had resolved concerning the various locals' jurisdiction on the 63rd Street job in April of 1976. The caller wished to have a meeting arranged as quickly as possible.

On May 25, 1977, prior to meeting with the union representatives, Finneran caucused with Joseph DiCarolis, Ronald Schiavone and Andy Amisano. He said that, in this caucus, he learned that the union representatives were angry for three reasons:

1. In April 1976, S-I-C and the GCA met to discuss jurisdiction with Local 147 representatives, in the absence of any representatives from Local 29 or Local 731;⁸⁷
2. A letter agreement was executed on April 20, 1976, establishing the various locals' jurisdiction on the 63rd Street job; and
3. That letter's jurisdictional determination was wrong.

Louis Sanzo came into the May 25 meeting hurling abuse at Finneran, Finneran said. In response, Finneran

87 Finneran stated that the April 1976 meeting with Local 147 representatives was a pre-job conference which is mandatory under Local 147's collective bargaining agreement.

distributed to all attendees a copy of the April 20, 1976, letter agreement. This, according to Finneran, calmed down the union representatives.

Sanzo next said that Local 29 members should take all shafts down and that Local 147 members should get raisers only. Finneran disagreed. He said that, since 1968, Local 147 members had been excavating shafts from the top down.

Throughout the meeting, Ronald Schiavone and Joseph DiCarolis said little. In fact, Finneran did not recall that they said anything. Finneran recalled only himself and Sanzo speaking on the subject of the specific jurisdictional complaint raised by Local 29.

To Finneran's knowledge, no one at the meeting threatened to close the 63rd Street job unless Local 29 obtained the increased jurisdiction that it demanded. Finneran said that he would have been delighted to have heard such an ultimatum and would have remembered hearing it because it would have entitled him to bring suit in federal court to obtain an injunction.

Local 29 obtained nothing by way of enhanced jurisdiction in, or as a result of, the May 25 meeting. Moreover, Finneran never again heard from Local 29 on that subject matter. Nor did he recall having discussed the subject matter of the May 25 meeting with any representative from Local 147.

Finneran did not recall whether any SCC representative voiced a preference for Local 147 or Local 29 in his presence.

B. Grand Jury Testimony

William C. Finneran, Jr., testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

iii. GCA Records

The General Contractors Association of New York, Inc., was subpoenaed to produce, inter alia, all documents relating to jurisdictional disputes during 1977 involving Locals 29, 147, 731 and/or SCC. None of the produced GCA documents reflected or related to any meeting at the Barbizon Hotel involving GCA representatives and representatives of any of the three locals or SCC. Moreover, none of the produced documents reflected or related to any meetings involving representatives of the GCA, SCC, and Locals 29, 147 and 731 at any time during May, June or July of 1977, save for the May 25 meeting.

c. Local 29 Representatives And Records

i. Louis C. Sanzo

A. Statement to the Special Prosecutor

During the January 16 interview, Louis C. Sanzo declined, on Fifth Amendment grounds, to be questioned on any subject other than the Prudenti's allegation.⁸⁸

88 See Section IV.C.3.b., supra.

B. Grand Jury Testimony
(Immunized)

Pursuant to court order, Louis C. Sanzo testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

ii. Dominic Maglione, Jr.

A. Statement to the
Special Prosecutor

On February 11, 1982, Dominic Maglione, Jr., was interviewed by agents of the Special Prosecutor. Maglione was represented by counsel throughout the interview.

Among other things, Maglione stated that he had been vice president of Local 29 for approximately 10 years. He said that the vice presidency is more or less an honorary position, elected but unpaid. Maglione's sole responsibilities, he said, were to participate in Local 29 executive board meetings every month and to substitute for the president, Louis Sanzo, at various meetings which Sanzo was unable to attend.

Maglione stated that he did not attend meetings concerning jurisdictional disputes between Local 29 and other unions because he was not authorized to do so. His duties as vice president did not include attendance at any jurisdictional meetings, whether with representatives of other unions or with the GCA.

B. Grand Jury Testimony

Dominic Maglione, Jr., testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

iii. Local 29 Records

The Special Prosecutor served upon Local 29 a subpoena duces tecum for all documents relating to meetings attended by Messrs. Sanzo and/or Montuoro and representatives of the GCA during 1977. No such documents were located anywhere in Local 29's possession, custody or control, according to counsel for the union, and none were produced.

Local 29 records in the possession of the Department of Labor's offices in the Southern and Eastern Districts of New York, together with such documents in the possession of the Brooklyn Strike Force, were examined by the staff and on behalf of the Special Prosecutor on January 6-8 and 14-15, February 24, March 1 and 4, 1982. None of those documents, however, reflected any GCA meetings attended by representatives of Local 29 during 1977.

Mario Montuoro was subpoenaed to produce, among other things, all documents relating to jurisdictional disputes between Local 29, Local 147 and/or Local 731. None were produced. [GRAND JURY MATERIAL DELETED.]

d. Local 147 Representatives And Records

i. Richard E. Fitzsimmons

A. Statement to the Special Prosecutor

Agents of the Special Prosecutor interviewed Richard E. Fitzsimmons, Business Agent of Local 147, in the presence of his attorney on February 4, 1982.

Fitzsimmons did not recall any serious jurisdictional disputes at the 63rd Street job. In the event of any serious disputes, he said, the GCA would be involved in resolving the matter, and at such a GCA meeting SCC would likely have been represented by DiCarolis. Fitzsimmons recalled no jurisdictional disputes on the 63rd Street job in which DiCarolis was involved.

However, Fitzsimmons did recall one jurisdictional dispute involving Local 147 and Local 29, revolving around which of the two unions was to remove debris from certain cuts on the 63rd Street job. Fitzsimmons believed that this dispute arose in mid-1977. Dennis McGuire, Local 147 shop steward, telephoned Fitzsimmons and informed him that Local 29 was about to remove certain shaft rock which McGuire felt to be within Local 147's jurisdiction. Fitzsimmons met with Andy Amisano, S-I-C project manager, at Amisano's office in the Barbizon Hotel to discuss the matter. Dennis McGuire was also in attendance. Amisano, who was himself a member of Local 147, resolved the dispute in favor of Local 147.

The only other jurisdictional meeting recalled by Fitzsimmons took place in S-I-C's offices located at 410 East 62nd Street, and it may have related to the same jurisdictional issue addressed in 1977. Edward McGuinness, President of Local 147, and Fitzsimmons attended the meeting on behalf of Local 147. Louis Sanzo and Sonny Petito⁸⁹ appeared on behalf

89 Petito replaced Montuoro as a Local 29 officer on May 15, 1978.

of Local 29. S-I-C was represented by Joseph DiCarolis, Al Magrini, Jerry Liguori and perhaps an engineer. No representative of Local 731 appeared at the meeting. The dispute was resolved by a settlement which provided that materials extending down 50 feet below the surface were to be removed by members of Local 29; from 50 feet down, into and including the tunnel area, Local 147 members were to handle the removal.

Fitzsimmons believed that he had otherwise met with representatives of Local 29 on a total of three or four occasions. Those meetings occurred either in Local 29's offices or on the 63rd Street job site, not at the Barbizon Hotel. Shown a copy of the handwritten minutes of the May 25 meeting, which Fitzsimmons had not previously seen, Fitzsimmons said that he was unaware of the meeting, had not attended it and had not been invited to attend.

B. Grand Jury Testimony

Richard E. Fitzsimmons testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

ii. Edward F. McGuinness

A. Statement to the Special Prosecutor

Edward F. McGuinness, President of Local 147, was interviewed by agents of the Special Prosecutor on February 4, 1982. McGuinness was represented by counsel throughout the interview.

McGuinness stated, among other things, that he recalled one jurisdictional dispute between Local 147 and

Local 29 on the 63rd Street job. It related to which of the two unions was to remove the debris from a particular shaft cut. McGuinness believed that this dispute was settled favorably to Local 147 by Andy Amisano. He did not recall that he ever met with representatives of Local 29 concerning the matter.

A similar issue arose, McGuinness said, during 1977 with respect to an open cut at York Avenue and 63rd Street. McGuinness believed that the GCA resolved the issue, which again concerned which union had jurisdiction to remove debris generated by a particular shaft cut. Once more the matter was eventually resolved in favor of Local 147.

The sole meeting that McGuinness recalled having attended at the Barbizon Hotel was a private session between himself and Andy Amisano; no one else was present. McGuinness believed that the meeting was related to a jurisdictional dispute with Local 29 but was unable to recall it more precisely. He was unable to remember whether he ever discussed the same jurisdictional problem with any representative of Local 29.

McGuinness stated that he had met Montuoro on perhaps six or seven occasions. None of those meetings was related to business. McGuinness was certain that he and Montuoro had no dealings in their respective capacities as union officers.

B. Grand Jury Testimony

Edward F. McGuinness testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

iii. Local 147 Records

Local 147 produced, among other documents, Fitzsimmons' calendar for the year 1977, McGuiness' diary for the year, and all Local 147 correspondence with the GCA. None of the documents reflected relevant contact between Fitzsimmons, McGuinness or any other Local 147 representative and the GCA during May, June or July of 1977. The documents reflected no pertinent meeting attended by Fitzsimmons or McGuinness and any GCA representative during that three month period.

e. Local 731 Representatives
And Records

i. Joseph A. Salimbene

A. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Joseph A. Salimbene, Business Manager of Local 731, on January 29, 1982.

As Business Manager, Salimbene said, he attended most meetings relating to Local 731 business. His participation extended to jurisdictional meetings--both meetings in which jurisdictional boundaries were established and those in which jurisdictional disputes were resolved. He estimated that he attended nine out of ten jurisdictional meetings involving Local 731, and he relied on prior decisions and

agreements to resolve jurisdictional issues. Whenever a troublesome jurisdictional dispute arose, Salimbene invited all of 731's delegates to participate in resolving it.

Salimbene has met Ronald Schiavone, Joseph DiCarolis, Jerry Liguori and Al Magrini and has attended meetings relating to jurisdictional disputes with some, and possibly all, of them. Salimbene could not, however, recall any particular meetings which any of them attended.

One jurisdictional meeting involving Locals 29, 147 and 731 which Salimbene recalled occurred, he believed, during the early stages of the 63rd Street job, sometime prior to Andy Amisano's death.⁹⁰ Salimbene believed that representatives of the three locals met at the GCA offices together with George Fox of the GCA Tunnel Committee and Bill Finneran of the GCA. Salimbene did not recall that Mario Montuoro was present at that meeting.

Shown King's handwritten minutes of the May 25 meeting, Salimbene vacillated as to whether that was the meeting to which he referred, ultimately concluding that it was. A perusal of the list of attendees, however, did not trigger in him any recollection that Ronald Schiavone and Joseph DiCarolis had been present. He characterized his recollection of the May 25 meeting as very vague, attributing that to

90 Amisano died in approximately February of 1978. January 28, 1982, interview of Mario Capogrosso.

the fact that Locals 29 and 147 were the principals in the jurisdictional dispute.

Salimbene remembered having attended a meeting at the Barbizon Hotel but was unable to recall specifically the purpose or attendees at the meeting. He thought that Mario Capogrosso attended. He did not recall that either Sanzo or Montuoro was present; he could remember only that Local 731 representatives attended. Salimbene was unable to state whether the meeting to which he referred was a prelude to any GCA meeting. He observed that it was quite possible that this Barbizon Hotel meeting related to a dispute over jurisdiction.

B. Grand Jury Testimony

Local 731 Business Manager Joseph A. Salimbene testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

ii. Andrew Arena

A. Statement to the Special Prosecutor

An agent of the Special Prosecutor interviewed Andrew Arena, President and Assistant Business Manager of Local 731, on January 29, 1982.

Among other things, Arena stated that he had attended meetings at the Barbizon Hotel with representatives of SCC on various occasions, but he could not recall that any representatives of other unions participated in those meetings.

There was one jurisdictional dispute on the 63rd Street job involving Locals 29, 147 and 731 that Arena

remembered. Meetings concerning that dispute were held at the SCC offices located on 62nd Street between East River Drive and York Avenue.⁹¹ Arena believed that Local 29 was represented at such meeting(s) by Louis Sanzo and Sonny Petito; that Local 147 was represented by Ed McGuinness and Richie Fitzsimmons; that Paul Panica attended with Arena on behalf of Local 731; and that SCC was represented either by Joseph DiCarolis or Jerry Liguori.

While Arena could not recall precisely where he had met Mario Montuoro, he believed that it might have been at a GCA meeting. He became definite in this recollection and related the GCA meeting at which he met Montuoro to the foregoing jurisdictional dispute. Arena added that Al Magrini may also have been present at that GCA meeting.

Arena was unable to remember any meeting in which Montuoro made any statements concerning union matters or various locals' jurisdiction.

B. Grand Jury Testimony

Andrew Arena testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

⁹¹ The offices at 410 East 62nd Street are not to be confused with the offices in the Barbizon Hotel, Lexington Avenue & 63rd Street.

iii. Paul J. Panica

A. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Paul J. Panica, Field Representative of Local 731, on January 26, 1982.

Panica stated, inter alia, that he had never attended any meetings at the Barbizon Hotel. He had attended various meetings concerning jurisdictional matters at the GCA's offices on 42nd Street, but he was unable to recall any such meetings regarding the 63rd Street job. Louis Sanzo represented Local 29 at most jurisdictional meetings, Panica said. Panica did not recall having seen Mario Montuoro at any such meeting, remarking: "To the best of my knowledge, he was not there."

Even after reviewing a copy of King's handwritten minutes of the May 25 meeting, Pancia had no recollection of attending that meeting. He did not dispute the minutes, but they sparked in him no recollection. Pancia remembered no specific jurisdictional meetings held during 1977.

B. Grand Jury Testimony

Paul J. Panica testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

iv. Mario Campanella

A. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Mario F. Campanella, Field Representative for Local 731, on January 26, 1982.

Among other things, Campanella stated that he recalled a jurisdictional dispute on the 63rd Street job involving Local 147 and Locals 29 and 731 that eventually came to the attention of the GCA. Campanella recalled attending a meeting at the GCA's offices concerning that jurisdictional dispute, but he did not recall that Mario Montuoro was present at that meeting. Aside from this single meeting, Campanella recalled no other meetings concerning jurisdictional disputes during 1977. Campanella was certain, he said, that he had never attended a meeting at which Mario Montuoro was present.

B. Grand Jury Testimony

Mario F. Campanella testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

v. Joseph M. Giamarino

Joseph M. Giamarino, Field Representative of Local 731, was interviewed by agents of the Special Prosecutor on January 29, 1982.

Giamarino stated, among other things, that he recalled one meeting with representatives of Local 29 involving a jurisdictional dispute over on the 63rd Street job. The dispute related to a portion of the project located at 63rd Street and Lexington Avenue. While he was unable to recall the meeting in detail, he remembered that it was held at the offices of the GCA. Giamarino and other representatives of Local 731 attended; Louis Sanzo and Mario Montuoro appeared

on behalf of Local 29; and William Finneran represented the GCA. Giamarino was certain that Montuoro attended the meeting because Montuoro continually referred to Finneran as "Mr. Finnegan," which those in attendance found quite humorous.

After reviewing King's handwritten minutes, Giamarino identified the May 25 meeting as the meeting he recalled. King's notes reminded Giamarino that Andy Amisano and Ted King had also attended the meeting. However, he did not recall Ronald Schiavone's or Joseph DiCarolis's presence.

Giamarino also remembered attending a meeting at the S-I-C offices in the Barbizon Hotel. He was unable to recall the date of the meeting. Mario Capogrosso attended on behalf of SCC; Louis Sanzo appeared on behalf of Local 29; and other Local 731 representatives attended with Giamarino. Giamarino could not recall whether Montuoro was present nor could he remember precisely which Local 731 field representatives attended with him. He believed that only a small group of people were present at the meeting and recalled that the dispute revolved around which portion of the 63rd Street job was to be deemed "open cut" and which was to be considered the "shaft." Giamarino did not recall that any representative of Local 147 was present at that meeting.

vi. Local 731 Records

The two secretaries employed at Local 731, Luciana Salvo and Marie L. Mockabee, furnished affidavits to the Special Prosecutor reflecting that they had conducted searches

for the 1977 telephone/log message book and other records containing telephone messages and appointments for Local 731 delegates, and they had located nothing.⁹² Ms. Salvo further advised that "it is the policy to destroy the telephone/log books after six months."⁹³

Ms. Mockabee also advised that she had conducted a search for all documents relating to the year 1977 relating to any GCA meetings. She reported that she found no such documentation extant in Local 731 files.⁹⁴

f. SCC Representatives and Records

i. Joseph A. DiCarolis

A. Statement to the Special Prosecutor

During his January 15 interview with the Special Prosecutor, DiCarolis stated, inter alia, that he recalled no meeting during 1977 attended by representatives of Locals 29, 147, 731 and SCC. Nor did DiCarolis recall any meetings with representatives of these unions and the GCA other than at the GCA's offices on 42nd Street in Manhattan. He said that there were no such meetings at the 63rd Street job site, to the best of his recollection.

92 S.P. nos. 461001-461003.

93 S.P. nos. 461003.

94 S.P. nos. 461001.

Prior to commencement of construction on the 63rd Street job, DiCarolis noted, SCC had attempted to resolve questions concerning the various locals' respective jurisdiction. DiCarolis and other SCC representatives attended a pre-job conference with the representatives of Local 147 and of the GCA on April 20, 1976. The participants at that meeting, among other things, analyzed the history of the various unions' respective jurisdiction on past construction projects. The culmination of their efforts was the April 20, 1976, letter agreement.

Notwithstanding SCC's pre-job efforts, Locals 29 and 731 requested the May 25 meeting⁹⁵ because they were annoyed that GCA, SCC and Local 147 representatives had met in 1976, in their absence, to resolve jurisdictional questions. DiCarolis recalled attending the May 25 meeting, but he could not remember what was said at the meeting, even though he had read King's notes. DiCarolis recalled attending no meetings at the GCA's offices with Montuoro.

B. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

ii. Gennaro Liguori

A. Statement to the Special Prosecutor

During the January 13 Liguori interview, Jerry Liguori

95 DiCarolis had obtained from the GCA a copy of King's handwritten minutes of the May 25 meeting and had reviewed it prior to the January 15 interview.

stated that, in 1977, he was Project Manager at SCC's Vernon Boulevard site. He said that, since 1977, he had learned that there was a jurisdictional dispute between Locals 29 and 147 at the 63rd Street job during 1977. However, Liguori disclaimed any contemporaneous knowledge of the dispute and said that he never attended any jurisdictional dispute meetings in 1977 involving those two unions.

Liguori further stated that he had never attended meetings with GCA representatives concerning Locals 29, 147 and/or 731. He attended only arbitration hearings at the GCA's offices, he said.

B. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

iii. Ronald A. Schiavone

A. Statement to the
Special Prosecutor

During the January 13 Schiavone interview, Ronald Schiavone stated, among other things, that the only jurisdictional meeting with respect to the 63rd Street job he could independently recall was the April 20, 1976 meeting. He said that he had only a vague recollection of having met with representatives of Local 147, the GCA, Amisano and possibly DiCarolis. He did not recall that Local 29 representatives attended that meeting, which he dated to late winter or spring of 1976.

Without the benefit of King's handwritten minutes, Schiavone had no recollection of the May 25 meeting. He did,

however, have an independent recollection of the complaint aired at that meeting: SCC's contemplation of using raisers to excavate a shaft at 63rd Street and Third Avenue. While he seemed to recall that the dispute was resolved, he said that he was uncertain whether the resolution he recalled was not, in fact, the April 20, 1976, letter agreement. He tended to think, he said, that the jurisdictional matter discussed at the May 25 meeting was as amicably resolved at the meeting.

During 1977-1978, Schiavone attended 15 to 20 meetings at the GCA's offices. These included, he said, trustee meetings and negotiating meetings, as Schiavone was a member of the GCA's Negotiating Committee. Schiavone could not recall any additional meetings convened to resolve jurisdictional problems.

B. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

iv. Mario Capogrosso

A. Statement to the
Special Prosecutor

On January 28, 1982, agents of the Special Prosecutor interviewed Mario Capogrosso, Project Manager of Section 5A of the 63rd Street job, in the presence of SCC counsel.

Capogrosso stated, among other things, that he had never attended any meetings with GCA representatives. He had no knowledge concerning the May 25, September 8 or September 21 meetings. Louis Sanzo might have discussed particular

jurisdictional problems with Capogrosso prior to Sanzo's attendance at GCA meetings, but Capogrosso was unable to recall specifically any such discussion. He observed that, as a matter of routine, union representatives would ordinarily bring to his attention jurisdictional problems not resolved on the job site. If he, as project manager, were unable to resolve the matter, he directed it to the attention of the GCA.

When Capogrosso first arrived at the 63rd Street job in March 1976, Andy Amisano was in charge of the project. Capogrosso believed that there was a jurisdictional dispute related to shaft excavation pending at that time. He recalled several meetings attended by Louis Sanzo, Richard Fitzsimmons and Andy Amisano in Amisano's offices at the Barbizon Hotel but, Capogrosso said, he was not privy to any of those meetings.

Shortly thereafter, another jurisdictional dispute between the same two locals arose, this time relating to certain unspecified work originally assigned to Local 29 but ultimately performed by Local 147. Once again, Capogrosso recalled a series of meetings in Amisano's office attended by Sanzo, Fitzsimmons and Amisano, but not by Capogrosso. Anything unresolved in these meetings, Capogrosso said, would have been resolved by the GCA.

B. Grand Jury Testimony

Mario Capogrosso testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

v. Lyle Smith

A. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Lyle Smith, SCC Tunnel Superintendent, in the presence of his counsel on February 18, 1982.

Among other things, Smith stated that he had never attended a meeting at the Barbizon Hotel, or anywhere else, where unions employed on the 63rd Street job raised jurisdictional issues. He did recall on one occasion meeting with Local 147 representatives and Gene Casey, and perhaps Pete Fisher, of the New York City Transit Authority concerning job safety. However, no jurisdictional issues were discussed.⁹⁶

B. Grand Jury Testimony

Lyle Smith testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

vi. SCC Records

Both voluntarily and in response to a number of subpoenae, SCC produced several thousand documents to the Special Prosecutor. None of those documents reflected or

96 Contacted by agents of the Special Prosecutor, Mr. Casey confirmed that he never attended any meeting relating to union jurisdictional issues.

related to any GCA meetings during May, June or July of 1977, other than the May 25 meeting.⁹⁷

g. Summary: Impact of GCA Meeting Evidence on Dating the Alleged Luncheon

There is no corroboration for Montuoro's assertion that a meeting involving representatives of Local 29, Local 147, Local 731, SCC and the GCA took place in late June or early July 1977 at S-I-C's Barbizon Hotel offices. None of the alleged participants corroborate any such meeting or indeed, any meeting at which Montuoro issued the ultimatum he claimed to have delivered threatening the shutdown of the 63rd Street job.

Only the May 25 meeting was attended by representatives of most of the organizations who, Montuoro asserted, attended the GCA meeting, and at least two attendees, Arena and Finneran, equivocally placed Montuoro at that meeting. [GRAND JURY MATERIAL DELETED.] Further, the May 25 meeting is temporally inconsistent both (a) with Montuoro's recollection that the GCA meeting was in late June or early July and (b) with the June 18 date of the land clearing incident, which, according to Montuoro, antedated the GCA meeting.

97 See generally Section IV.D.7., infra. In the case of SCC and SCC officers, the Special Prosecutor initially requested various documents in writing, and counsel for SCC and the officers responded promptly to that request. It was expressly understood, at the time of the request, that a subpoena would, and did, issue to ensure that all documents had been produced.

Moreover, Montuoro asserted that following, and implicitly as a result of, the GCA meeting, Local 29's jurisdiction on the 63rd Street job was increased by approximately one-third. No such increase occurred at or following the May 25 meeting. On the contrary, Montuoro aside, the evidence is that the jurisdiction of the respective locals employed on the 63rd Street job remained substantially unchanged after the May 25 meeting. In fact, no such increase in Local 29's jurisdiction on the 63rd Street job ever occurred.

Consequently, the May 25 meeting cannot be the GCA meeting alleged by Montuoro, and neither can any other. The evidence concerning GCA meetings and the land clearing incident are utterly irreconcilable in any reasoned effort to arrive at a date for the alleged Prudenti's luncheon.⁹⁸ Montuoro's two principal efforts at dating the luncheon are valueless. Moreover, to the extent that Montuoro's assertions regarding a 1977 GCA meeting included assertions concerning a motive for the alleged Prudenti's payoff, there is no evidence to corroborate his assertion that such a meeting occurred.

98 It might be noted that the May 25 meeting does follow one potential date for the land clearing incident, May 14, 1977, the date on which Louis Sanzo's son was confirmed. However, the May 14 date is unlikely to have been the date of the land clearing incident because the temperature never exceeded 69° F. See Section IV.D.2.g., supra.

4. The Fourth of July, 1977

a. Mario Montuoro

The third benchmark to which Montuoro temporally related the alleged Prudenti's luncheon was July 4, 1977.

i. Statements to the Special Prosecutor

In the course of his January 8 interview, Montuoro told the Special Prosecutor that the luncheon, the land clearing incident and the GCA meeting all occurred prior to July 4, 1977.

As Montuoro stated the chronology, Sanzo [i.e., Berthange] purchased the Long Island City property at the end of May or the beginning of June, 1977. Shortly thereafter, perhaps during the second or third week of June, the alleged Prudenti's luncheon took place. Within one week later, the land clearing operation was performed. The week after the land clearing operation, Montuoro advised that his brothers had informed him that they had gone to the SCC "Fourth of July party." Moreover, the GCA meeting was held between the date of the land clearing incident and July 4, 1977. All of the foregoing, he summarized, occurred within a matter of approximately four to six weeks.

During his January 21 interview with the Special Prosecutor, Montuoro stated categorically that the GCA meeting occurred after July 4, 1977. He was certain of that fact, he said, because he, Louis Sanzo and Sanzo's two sons

attended a Fourth of July party in the Bronx at the Tic Toc Bar.⁹⁹

ii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. William Montuoro

i. Statement to the
Special Prosecutor

During the course of his February 2, 1982, interview with agents of the Special Prosecutor, William Montuoro contradicted his brother's testimony of February 1. William stated that, although Mario Montuoro had invited him and his children to a block party near Jacobi Hospital or the Tic Toc Bar in the Bronx, William and his family did not attend the event. Moreover, William was certain that his brother, Saverio, had never attended any such block party with Mario.

ii. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

c. Saverio Montuoro

[GRAND JURY MATERIAL DELETED.]

d. Louis C. Sanzo

On March 30, 1982, through his counsel, J. Jeffrey Weisenfeld, Louis C. Sanzo informed the Special Prosecutor that, while he himself had no clear recollection of the event, Sanzo's two sons recalled that they and their father were driven by Mario Montuoro, in a white Cadillac, to the

99 The Tic Toc Bar, now defunct, was located across Morris Park Avenue from Jacobi Hospital in 1977.

Tic Toc Bar party on July 4, 1974 or 1975, probably the latter. Sanzo's sons, now in their early 20's, specifically recalled having approached the owner of the Tic Toc Bar to purchase fireworks.

Sanzo was certain, Weisenfeld stated, that this event did not occur in 1976 because on July 4, 1976, Sanzo hosted a party at his home and Sanzo retains photographs documenting that party. Moreover, Sanzo was equally certain that it did not occur on July 4, 1977, because on that date Sanzo's good friend, Artie Martin, was seriously ill with leukemia and the Sanzos spent the day with the Martins.

e. SCC Summer Function

During the course of the January 13 Liguori interview, Liguori and his counsel represented that SCC never hosted a "Fourth of July" party but, annually, the company did stage a summer picnic to which, among others, all workers on every SCC job were invited. The picnic was said to include a clam bake, softball and similar activities; several hundred attended. SCC held such a picnic during the summer of 1977 Liguori stated. Liguori also stated that, save for a summer dance for trades foremen and supervisors, the summer picnic is the only SCC summer function.

The Special Prosecutor subpoenaed from SCC documents relating to, or reflecting, the date on which the 1977

summer picnic was held. The documents uniformly reflected that the date was August 20, 1977.¹⁰⁰

f. Summary: Impact of "Fourth of July" Evidence on Dating the Alleged Luncheon

The evidence relating to the Fourth of July benchmark is, at best, wholly inconclusive. Montuoro himself was inconsistent concerning the temporal relationship between July 4, 1977, and the various other benchmarks he identified. Moreover, his brother, William, failed to corroborate his initial attempt to date the land clearing incident--and thus, in turn, the alleged luncheon--in terms of the SCC "Fourth of July" party. [GRAND JURY MATERIAL DELETED.] Finally, neither William Montuoro nor Louis Sanzo confirmed even Mario Montuoro's collateral efforts to account for his whereabouts on July 4, 1977.

Assuming that the SCC summer picnic was the "Fourth of July" party to which Montuoro originally referred, and further assuming that Montuoro's brothers had told him that the land clearing incident preceded that picnic by approximately one week, the August 20, 1977, picnic date would push the land clearing operation to early August 1977. That date is in conflict with the recollection of each of the three Montuoro brothers and Sanzo, none of whom believed that the land clearing operation was performed that late in the summer. Further, according to Holy Trinity Parish records, no

100 S.P. nos. 352719, 352747-49, 352751-52.

function involving any Sanzo child occurred later than June 18, 1977. Moreover, no GCA meeting attended by the individuals identified by Montuoro took place in August of 1977.¹⁰¹ Thus, the "Fourth of July" benchmark is not even tangentially helpful in dating the alleged luncheon.

5. Letter to President Carter

a. Montuoro

On September 26, 1977, Montuoro sent a letter to President Jimmy Carter concerning the negative impact of a certain labor-saving device, the hoe ram, upon employment opportunities for members of Local 29.¹⁰² In a variety of ways, Montuoro has utilized the date of this letter as a benchmark for dating the alleged Prudenti's luncheon.

101 The meeting of September 8, 1977, convened at GCA headquarters involved very few of the individuals whom Montuoro identified--only Sanzo, Montuoro, Donny Maglione, Jr., Theodore King, and William Finneran. In addition, other contractors not mentioned by Montuoro attended the September meeting. The same is true with respect to the September 21 meeting.

It might also be observed that the weather conditions on the two Saturdays during August 1977 preceding the August 20th picnic suggests the unlikelihood of the land clearing incident having occurred on those dates. On both August 6 and 13, 1977, precipitation was recorded, almost three-quarters of an inch on the latter date. None of the participants in the land clearing operations who described the weather mentioned rain.

102 A copy of Montuoro's letter to President Carter is annexed as Exhibit 2.

i. Statement to the Brooklyn Strike Force

On January 7, 1982, the Special Prosecutor met with several Justice Department lawyers. At that meeting Brooklyn Strike Force Assistant Attorney-In-Charge, James Harmon stated that, when Montuoro "first" presented the Prudenti's allegation to him, Montuoro said that the payoff occurred in September or October 1977. At that time, Harmon said, Montuoro dated the payoff as having been made one month prior to Montuoro's letter to President Carter.¹⁰³

ii. Statement to the Special Prosecutor

In his January 8 interview with the Special Prosecutor, Montuoro stated that the alleged Prudenti's luncheon, which occurred between the second week of June and the first week of July 1977, was followed within approximately two weeks by the GCA meeting. That GCA meeting, Montuoro said, took place well before he dispatched his letter to President Carter. He was not more specific.

iii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Summary: Impact of Letter Evidence on Dating the Alleged Luncheon

Montuoro's statement to James Harmon of the Brooklyn

103 Further, in his January 12 interview with the Special Prosecutor, Harmon stated that, during Montuoro's December 3, 1981, FBI interview, Montuoro said that the alleged Prudenti's luncheon occurred approximately one month prior to the letter to President Carter.

Strike Force that the Prudenti's luncheon occurred in September or October of 1977, approximately one month before dispatch of the September 26 letter to President Carter, cannot be reconciled with his subsequent statements. [GRAND JURY MATERIAL DELETED.] Moreover, any such early September Prudenti's luncheon date as one might deduce from Montuoro's early statements is entirely inconsistent with the evidence relating to the land clearing incident and the GCA meeting. Montuoro's references to his September 26, 1977, letter are of no assistance in dating the luncheon at Prudenti's.

6. Payment for Alleged Prudenti's Luncheon

The Special Prosecutor sought to determine who paid for the alleged Prudenti's luncheon and the method by which payment was made in an effort to develop, if possible, documentary proof that the luncheon occurred and its precise date. An extensive search proved fruitless.

a. Mario Montuoro

i. Statement to the FBI

In his December 3 interview with the FBI, as recorded in the official report of interview, Montuoro stated that "[t]he bill for the food and drink was paid by JERRY LIG[U]ORI by credit card."¹⁰⁴ Special Agent William Lynch, one of Montuoro's December 3 interrogators, and author of the

104 Exhibit 5 at page 4.

report of interview, confirmed to the Special Prosecutor, on March 11, 1982, that on December 3 Montuoro had indeed stated that Liguori paid by credit card for the alleged Prudenti's lunch. [GRAND JURY MATERIAL DELETED.]

ii. Statement to the
Special Prosecutor

During his January 21 interview with the Special Prosecutor, Montuoro denied that he had ever told anyone that Jerry Liguori paid for the Prudenti's luncheon by credit card. Montuoro said that he knew nothing about payment for the lunch except that he saw the waitress bring to Jerry Liguori a tray upon which lay some green bills, some loose change and a slip of paper. Montuoro did not know whether a charge card of any sort was also on the tray. He did not recall whether Liguori kept any kind of slip or receipt. He did not see anyone sign for the bill. He remembered only, he said, that the tray was presented to Liguori.

iii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Documentary Record Relating
to Payment for Alleged Luncheon

i. Credit and Charge Card Records

The Special Prosecutor investigated the use during 1977 of credit and charge cards by the alleged attendees at the Prudenti's luncheon. It was determined that, during 1977, cards from the following companies were issued and outstanding in the names of the following individuals:

<u>Issuer</u>	<u>Cardholder</u>
American Express Company:	Raymond J. Donovan Joseph A. DiCarolis Ronald A. Schiavone
Visa:	Gennaro Liguori
Carte Blanche:	Joseph A. DiCarolis
Diners Club:	Joseph A. DiCarolis

Louis C. Sanzo stated that he possessed no credit or charge cards in 1977.

Messrs. Liguori, DiCarolis, Schiavone and Donovan were each served with a subpoena duces tecum calling, inter alia, for production of all statements, receipts and other records of use during 1977 of credit or charge cards issued in their names. Because the American Express cards were issued through SCC to Messrs. DiCarolis, Schiavone and Donovan, SCC was independently subpoenaed, among other things, for the same documents. Counsel for SCC, DiCarolis, Schiavone and Mr. Donovan voluntarily produced copies of the foregoing and, when subsequently subpoenaed, supplied such originals as their clients possessed. To the extent that their clients lacked complete records, counsel for SCC provided to the Special Prosecutor copies secured from the issuing companies.

The Special Prosecutor also served one or more subpoenae duces tecum upon each of the issuing companies calling, among other things, for the production of all records relating to use during 1977 of those cards. The records were produced. In part, the records produced by the companies

were less inclusive than those provided by SCC, as SCC also included the individuals' personal copies of statements; in part, they were more complete. One of the issuing company's representatives attributed the former discrepancy to misfiling by company personnel, the pertinent files having been checked three times.

The issuing companies were also subpoenaed to produce all statements of accounts, receipts and other records received by them from, or maintained by them in connection with, Prudenti's for the period April 1 through September 30, 1977. American Express Company reported that it could not produce vendor records for Prudenti's from 1977. Diners Club and Carte Blanche, both subsidiaries of Citibank, reported that Diners Club records were functionally inaccessible¹⁰⁵ while Carte Blanche did not maintain vendor records from 1977. Visa reported that vendor records were retrievable only through the particular issuing bank and not systemwide.

[GRAND JURY MATERIAL DELETED.]

Prudenti's was also served with a subpoena duces tecum calling, inter alia, for all credit and charge card

105 Faulty record-keeping precluded access to the documents without the expenditure of many hundreds of hours of labor.

receipts for the year 1977 including, but not limited to, American Express, Master card or Mastercharge, Visa or BankAmericard, and Diners Club. Anthony Prudenti, owner of Prudenti's, and Prudenti's counsel, informed the Special Prosecutor that none of the subpoenaed records were "in [Prudenti's] control, custody, possession or, in fact, existence."¹⁰⁶

A review of all of the foregoing credit and charge card records reveals that, on the dates below, the listed individuals charged purchases at Prudenti's which they noted on their receipts as follows:

<u>Date</u>	<u>Cardholder</u>	<u>Card</u>	<u>Amount</u>	<u>Annotation on Chit</u>
4/19/77	DiCarolis	American Express	\$33.55	[Unknown/unavailable: only face of chit microfilmed]
6/21/77	DiCarolis	American Express	\$43.80	"Met with owners of Jopel to discuss current work now under subcontract"
7/22/77	DiCarolis	American Express	\$33.61	"Job #280"
8/18/77	DiCarolis	American Express	\$67.83	[Unknown/unavailable: only face of chit microfilmed]
9/22/77	DiCarolis	American Express	\$48.55	None

106 January 25, 1982, letter from Barry Ivan Slotnick, Esq., to Assistant Special Prosecutor Joseph. [GRAND JURY MATERIAL DELETED.]

ii. SCC House Account at Prudenti's

Prudenti's was subpoenaed, among other things, to produce all documents relating to charge accounts in effect for the year 1977 in the name of, or for, SCC; Liguori; DiCarolis; Schiavone; any other officer, employee, agent or representative of SCC, or any of SCC's joint venture partners; Louis Sanzo; or any representative or member of Local 29. The owner of Prudenti's and Prudenti's counsel reported to the Special Prosecutor that no such documents were in existence.¹⁰⁷

SCC was also subpoenaed for all charge accounts at Prudenti's. SCC produced statements received from Prudenti's together with receipts turned in by Liguori, the only SCC employee who used the house account at Prudenti's in 1977. The SCC records of the house account at Prudenti's, to the limited extent that they reflect meals with Local 29 representatives, have been analyzed in detail above.¹⁰⁸ Those records reveal that, during April through September 1977, Liguori charged all of the following meals at Prudenti's, including but not limited to those eaten with Local 29 representatives:

107 See note 106 supra. It must be noted that Linda Ranieri, at Gennaro Liguori's request in December 1981, destroyed all remaining SCC house account records possessed by Prudenti's. However, she stated that there were only 4 or 5 documents, all of 1980 and 1981 vintage, remaining in existence for her to destroy, which she did. February 1, 1982, interview.

108 See Section IV.C.4.b., supra. [GRAND JURY MATERIAL DELETED.]

<u>Date</u>	<u>Amount</u>	<u>Annotation by Liquori</u>
4/4/77	\$71.16	"Lunch Self BA Loc. 29 Sectr.-Tres. Loc. 29 & Pres. Loc. 29. Discuss minority status w/impend layoff."
4/15/77	\$54.22	"Dinner w/proj. manager Supt. from Horn-Kiewit to discuss co-ord. of inst. closure of decking at 22nd St."
4/11/77	\$34.03	"Lunch w/BA Loc. 731. Discuss selection of Lab. to be steel King."
4/22/77	\$67.13	"Lunch w/3 Fr. Fire Dept. to discuss use and storage permits of explosives"
4/29/77 [5/2/77] ¹⁰⁹	\$86.66	"Self Smith--SCC Keogh, Hill, Mike--F.D. discuss of F.D. reprocussions of shot w/o matting."
5/6/77 [5/5/77] ¹¹⁰	\$46.60	"Self and 2 Con Edison Repr. to discuss W/E entry into yard and emergency proc. if req. on oil-o-static repair"
5/13/77	\$76.11	"Self Pres. Loc. 29 BA Loc. 29 Lawyer Loc. 29 Discuss layoffs in connection w/keeping minority % as is w/i this local."
5/25/77	\$55.04	"Self Supt. and Timberman BA discuss firing of their shop steward."

¹⁰⁹ Chit corresponding to monthly statement entry is dated May 2, 1977, and is in the amount of \$89.66.

¹¹⁰ Monthly statement date altered from May 5 to May 6, 1977. Chit date is May 6, 1977.

<u>Date</u>	<u>Amount</u>	<u>Annotation by Liquori</u>
5/27/77	\$53.07	"Self BA Loc. 15 BA Loc. 14 Discuss possibilities of rehire master mech. and maint. Form. via 5 Engrs. on payroll"
5/31/77	\$28.35	"Lunch w/Loc. 15 BA discuss trainee status (leaving) w/o replacement and manning to remove well pt. system"
6/10/77 [6/13/77] lll	\$57.62	"Lunch w/Fire Dept. to replacem. of sand hog prot. at magazine w/o powder d.c. interruption"
6/14/77	\$35.81	"Lunch w/Carp BA to discuss minority hiring, trainee status."
6/21/77	\$24.40	"Lunch w/ Horn Proj. Manag. to discuss TA methods of payment"
6/24/77	\$37.88	"Lunch BA Loc. 29 & Self to discuss Blaster take- over for Supt."
7/12/77	\$14.95	"Sandwiches w/Conessa rep. to discuss dil. of forms and erection sequences"
7/13/77	\$32.63	"Lunch w/BA Loc. 731 Discuss minority % and new foreman to be SCC man"
7/14/77	\$42.65	"Lunch w/Loc. 29 BA. Disc. minority layoff % and Driller to be repl. w/ Blasters as they are not needed as Blasters."
7/20/77	\$36.46	"Lunch w/proj. man. Horn Discuss payment policies of TA for partial EST."

lll Statement date is June 10; chit is dated June 13, 1977.

<u>Date</u>	<u>Amount</u>	<u>Annotation by Liguori</u>
7/25/77 ¹¹²	\$71.70	"Pres.-B.A. Sectr. Tres. Loc. 29. Disc. and initiate plans to stop men from leaving."
7/29/77	\$52.05	"Lunch w/Mason BA and Pres. to discuss their system of dues checkoff and payment to union from site not in. off."
8/5/77	\$54.52	"Lunch w/ Fire dept. officials to discuss withholding of F. Dept. records from T.A."
8/15/77	\$44.45	"Self. J. Masters (Horn Constr.) co-ordinate excav. B/side Bulkhead at 22nd St."
8/29/77	\$53.88	"Lunch w/City Comptrollers auditors and TA reps to discuss audit of claims"
8/29/77 [8/31/77]	\$64.65	"Self and F. Dept. officials to discuss moving of powder mag. and req."
9/1/77	\$42.40	"Self and two rep. from Horn to discuss interface probl."
9/8/77	\$33.80	"Lunch w/BA. Loc. 731 disc. shotcrete manning."
9/20/77	\$46.90	"Lunch w/Pres. and BA Timbermen discuss manning of hydr. on sandwall form."
9/26/77	\$63.10	"Dinner self and Pres.-- Sect.-BA Loc. 29. Discuss L.O. and minority req."
9/29/77	\$43.20	"Self Pres. Loc. 29 BA Loc. 29 Discuss impending dir. on female empl. in field forces."

112 Date on chit apparently altered from July 22, 1977, to July 25, 1977.

iii. Menu: Prices at
Prudenti's in 1977

The Special Prosecutor also subpoenaed from Prudenti's menus and all price lists in effect for the year 1977. Prudenti's responded that no such documents remained in existence. Estimates by Prudenti's personnel of 1977 prices for entrees ranged from \$6.00 to \$9.95.

iv. Summary Analysis of
Documentary Record

None of the documentation relating to SCC executives' meals at Prudenti's reflects any luncheon with the persons identified by Montuoro during June 1977 or any surrounding month.

c. Likelihood of Credit Versus Cash
Payment for the Alleged Luncheon

i. Gennaro Liquori

[GRAND JURY MATERIAL DELETED.]

ii. Joseph A. DiCarolis

In the course of his January 15 interview with the Special Prosecutor, Joseph DiCarolis stated that he did not ordinarily pay cash for a meal during 1977 and that he doubted very much that that would have occurred. He normally carried only \$10 to \$15 cash on his person at that time, he said. With respect to credit cards, Dicarolis used his American Express card almost exclusively. He also raised the possibility that he might have paid for a meal on his Diners Club card.

iii. Louis C. Sanzo

[GRAND JURY MATERIAL DELETED.]

iv. Linda Ranieri

Linda Ranieri ("Ranieri"), the waitress who most frequently served Liguori at Prudenti's, was interviewed by agents of the Special Prosecutor on January 22, 1982.

Among other things, Ranieri stated that Liguori customarily used the SCC house account at Prudenti's to pay his luncheon bills. She recalled that he occasionally paid for lunch in cash and, she said, might even have used a personal credit card. Occasionally, Liguori charged the luncheon but left a cash gratuity. This was not uniform, however; he sometimes added the tip in the space provided on the house account charge slip. [GRAND JURY MATERIAL DELETED.]

v. Dorothy E. Ranieri

On January 22, 1982, agents of the Special Prosecutor interviewed Dorothy E. Ranieri ("Mrs. Ranieri"), Day Manager at Prudenti's.

Dorothy Ranieri stated, inter alia, that Liguori usually paid for his lunches at Prudenti's on the house charge account or by credit card. Liguori, on occasion, charged the amount of the lunch to the SCC account and paid the gratuity in cash to the waitress. Other times, she said, Liguori included the gratuity in the amount charged on the house account. [GRAND JURY MATERIAL DELETED.]

d. Summary: Impact of Payment Evidence
On Dating the Luncheon

Based upon the evidence, there is a strong likelihood that the luncheon would have been paid for in a manner

which should have left a documentary trail. Montuoro's initial assertion, that Liguori paid for the luncheon by credit card, is wholly uncorroborated. Liguori's Visa account records for 1977 reflect no charges whatsoever--only that he consistently paid down outstanding indebtedness. Nor do the charge or credit card records of any of the other alleged attendees at Prudenti's confirm that the luncheon occurred or assist in dating it. The examination of the records furnished by SCC of its house account at Prudenti's was similarly unfruitful. There is no evidence concerning payment for the purported lunch which is helpful in establishing a date for, or the fact of, the luncheon's occurrence.

7. Records Reflecting the Location
Of the Alleged Attendees at
Allegedly Material Times

In order to determine whether there existed any documentary evidence consistent with Montuoro's Prudenti's allegation, the Special Prosecutor requested and subpoenaed voluminous documents reflecting upon the location of the alleged luncheon attendees at potentially material times. Because Montuoro assigned no specific date or ranges of dates to the alleged luncheon, the subpoenae were broad in scope so as to avoid omitting any potentially critical date.

a. SCC Documents

The Special Prosecutor requested and subpoenaed¹¹³

113 See note 97, supra.

from SCC, its subsidiaries and joint ventures, among others, all documents relating to the following for the year 1977:

1. Expense account reimbursement of Messrs.

Schiavone, DiCarolis, Liguori and Donovan.

2. Statements, receipts and other records of use of credit or charge cards issued in the names of Messrs.

Schiavone, DiCarolis, Liguori and Donovan.

3. Telephone message pads reflecting messages to or from Messrs. Schiavone, DiCarolis, Liguori and Donovan.

4. Vacation, travel and work attendance of Messrs.

Schiavone, DiCarolis, Liguori and Donovan.

5. Daily calendars, appointment books, diaries and time records maintained by or for Messrs. Schiavone, DiCarolis, Liguori and Donovan.

6. Petty cash and disbursement records for Messrs.

Schiavone, DiCarolis, Liguori and Donovan.

7. Correspondence and memoranda files maintained

(a) by Messrs. Schiavone, DiCarolis, Liguori and Donovan and

(b) by SCC reflecting correspondence and memoranda to and from the same four officers.

8. Meetings attended by representatives of the GCA.

9. Files, correspondence and memoranda relating to Local 29.

10. Daily logs reflecting travels of SCC helicopters.

11. All SCC charge accounts at Prudenti's.

12. All secretarial notebooks, appointment books and calendars maintained by the secretaries to Messrs. Schiavone, DiCarolis, Liguori and Donovan.

13. Minutes of meetings of the S-I-C joint venture.

14. Diaries, appointment books, calendars and time records of any SCC employee reflecting the activities or whereabouts of Messrs. Schiavone, DiCarolis, Liguori and Donovan.

15. Records of use of Fiddler's Elbow Golf and Country Club¹¹⁴ facilities by Messrs. Schiavone, DiCarolis and Donovan.

SCC responded by advising that a number of the documents requested never had, or no longer, existed and by producing, inter alia, the following: (a) credit and charge card records relating to Messrs. Schiavone, DiCarolis and Donovan; (b) attendance records of, and requests for vacation by, Liguori; (c) Joseph DiCarolis' 1977 appointment book; (d) petty cash and disbursement records for Liguori; (e) minutes of GCA meetings prepared by GCA representatives; (f) the 1977 logs for the SCC helicopter; (g) documents relating to SCC's charge account at Prudenti's; (h) minutes of S-I-C joint venture meetings; (i) 1977 diary of SCC employee Peter Caruk; and (j) records of use of Fiddler's Elbow Golf and Country Club by Messrs. Schiavone, DiCarolis and Donovan.

¹¹⁴ Fiddler's Elbow Golf & Country Club ("Fiddler's Elbow") is a wholly-owned subsidiary of SCC.

b. Joseph A. DiCarolis' Documents

The Special Prosecutor subpoenaed from Joseph A. DiCarolis, individually, all of the documents that were independently subpoenaed from SCC insofar as the latter related specifically to DiCarolis. In addition, the Special Prosecutor subpoenaed from DiCarolis all personal banking records, including those of any member of his immediate family. All such documents were provided, excluding identical duplicates which were not required to be furnished.

c. Ronald A. Schiavone's Documents

The Special Prosecutor similarly subpoenaed from Ronald A. Schiavone, individually, all of the documents that were independently subpoenaed from SCC to the extent that those documents related specifically to Schiavone. Additionally, the Special Prosecutor subpoenaed from Schiavone all personal banking records, including those in the names of members of his immediate family. All such documents were provided, once again with the exception of identical duplicates which were not required to be furnished.

d. Gennaro Liguori's Documents

The Special Prosecutor also subpoenaed from Gennaro Liguori, individually, all of the documents that were independently subpoenaed from SCC insofar as the latter related specifically to Liguori. From Liguori, the Special Prosecutor further subpoenaed all personal banking records, including

those in the name of members of his immediate family. All such documents were provided, including Liguori's records of use of his Visa card, but excluding identical duplicates which were not required to be furnished and certain checks which Liguori no longer possessed. Liguori furnished check registers, however, which accounted for all of the missing checks.

e. Raymond J. Donovan's Documents

During the first week of January, 1982, the Special Prosecutor requested of Mr. Donovan's counsel the same documents solicited from SCC, to the extent that the latter specifically related to Mr. Donovan, together with information concerning the identity of Mr. Donovan's secretary during 1977 and photographs of Mr. Donovan. Counsel for Mr. Donovan informed the Special Prosecutor shortly thereafter that, with the exception of the photographs and the identity of the secretary, both of which were provided, Mr. Donovan possessed no responsive documents.

f. Local 29 Documents

The Special Prosecutor subpoenaed from Local 29, among other things, the following documents relating to the year 1977:

1. Records of expense reimbursement of Louis Sanzo and Mario Montuoro;
2. Telephone message pads reflecting messages to or from Messrs. Sanzo and Montuoro;

3. Vacations, travel and work attendance of Messrs. Sanzo and Montuoro;
4. Daily calendars, appointment books, diaries and time records maintained by or for Messrs. Sanzo and Montuoro;
5. Petty cash and disbursement records for Messrs. Sanzo and Montuoro;
6. Correspondence and memoranda to and from Messrs. Sanzo and Montuoro;
7. Documents relating to meetings attended by Messrs. Sanzo and/or Montuoro and representatives of GCA; and
8. Documents relating to SCC, its subsidiaries and joint ventures.

Counsel for Local 29 responded to the subpoena on behalf of the union, stating that the union had no responsive documents in its possession and noting that, as the Special Prosecutor was previously aware, Local 29 had been subpoenaed sometime subsequent to 1977 for numerous documents. Local 29's counsel furnished the Special Prosecutor with copies of the receipt reflecting the documents produced by Local 29 in response to the Brooklyn Strike Force subpoena. The Special Prosecutor's staff reviewed the documents in the possession of the Brooklyn Strike Force, as well as the Southern and Eastern Districts of New York Labor Department Strike Force files, specifically in search of the subpoenaed Local 29

documents.¹¹⁵ No responsive documents were among those reviewed.

Counsel for Local 29 was separately requested to provide a copy of the minutes of meetings of trustees of Local 29's Welfare, Pension and Vacation Funds. Those minutes were produced on February 5, 1982.

g. Louis C. Sanzo's Documents

Louis C. Sanzo was subpoenaed to bring with him, at the time of his testimony, all diaries, calendars, appointment books, telephone message pads and desk calendars relating to the year 1977. [GRAND JURY MATERIAL DELETED.]

h. Mario Montuoro's Documents

Mario Montuoro was subpoenaed to bring with him to the grand jury, among other things, (a) all documents and photographs relating to any luncheon at Prudenti's during 1977; (b) all documents relating to SCC and any of its subsidiaries or joint ventures; (c) all documents relating to jurisdictional disputes between Locals 29, 147 and/or 731 and (d) all documents concerning the land clearing incident. [GRAND JURY MATERIAL DELETED.]

i. Prudenti's Documents

The Special Prosecutor subpoenaed from Prudenti's all of the following documents relating to the year 1977:

115 See Section IV.D.3.c., supra.

1. All documents relating to meals and drinks served or ordered;
2. Charge accounts in the name of, or for (a) SCC, (b) any officer, employee, agent or representative of SCC, and (c) any representative of Local 29;
3. Charge and credit card receipts including without limitation American Express, Mastercharge, Diners Club, and Visa or BankAmericard;
4. All documents relating to the identities, addresses and hours worked of Prudenti's employees;
5. All reservation books, calendars, appointment diaries and other documents relating to reservations by or for customers;
6. Menus and other price lists; and
7. All documents relating to and reflecting the banks through whom Prudenti's bank credit card receipts were handled.

Anthony Prudenti, the majority owner of Prudenti's, told the Special Prosecutor that no such documents remain in existence, all having been destroyed. [GRAND JURY MATERIAL DELETED.]

j. GCA Documents

The Special Prosecutor served upon the GCA a subpoena calling for the production of, inter alia, the following documents relating to the year 1977:

1. All documents relating to jurisdictional disputes involving Locals 29, 147, 731 and/or SCC;

2. Timesheets of William C. Finneran, Jr., and Theodore E. King;
3. Telephone message pads;
4. The GCA's tunnel file, Local 29 file, Local 147 file, Local 731 file and the "personal" grievance file.

Moreover, Messrs. Finneran and King were each individually subpoenaed to bring with them all diaries, appointment books, calendars and timesheets relating to the year 1977. [GRAND JURY MATERIAL DELETED.]

k. Heliport Logs

The Special Prosecutor subpoenaed the flight arrival and departure records from the three Manhattan heliports which the SCC helicopters frequented. All three of the heliport operators--Pan American World Airways (60th Street Metroport), Island Helicopter Corporation (34th Street Heliport) and the Port Authority of New York and New Jersey (Wall Street Heliport)--responded by producing daily activity sheets or operations records for the period April 1 through September 30, 1977.

l. Other Documents

As part of the effort to ascertain the location of the various alleged attendees during the time frame material to the Prudenti's allegation, numerous other documents were subpoenaed, requested or supplied. These included:

1. From Local 147: Richard Fitzsimmons' 1977 calendar, Edward McGuinness' 1977 diary and miscellaneous other union records, including correspondence with the GCA. These documents were located and produced.
2. From Local 731: the telephone appointment book maintained for the union's field representatives and all documents relating to meetings with the GCA. No such documents were located.¹¹⁶
3. January 29, 1982, letter from Walter Konon, Associate Professor of Civil Engineering, New Jersey Institute of Technology, directed to SCC confirming that on May 5, 1977, Professor Konon took a class on a field trip to the Vernon Boulevard job from 10:30 a.m. to 12:30 p.m. An SCC employee and former student of Professor Konon, John Carter, was the SCC guide for the field trip.¹¹⁷
4. January 8, 1982, letter from Frank L. Stifelman¹¹⁸ to the corporate counsel of SCC, reciting:

¹¹⁶ See S.P. nos. 461001-461003.

¹¹⁷ S.P. no. 352733 [GRAND JURY MATERIAL DELETED.]

¹¹⁸ In his January 18 interview, Secretary Donovan identified Stifelman as a trustee of the blind trust into which certain of the Secretary's assets have been placed for the duration of his incumbency.

"The only day in May 1977 of which I am at all certain that I was with Ray [Donovan] and/or Ron [Schiavone] during the period which would cover the lunch hour, is May 13."¹¹⁹

5. A photocopy of the passport of Ronald A. Schiavone reflecting his presence in Great Britain between April 8 and 30, 1977.¹²⁰
6. Credit and charge card records of Messrs. Schiavone, DiCarolis, Donovan and Liguori.¹²¹
 - m. Summary of Records Concerning Alleged Attendees' Respective Locations--Calendar

Insofar as the documents itemized above reflected the various locations of the alleged Prudenti's luncheon attendees during May and June, 1977, that information is set forth in the calendar chart annexed as Exhibit 83.

8. Summary of All Evidence Concerning the Date of the Alleged Luncheon

No date emerges from the mass of evidence scrutinized in the effort to isolate when the alleged luncheon took place. Montuoro's specifications by month or week

119 S.P. no. 352732.

120 S.P. no. 352730-31. Mr. Schiavone's presence in England and Scotland during April 1977 is independently confirmed by various of his American Express card receipts S.P. nos. 351962-68.

121 See Section IV.D.6.b.i and ii., supra.

were inconsistent. The relationships which Montuoro posited between four purported benchmark events and the alleged luncheon proved to be illusory. There was no record of payment for the alleged lunch. The documents relating to the respective locations of the alleged attendees in May and June 1977 were, at best, inconclusive. There is no evidence corroborating Montuoro's assertion that any Prudenti's lunch attended by Messrs. Donovan, DiCarolis, Schiavone, Liguori, Sanzo and Montuoro himself occurred at or near the time he alleged or, for that matter, at any other time examined in the course of this investigation.

E. Possible Witnesses to the Alleged Prudenti's Luncheon

1. Mario Montuoro

a. Statements to the Brooklyn Strike Force

During his January 12, 1982, interview with the Special Prosecutor, James Harmon of the Brooklyn Strike Force, stated that Montuoro first informed him of the existence of potential witnesses to the alleged luncheon after Montuoro's December 3, 1981, interview with the FBI,¹²² over 2 1/2 years after Montuoro first stated the Prudenti's allegation.

122 Neither the official report of that interview, nor the underlying notes of Special Agent Lynch, reflect that Montuoro suggested the existence of any potential witnesses to the alleged luncheon during the December 3 interview. Furthermore, Montuoro did not so intimate to Harmon in his earlier interviews of March or April 1979 and September 1981.

Harmon said that, within the month immediately preceding the January 12 interview, Montuoro had told Harmon that he had seen a man named "Mancuso" from Hallen Construction Company in Prudenti's on the day of the alleged luncheon. At first, Harmon said, Montuoro was uncertain of the man's name, but subsequently Montuoro told Harmon that he had determined that the man was named Mancuso. Harmon did not explore in any detail where Mancuso was in the restaurant, whether or how Montuoro happened upon him, or any like information.

Further, Harmon said, within the two weeks immediately preceding the January 12 interview, Montuoro advised Harmon that there was yet another man whom Montuoro recognized in Prudenti's during the luncheon: Paul Panica. Montuoro described Panica as an official in another union who had helped Montuoro out in other union situations. Montuoro mentioned no other witnesses.

b. Statements to the
Special Prosecutor

i. January 8 Interview

During his initial interview with the Special Prosecutor, on January 8, 1982, Montuoro stated that he had seen a Mr. "Mancuso" of Hallen Construction Company in Prudenti's on the day of the luncheon. Montuoro saw Mancuso at the bar when Montuoro went to the restroom, he said. Montuoro also said that, during a meeting on approximately December 9 or 10, 1981, he had advised Messrs. Harmon and Puccio of the Brooklyn Strike Force that Mancuso was present in Prudenti's.

Montuoro neither stated nor hinted, during the January 8 interview, that there was any other person whom he had recognized in Prudenti's on the date of the luncheon. He did state that a friend of Jerry Liguori's was employed at Prudenti's, but was unaware whether she worked on the date of the luncheon.

ii. January 21 Interview

At the outset of his second interview with the Special Prosecutor on January 21, 1982, Montuoro falsely stated that, when he had informed the Special Prosecutor of Mancuso's alleged presence at Prudenti's, he had at the same time informed the Special Prosecutor that he did not remember the "other guy's name." Montuoro further said that, since the January 8 interview, he had spoken with Harmon who had informed Montuoro that, through Harmon, the Special Prosecutor learned the identity of this second potential witness. Montuoro identified this "other guy" as Paul Panica.¹²³

c. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

2. Paul J. Panica

a. Statement to the
Special Prosecutor

Paul J. Panica, Local 731 Field Representative, was

123 As set forth in Section IV.B.2.a.ii, supra, the Special Prosecutor questioned Montuoro at length as to the accuracy of his identification of "Mancuso" as Panica's luncheon partner. Montuoro insisted that Mancuso, and not Roy Murray of Hallen, was the man whom he saw with Panica.

interviewed by agents of the Special Prosecutor on January 26, 1982.

Panica stated, among other things, that he was familiar with Prudenti's, having lunched there approximately three or four times per year since 1975 or 1976. Panica stated that he usually lunched at Prudenti's with Roy Murray of Hallen Construction Company. Panica stated that he had never lunched at Prudenti's with Guy Mancusi,¹²⁴ whom he identified as "another Hallen boss." Mancusi did, on one occasion, greet Panica at the table where Panica was sitting in the lounge area near Prudenti's bar, but Mancusi did not join Panica's table.

Panica further stated that he had never been seated at the bar in Prudenti's but, rather, always ate at tables in the lounge area near the bar.¹²⁵

Finally, Panica said that he never saw Mario Montuoro, whom he has known since 1974-75, at Prudenti's. When asked to give some additional thought to that possibility, Panica remarked that he was certain that he had never seen Montuoro at Prudenti's and "could almost swear to it."

b. Grand Jury Testimony

Paul J. Panica testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

124 There was no Hallen executive named "Mancuso" in 1977.

125 On one occasion, Panica said, he might have eaten lunch in Prudenti's Green Dining Room.

3. Guido Mancusi

a. Statement to the
Special Prosecutor

On January 21, 1982, Guido (Guy) Mancusi, Senior Vice President of Hallen Construction Company, was interviewed by agents of the Special Prosecutor.

Among other things, Mancusi stated that he was acquainted with Mario Montuoro, having hired members of Local 29 on behalf of Hallen. During 1977, Mancusi routinely telephoned Local 29's offices when he needed members; he spoke on those occasions with Mario Montuoro or Louis Sanzo.

Mancusi's relationship with Montuoro was strictly business in nature, he said; there were no social contacts between the two men. Mancusi estimated that he had met Montuoro three or four times in his life. He could not recall ever having seen Montuoro at Prudenti's.

At times, Mancusi used Hallen's house account at Prudenti's to lunch with clients there. Mancusi always annotated his expense slip vouchers with the initials of the persons with whom he lunched.

At Prudenti's Mancusi saw Liguori from time to time. Ordinarily, Liguori was with his general foreman, whose name Mancusi did not know. Mancusi could not recall ever having seen Louis Sanzo, with whom he is also acquainted, at Prudenti's. Further, while Mancusi believed he had lunched at Prudenti's with Paul Panica, Mancusi thought that

the lunch antedated Panica's tenure as a field representative for Local 731.¹²⁶

A review of Mancusi's personal calendar and diary reflected no luncheons at Prudenti's during May, June or July of 1977. Nor were any such lunches reflected in Hallen's records of its house account at Prudenti's.¹²⁷ Finally, Mancusi never lunched in the lounge area near Prudenti's bar, nor had he ever taken a client to Prudenti's for drinks alone, he said.

Physical Description. Mancusi is 6' 0" in height, 300 lbs., and 53 years of age. He is clean-shaven and, since the age of 16, has had silver-white hair.

b. Grand Jury Testimony

Guido Mancusi testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

4. Roy N. Murray

a. Statement to the Special Prosecutor

Roy Murray, Vice President of Hallen Construction Company, was interviewed by agents of the Special Prosecutor on January 22, 1982.

Among other things, Murray stated that during 1977 he was Hallen's Equipment Manager. In that capacity, he

126 Panica testified that he had been a field representative for Local 731 since approximately 1975 (T. 2576).

127 See Section IV.E.5. infra.

frequently lunched at Prudenti's. All such lunches were charged to Hallen; he never had a social lunch at Prudenti's as it was not within his price range.

Murray did not maintain a personal diary reflecting his Prudenti's lunches and he was unable to recall any particular luncheon at the time of his interview. However, he assumed that during 1977 he lunched with Paul Panica, Field Representative of Local 731. During that year, approximately 400 members of Local 731 were working at the Hallen project on 110th Street. Murray added that he probably also lunched at least once with Mario Campanella, one of Panica's fellow delegates from Local 731. Whenever he lunched at Prudenti's, Murray ordinarily ate in the lounge area near the bar in the back of the restaurant.

On occasion, Murray believed, he had observed Mario Montuoro at Prudenti's. Murray thought that on each such occasion, Sanzo was accompanying Montuoro. However, Murray did not recall ever having been approached by Montuoro while lunching with Panica or anyone else at Prudenti's. Moreover, Murray was absolutely certain, he said, that he had never observed Montuoro in the bar area of Prudenti's.

Physical Description: Roy Murray is 6' 0" in height, 270 lbs., and 45 years of age. Unlike Mancusi, who is clean-shaven and has silver-white hair, Murray has a full beard, black hair and is balding. It is highly unlikely that

anyone viewing either of the two men, from front or back,
would confuse one with the other.

b. Grand Jury Testimony

Roy N. Murray testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

5. Hallen Construction Company Records
of Employee Lunches at Prudenti's

Hallen Construction Company voluntarily furnished the Special Prosecutor with access to Hallen's Credit Expenditure disbursement reports for Messrs. Mancusi and Murray for the period April through October 1977. Annexed to various of these Credit Expenditure reports were the billing statements which Hallen received from Prudenti's. These records reflect the following lunches at Prudenti's from April 1 through September 30, 1977:

<u>Date</u>	<u>Hallen Executive</u>	<u>Luncheon Guest</u>	<u>Amount</u>
4/6/77	Murray	Local 282: Ganci, McFarland, Corlione	\$97.50
4/13/77	Mancusi	Not listed	\$47.04
4/22/77	Murray	Con Edison: Jack Davis	\$38.75
5/10/77	Murray	Chevron: Lenetti Local 15C and 15A	\$25.60
5/25/77	Murray	Delaney/Murphy	\$36.65
6/2/77	Murray	Chevron: Lenetti	\$27.55
6/7/77	Murray	Local 731: Campanella Panica	\$62.65

<u>Date</u>	<u>Hallen Executive</u>	<u>Luncheon Guest</u>	<u>Amount</u>
6/9/77	Murray	Con Edison: Real Estate Mgr.	\$55.36
6/29/77	Murray	Local 731: Panica Carnevale	\$49.70
7/12/77	Murray	Local 731: Panica Campanella	\$65.25
7/13/77	Murray	Chevron Oil: S. Lenetti	\$42.55
7/20/77	Murray	Local 731: Panica Carnevale	\$64.60
7/26/77	Murray	Brooklyn Union Gas: R. Cotell	\$72.85
7/27/77	Murray	NYC Fire Dept.: J. Fano	\$35.80
8/10/77	Murray	Local 731: P. Panica	\$41.20
8/16/77	Murray	Amalgamated Courier	\$85.04
8/31/77	Murray	Local 15C: Delaney	\$37.55
9/16/77	Murray	Local 731: J. Carnevale	\$52.00
9/27/77	Murray	Local 15C: Delaney	\$52.66
9/29/77	Murray	Broadway Junction: Gene Posu	\$19.30

Thus, according to Hallen's documentation, Murray twice lunched with Panica during June 1977; Mancusi never did so.

6. Prudenti's Staff in 1977

a. Anthony Prudenti

i. Statement to Counsel for SCC

On January 25, 1982, counsel for SCC furnished to

the Special Prosecutor a statement which counsel had obtained from Anthony Prudenti, principal owner of Prudenti's. The statement, which was dated January 25, 1982, read:

On Tuesday, December 15, 1981, I conducted an interview with Anthony Prudenti, the owner of Prudenti's Restaurant, at the restaurant in Long Island City, New York.

The interview lasted approximately 20 minutes. Throughout the interview I was given the impression that Mr. Prudenti had very little interest or knowledge with respect to the inquiry into Secretary Donovan and Schiavone Construction Company. He was made aware of the inquiry when a friend mailed him a copy of an article in the New York Times, which he received on about December 11, and of which he only read parts which pertained to himself or his restaurant. At the time he read the article, he drew a connection between the article and the fact that an Eyewitness News mobile unit had been seen in his parking lot by parking attendants a couple of days prior to December 11, taking pictures of the restaurant. Aside from the visit from Eyewitness News, no representative of the news media or any legal organization other than myself had contacted Mr. Prudenti with respect to the inquiry.

With respect to documentary material, I developed the impression that Mr. Prudenti had no record retention policy to speak of. In any event, it would appear that a large portion of Mr. Prudenti's business records were destroyed in a flood which took place on the premises a couple of years ago.

The only representative of Schiavone Construction Company who Mr. Prudenti appears to know is Jerry Liguori, who has been a regular customer for the past 4 or 5 years. Mr. Prudenti has apparently never paid much attention to who his regular customers eat with, and, in any event, has no familiarity with any of the principals whose names have arisen during the inquiry.

Throughout the interview, I was given the impression that Mr. Prudenti knows nothing that would tend to incriminate Secretary Donovan or any representative of the Schiavone Construction Company.

S.P. nos. 352735-352736.

ii. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Anthony Prudenti ("Prudenti"), President and 60% owner of Prudenti's, on January 22, 1982.

Among other things, Prudenti stated that it was his custom to arrive at the restaurant between 9 and 10 a.m. and to leave at about midnight, spending close to 16 hours per day there. Prudenti acknowledged that he was acquainted with Jerry Liguori, a regular customer whom he first met in approximately 1976-1978. To Prudenti's knowledge, Liguori was the only SCC employee who charged on the SCC house account in effect during 1977.

Whether Raymond Donovan had ever been to his restaurant Prudenti was unable to say. The names Mario Montuoro, Louis Sanzo, Ronald Schiavone and Joseph DiCarolis were, Prudenti said, unfamiliar to him. From photographic spreads which included photographs of Montuoro, Sanzo, Schiavone, DiCarolis, Liguori and Mr. Donovan, Prudenti identified only Jerry Liguori as anyone whom he recognized as a patron of the restaurant.

iii. Grand Jury Testimony

Anthony Prudenti testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

b. George M. Prudenti

i. Statement to the
Special Prosecutor

George M. Prudenti, 40% owner of Prudenti's Vicino Mare Ristorante was interviewed by agents of the Special Prosecutor on January 22, 1982.

Among other things, George Prudenti stated that, during 1977, his hours of work at Prudenti's were generally from 8:00 a.m. to 3:00 p.m. His duties included greeting the luncheon crowd.

The only SCC employee with whom George Prudenti was acquainted, he said, was Liguori, a regular Prudenti's customer who lunched with others at the restaurant. However, the names Joseph DiCarolis, Ronald Schiavone, Louis Sanzo, and Mario Montuoro were unfamiliar to him. To the best of his knowledge, George Prudenti said, he never met Raymond Donovan. From a review of the spreads including photographs of Liguori, Donovan, DiCarolis, Schiavone and Montuoro, George Prudenti was initially unable to identify any of the persons depicted; upon closer examination, he recognized only Liguori's photograph.

ii. Grand Jury Testimony

George M. Prudenti testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

c. Theresa Marie Prudenti

i. Statement to the
Special Prosecutor

On February 11, 1982, agents of the Special Prosecutor interviewed Theresa Marie Prudenti, George Prudenti's wife and Anthony's mother, in the presence of Prudenti's counsel.

Mrs. Prudenti identified her principal responsibility as managing the restaurant's kitchen but added that, during the luncheon and dinner hours, she ventured into the dining rooms to check on food service and to see whether the tables were filled.

Mrs. Prudenti said that she did not know Ronald Schiavone, Joseph DiCarolis, Raymond Donovan, Mario Montuoro or Louis Sanzo. She identified Jerry Liguori as a regular customer of Prudenti's. She was unable to identify any of the individuals depicted in the photographic spreads, including Liguori.

ii. Grand Jury Testimony

Theresa Marie Prudenti testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

d. Linda Ranieri

i. Statements to the
Special Prosecutor

Agents for the Special Prosecutor interviewed Linda Ranieri, a waitress at Prudenti's, on January 22, February 1, and March 2, 1982. On the latter occasion, her counsel was present during the interview.

Ranieri stated that she began working at Prudenti's on a part-time basis in 1975. By 1977, she was working Tuesday through Friday of each week; however, she did not work at all during April, May or June 1977, during which she was on a lengthy trip to the West Coast. Ranieri met Jerry Liguori of SCC at the restaurant in approximately 1976. Liguori usually lunched at Prudenti's with the man whom Ranieri believed to be Liguori's male secretary. Liguori was a frequent Prudenti's customer, lunching at the restaurant at least one day per week.

At times, Liguori brought different persons with him to lunch at Prudenti's. Sometimes these guests were workers from the Vernon Boulevard job. Ranieri said it was uncommon for Liguori to lunch at Prudenti's with persons dressed in business suits. She could not remember an occasion on which Liguori lunched at Prudenti's with three superiors from SCC.

During 1977, Ranieri worked in the Red Dining Room, serving three tables in the row abutting the partition between the Green and Red Dining Rooms. Ranieri usually served Liguori. He ordinarily arrived at about 12 noon, giving him a virtually unlimited choice of tables.

The names Mario Montuoro and Joseph DiCarolis meant nothing to her, Ranieri said. She recalled the name Ronald Schiavone from conversations with Liguori, but she was unable to state the context in which the name arose. Ranieri was familiar with the name Raymond Donovan from the news media,

and, she said she had seen his photograph on television. Ranieri did not recall ever seeing the man whom she saw pictured on television in Prudenti's Restaurant.

With the exception of Liguori, Ranieri was unable to identify any of the individuals whose photographs were included in the spreads shown to her--namely, Schiavone, DiCarolis, Montuoro and Mr. Donovan.

ii. Grand Jury Testimony

Linda Ranieri testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

e. Dorothy E. Ranieri

i. Statement to the
Special Prosecutor

On January 22, 1982, agents of the Special Prosecutor interviewed Dorothy E. Ranieri, Day Manager of Prudenti's.

Among other things, Mrs. Ranieri stated that she began working for Prudenti's in the 1960s, prior to Prudenti's move to its current location in 1971. After that move in 1971, she became a hostess on a regular basis and held that position in 1977. In that capacity, she came to know Jerry Liguori as a regular customer of Prudenti's.

During 1977, Liguori lunched at Prudenti's at least once per week. Ordinarily, he did not lunch alone. Some of his luncheon companions were well dressed; some dressed in construction attire. She could not recall having been introduced by Liguori to any of the persons accompanying him, but she acknowledged that he may have.

Having reviewed the photographic spreads which included photographs of Liguori, Secretary Donovan, DiCarolis, Schiavone and Montuoro, Mrs. Ranieri was unable to identify anyone other than Jerry Liguori as having visited Prudenti's. She had no knowledge of a luncheon meeting at Prudenti's involving Liguori, DiCarolis, Schiavone, Montuoro, Sanzo and Mr. Donovan. Nor did she have any knowledge of a bribe having been offered or paid to anyone in Prudenti's.

She stated that Jerry Liguori preferred to lunch in the Red Dining Room. He customarily sat at a table abutting the partition between the Red and Green Rooms.

ii. Grand Jury Testimony

Dorothy E. Ranieri testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

f. Marilyn DeQuattro

i. Statement to the Special Prosecutor

On February 1, 1982, agents of the Special Prosecutor interviewed Marilyn DeQuattro, a Prudenti's employee, in the presence of her counsel.

DeQuattro stated that she had been employed by Prudenti's for more than twenty years, initially as a waitress and most recently as a barmaid. She said that she had never served tables in either the Red or Green Dining Rooms; all of her activities were confined to the lounge area near the bar in the rear of the restaurant.

Approximately five to ten years prior to the interview, DeQuatro first met Liguori. Liguori frequently came into the bar in the late afternoon for a drink, but DeQuatro had never known him to eat in the bar or lounge area.

From the photo spreads displayed to her, she recognized none of the Schiavone principals--other than Liguori--nor did she recognize Montuoro, as a Prudenti's customer.

ii. Grand Jury Testimony

Marilyn DeQuatro testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

g. Josephine Stevens

i. Statement to the
Special Prosecutor

Josephine Stevens, a Prudenti's waitress, was interviewed by agents of the Special Prosecutor on February 1, 1982, in the presence of counsel for Prudenti's.

In 1971, Stevens said, she began working as a Prudenti's waitress. Since approximately 1976 or 1977, she had worked exclusively in the Green Dining Room.

Stevens said that she knew no one associated with SCC other than Jerry Liguori, who was a Prudenti's customer. The names Ronald Schiavone, Joseph DiCarolis and Raymond Donovan were unfamiliar to her. She was unable to identify any of the individuals depicted in the photographic spreads that included prints of Schiavone, DiCarolis, Liguori, Montuoro and Mr. Donovan--except that she identified Liguori.

ii. Grand Jury Testimony

Josephine Stevens testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

h. Anita Kotz

i.. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Anita Kotz, a Prudenti's waitress, on February 1, 1982, in the presence of counsel.

Kotz stated that she had been employed as a waitress at Prudenti's since 1971. Since the Green Dining Room was opened in 1974, she had worked almost exclusively in that section of the restaurant.

From the three photographic spreads she was shown, Kotz was unable to identify any of the SCC principals, except Liguori. Her identification of Liguori, moreover, required a second review of the spread including his photograph. She did not identify Montuoro in the spread of photographs which included his photograph.

ii. Grand Jury Testimony

Anita Kotz testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

i. Anna Janeke

i. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Anna Janeke, a Prudenti's waitress, on January 22, 1982.

Among other things, Janeke stated that she had been employed as a Prudenti's waitress intermittently since 1971, including the entire year 1977. She estimated that, during the year 1977, Jerry Liguori lunched at Prudenti's on an average of two or three times per week. Liguori regularly sat at a table in the row immediately adjacent to the partition between the Red and Green Dining Rooms.

Janeke frequently stopped by Liguori's table to greet him. It was not uncommon for Liguori to introduce her to others with whom he was lunching. For the most part, Liguori ate with no more than one other person. While Janeke recalled occasionally seeing him with two or three others, she did not remember him lunching with as many as five people; nor did she recall him eating at one of the larger, round tables. Generally, the people who lunched with Liguori were dressed in business suits or sports clothing.

While she was uncertain, Janeke thought that she probably had met Liguori's corporate superiors. The names Ronald Schiavone, Joseph DiCarolis and Raymond Donovan, however, meant nothing to her. Nor was the name Mario Montuoro familiar to her.

Following a review of the photographic spreads including all Schiavone principals and Liguori, Janeke identified Schiavone as a person whom she had seen at Prudenti's and correctly identified Liguori. She also selected various

photographs of non-SCC executives as persons whom she thought she may have also seen eating at Prudenti's.

Janeke also identified Louis Sanzo from a photograph. She remembered having seen Sanzo and Liguori lunching together at Prudenti's on at least two occasions. She recalled having gone over to the table to greet the two of them; she did not recall whether anyone else was present at the table.

ii. Grand Jury Testimony

Anna Janeke testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

j. Daniel J. Vitiello

i. Statement to the
Special Prosecutor

Daniel J. Vitiello, the bartender at Prudenti's during 1977, was interviewed by agents of the Special Prosecutor on January 28, 1982.

Vitiello stated, among other things, that during 1977 he worked the 11:00 a.m. to 7:00 p.m. shift at Prudenti's. He had little to do with the lunch time customers. He knew Jerry Liguori from Liguori's occasional visits to the bar at the end of the working day. Ordinarily, Liguori was accompanied by workers dressed in construction attire who, Vitiello thought, commuted to New Jersey with Liguori. Vitiello could not recall Liguori having stopped at the bar with any of his superiors. Nor could Vitiello recall ever having met any SCC executives.

From a photograph, Vitiello identified Louis Sanzo as an individual who had, alone, patronized Prudenti's bar during the luncheon hour on a few occasions. Vitiello did not remember having seen Sanzo with Liguori.

From a review of the spreads which included the photographs of the SCC principals and Montuoro, Vitiello identified only Liguori and Donovan. Mr. Donovan, he said, he recognized from newspaper photographs; he had never seen Mr. Donovan at Prudenti's. Further, the names Mario Montuoro, Ronald Schiavone and Joseph DiCarolis were unfamiliar to Vitiello, he said.

ii. Grand Jury Testimony

Daniel J. Vitiello testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

7. "Regular Customers" of
Prudenti's in 1977

During the course of the investigation, the Special Prosecutor learned the names of four "regular customers" of Prudenti's other than Liguori and Roy N. Murray. Three, Daniel Murphy, Joseph Bernardo, and Helen O'Brien, were interviewed; the fourth, Scoop Walker, died months prior to the commencement of the investigation. None of the three interviewed had witnessed the alleged luncheon.

a. Daniel J. Murphy

i. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Daniel

J. Murphy, Business Agent for Local 15 of the International Union of Operating Engineers, on January 27, 1982, in the presence of Murphy's counsel.

Murphy had eaten at Prudenti's on numerous occasions since 1970, he said. He estimated that he patronized Prudenti's six to twelve times per year, including visits for lunch, dinner or drinks.

Murphy was acquainted with, and could easily recognize, Mario Montuoro, Louis Sanzo, Joseph DiCarolis, Ronald Schiavone and Raymond Donovan. Murphy could not recall ever having seen Montuoro, Sanzo or Secretary Donovan at Prudenti's. With Liguori and DiCarolis, Murphy said, he had lunched at the restaurant.

ii. Grand Jury Testimony

Daniel J. Murphy testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

b. Joseph Bernardo

Agents of the Special Prosecutor interviewed Joseph Bernardo, Secretary-Treasurer of Bay Crane Company, on January 26, 1982.

Among other things, Bernardo stated that he knew Ronald Schiavone, Joseph DiCarolis and Jerry Liguori personally and that he had met Raymond Donovan. Bernardo also stated that he was a fairly frequent customer of Prudenti's and that he had lunched with Jerry Liguori on a few occasions in the restaurant.

Bernardo did not recall ever having seen Ronald

Schiavone at Prudenti's. He was uncertain if he had ever seen Raymond Donovan in the restaurant but added that, if he had, he mostly likely would not have been able to identify Donovan during 1977.

Bernardo did not know Louis Sanzo or Mario Montuoro personally, he said, because Bay Crane Company, did not employ Local 29 members. However, Bernardo did identify a photograph of Sanzo accurately. Bernardo was unable to say whether he had ever seen Sanzo at Prudenti's.

On January 29, 1982, Bernardo provided agents of the Special Prosecutor with access to his personal diary insofar as it reflected his luncheons at Prudenti's during the period April through September 1977. The diary reflected:

<u>Date</u>	<u>Luncheon Companion</u>
5/3/77	Jerry Liguori
5/13/77	Bill Buccina of Mantawac-Forsythe
7/14/77	Jerry Liguori
9/1/77	Charles Rubano
9/28/77	Scoop Walker (now deceased)

c. Helen O'Brien

On June 14, 1982, agents of the FBI interviewed Helen O'Brien at the Special Prosecutor's request. O'Brien stated that, in 1977, she patronized Prudenti's daily both for lunch and, in the evening, for cocktails. Shown a photograph of Secretary Donovan, which she did not recognize, O'Brien stated that she had never seen the Secretary at Prudenti's.

8. Summary of Evidence Received from
Potential Witnesses to the Alleged
Luncheon

There is no evidence from any source or witness which corroborates Montuoro's allegation that the Prudenti's luncheon occurred. Paul Panica, whom Montuoro contends he greeted at the restaurant on the date of the luncheon, denied ever having seen Montuoro at Prudenti's. So, too, did Guido Mancusi, Montuoro's second purported witness.¹²⁸ Moreover, there is no evidence that Panica was ever in Prudenti's with Guido Mancusi in 1977. Finally, exhaustive inquiries made of Prudenti's 1977 staff, as well as accessible "regular customers" from 1977, supplied no corroboration for Montuoro's allegations.

F. Physical Layout of Prudenti's in 1977

Montuoro claimed that he passed Panica and "Mancuso," who were seated at Prudenti's bar, en route to the men's lavatory from the alleged luncheon table in the Red Dining Room. [GRAND JURY MATERIAL DELETED.] However, from a review of the annexed Exhibit 9, a scale drawing of the restaurant as of February 1982, it is apparent that Prudenti's bar, at the rear of the restaurant, is not located between any of the Red Dining Room tables and the men's lavatory. On the contrary, the bar is not even visible either from the men's room door or from any location en route to the men's

128 Indulging the assumption that Montuoro somehow confused Mancusi with Roy Murray is unavailing: Murray also denied ever having seen Montuoro in Prudenti's.

room from the dining rooms.¹²⁹ Moreover, the Special Prosecutor's investigation revealed that the bar, the restrooms and the dining rooms were situated in precisely the same locations in 1977 as in 1982.

Interestingly, in 1977 there was a service bar located in the area designated "service area" on the annexed Exhibit 9--i.e., adjacent to the restrooms and between the restrooms and the dining rooms. Presumably, Montuoro could have seen that service bar on any visit to Prudenti's in or about 1977. However, the service bar had no stools beside it nor did it serve customers directly; rather, it was used exclusively by waitresses to obtain drinks for customers in the Red and Green Dining Rooms.

The physical layout of Prudenti's in 1977 does not correspond to Montuoro's description in at least one further detail. Montuoro told the Special Prosecutor on January 21, 1982, that he remembered artificial green plants and a trellis, at the entrance to the restaurant. However, according to Anthony Prudenti, the artificial plants were added when the entryway was altered after 1977. Thus, the possibility exists that Montuoro visited Prudenti's after 1977.

129 Photographs of Prudenti's, taken by the FBI at the Special Prosecutor's request, so demonstrate. This fact was also observed by agents of the Special Prosecutor who inspected Prudenti's.

G. Third Persons to Whom Montuoro Allegedly
Stated the Prudenti's Allegation Prior
to Secretary Donovan's Nomination

1. Mario Montuoro

a. Statement to the FBI

During his December 3, 1981, interview with the FBI, Montuoro identified seven persons whom, he said, he had informed of the Prudenti's allegation. According to the report of interview:

MONTUORO stated that he has previously related the facts concerning the restaurant meeting described above to the following individuals:

In 1978:

STEVE BILLERS (ph) and BARRY SILVERS, both employees of the Department of Labor.

In 1979:

EDWARD J. BARNES, currently a Special Agent, State of New York, Commission of Investigation, 270 Broadway, New York, telephone 212-577-0700.

ARTHUR SCHWARTZ and BURTON H. HALL, Attorneys, 401 Broadway, New York, New York, telephone 212-431-9114.

JOYCE COLE, Secretary to LOU SANZO, Local 29.

TEDDY (LAST NAME UNKNOWN), who is running against JOHN CODY in a union election on December 6, 1981.

Exhibit 4 at 5.

[GRAND JURY MATERIAL DELETED.]

b. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

2. Third Persons Named
By Montuoro

a. Barry Silvers

i. Statements to the
Special Prosecutor

Barry Silvers, Supervisory Special Agent, United States Department of Labor, Organized Crime and Racketeering Strike Force, Eastern District of New York, was interviewed on behalf of the Special Prosecutor on January 22 and February 24, 1982. Among other things, Silvers stated that he met Mario Montuoro in late 1969 or early 1970 when Montuoro brought to his attention allegations against Vincent Iaquinto, then a Local 29 union official. Several years later, in September or October 1978, Silvers was recontacted by Montuoro, who stated that he had information concerning illegal payoffs to representatives of Local 29. From that time until early 1979, Montuoro was in regular communication with Silvers and a fellow Labor Department investigator, Steven Biller. Montuoro presented a variety of allegations concerning improprieties at Local 29. In none of those communications, however, did Montuoro mention the name Raymond Donovan, to the best of Silvers' recollection. Nor did Montuoro ever mention Schiavone Construction Company to Silvers.

ii. Grand Jury Testimony

Barry Silvers testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

b. Steven G. Biller

i. Statement to the FBI

On December 4, 1981, agents of the Federal Bureau of Investigation interviewed Steven G. Biller, Investigator, United States Department of Labor--Labor Management Services Administration, in connection with the preliminary investigation conducted by the Attorney General under the Ethics in Government Act of 1978, 28 U.S.C. § 591, et seq. The official report of that interview stated, in pertinent part:

BILLERS [sic] stated that in 1978 he was assigned to the Organized Crime Strike Force as an Investigator for the Department of Labor. In June, 1978, BILLERS was advised by his Supervisor, BARRY SILVERS, that an individual named MARIO MONTUORO had contacted him (SILVERS) concerning allegations against Local 29 of the Blasters Union.

On or about June 28, 1978, BILLERS and SILVERS met MARIO MONTUORO at MONTUORO's home. At that time, MONTUORO made allegations concerning misuse of union funds, a \$10,000 pay-off from RALPH TRANELLO [sic] to LOU SANZO for labor peace on an unspecified project, and the misuse of pension and welfare funds by Local 29.¹³⁰

BILLERS stated that he worked with MONTUORO on a regular basis from June, 1978 through January, 1979 at which time the case of Local 29 was reassigned under a reorganization at the Department of Labor. Subsequently, BILLERS had very brief and intermittent contact with MONTUORO. BILLERS last spoke to MONTUORO for approximately five minutes in July, 1981.

BILLERS was questioned concerning information which MONTUORO stated he had provided him about Schiavone Construction Company and two of its projects - the Vernon Boulevard project and the

130 These allegations formed, in part, the basis of the prosecutions of Sanzo and Trainello by the Brooklyn Strike Force. See note 75, supra.

63rd Street project. BILLERS stated that MONTUORO had not told him anything concerning these projects.

BILLERS was questioned concerning information which MONTUORO stated he had provided him concerning a meeting at Prudenti's Restaurant in May or June, 1977 between members of Local 29 and Schiavone Construction Company. BILLERS stated he had received no such information from MONTUORO.

BILLERS was then asked if MONTUORO had told him about a meeting at which LOU SANZO, MARIO MONTUORO, JOE DI CARLO [i.e., DiCarolis], RONNIE SCHIAVONE, and RAY DONOVAN were present and at which DI CARLO gave SANZO an envelope containing \$2,000. BILLERS stated that MONTUORO had never furnished this information. BILLERS further stated that he had never heard of JOE DI CARLO or RONNIE SCHIAVONE and that he did not know that DONOVAN was associated with Schiavone Construction until he read it in the newspaper sometime after DONOVAN was nominated for Secretary of Labor.

BILLERS stated that it is Department of Labor policy to generate a report of interview when information of a significant nature is received.

BILLERS stated that information such as a meeting where a \$2,000 payment was made from a contractor to a labor union, would definitely be significant and would cause the generation of a report of interview. Reports of interview are maintained in the case file at the Office of the Inspector General.

S.P. nos. 100015-16.

ii. Statements to the
Special Prosecutor

Steven G. Biller was interviewed on January 22 and February 18, 1982. He stated, inter alia, that during 1978 his supervisor, Barry Silvers, informed Biller that Mario Montuoro had made certain allegations concerning improprieties at Local 29. Biller and Silvers proceeded to investigate various of these alleged improprieties.

On a regular basis from June 1978 until January 1979, Biller stated, he worked very closely with Montuoro.

At no time during any of his meetings or conversations with Montuoro was Raymond Donovan's name mentioned. There was, furthermore, no reference to any SCC payoff of \$2,000 to Louis Sanzo at Prudenti's Restaurant.¹³¹

iii. Grand Jury Testimony

Steven G. Biller testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

c. Edward J. Barnes

i. Statement to the FBI

Edward J. Barnes, a freelance writer and former Special Agent of the New York State Commission of Investigation, was interviewed by agents of the FBI as part of the Attorney General's preliminary investigation on December 8, 1981 (the "December 8 interview"). The official report of the December 8 interview recited, among other things:

BARNES stated that he has been a Special Agent of the State of New York, Commission of Investigation, since January, 1981. His prior experience was as an investigative reporter for the Patterson News and Hudson Star (New Jersey based newspapers) and subsequently as a free lance investigative reporter. BARNES has written a number of articles on labor racketeering and organized crime.

131 Biller and Silvers lost contact with Montuoro in early 1979 following a Labor Department reorganization; Agent Joseph Greco then assumed responsibility for contact with Montuoro. Barry Silvers so stated during his January 22, 1982, interview with an agent of the Special Prosecutor. In his February 3, 1982, interview with agents of the Special Prosecutor, Greco stated that, to the best of his recollection, Montuoro never mentioned to him either the name Raymond Donovan or any facts relating to an alleged payoff of Louis Sanzo at Prudenti's.
[GRAND JURY MATERIAL DELETED.]

BARNES stated that he wrote an article for a California based magazine, Mother Jones, which focused on labor racketeering. Included in this article was a small section concerning Local 29, Blasters and Drillers Union. BARNES could not recall specifically when this article was published. BARNES stated that he thought it was published in either August, 1979 or August, 1980.¹³²

BARNES stated that as part of his preparation for this article, he conducted several interviews relative to Local 29. Among those he interviewed was MARIO MONTUORO. BARNES could not recall when he first met MONTUORO but thought it was shortly before he wrote the article which appeared in Mother Jones. BARNES could not recall where he first met MONTUORO but thought it might have been at MONTUORO's attorneys' office, ARTHUR SCHWARTZ and BURTON HALL. BARNES stated that at his first interview of MONTUORO he had previously seen a newspaper clipping concerning the first indictment of LOU SANZO and that this interview was prior to the election of RONALD REAGAN.

BARNES stated that he did not retain any of his notes relative to any of the articles which he has written and has no documents which he could refer to to refresh his recollection as to specific dates or details of specific interviews. . . .

BARNES stated that during the initial contacts he had with MONTUORO, he met MONTUORO approximately two to five times in person and had numerous telephonic contacts with MONTUORO. BARNES currently maintains contact with MONTUORO and estimates that he has met MONTUORO face to face approximately twenty five times in addition to telephone contact. During his initial contacts with MONTUORO, BARNES stated that he (BARNES) was primarily focusing on the Laborers' International of which Local 29 is a small local. BARNES' emphasis focused on how labor racketeering was hurting the working man. As an example, BARNES cited no-show working men's jobs; a corrupt union leader would split salaries and fringe benefits with a corrupt contractor whereas a legitimate working man submitted a claim for benefits he would have trouble getting paid. BARNES

132 The article was published in August 1980.

stated that in this context, construction companies giving something of value to union officials, that BARNES learned from MONTUORO of Schiavone Construction. BARNES could not recall any specific information which MONTUORO provided at that time relative to Schiavone Construction but stated it may have related to no-show jobs.

Subsequent to the initial contacts between BARNES and MONTUORO, BARNES stated that MONTUORO told him about a meeting. At this meeting, were representatives of Schiavone Construction and Local 29. BARNES stated MONTUORO told him that LOU SANZO, RAY DONOVAN, and MONTUORO were among six individuals at this meeting. During this meeting, an envelope was given to LOU SANZO. BARNES does not recall who MONTUORO told him at that time gave the envelope to SANZO. BARNES does not recall whether MONTUORO told him at that time where the meeting was held, when the meeting was held, or the purpose of the meeting. BARNES does not recall whether MONTUORO told him at that time what was in the envelope, but he (BARNES) may have assumed it was cash.

BARNES stated that MONTUORO told him additional information pertaining to this meeting at different times and BARNES had difficulty recalling at what specific time he was told what information. BARNES stated that he now knows from MONTUORO that the meeting took place in a Long Island restaurant, that individuals named LIGORI [i.e., Liguori] and DI CARLO [i.e., DiCarolis] were present at the meeting, and that DONOVAN was not the individual who passed the envelope to SANZO.

BARNES stated that he could not recall when he learned from MONTUORO that DONOVAN was present at this meeting. Initially, BARNES could not recall whether MONTUORO told him that DONOVAN was at this meeting before or after President Reagan was elected. BARNES did state that for six weeks--from approximately Thanksgiving through Christmas, 1980--BARNES was in Louisiana. Telephonic contact on December 9, 1981 between Special Agent WILLIAM H. LYNCH, Jr. and BARNES confirmed this fact. BARNES was then able to state that MONTUORO told him that DONOVAN was present at this meeting prior to his (BARNES') trip to Louisiana.

In January, 1981, BARNES accepted his current position with the Commission of Investigation. At this point, BARNES had full knowledge of the

allegation concerning RAYMOND DONOVAN as well as the fact that Schiavone Construction was the contractor for the 63rd Street subway construction project.

BARNES spoke to his supervisor, MIKE MORONEY, and to ADAM WALINSKY, formerly a member of Attorney General ROBERT KENNEDY's staff, then employed by the Commission of Investigation, about initiating an investigation into the 63rd Street subway construction project. BARNES did not mention anything to his superiors about the meeting which MONTUORO had told him about concerning DONOVAN, as he feared this would become a political football and he wanted to begin the investigation. All of the above was conducted on an oral basis between BARNES, MORONEY and WALINSKY.

S.P. nos. 100024-26.

On the day following the December 8 interview, Barnes spoke by telephone with one of the interviewing agents, who noted the conversation as follows:

BARNES stated that he definitely was in Louisiana during a six week period from approximately Thanksgiving to Christmas, 1980.

BARNES was asked if MARIO MONTUORO had told him prior to his trip to Louisiana that RAY DONOVAN was present at a meeting with representatives of Schiavone Construction Company and Local 29 where an envelope was given to LOU SANZO.

BARNES stated that MONTUORO definitely had told BARNES this information prior to his trip to Louisiana.

S.P. no. 100027A.

ii. Statement to the
Special Prosecutor

Edward J. Barnes was interviewed on February 9, 1982. Among other things, Barnes stated that he did not recall when or in what connection he first met Mario Montuoro, although he believed that the initial meeting occurred in the

offices of Montuoro's attorneys. Barnes was unable to recall any of the specific information provided by Montuoro during the initial meeting. Barnes stated that he did not take or keep notes concerning the initial meeting with Montuoro or any subsequent meeting or conversation.

The Prudenti's allegation was mentioned by Montuoro on a number of occasions, Barnes said. Barnes stated that he was "ninety percent" certain that he was aware in November or December of 1980 of Montuoro's allegation--that Donovan had been present at the Prudenti's luncheon when the \$2,000 payoff was made. He attributed his recollection to telephone conversations with prospective employers at the New York State Department of Investigation between Thanksgiving and Christmas of 1980.

iii. Grand Jury Testimony

Edward J. Barnes testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

iv. Evidence From Messrs.
Walinsky and Moroney

A. Adam Walinsky

1. Interview. Former New York State Commission of Investigation ("Commission") Chairman Adam Walinsky was interviewed by an agent of the Special Prosecutor on May 17, 1982. Walinsky stated, among other things, that while he was chairman of the Commission, he hired Edward J. Barnes to be a Commission Investigator. Walinsky believed, but was not certain, that during his preliminary discussions with Barnes concerning

allegations involving SCC and various unions in 1980, Barnes did not mention the name, Raymond Donovan. Walinsky added, however, that even if Mr. Donovan's name had been mentioned, at the time it would have meant nothing to Walinsky.

Shortly after Barnes commenced employment at the Commission, and prior to Secretary Donovan's confirmation by the Senate, Barnes might have mentioned a payoff at a restaurant in Mr. Donovan's presence. Walinsky did not bring that to the attention of a Senate Labor Committee staff member with whom he spoke prior to Mr. Donovan's confirmation because he deemed it the duty of the Brooklyn Strike Force attorney, James Harmon, who initially cultivated this information to do so. Walinsky did not speak to Harmon on the subject, however.

2. Grand Jury Testimony. Adam Walinsky testified before the grand. [GRAND JURY MATERIAL DELETED.]

B. Michael J. Moroney

1. Interview. Michael J. Moroney, former Commission Investigator, was interviewed by an agent of the Special Prosecutor on May 18, 1982. Among other things, Moroney stated that, based upon a review of telephone toll records in the Commission's possession, he was certain that he had telephoned Edward J. Barnes on December 19, 1980, while Barnes was outside New York writing a freelance article, to inform Barnes that Raymond Donovan had been nominated to become Secretary of Labor. By that date, Moroney said, he was aware of the allegation that Mr. Donovan had participated in the

Prudenti's luncheon during which Louis Sanzo received an illegal payoff.

2. Grand Jury Testimony. Michael J. Moroney testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

C. Commission of Investigation Records

At the request of the Special Prosecutor, the Commission staff searched the Commission's records for any references to Secretary Donovan or SCC. By letter dated June 16, 1982, the Commission's Chief Counsel advised that the Commission had in its files nothing more than newspaper articles referring to Mr. Donovan or SCC.

d. Theodore Katsoras

i. Statement to the Special Prosecutor

Theodore Katsoras, a self-described dissident member of Local 282 of the International Brotherhood of Teamsters ("Teamsters") was interviewed on January 20, 1982.

Among other things, Katsoras stated that he first spoke with Mario Montuoro by telephone sometime prior to autumn 1979 concerning Montuoro's problem with Local 29, and an action Montuoro had instituted before the National Labor Relations Board ("NLRB") against Local 29. Katsoras and Montuoro discussed Montuoro's union difficulties and Katsoras furnished Montuoro with the telephone number of Katsoras' attorneys, whom he thought might be able to assist Montuoro with his proceedings.

Katsoras first met Montuoro in the autumn of 1979 when Katsoras, Paul Poulos and Larry Kudla visited Montuoro's residence in the Bronx. The three visitors assisted Montuoro with certain election flyers and placards in connection with Montuoro's candidacy in an upcoming Local 29 election. During this visit, Montuoro proceeded through a litany of his reasons for dissatisfaction with Local 29; he showed them the "three letters" that he said he had dispatched to President Jimmy Carter and to the Teamsters; and he spoke of bribes and payoffs in general within the construction industry. Montuoro also discussed the death of his son, Ernest.

Although Katsoras paid no particular attention to it at the time, Montuoro mentioned that he had been present at a meeting when Louis Sanzo, Local 29's President, accepted a \$2,000 bribe from SCC. Montuoro spoke of SCC generically in that conversation and did not refer to specific persons associated with the company. Katsoras did not recall whether Montuoro had mentioned Mr. Donovan's name in connection with that payoff meeting.

Katsoras had no further discussion with anyone concerning that \$2,000 payoff until early summer 1981 when he, Larry Kudla and Joseph Monetti met at Montuoro's home in the Bronx. On that occasion, Montuoro described the event surrounding the \$2,000 bribe in much greater detail; he definitely referred to Raymond Donovan by name. Katsoras believed that Montuoro said nothing about having received \$200 of the payoff money.

ii. Grand Jury Testimony

Theodore Katsoras testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

e. Lawrence W. Kudla

i. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Lawrence W. Kudla, a self-described dissident member of Teamsters Local 282 on January 25, 1982.

Among other things, Kudla stated that he first met Mario Montuoro in January or February 1979 at Montuoro's home. Theodore Katsoras, Joseph Monetti and Paul Poulos were also present at that time. On that occasion, Montuoro related his problems with Local 29 and the group worked on Montuoro's upcoming campaign for union office in the Local.

In approximately April or May 1979, in another meeting at Montuoro's apartment attended by Kudla, Katsoras and Poulos, Montuoro stated that Louis Sanzo received a \$2,000 payoff from an SCC executive in the presence of both Raymond J. Donovan and Montuoro himself. Kudla had never heard of Mr. Donovan before Montuoro related the payoff incident. This was the sole occasion on which Montuoro discussed the \$2,000 payoff with Kudla prior to the time that Mr. Donovan became a public figure.

ii. Grand Jury Testimony

Lawrence W. Kudla testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

f. Paul Poulos

i. Statement to the
Special Prosecutor

On January 26, 1982, Paul Poulos, a self-described reformer/activist in the Teamsters union, was interviewed by agents of the Special Prosecutor.

Poulos stated, among other things, that, while he first met Mario Montuóro a few years ago at Montuoro's home, he could not recall specifically how he came to meet Montuoro nor how he became involved in Montuoro's then pending campaign for election to office in Local 29. Poulos did not remember being told by Montuoro about any payoffs to any officers of Local 29. Poulos added, however, that he was not particularly good at remembering details and specifics. Poulos further noted that, had Montuoro told him about Mr. Donovan's involvement in an illegal payoff prior to Mr. Donovan's nomination as Secretary of Labor, Poulos would not have recognized the name.

ii. Grand Jury Testimony

Paul Poulos testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

g. Joseph T. Monetti

i. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Joseph T. Monetti, a dynamite trucker and member of Teamsters Local 282, on January 26, 1982.

Among other things, Monetti stated that he initially met Mario Montuoro in approximately 1970. Years later, when Montuoro was experiencing difficulties in Local 29 and with Louis Sanzo, Monetti sought out Theodore Katsoras to assist Montuoro. Monetti brought Katsoras, Lawrence Kudla and Paul Poulos to Montuoro's home in early 1979.

The first meeting was principally an election strategy session. Monetti did not follow closely the discussions among Montuoro and the three dissidents. Monetti was certain, he said, that sometime during the election campaign Montuoro stated that Sanzo received payoffs which SCC had paid. However, the only time that Monetti heard Raymond Donovan's name mentioned had been in 1977, in connection with a rumor involving Harry Gross of Local 282.

ii. Grand Jury Testimony

Joseph T. Monetti testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

h. Arthur Z. Schwartz

On January 14, 1982, commencing at approximately 7:40 p.m., Assistant Special Prosecutor Joseph spoke with Arthur Z. Schwartz, one of Mario Montuoro's attorneys, in Schwartz's office located at 401 Broadway, Suite 310. Schwartz stated that he had heard nothing about the Prudenti's allegation from Montuoro until approximately September 1981. He further stated that his partner, Burton Hall, who had the initial contact with Montuoro, was not retained by Montuoro until 1980.

i. Burton G. Hall

Following Montuoro's January 21 interview with the Special Prosecutor, between approximately 7:00 and 7:30 p.m. on that date, Assistant Special Prosecutors Rauch and Joseph inquired of Burton G. Hall, another of Montuoro's lawyers, when Hall first learned of the Prudenti's allegation. Hall responded that he had first learned of it from Montuoro, in general terms, sometime between February 1980 and January 1981. Montuoro told Hall, on that initial occasion, that Sanzo had been paid off; Montuoro also recited a number of names of others present. Hall was uncertain whether Mr. Donovan's name was among those recited.

In approximately February 1981, after Mr. Donovan's nomination, Montuoro told Hall substantially the same story that he tells today, Hall said, including the allegation that Mr. Donovan was present at the payoff. Hall recalled having thought, in February 1981, "Oh, yes"--that this was the same incident that Montuoro had previously related to him. However, Hall stated that he recalled the matter by incident, but not necessarily by [Mr. Donovan's] name. Hall also recalled having felt that Montuoro first told him the story more than one month, and probably no more than one year, prior to February 1981.

Hall stated that he could not take his oath that Montuoro had initially told him that Mr. Donovan was present at the payoff. However, Hall said that he tended to think

that Montuoro had done so, as Hall reconstructed his reaction in February 1981.

j. Joyce Y. Cole

Joyce Cole, a friend and former co-worker of Mario Montuoro, confirmed that Montuoro had informed her of the Prudenti's allegation--and of Mr. Donovan's presence at the luncheon--years before Mr. Donovan's nomination as Labor Secretary.

i. Statement to the Press

The CBS Evening News of December 19, 1981, broadcast a videotape story concerning the Prudenti's allegation, including a brief videotape interview with Joyce Cole. In relevant part, the transcript of that two-minute news broadcast is as follows:

Montuoro has declined to be interviewed on camera, but CBS News has located Joyce Cole, a former bookkeeper for the union, who says Montuoro told her about the payoff about three years ago. She spoke with reporter George Nathanson in Mexico:

(Cole/Nathanson) Q: Did he mention to you that Mr. Donovan was present?

A: Yes, he did.

Q: Donovan was present?

A: He was present.

Q: Do you believe Mr. Montuoro, Do you believe him?

A: Well, I have no reason to disbelieve him. Yes, I believe him.

Q: There is no motive for him to drag something out of the air, something of this nature?

A: No, there's no motive for him to do that at all.

S.P. no. 250112.

ii. Grand Jury Testimony

Joyce Y. Cole testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

k. James D. Harmon, Jr.

James D. Harmon, Jr.'s account of Montuoro's 1979 statement of the Prudenti's allegation is set forth above.¹³³

l. Charles L. Smith

i. Statement to the Special Prosecutor

Agents of the Special Prosecutor interviewed Charles L. Smith, a Local 29 member, on March 4, 1982, in the presence of Smith's attorney.

Smith stated, inter alia, that he had been a member of Local 29 since approximately 1953 and that he had known Mario Montuoro since approximately 1969. Montuoro never told him about any payoff to Sanzo at Prudenti's Restaurant, Smith said. Had Smith, an activist/reformer in Local 29, been aware of this payoff, he said, he would have immediately brought the matter to the floor of the union's monthly meeting. Smith never heard of Raymond Donovan prior to Donovan's appointment as Secretary of Labor. He was certain that, even after Mr. Donovan's appointment, Montuoro never mentioned any payoffs

133 See Section IV.B.1.a.i., supra.

or kickbacks in connection with either Mr. Donovan or SCC. Nor did Montuoro ever mention Prudenti's Restaurant to Smith.

ii. Grand Jury Testimony

Charles L. Smith testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

m. Michael Oreskes

On April 27, 1982, Michael Oreskes advised the Special Prosecutor that he had no notes, nor any recollection, of having been apprised by Montuoro of the Prudenti's allegation in 1979.

3. Summary of Evidence Concerning Third Persons to Whom Montuoro Allegedly Made the Prudenti's Allegation Prior to Secretary Donovan's Nomination

Of the thirteen persons to whom Montuoro claimed, on various occasions, to have told the Prudenti's allegation, only three--Joyce Cole, James Harmon and Lawrence Kudla--acknowledged having heard it prior to Secretary Donovan's nomination; a fourth, Edward Barnes, equivocated on the subject. The two Department of Labor investigators, Messrs. Silvers and Biller, unequivocally denied having heard the allegation. Six of the remaining Seven had no recollection but did not rule out the possibility. Finally, the thirteenth person, Charles L. Smith, denied that Montuoro had done so.

H. Sources of Money for the Alleged \$2,000 Bribe

The corporate checking accounts of SCC, S-I-C and other joint ventures, and the personal bank records of each

of the alleged SCC attendees at the Prudenti's luncheon, were analyzed in order to ascertain whether the records reflected sufficient cash availability to pay an alleged bribe of \$2,000 during the relevant time period in 1977.

1. SCC and Joint Venture Records

A review of the corporate checks drawn on the SCC, S-I-C and joint venture accounts disclosed that there were sufficient monies available¹³⁴ to finance a \$2,000 payoff in 1977, but not prior to September 1977 and specifically not in May or June of that year. However, based upon their investigation, the Internal Revenue Service Criminal Investigation Division Special Agents on the Special Prosecutor's staff concluded that the transactions reflected in the SCC accounts were neither suspicious nor unusual. The corporation's joint ventures' books were judged by those agents to be "clean" with respect to unknown dispositions of monies withdrawn from the corporate accounts.¹³⁵ It should be observed, however, that it would be impossible to rule out the possibility that \$2,000 in cash could not have been generated in a corporation of the size of SCC.

134 "Monies available" refers to identifiable cash generated by the normal use of a checking account.

135 The agents' analyses of the SCC accounts are annexed as Exhibit 20.

2. Personal Banking Records of
Alleged SCC Attendees

a. Joseph A. DiCarolis

The records of personal banking accounts, during 1977, of Joseph A. DiCarolis and of each of the members of his immediate family were analyzed in order to determine whether DiCarolis had withdrawn cash sufficient to pay an alleged bribe of \$2,000 during the year 1977. In the opinion of the IRS Criminal Investigation Division agents serving on the Special Prosecutor's staff, who analyzed the records, it is highly improbable that Joseph DiCarolis used monies from those accounts to pay any \$2,000 bribe during 1977, particularly since the total cash withdrawn from DiCarolis' and his wife's accounts totalled only \$1,500 for the entire year.¹³⁶

b. Gennaro Liguori

The records of Gennaro Liguori's personal banking in 1977 were also analyzed in order to determine whether Liguori had withdrawn sufficient cash to pay the alleged \$2,000 bribe. The analysis of Liguori's accounts disclosed the total cash availability of \$2,390.00 comprising eight

136 Moreover, there was no withdrawal from either account of the two DiCarolis children that exceeded \$300 or \$800 respectively, during 1977; and there was no 1977 withdrawal from a separate account in the name of Mrs. DiCarolis and a relative. A copy of the IRS agents' analysis is attached as Exhibit 21.

separate transactions and amounts ranging from \$100 to \$500.¹³⁷ In the judgment of the IRS Criminal Investigation Division agents on the Special Prosecutor's staff, who analyzed the records, it is highly improbable that Liguori used monies from his personal accounts to pay an alleged \$2,000 bribe during 1977.

c. Ronald A. Schiavone

Ronald A. Schiavone's 1977 personal banking account records, and those of his immediate family members, were also analyzed in an effort to determine whether Schiavone had withdrawn sufficient cash to cover the alleged \$2,000 bribe. Analysis of Schiavone's checking account disclosed that there were no checks payable to cash or to Ronald Schiavone. Given this fact, and based upon their analysis of all the records it was the opinion of the IRS Investigators on the Special Prosecutor's staff that it was highly improbable that monies from Ronald Schiavone's personal account were used to pay an alleged \$2,000 bribe during 1977.¹³⁸

137 A copy of the IRS agents' analysis of the Liguori accounts is annexed as Exhibit 22.

138 There was one \$2,000 Schiavone personal check dated May 20, 1977, payable to a Mr. Schiavone's former spouse. However, an analysis of her bank records revealed that the \$2,000 was deposited into her checking account and retained therein and was used to cover checks over an extended period of time. The IRS agents' analysis of Ronald Schiavone's personal banking records is annexed as Exhibit 23.

d. Raymond J. Donovan

Secretary Donovan's 1977 personal banking account records, and those of his immediate family members, were also analyzed in order to determine whether Mr. Donovan had withdrawn sufficient cash sums to finance the alleged \$2,000 bribe. It was determined, based upon an analysis of Mr. Donovan's checking account and payroll check records, that \$39,500 worth of checks were negotiated to cash during a five-month period including May and June of 1977. During his May 28, 1982, interview with the Special Prosecutor, the Secretary stated that he routinely carried substantial amounts of cash, frequently thousands of dollars, on his person, and that this cash was spent principally on four items: his Beleek china collection; his personal needs; financial assistance to others, principally family members; and legal betting. [GRAND JURY MATERIAL DELETED.]

3. Summary of Evidence Concerning Sources of \$2,000 for the Alleged Bribe

An analysis of the foregoing reflects that Mr. Donovan regularly carried in excess of \$2,000 on his person which could have served as the source for any \$2,000 payment made at Prudenti's.

I. Other Evidence Concerning the Prudenti's Allegation

1. Motivation Underlying Alleged Payoff

Mario Montuoro consistently asserted that SCC's purpose in making the alleged payoff to Sanzo was that it "wanted

Local 29 to handle the entire 63rd Street project."¹³⁹ According to Montuoro SCC's motivation was purely economic: its costs, would be reduced substantially if Local 29, rather than Local 147, performed the tunnel work.¹⁴⁰ Moreover, Montuoro maintained, SCC had a good experience with Local 29's performance on the Vernon Boulevard job,¹⁴¹ and, in Montuoro's judgment, Vernon Boulevard was the same sort of project as 63rd Street.

The record, however, is not consonant with Montuoro's preferred SCC motivation in several respects. To begin with, it is customary for the contractor to make, initially the unilateral determination as to which unions are to work on the various portions of its construction project.¹⁴² On April 20, 1976, SCC made its determination relative to the 63rd Street job following a meeting with Local 147 representatives and the GCA Tunnel Committee in which the history of the various New York City unions' respective jurisdiction on

139 Exhibit 5 at 3. It should be noted that, as of mid-1977, the "entire 63rd Street project" consisted exclusively of Section 5A: that portion of the tunnel from Park Avenue to Third Avenue. The contract for construction of Section 5B (from Third Avenue to the East River) was not awarded until 1978. See note 5, supra.

140 Exhibit 5 at 2; Exhibit 6 at A23; Exhibit 7 at A18; January 21 interview.

141 January 21 interview.

142 January 26 Finneran interview.

tunnel projects was reviewed.¹⁴³ SCC did not want to resolve the 63rd Street job jurisdictional issues in any unprecedented fashion.¹⁴⁴ The April 20, 1976, letter agreement memorialized SCC's pre-construction jurisdictional determination.¹⁴⁵

The April 20, 1976, letter agreement resolved, more than a year prior to the alleged Prudenti's luncheon, the jurisdictional dispute which, according to Montuoro, SCC wished to foster. Significantly, as of April 20, 1976, SCC's Vernon Boulevard job was in progress; the company was therefore familiar with Local 29's performance as of that date. The 63rd Street job was not yet a concrete proposal: it was not opened to bids until April 5, 1978. Thus, the alleged payoff at Prudenti's cannot reasonably be understood as having been made in connection with either the Vernon Boulevard or 63rd Street jobs.

Equally significant is the identity of the senior SCC executive in charge of the 63rd Street job: Andy Amisano, a lifelong member of Local 147, one of whose principal values to SCC lay in his relationship with Local 147.¹⁴⁶ Moreover, the 63rd Street job was not "the same type of job"

143 January 15 interview (DiCarolis); April 20, 1976, handwritten minutes of meeting at the GCA.

144 January 15 interview (DiCarolis).

145 A copy of the April 20, 1976, letter agreement is annexed as Exhibit 19.

146 January 15 interview (DiCarolis).

as was Vernon Boulevard except in the limited sense that both involved subway tunnel excavation; the Vernon Boulevard job was entirely "open cut" work, 63rd Street "closed cover."¹⁴⁷ There is no ready explanation, consistent with Montuoro's contention that SCC actually wanted Local 29 to do the entire 63rd Street job, for SCC's behavior in allocating the bulk of the 63rd Street job to Local 147.¹⁴⁸

The question of cost savings benefitting a contractor who used Local 29 rather than Local 147 is, at best, unclear. To the extent that either Local does work in the tunnel itself, the workers are required to be paid at Local 147's prevailing rates.¹⁴⁹ Further, when Local 147 is in the tunnel, its members perform all the work that is to be done--including, for example, carpentry, electrical and general labor. When Local 29 does the blasting, the affiliated

147 January 15 DiCarolis interview; January 13 Liguori interview.

148 GCA Executive Director, William Finneran stated to the Special Prosecutor that the industry generally prefers dealing with Local 147 rather than Local 29 on tunnel jobs because, on any tunnel project, Local 147 will necessarily end up with responsibility for at least 95% of the work. Should that Local become alienated because of certain jurisdiction awarded to a competing union, even if that award relates only to a small fraction of the work, Local 147 is in a position to cause no end of difficulty on the remainder of the project. [January 26 Finneran interview.]

149 January 26 Finneran interview; February 6, 1962 Laborers International Union Jurisdictional Decision re: Locals 29 and 147 (S.P. nos. 175222-175223).

trades--e.g., timbermen, carpenters, electricians and general laborers--must also be employed to perform all of the non-blasting work.¹⁵⁰ Thus, while Local 147's rates and working conditions are on their face more expensive than those of Local 29, the record suggests that the total cost of using Local 147 might be no more--indeed, might well be less--than the total cost of employing Local 29 and the affiliated trades.¹⁵¹

2. The Missing \$1600

According to Montuoro, he and Sanzo each kept \$200 of the alleged \$2,000 payoff; Sanzo was to "turn in" the remaining \$1,600 to Samuel Cavalieri, Sr.¹⁵² Samuel Cavalieri, Sr.¹⁵³ testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

3. Contemporaneous Knowledge of Alleged Luncheon

In Montuoro's initial interview with the Special Prosecutor on January 8, 1982, he asserted that Joyce Cole

150 January 13 Liguori interview; January 26 Finneran interview.

151 Nonetheless, it should be observed that DiCarolis conceded that, while he preferred Local 147 for structural tunnel work, Local 29 personnel and working conditions were preferable from an employer's viewpoint. Thus, if neither of the two locals had claimed a particular job, he would deem local 29 preferable. January 15 DiCarolis interview.

152 January 21 interview.

153 See note 13, supra.

was present when, on the day preceding the Prudenti's luncheon, Sanzo informed Montuoro that he was to accompany Sanzo to the luncheon. Subsequently, during the January 21 interview, Montuoro disclaimed knowledge of any witnesses to that conversation but stated that Joyce Cole, Julietta Fernandez and Samuel Cavalieri, Jr., may have been present.¹⁵⁴ Moreover, Fernandez did not remember having overheard any conversation between Sanzo and Montuoro relating to any luncheon at Prudenti's. [GRAND JURY MATERIAL DELETED.] Moreover, Fernandez did not recall having been informed at any time during 1977 that Sanzo and Montuoro were going to lunch together at Prudenti's. [GRAND JURY MATERIAL DELETED.]

4. Ronald A. Schiavone's Physical Condition

Ronald A. Schiavone fractured his right hip on January 1, 1977, and was consequently on crutches until sometime between May 11 and June 14, 1977; thereafter, Schiavone walked with the assistance of a cane until approximately Labor Day of that year.¹⁵⁵ Montuoro, however, denied that any of the attendees at Prudenti's luncheon was on crutches, used a cane or was otherwise in other than apparent good health.¹⁵⁶ [GRAND JURY MATERIAL DELETED.] Consequently, this evidence

154 Montuoro also stated that Sanzo ordinarily left word with Cole, Fernandez or Cavalieri Jr. as to his destination and proposed whereabouts when he left the office.

155 See Section IV.C.5., supra.

156 January 21 interview.

is not deemed of particular importance.

J. Mario Montuoro

1. Personal History

Mario Montuoro was born on December 6, 1933, in Bronx, New York.¹⁵⁷ He remained in school through the sixth grade at St. Dominic's Hall, an orphanage.¹⁵⁸ Montuoro is married and, by his second wife, has two stepchildren, aged 9 and 12 in January 1982.¹⁵⁹ By his first marriage, Montuoro also had two children, one of whom was shot to death on January 14, 1977.¹⁶⁰ Montuoro also has three brothers, each of whom is married, with children, and lives in or near the Bronx.¹⁶¹

Montuoro started working in 1948 driving and greasing trucks. As a young man, he also worked in pool halls, among other things setting up bowling pins (prior to the introduction of automatic pin setters), shining shoes and cleaning up.

He was a member of Local 282 of the Teamsters Union for a period of time in the 1960's. He worked part time as a teamster, ultimately transferring his teamster book to Local

157 S.P. no. 100013.

158 January 8 interview.

159 Id.

160 Id. The homicide investigation into Ernest Montuoro's death remains active. February 2, 1982, communication from Detective Graham, Major Case Squad, New York City, Police Department, to an agent of the Special Prosecutor.

161 January 8 interview.

553, during the 1960's when work was slack in construction.

2. Criminal Record

Montuoro was arrested on March 27, 1967, for possession of five ounces of heroin.¹⁶² Montuoro told the Special Prosecutor, during the January 8 interview, that, when arrested, he was driving a man whom he knew to be carrying heroin. Montuoro pleaded guilty and was sentenced on March 5, 1968, to a one year suspended sentence.¹⁶³ Montuoro attributed the suspended sentence to a substantial search-and-seizure question which his Legal Aid attorney pressed in the courts.¹⁶⁴

On August 27, 1975, Montuoro was arrested for criminal possession of a firearm which he claimed belonged to Sanzo.¹⁶⁵ On October 8, 1975, he pleaded guilty and was fined \$750 for this violation.¹⁶⁶

Montuoro's other confrontations with the law did not result in any criminal conviction.¹⁶⁷

3. History in Local 29

Montuoro became a member of Local 29 in 1963. He

162 S.P. no. 100012.

163 S.P. no. 100012.

164 January 8 interview.

165 S.P. no. 100012.

166 Id.

167 Montuoro was charged with bribery on November 14, 1953. That complaint was withdrawn. [S.P. no. 100012.] Further, Montuoro informed the Special Prosecutor, on January (Footnote Continued)

started working exclusively in construction as a Local 29 member in approximately 1968. Shortly thereafter, he first met Louis Sanzo on the World Trade Center project. Sanzo was at that time recording secretary of Local 29.

In approximately 1970, Montuoro was elected Vice President of Local 29, running on a slate with Louis Sanzo. However, Vincent (Jimmy) Iaquinto, then Business Manager and principal officer of Local 29, reported to the authorities that Montuoro had a narcotics conviction within five years preceding his election. As a result, Montuoro forfeited his union office.

Roughly contemporaneously, Montuoro provided information to the United States Department of Labor concerning various improprieties allegedly perpetrated by Iaquinto and other Local 29 officers.¹⁶⁸ Iaquinto was subsequently indicted on eleven counts of alleged violations of the Taft-Hartley Act, 29 U.S.C. § 186,¹⁶⁹ and convicted on his plea of guilty.¹⁷⁰ In the course of the Iaquinto investigation,

167 (Footnote Continued)

8, 1982, that he had been a juvenile delinquent who was on probation at the time he entered the United States Marine Corps. As a result, when his probation violation was discovered, he received an undesirable discharge from the service, he said.

168 S.P. nos. 150190 ff.

169 S.P. no. 150211-150212.

170 According to Supervisory Special Agent Barry Silvers, United States Department of Labor, Office of Organized Crime and Racketeering, in a January 4, 1982, communication to Assistant Special Prosecutor Joseph.

detectives assigned to the Bronx District Attorney's office informed the Department of Labor that: "Montuoro 'uses' various law enforcement agencies to further his own interests when he can."¹⁷¹

On May 4, 1975, Montuoro was elected Secretary-Treasurer of Local 29. He assumed full-time duties as Secretary-Treasurer--and as Assistant Administrator of Local 29's Pension and Welfare Funds, the position for which he was paid--in October 1975. Montuoro remained in those positions until May 12, 1978, when he either was fired (Montuoro's assertion) or voluntarily resigned (Sanzo's version).¹⁷²

Montuoro commenced a series of actions--before the New York State Industrial Commission, the United States Civil Rights Commission, the New York City Civil Rights Commission, the National Labor Relations Board and in various courts--against Local 29, Louis Sanzo, and/or others associated with the Local or the Local's various Funds.¹⁷³ Montuoro also

171 S.P. no. 150270. But see note 174, infra.

172 Welfare and Pension Funds, Blasters, Drillrunners and Miners Union Local No. 29, et al. v. Montuoro, No.2-CA-15905, Record at 16, 46-47 (Montuoro) and 171 (Sanzo) (N.L.R.B. May 14, 1979). Montuoro's contention that he was wrongfully terminated has been upheld by the courts and the NLRB.

173 These litigations include: NLRB v. Welfare and Pension Funds, Blasters, Drillrunners and Miners Union Local No. 29, No. 80-4213 (2nd Cir. 1981); Montuoro v. Sanzo, et al., No. 81 Civ. 3294 (S.D.N.Y., complaint filed May 28, 1981); Montuoro v. Sanzo, et al., No. 81 Civ. 7522 (S.D.N.Y., complaint filed December 1, 1981); Sanzo v. Montuoro, No. 7984-81 (N.Y. Sup. Ct., complaint filed April 1, 1981); Welfare and Pension Funds, Blasters, Drillrunners and Miners Union Local No. 29 and Mario (Footnote Continued)

testified against Louis Sanzo in the Brooklyn Strike Force's successful prosecution of Sanzo.¹⁷⁴ He and representatives of Local 29 have testified against one another in numerous of the foregoing proceedings. Moreover, Montuoro is a disaffected member of the Local who has on at least two occasions unsuccessfully sought election to Local 29 office, losing to the incumbent leadership, including Louis Sanzo.¹⁷⁵

Finally, a potential revenge motivation underlying the Prudenti's allegation has been suggested by James Harmon:

Montuoro's desire to seek revenge against Samuel Cavalieri, [Sr.,] a member of the Luchese Crime Family who "owns" the Blasters' Union may also affect his credibility. Montuoro holds Cavalieri responsible for the murder of his son in 1977. By removing Sanzo from office, Cavalieri's control of the union would have been broken and Montuoro would have extracted his pound of flesh.

Exhibit 4 at 2.

173 (Footnote Continued)

Montuoro, No. 2-CA-15905 (N.L.R.B. 1979); Montuoro v. Blasters, Drillrunners and Miners Union Local N 29, No. 9436-EP (N.Y.C. Human Rights Comm'n 1979); Montuoro and Blasters, Drillrunners and Miners Union, Local No. 29, No. W.C.B. 07832217 (N.Y. Work. Comp. Bd. Feb. 27, 1980); and Montuoro v. Blasters, Drillrunners and Miners Union, Local No. 29 Welfare Fund and Pension Fund, No. 112-24-4088 (N.Y. Work. Comp. Bd. Mar. 26, 1980).

174 United States v. Sanzo, et al., No. CR-81-00151, Record, vol. 3 at 341-405 (E.D.N.Y. June 1981). Federal Law enforcement authorities consider that Montuoro has provided reliable, corroborable and corroborated information in the past.

175 In 1978 and 1980. See Exhibit 4, annexed, at 2.

K. Conclusions Concerning the Prudenti's Allegation

1. The Grand Jury

The grand jury unanimously returned a no true bill with respect to the Prudenti's allegation on June 8, 1982.

2. The Special Prosecutor

There is no evidence corroborating the Prudenti's allegation. The leads have been exhausted. The mass of evidence accumulated often contradicts Montuoro. In no material respect does it lend credence to his allegation. There is insufficient credible evidence of any wrongdoing on the part of Secretary Donovan in connection with the Prudenti's allegation. No prosecution is warranted.

V. OTHER MONTUORO ALLEGATIONS

In decretal paragraph 3 of the December 29 Order, this Court "ORDERED that the Special Prosecutor shall have jurisdiction to investigate any other allegation or evidence of violation of any Federal criminal law by Secretary Donovan developed during the Special Prosecutor's investigations referred to above, and connected with or arising out of those investigations, and the Special Prosecutor shall have jurisdiction to prosecute for any such violation."

During the January 8 and 21 interviews, Mario Montuoro presented to the Special Prosecutor, in addition to the Prudenti's allegation, other allegations which, if true, might have been violations of Section 302(a) of the Taft-Hartley

Act, 29 U.S.C. § 186(a). The Special Prosecutor considered it appropriate to investigate, under decretal paragraph 3 of the December 29 Order, these allegations to determine whether Secretary Donovan had any involvement in any such violations. Each of the allegations is, in turn, considered below.

A. The Land Clearing Incident:
Use of SCC Equipment

1. Montuoro's Allegation

Apart from isolating the land clearing incident as a reference for dating the alleged luncheon,¹⁷⁶ Montuoro claimed on numerous occasions that the equipment used to clear and level the Long Island City property was furnished, gratuitously and thus unlawfully, to Louis Sanzo by SCC.

a. Statement to the Brooklyn
Strike Force

Montuoro initially made this allegation to James Harmon of the Brooklyn Strike Force in March or April of 1979. Harmon's notes of the 1979 interview include the statement: "Schiavone sent trucks."¹⁷⁷ Montuoro also told Harmon that certain trucks were provided by "McGriffin," which Montuoro later amended to "Griffen" and, later yet, to Louis Nargi.¹⁷⁸

176 See Section IV.D.2., supra.

177 Exhibit 1 at 2.

178 See generally Section IV.B.1.a.ii., supra.

Harmon's subsequent memorandum of November 27, 1981, which summarized both his 1979 and his September 1981 interviews of Montuoro, recited, inter alia, that "Sanzo made arrangements to have two heavy bulldozers transported to the . . . vacant lot"179 and that those bulldozers--not trucks--"were believed to be owned by Schiavone [Construction Company] and used on the subway tunnel job."180 The free use of the bulldozers was assigned a \$6,000 value.¹⁸¹ Harmon noted that "[t]here is no known personal involvement of Secretary Donovan in this matter."¹⁸² According to the November 27 memorandum, Montuoro "is corroborated in the bulldozer affair by Joseph Cipollone and Montuoro's brothers."¹⁸³

b. Trainello Trial Testimony

Testifying as a prosecution witness in United States v. Trainello (I), No. CR-81-00151 (E.D.N.Y. Dec. 3, 1981), Montuoro repeated his contention that, in the land clearing operation, his brothers "ran bulldozers that Mr. Sanzo got . . . from Schi[a]vone. . . ."184 Montuoro did

179 Exhibit 4 at 1-2.

180 Id. at 2 (emphasis in the original).

181 Id.

182 Id.

183 Id.

184 Record, vol. 4 at 246.

not mention any trucks or other equipment allegedly provided by SCC; no direct questions on the subject were put to him.

c. Statement to the Special Prosecutor

During the January 8 interview, Montuoro's counsel provided the Special Prosecutor with handwritten notes summarizing Montuoro's various allegations relating to Secretary Donovan.¹⁸⁵ Those notes reflected Montuoro's statement that "Jerry Liguori sent two front end loaders and three dump trailers to [a] site in LIC [Long Island City] . . . Machinery was being used at Vernon Boulevard job."¹⁸⁶ Montuoro orally confirmed that the notes accurately reflected his allegations.

d. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

2. Results of Investigation

a. The Montuoro Brothers' Contradiction of Mario

Notwithstanding the assertion in Harmon's November 27 memorandum that Mario Montuoro was "corroborated in the bulldozer affair by . . . [his] brothers,"¹⁸⁷ both William and Saverio Montuoro denied--in separate interviews [GRAND JURY MATERIAL DELETED.]--that any SCC equipment was used in

185 A copy is attached as Exhibit 24 (the "Montuoro counsel notes").

186 Exhibit 24 at S.P. no. 250005.

187 Exhibit 4 at 2.

clearing and levelling the Long Island City property. The brothers affirmed that the dump trailers were provided by Louis Nargi or Nargi Contracting's successor, Jopel, and that the payloaders came from DeFilippis and Blandford, respectively.¹⁸⁸ Further, both brothers were confident that, while they had seen the Nargi/Jopel dump trailers on the Vernon Boulevard job, the payloaders had not been brought from the SCC job site.¹⁸⁹

b. Cipollone's Failure to Corroborate Montuoro

Contrary to the November 27 memorandum's assertion that Joseph Cipollone, too, corroborated Montuoro "in the bulldozer affair,"¹⁹⁰ Cipollone disclaimed any knowledge of specific facts relating to the matter. Cipollone told agents of the Special Prosecutor that he was ignorant of the source of the payloaders and dump trailers used in the land clearing operation as Sanzo made all of the necessary arrangements.¹⁹¹
[GRAND JURY MATERIAL DELETED.]

c. Gennaro Liquori

[GRAND JURY MATERIAL DELETED.]

d. Louis C. Sanzo (Immunized)

[GRAND JURY MATERIAL DELETED.]

¹⁸⁸ See Sections IV.D.2.b. (William), and IV.D.2.c.i. (Saverio), supra. [GRAND JURY MATERIAL DELETED.]

¹⁸⁹ Id.

¹⁹⁰ Exhibit 4 at 2.

¹⁹¹ See Section IV.D.2.h.i., supra.

e. William Masselli

[GRAND JURY MATERIAL DELETED.]

f. Tracing the Equipment

Extensive efforts to trace the payloaders and trucks used in the land clearing operation proved inconclusive.¹⁹² The evidentiary trail led to the conclusion that the DeFilippis and Blandford payloaders were in all likelihood in the companies' respective yards on June 18, 1977,¹⁹³ the apparent date of the land clearing incident.¹⁹⁴ However, although they doubted it, the DeFilippis and Blandford principals acknowledged that their units conceivably could have been used to clear the Long Island City property.¹⁹⁵

Moreover, with respect to the trucks used to haul debris from the site, Louis Nargi had no recollection or records to aid in the investigation.¹⁹⁶ Further, no Jopel records relating to equipment loaned in connection with the land clearing incident were located either at Jopel's offices

192 See Section IV.D.2.i. and k.-o., supra.

193 See Section IV.D.2.k. and m., supra.

194 See Section IV.D.2.q., supra. The units were in the same locations on May 18, 1977, the far less likely alternative date for the land clearing operation. See Sections IV.D.2.k. and m., supra.

195 See Sections IV.D.2.i. and IV.D.2.m., supra.

196 See Section IV.D.2.i., supra.

or in the possession of the United States Attorney for the Southern District of New York or the Brooklyn Strike Force.¹⁹⁷

SCC denied that any of its equipment was used in the land clearing incident. SCC reported that, due to restrictive provisions in the New York City Teamsters collective bargaining agreement, SCC maintained "no dump trucks of its own working either in Manhattan or in Long Island" during 1977.¹⁹⁸ SCC further advised that its sole frontend loaders on the Vernon Boulevard job were at the bottom of the excavation and that it would have consumed "the better part of a day" to disassemble, raise by crane, and reassemble each unit before it could have been used at the Long Island City site.¹⁹⁹

g. The Missing Donovan Link

There was no evidence linking Mr. Donovan in any way with the land clearing incident. [GRAND JURY MATERIAL DELETED.] Finally, Mr. Donovan denied any knowledge of the land clearing incident in his May 10, 1982 interview with the Special Prosecutor. [GRAND JURY MATERIAL DELETED.]

3. Conclusions

a. Grand Jury

The grand jury on June 18, 1982, declined to indict

¹⁹⁷ Members of the Special Prosecutor's staff, with the aid of personnel familiar with the files, searched the documents at the latter two locations, Jopel the former.

¹⁹⁸ S.P. no. 350094.

¹⁹⁹ Id.

Mr. Donovan for any offense with respect to his testimony before the grand jury concerning the land clearing incident.

b. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan to warrant a prosecution with respect to the land cleaning incident.

B. Allegations Involving Amadio Petito

Six of the non-Prudenti's allegations raised by Montuoro involved allegedly criminal conduct on the part of Amadio Petito.²⁰⁰ Of the five considered in this Section,²⁰¹ three proved meritless and none ultimately reflected any wrongdoing involving Secretary Donovan.

200 Petito's background and his 1981 conviction for perjury and criminal contempt are summarized in note 27, supra. Relations between Montuoro and Petito are decidedly hostile. In addition to the animosity generated by Petito's having assumed Montuoro's positions at Local 29 following Montuoro's ouster from the union (*id.*; see also Section IV.J.3., supra), and apart from the many other lawsuits in which these men are adversaries (note 173, supra), Montuoro has sued Petito and others because "Petito instigated and encouraged members of Local 29 to assault and beat plaintiff [Montuoro], and defendant Petito did himself assault, kick, punch and beat plaintiff" on March 27, 1980. Montuoro v. Sanzo, et al., No. 81 Civ. 3294, Complaint at ¶66 (S.D.N.Y., filed May 28, 1981) [S.P. no. 250169].

201 See also Section V.D., infra, for analysis of Montuoro's sixth allegation, concerning "no show" employees on the Vernon Boulevard job, in which Petito again figured prominently.

1. Petito Use of SCC Pickup
Truck While Serving as a
Union Officer

a. Montuoro's Allegation

i. The January 8 Interview

The Montuoro counsel notes furnished to the Special Prosecutor during the January 8 interview recited, among other things, that:

After Petito became Sec[retary]/Treas[urer].²⁰² Schiavone [Construction Company] gave Petito a pickup truck, Petito gave it to son, Tommy
-- it had been truck Petito had used as foreman at Vernon Boulevard. . . .
-- Harmon has this on a tape.

Exhibit 24 at S.P. no. 250005.

During the January 8 interview, Montuoro denied that he was the source of this allegation, even though his lawyer earlier had, without objection from Montuoro, attributed all of the allegations to him. Montuoro did state, however, that he understood that Petito had the use of an SCC pickup truck prior to his election as Secretary-Treasurer of Local 29. At that time, Montuoro said, Petito was an SCC foreman and Recording Secretary and an Executive Board member of the Local. Montuoro further stated that Petito sold a pickup truck approximately one month after he became Secretary-Treasurer. Montuoro was unaware, he said, whether the pickup sold by Petito was the same as that previously provided to him by SCC.

202 I.e., of Local 29 on May 15, 1978.

ii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Results of Investigation

i. Amadio Petito (Immunized)

Amadio Petito appeared before the grand jury on February 25, 1982. His counsel stated that Petito would not testify, asserting his privilege against self-incrimination. On the same date, Judge Charles P. Sifton of the United States District Court for the Eastern District of New York entered an order pursuant to 18 U.S.C. § 6002 directing Petito to testify, thereby conferring "use immunity" with respect to that testimony. Petito proceeded to testify before the grand jury. [GRAND JURY MATERIAL DELETED.]

ii. Louis C. Sanzo (Immunized)

[GRAND JURY MATERIAL DELETED.]

iii. Gennaro Liquori

[GRAND JURY MATERIAL DELETED.]

iv. Lyle Smith

[GRAND JURY MATERIAL DELETED.]

v. SCC Documentation

Documents reflecting the use and location of the SCC pickup truck furnished to Amadio Petito were received by the Special Prosecutor from SCC. The records revealed that the vehicle, a 1976 Dodge D-200 pickup,²⁰³ was shipped from the Vernon Boulevard job to the Schiavone Equipment Company in

²⁰³ S.P. no. 350031.

Secaucus on May 15, 1978.²⁰⁴ Thereafter, the pickup circulated among three different SCC construction projects and the company's main office and garage²⁰⁵ until it was sold in 1980.²⁰⁶

vi. The Missing Donovan Link

Even if one assumes that Petito was somehow afforded use of, and/or sold, an SCC pickup truck after he became Secretary-Treasurer of Local 29,²⁰⁷ there is no evidence linking Mr. Donovan to the affair. Moreover, the Secretary disclaimed any knowledge of Petito or the pickup truck in his May 10, 1982, statement to the Special Prosecutor.

[GRAND JURY MATERIAL DELETED.]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony before

204 S.P. nos. 350006, 350008.

205 S.P. nos. 350009-350030.

206 S.P. no. 350031. Petito did not sell that vehicle which had been assigned to him; the company that had leased it to SCC did so. Id.

207 Providing an employee, who is also a union officer or employee, with the ordinary perquisites to which he is entitled by virtue of his job status is not unlawful. Section 302(c)(1) of the Taft-Hartley Act, 18 U.S.C. § 186(c)(1), provides that the statutory prohibition of Section 302(a) "shall not be applicable in respect to any money or other thing of value payable by an employer . . . to any officer or employee of a labor organization who is also an employee . . . of such employer, as compensation for or by reason of his service as an employee of such employer. . . ."

the grand jury concerning the allegation that a pickup truck was wrongfully furnished to Petito after he became a union officer.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan to warrant a prosecution in relation to the alleged unlawful furnishing of a pickup truck to Amadio Petito by SCC.

2. Petito's Receipt of Paychecks from SCC After Assuming Union Employment

a. Montuoro's Allegation

i. January 8 Interview

The Montuoro counsel notes provided to the Special Prosecutor at the January 8 interview recited:

Petito started in office May 12 as Asst. Administrator [of Local 29's Pension and Welfare Fund]--Schiavone paid Petito with 130 hours--shows on Welfare--sent \$55 third week of June--Joyce [Cole] brought it out

Exhibit 24 at S.P. no. 250006.

Montuoro, during the January 8 interview, stated that, after Petito became a union officer, SCC paid him certain paychecks through Fitzpatrick-Schiavone.²⁰⁸ The reference in the notes to the effect that SCC "sent \$55 third week of June," Montuoro added, was erroneous: the payment was made in May. Montuoro attributed full knowledge of the incident to Joyce Cole who, he said, had reported it to U.S. Labor

208 See note 5, supra.

Department investigators years earlier. Montuoro's counsel provided the Special Prosecutor with a copy of the Local 29 Pension Fund record for Petito, which reflected that he had been credited with 130 hours of paid labor for Fitzpatrick-Schiavone during May 1978.²⁰⁹

ii. Grand Jury Testimony
(Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Results of Investigation

i. Joyce Y. Cole

[GRAND JURY MATERIAL DELETED.]

ii. Amadio Petito (Immunized)

[GRAND JURY MATERIAL DELETED.]

iii. Louis C. Sanzo (Immunized)

[GRAND JURY MATERIAL DELETED.]

iv. SCC Documentation

SCC reported that its Payroll Department's earnings record card for Petito reflected that Petito's "last day at work was May 12, 1978."²¹⁰ SCC also advised that there existed no record of any check having been issued to Petito

209 A copy of this Pension Fund record is annexed as Exhibit 25. The Special Prosecutor subpoenaed the same document from Local 29.

210 S.P. no. 350096. The Special Prosecutor's staff searched the records of the Brooklyn Strike Force, which had subpoenaed the original document years earlier, but it could not be located.

following his paycheck for the pay period ending Sunday,
May 14, 1978.²¹¹

v. Local 29 Documentation

The Special Prosecutor subpoenaed Local 29's records relating to Petito's employment during 1978 (a) by Local 29 and (b) as a construction worker for SCC or others. The records reflected that Petito assumed paid union employment on May 15, 1978.²¹²

vi. The Missing Donovan Link

There is no evidence that Mr. Donovan had any knowledge of the date or circumstances of Petito's termination of employment at SCC or his commencement of work at Local 29, or of any purported payment by SCC to Petito after he had assumed union duties. Mr. Donovan expressly denied any such knowledge in his May 10, 1982, statement to the Special Prosecutor. [GRAND JURY MATERIAL DELETED.]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony before the grand jury concerning the allegation that Petito

211 S.P. no. 350096.

212 S.P. no. 410604. A copy is annexed as Exhibit 26. No evidence was found that Petito received paychecks from SCC and the Funds simultaneously. The allegation is, in the last analysis, a claim that Petito was a no-show SCC employee for a week.

received paychecks after he terminated his employ with SCC and assumed union office.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan to warrant a prosecution in connection with the allegation that Petito received SCC paychecks after he assumed paid union office.

3. SCC-Paid Employees Working at Petito's Home

a. Montuoro's Allegation

i. January 8 Interview

During the January 8 interview, Montuoro confirmed the accuracy of the following excerpt from the Montuoro counsel notes:

Petito had Charlie Simmons and Anthony Casale [sic] work on his house--for about a week--built a cellar and fireplace--1977. . . .

Exhibit 24 at S.P. no. 250006. Both Simmons and "Casale" (viz., Castiglia) were Local 29 members employed at the Vernon Boulevard job at the time of this alleged occurrence, Montuoro said.

Montuoro further told the Special Prosecutor that he had surreptitiously tape recorded certain of his own telephone conversations,²¹³ including a call to Anthony

213 Montuoro stated that no one--specifically including no law enforcement personnel--instructed him to make the recordings or requested that he do so. Rather, Montuoro made the recordings on his own initiative in order to garner evidence for certain litigation pending between himself and Local 29.

(Butch) Castiglia who, with Charles Simmons, allegedly performed the work at Petito's home. Three tape recordings, including the recorded Montuoro-Castiglia conversation, were furnished to the Special Prosecutor by Montuoro's counsel on January 8, 1982. According to Montuoro, the recordings were made during the two weeks preceding January 8, 1982.

ii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Results of Investigation

i. Montuoro's Castiglia Conversation Recording

The tape recording of the Montuoro-Castiglia conversation was transcribed, at the Special Prosecutor's request, by the New York office of the Federal Bureau of Investigation. Concerning the instant allegation, the transcript recited:

[Montuoro:] But now, ah, aright, ah, oh, ah. Who worked with you with the, ah, ah, Petito's house? Charlie Simmons?

[Castiglia:] Well, ah. Just an hour or two. That's all it was.

[Montuoro:] Yea. Awright.

* * *

[Montuoro:] When you and Charlie Simmons went to his house, wh, wh, during the day while he was on Schiavone's payroll?

[Castiglia:] Yea.

S.P. nos. 250749, 250754.214

214 See also Section V.B.4.b.ii., infra, for a further excerpt from the same transcript.

ii. Anthony Castiglia

An agent of the Special Prosecutor interviewed Local 29 member Anthony (Butch) Castiglia on May 25, 1982. Castiglia stated, among other things, that he and Charles Simmons did, in approximately 1978 or 1979, install a mantel in Petito's house in Port Jefferson or Port Washington, Long Island. The work was done after Castiglia had finished his full working day, at approximately 1:30 or 2:00 p.m. The work was done at, and on the day of, Petito's request. With Charlie Simmons, Castiglia hauled the wood to Petito's house, placed the wood mantel on the two brick supports already in place above the fireplace, and then drove back to the job site, where Castiglia returned Petito's pickup truck to Petito.

Castiglia stated that Mr. Donovan, whom he had never met, had nothing to do with--and to Castiglia's knowledge knew nothing about--the incident.

iii. Amadio Petito (Immunized)

[GRAND JURY MATERIAL DELETED.]

iv. Lyle Smith

[GRAND JURY MATERIAL DELETED.]

v. The Missing Donovan Link

Montuoro in his allegation, did not attribute any awareness of these incidents--however they occurred--to Mr. Donovan. [GRAND JURY MATERIAL DELETED.] Furthermore, the Secretary denied any such knowledge in his May 10, 1982,

statement to the Special Prosecutor. [GRAND JURY MATERIAL
DELETED..]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony before the grand jury concerning the allegation that SCC-paid employees worked at Petito's home on SCC time.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan to warrant a prosecution in connection with the allegation that SCC-paid employees worked at Petito's home on SCC time.

4. Petito's Receipt of \$25 Kickbacks from Truant Local 29 Members

a. Montuoro's Allegation

i. January 8 Interview

During the January 8 interview, Montuoro also affirmed the accuracy of his counsel's notes that: "Petito would sign men in to job who took days off & then charge men \$25 to get paid."²¹⁵ Montuoro had no knowledge whether SCC was aware of this practice.

ii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

²¹⁵ Exhibit 24 at S.P. no. 250007. As chief blaster, Petito was responsible for keeping the daily time reports--i.e., reporting the hours--of every Local 29 member working on the Vernon Boulevard job (T. 2191-2192).

b. Results of Investigation

i. Amadio Petito (Immunized)

[GRAND JURY MATERIAL DELETED.]

ii. Montuoro's Tape Recorded
Conversations with
Castiglia and Wiggins

Two of the tape recordings made by Montuoro (without the knowledge of the other parties thereto) referred to Montuoro's \$25 kickback allegation. In the first,²¹⁶ the relevant conversation between Montuoro and Anthony Castiglia consisted of the following:

[Montuoro:] Now, Butch. You told me that, ah, Joey Pagano. Remember, that Sonny put him in? He hadda ki, kick back twenty-five dollars.

[Castiglia:] Oh, Mario. We can't use that.

* * *

Mario, we can't use that, because then I'm, I'm, I'm, I'm involved myself. You can't.

[Montuoro:] Well, because I know about you, Butch. You told me about you, that you put in for the day you went to the funeral, or some others

[Castiglia:] Uh huh.

S.P. no. 250748.

The second recorded conversation, between Montuoro and Curtis Wiggins, included the following:

²¹⁶ The same conversation with Anthony Castiglia quoted above in Section V.B.3.b.i., supra.

[Montuoro:] But, ah. You don't know them guys that Sonny hadda, hadda pay for that job, hah?

[Wiggins:] No. I sure don't. No. You know, I don't know 'em by name, though.

[Montuoro:] But they definitely had to kickback to Sonny for the job?

[Wiggins:] I think so. Yea. . . .

S.P. no. 250738.

iii. Anthony Castiglia

In his interview of May 25, 1982, Castiglia denied that he had ever paid any kickbacks of any sort to any union official.

iv. Joseph Pagano

On May 25, 1982 an agent of the Special Prosecutor interviewed Joseph Pagano, a member of Local 29 for approximately 20 years. Pagano denied that he ever paid Petito in return for the opportunity to take a day off with pay. He said that he never paid any kickback to anyone in connection with any employment as a Local 29 member.

v. Curtis Wiggins

Curtis Wiggins, a retiree and former member of Local 29, was interviewed by an agent of the Special Prosecutor on May 25, 1982. Wiggins denied ever having kicked back any money to Petito in return for the opportunity to take a day off with pay or for any other reason. He stated that he suspected Petito, who laid Wiggins off, may have been receiving kickbacks from others but he never paid any.

vi. Louis C. Sanzo (Immunized)

[GRAND JURY MATERIAL DELETED.]

vii. Gennaro Liquori

[GRAND JURY MATERIAL DELETED.]

viii. The Missing Donovan Link

NO evidence suggested that any SCC employee, much less Mr. Donovan, had knowledge of whatever system, if any, was employed by Petito to skim \$25 per day from the paychecks of truant Local 29 members on the Vernon Boulevard job. Secretary Donovan, moreover, disclaimed awareness of any such scheme to the Special Prosecutor on May 10, 1982.

[GRAND JURY MATERIAL DELETED.]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony before the grand jury concerning the allegation that Petito received \$25 kickbacks to permit members of Local 29 employed on the Vernon Boulevard job to take days off with pay.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan with respect to the allegation that Petito accepted \$25 kickbacks from Local 29 members truant from their duties on the Vernon Boulevard job.

5. SCC-Paid Petito "Vacation"

a. Montuoro's Allegation

i. January 8 Interview

The Montuoro counsel notes supplied to the Special Prosecutor on January 8, 1982, provided: "In Summer 1977. Schiavone took Petito to either Taho or Hawaii for a week--for seminar. . . ." Exhibit 24 at S.P. no. 250005. During the January 8 interview, Montuoro revised the location from "Taho or Hawaii" to Hershey, Pennsylvania.²¹⁷

ii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Results of Investigation

i. Amadio Petito (Immunized)

[GRAND JURY MATERIAL DELETED.]

ii. Gennaro Liquori

[GRAND JURY MATERIAL DELETED.]

iii. SCC

SCC informed the Special Prosecutor that, on the Vernon Boulevard job, Petito

was the foreman of the drilling and blasting crew, which at times numbered approximately 60 people. As a foreman, he qualified to go to the Foreman's Seminars that are run by Schiavone [Construction Company] for foremen and their wives. In 1977 and 1978, . . . Mr. Petito and his wife, along with

217 Montuoro's lawyer noted that, when Montuoro initially apprised him of this allegation, Montuoro said that he was uncertain of the location and would have to ascertain it.

about forty other couples, attended two Foreman's Seminars. The last one was at the Mount Hershey in Hershey, Pennsylvania.

S.P. no. 350095.

iv. The Missing Donovan Link

Even if there were something sinister about Petito's attendance at the SCC Foreman's Seminars,²¹⁸ there is no evidence--indeed, no allegation--that Mr. Donovan was in any way involved in determining the attendees at the seminar. And Mr. Donovan expressly denied any involvement in the matter in his May 10, 1982 statement to the Special Prosecutor. [GRAND JURY MATERIAL DELETED.]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony before the grand jury concerning allegations of trips by Petito.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan to warrant prosecution with respect to the allegation that Petito received an unlawful "thing of value" from SCC in the form of an expense-paid vacation, including the trip to a Foreman's Seminar.

218 See note 207, supra.

C. Allegations Involving Louis C. Sanzo²¹⁹

In addition to the allegations against Petito, Montuoro presented a series of further allegations against Louis Sanzo. As in the case of the Petito-related allegations, the investigation produced no evidence of any wrongdoing on Mr. Donovan's part. Each is considered in detail below.²²⁰

1. Sanzo's Receipt of Free Lumber From SCC

a. Montuoro's Allegation

i. Statement to the Labor Department

In a February 27, 1979, interview with Special Agents Joseph Greco and Norman Romney of the Department of Labor, Montuoro stated, among other things,²²¹ that:

SANZO told him in 1976 and 1977, that the Yankee Lumber Yard, Radcliffe Ave., Bronx, N.Y., delivered lumber to SANZO's home that was needed to build SANZO's pool and garage that DeSimmone [phonetic] Construction Company was billed for the lumber. An officer of the DeSimmone Construction Co. is a man named Palazzolo. Palazzolo was Louis Sanzo's cousin. Palazzolo's [sic] son received benefits from the union funds for an injury that he received at the Hunts Point Market. But the son was not entitled to Union benefits at the time of the accident. The DeSimmone Construction Co. is an employer of Local 29 members.

Exhibit 27 at 2.

219 The basis of the existing enmity between Montuoro and Sanzo is set forth in Section IV.J.3., supra.

220 The "no show" allegation, which also involves Sanzo, is considered in the immediately succeeding section, Section V.D., infra.

221 A copy of which is annexed as Exhibit 27.

ii. January 8 Interview

The Montuoro counsel notes furnished to the Special Prosecutor on January 8, 1982, recited:

[SCC] Sent load of 3 x 10's & plywood to Sanzo's house to build garage & greenhouse--1977--Mario helped build it.

S.P. no. 250005.

During the January 8 interview, Montuoro stated that the lumber was delivered after July 4, 1977--after the land clearing incident, after the GCA meeting, perhaps as late as the end of September. Sanzo was then building a garage and pool, Montuoro said. He knew that Jerry Liguori was the source of the lumber because Sanzo told Montuoro: "Jerry gave it to me." Montuoro mentioned that he had first stated this allegation to an agent of the U.S. Department of Labor years earlier.

iii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Results of Investigation

i. John C. Carter

A. Statement to the Special Prosecutor

John C. Carter ("Carter"), an SCC supervisory employee at the Vernon Boulevard job, was interviewed by an agent of the Special Prosecutor on March 2, 1982. Carter stated that his duties on the Vernon Boulevard job included responsibility for the lumber purchased by SCC. He said that SCC used 3" x 9" x 21' (or 22') structural grade Douglas fir, which was costly. For that reason, it was maintained under

a tarp and closely accounted for. To Carter's knowledge, SCC was never missing any of the lumber. He was also unaware of any lumber ever having been sent to Louis Sanzo.

B. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

ii. Gennaro Liquori

[GRAND JURY MATERIAL DELETED.]

iii. Louis C. Sanzo (Immunized)

[GRAND JURY MATERIAL DELETED.]

iv. Yankee Lumber Records

The Special Prosecutor secured from Yankee all records of sales to either DeSimmone or SCC during the year 1977. The 165 pages of documents produced were reviewed to determine if any reflected a delivery:

- a. to the Sanzo residence in Whitestone, Queens,
- b. for which Bertha Sanzo had signed and
- c. consisting of 4 x 4's, 2 x 6's or 3 x 10's.

None of the records satisfied all three criteria. There was, indeed, no document that reflected a delivery that was made to Sanzo's home or received by Sanzo or his wife.

v. Labor Department Records

The records of the U.S. Department of Labor relating to Local 29, including all reports of interviews of Montuoro, were reviewed by and on behalf of the Special Prosecutor on January 6-8 and 14-15, February 24, and March 1 and

4, 1982. None reflected any allegation by Montuoro that SCC ever furnished lumber to Sanzo.

vi. The Missing Donovan Link

No evidence associated Mr. Donovan with any real or purported delivery of lumber by SCC to Louis Sanzo. Mr. Donovan, moreover, denied any knowledge of the affair in his May 10, 1982, statement to the Special Prosecutor. [GRAND JURY MATERIAL DELETED.]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony before the grand jury concerning any provision by SCC of free lumber to Louis Sanzo.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan with respect to the alleged provision of free lumber by SCC to Louis Sanzo, and no prosecution is warranted.

2. SCC-Paid Workers At Sanzo's Home

a. Montuoro's Allegation

i. January 8 Interview

During the January 8 interview, Montuoro alleged that certain work was performed on Sanzo's home by a member of Local 29 while he was being paid by SCC. As stated in the Montuoro counsel notes, the allegation as of January 8, 1982, consisted of the claim that,

[W]hile they were building [Sanzo's] garage--Charlie D'Angelis was getting paid by Schiavone [Construction Company]--D'Angelis was supposed to be working on on Vernon Blvd.--it took 2 days to do it--1977.

S.P. no. 250006.

ii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Results of Investigation

i. Montuoro's Recorded Castiglia Conversation

The transcript of the telephone conversation between Montuoro and Castiglia recorded in late December 1981 or early January 1982 provided, in pertinent part:

[Montuoro:] Yea. Alright. Meanwhile did you work with Sanzo's house, ah, ah, ah, while you were on Schiavone's payroll, wh, wh, when you were paintin' the pool and fixin' the kitchen?

[Castiglia:] As far as I can remember. Yea.

[Montuoro:] Okay. In other words, you, you were workin' with Sonny's [i.e., the Vernon Boulevard] job? 'Cause I remember the time you fell in the goddammed pool.

[Castiglia:] Yea. Well, that's, ah, went over there enough for one day, to paint it.

[Montuoro:] And, and, an' what about the kitchen work?

[Castiglia:] Well, Mario, that's when you, you were in office and everything.

[Montuoro:] I know I was in the office. But that was on. You were on Schiavone's job at that time?

[Castiglia:] Yea. I was on, ah, Central Park.

[Montuoro:] No. That was, that wasn't Schiavone's job, then.

[Castiglia:] Oh. That was something.

[Montuoro:] That was ah, Horn, ah. Peter Kiewit.

[Castiglia:] Oh, that's the job I was on.

[Montuoro:] But the one where you painted the pool, you what's his, ah, Sonny's job.

[Castiglia:] Yea.

[Montuoro:] Okay. An' an' an' they sent you over there to painted the house.

[Castiglia:] Well. They didn't send me over there.

[Montuoro:] Yea, I know. I know that.

[Castiglia:] I wanted to go over there.

[Montuoro:] I know that. You know what I mean. But you were gettin' paid by Schiavone. Louie didn't pay you outta his own pocket.

[Castiglia:] As far as I know, I got paid by the week. You know.

[Montuoro:] By Schiavone?

[Castiglia:] Yea.

S.P. nos. 250749-50.

ii. Anthony Castiglia

During his May 25, 1982, interview with an agent of the Special Prosecutor, Anthony (Butch) Castiglia said, inter alia, that in 1971 or 1972, while he was employed on a Horn Construction Company job, he installed panelling in Sanzo's kitchen. Castiglia said he performed the work on weekends and was paid \$150 by Sanzo.

iii. Dominic (Charlie) DeAngelis

An agent of the Special Prosecutor interviewed

Local 29 member Dominic (Charlie) DeAngelis on May 24, 1982. Among other things, DeAngelis said that while an SCC employee on the Vernon Boulevard job, he assisted Louis Sanzo in the construction of Sanzo's garage. All such work, however, was performed on weekends and after hours, not on SCC time.

iv. Louis C. Sanzo (Immunized)

[GRAND JURY MATERIAL DELETED.]

v. Gennaro Liquori

[GRAND JURY MATERIAL DELETED.]

vi. Physical Examination of
Sanzo Premises

On April 30, 1982, agents of the Special Prosecutor examined the Sanzo premises in the company of Bertha (Mrs. Louis) Sanzo. They observed that the garage attached to one side of the house was of cinderblock construction with a stucco exterior and wooden roof. According to Mrs. Sanzo, the garage was built by her husband, his brother, Anthony Sanzo, and their father.

Attached to the other side of the house was a small "greenroom," approximately 8' x 25', containing Mrs. Sanzo's plants and curio collection. She said that room also was constructed by her father-in-law. Exposed wooden beams bore the name, "High Ridge Lumber Company."

In the back yard, the agents noticed an above-ground swimming pool with redwood supports and a wooden deck, approximately 10' x 20', with a diving board.

vii. The Missing Donovan Link

There is no evidence that Mr. Donovan was aware of, or played any role in, any Local 29 member's performing services for Louis Sanzo on SCC time. Moreover, Mr. Donovan denied any such knowledge or participation in his statement to the Special Prosecutor on May 10, 1982. [GRAND JURY MATERIAL DELETED..]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony before the grand jury concerning the allegation that SCC-paid employees worked for Louis Sanzo in and around his house.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan concerning any work performed by SCC-paid workers for Louis Sanzo, and no prosecution is warranted.

3. Sanzo Chauffeured by an SCC-Paid Local 29 Member

a. Montuoro's Allegation

i. January 8 Interview

The Montuoro counsel notes furnished to the Special Prosecutor on January 8, 1982, alleged that "Aikens chauffered [sic] Sanzo to Lake George[, New York,] while on Chiavonne [sic] payroll."²²² Montuoro identified Herbert (Herbie) Aikens as

222 Exhibit 24 at S.P. no. 250007.

a Local 29 executive board member who was an SCC employee on the Vernon Boulevard job. On at least one of those trips to Lake George, Montuoro added, Aikens was cited for speeding and received a \$50 traffic ticket.

ii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Results of Investigation

i. Herbert Aikens (Immunized)

In an interview with members of the Special Prosecutor's staff on May 5, 1982, following the entry of an order pursuant to 18 U.S.C. § 6002, Herbert Aikens confirmed that he had, on SCC time, driven Louis Sanzo to see Sanzo's friend at a location outside of New York City.

ii. Joyce Y. Cole

In a February 5, 1979, interview with a special agent of the U.S. Department of Labor, Joyce Cole reportedly stated that:

Sanzo was driven by HERBERT AIKEN [sic], Shop Steward for Local 29, Blasters, to Albany, so that SANZO could meet with . . . [a] friend in Albany. AIKEN told JOYCE about these trips.

Official report of interview, S.P. no. 150226.

Cole discussed the Albany trip, or trips, in connection with other personal trips allegedly taken by Sanzo in 1975-1978. However, while she told the interviewing agent of numerous other personal expenses allegedly charged by Sanzo to Local 29, Cole did not refer to any speeding citation.

The citation that she later mentioned to the Labor Department arose in a different context. According to the official report of a March 26, 1979, interview, Cole said:

LOUIS SANZO, while driving through the Town of Catskill, Catskill, N.Y., to visit [the same friend] who resides in Lake George, received a summons from the Catskill police for speeding. SANZO paid the fine of \$35.00. SANZO was reimbursed by Local 29, Blasters' Petty Cash Account, Check #15444.

S.P. no. 150247.223 In no other reported interview with agents of the Department of Labor did Cole refer to any traffic ticket paid with Local 29 funds.²²³

iii. The Missing Donovan Link

Neither Montuoro nor any other witness associated Mr. Donovan with Sanzo's alleged use of SCC-paid Local 29 members as chauffeurs. Nor was any documentary evidence to that effect uncovered. Finally, Mr. Donovan denied any knowledge of the matter in his May 10, 1982, statement to the Special Prosecutor. [GRAND JURY MATERIAL DELETED.]

c. Conclusions

i. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan for any offense with respect to his testimony

223 A copy of the Catskill Town Justice's disposition of Sanzo's ticket, provided by Joyce Cole to the Labor Department, is annexed as Exhibit 28.

224 The Labor Department records relating to Local 29, specifically including reports of interviews with Joyce Cole, were reviewed by the Special Prosecutor's staff on January 6-8 and 14-15, February 24, and March 1 and 4, 1982.

before the grand jury concerning any chauffering services performed by SCC-paid employees for Louis Sanzo.

ii. The Special Prosecutor

There is no evidence of any wrongdoing on the part of Secretary Donovan with respect to Sanzo's use of an SCC-paid worker as a chauffeur, and no prosecution is warranted.

D. "No Show" Employees on SCC Projects

Years before the Special Prosecutor was appointed, federal grand juries were investigating Montuoro's allegation that there were members of Local 29 who were listed on the Vernon Boulevard job payroll and in whose names paychecks were issued by SCC, but who did not report for work ("no show employees" or "no shows"). However, the earlier federal grand jury investigations--initially venued in the Southern District of New York, later transferred to the Eastern District Strike Force--did not lead to any indictments based upon no show allegations relating to SCC's Vernon Boulevard job.

The Special Prosecutor's investigation revealed evidence that there were no show employees charged to the Vernon Boulevard job. Moreover, in the course of the investigation, the Special Prosecutor discovered evidence that perjury and similar violations of law were committed by persons involved in the no show scheme. However, inasmuch as (a) no evidence linked Mr. Donovan to the no shows and (b) none of the persons involved held any office within the umbra of the Ethics in Government Act, the Special Prosecutor determined to, and

did, refer these matters to the Department of Justice.

1. Montuoro's Allegation

a. Statement to the U.S.
Department of Labor

i. February 27, 1979

In the February 27, 1979, interview given by Montuoro to special agents of the Labor Department,²²⁵ Montuoro is reported to have stated:

On Schiavone [i.e., Vernon Boulevard] job in L.I.C., [Amadio (Sonny)] Petito was the timekeeper and head foreman. He put three "no shows" on the job. They were John Busso, Carmine Buonanno, and Artie Martin. Schiavone probably does not know about this. Petito prepared time sheets of hours worked, submitted them to Kenny LNU, the Schiavone timekeeper. Herbie Aikens was shop steward on this job.

Exhibit 27 at 3 (emphasis added).²²⁶

ii. March 15, 1979

Montuoro elaborated on his no show allegation in a March 15, 1979, interview with a special agent of the U.S. Department of Labor. As set forth in the official report of interview,²²⁷ Montuoro stated that:

225 Exhibit 27 attached is the official report of that interview.

226 Note that, in Exhibit 27, "Schiavone" refers to SCC, not to Ronald Schiavone individually.

227 A copy of which is annexed as Exhibit 29.

SONNY PETITO, Secretary-Treasurer, and LOUIS SANZO, President and Business Manager, both of Local 29, Blasters, visited CARMINE BUONANNO on learning that HERBERT AIKENS had been served a U.S. Grand Jury Subpoena to testify regarding CARMINE BUONANNO's Fitzpatrick Schiavone payroll checks.²²⁸

MONTUORO believes that SANZO and PETITO will brief BUONANNO on what to say and do regarding BUONANNO's payroll checks counter-endorsed and cashed by AIKENS.

* * *

Once during the period BUONANNO was "no show" employee with SCHIAVONE, the timekeeper, a Mr. KENNY (phonetic), made a payroll check by having all of the workmen report to the Contractor Payroll Office to sign their own payroll checks....

The deal with BUONANNO's checks was that AIKENS pocketed part of the proceeds from the checks, and SONNY PETITO pocketed the rest of the payroll proceeds as well as the Vacation Stamp money.

Exhibit 29 at 1-2.

b. Statement to the Brooklyn
Strike Force

James Harmon's notes of his March or April 1979 interview of Montuoro reflect that Montuoro supplied him with the names not of three but of four alleged Local 29 members who were no show employees at the Vernon Boulevard job: Busso, Buanno [sic], Ragone and Martin.²²⁹ Harmon's notes further reflect that the time period involved was "'76 - '78" and recite: "checks--diff. signatures + misspellings."²³⁰

228 Aikens declined to testify before that grand jury, asserting his Fifth Amendment rights.

229 Exhibit 1 at 1.

230 Id.

During Harmon's January 12 interview with the Special Prosecutor, he did not recall all of the details that Montuoro had in 1979 provided to him.²³¹ Harmon believed that Herbie Aikens may have been the check casher. He also thought that Montuoro told him Busso might have been listed as an employee while incarcerated and Buonanno²³² while hospitalized.

Montuoro told the Labor Department agents on February 27, 1979, that "Schiavone [Construction Company] probably does not know about this."²³³ Harmon's notes reflect that Montuoro asserted in March-April 1979: "Liquori [sic] would have set up."²³⁴

c. Statements to the Special Prosecutor

i. January 8 Interview

The Montuoro counsel notes furnished to the Special Prosecutor during the January 8 interview set forth an extended no show allegation:

231 Harmon further observed that certain of the details set forth in Exhibit 1 in the four columns under the individuals' names may have been inserted sometime subsequent to the 1979 interview.

232 I.e., "Buanno" in Exhibit 1.

233 Exhibit 27 at 3.

234 Exhibit 1 at 1.

John Busso--M. and out of jail,
Al Buonano--unname [sic]--worked in Ram's yard,
Artie Martin--had own business

[all] had no show jobs at Vernun [sic] Blvd.
Herbie Aikens cashed checkss [sic]. Joyce [Cole]
knows. Ann Staniels [sic] testified about this to
grand jury--saw Sanzo cash \$16,000 in vacation
stamps²³⁵ knows from around 1976--until he
left.

Exhibit 24 at S.P. no. 250006.

Montuoro said that the name of Frank Russo should
be added to the rest. No such person, he said, ever existed.
Montuoro also noted that "Bonano" (viz., Buonanno) might be
"Bananas."

ii. January 21 Interview

During his January 21 interview with the Special
Prosecutor, Montuoro stated that his lawyer had a list of 38
names of workers who had worked under Local 29's auspices but
did not possess Local 29 union books. Montuoro said that he
was unaware whether these 38 were no show employees but was
of the view that, if the no show allegation were pursued, the
status of those 38 should be ascertained.²³⁶

235 In addition to their salary, for each hour worked mem-
bers of Local 29 received from their employing contrac-
tors "vacation stamps" which had a specific cash value
and which could be redeemed at Local 29's offices at
various times during the year.

236 On January 29, 1982, Montuoro's counsel provided to
the Special Prosecutor copies of Local 29 Pension Fund
cards for 39 (not 38) persons. S.P. nos. 250551-589.
The cards reflected the names, annual earnings and so-
(Footnote Continued)

d. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

2. Results of Investigation

a. Documentary Analysis

i. SCC Documents

The Special Prosecutor obtained payroll records for the years 1977-1979 from Schiavone Construction Company, Fitzpatrick-Schiavone, the S-I-C joint venture and certain SCC subsidiaries.²³⁷ All forms W-2, many thousand in number, were reviewed to determine whether any of those payrolls included the names Arthur Martin, Carmine Buonanno, John Busso, Frank Russo or any of those appearing on the 39 Pension Fund cards supplied by Montuoro. In addition, the forms W-2 for Michael Paradiso, Richard T. Fitzsimmons and Nancy Fitzsimmons were also reviewed.²³⁸

236 (Footnote Continued)

cial security numbers of the workers and the fact that none possessed a Local 29 union book. According to Montuoro's counsel, the absence of a union book was the salient, and suspect, feature, possibly signifying that the individuals were no show employees. Significantly, the Pension Fund cards did not reflect the identity of the employing contractor(s).

237 The years 1977-1979 were selected for examination for two reasons. First, and principally, all 39 Pension Fund cards referred to earnings during those years; only 4 of them also referred to 1976 earnings. Second, the pertinent statute of limitations is five years. 18 U.S.C. § 3282.

238 The Special Prosecutor included Paradiso's and the Fitzsimmons' names based upon information received by the Brooklyn Strike Force. S.P. no. 200577.

Only 19 of the 46 names appeared on any form W-2. All of those appeared on either the Fitzpatrick-Schiavone or S-I-C joint venture payrolls. The Fitzpatrick-Schiavone (i.e., Vernon Boulevard job) payroll contained the names of nine of the persons in question who earned, respectively:

<u>Name</u>	<u>Wages</u>	<u>Year</u>
Carmine Buonanno	\$19,285.88	1977
	\$ 2,256.16	1978
Martin Purtell, Jr.	\$10,520.95	1977
Arthur Martin	\$ 7,253.50	1977
Frank Russo	\$ 1,889.85	1977
John Busso ²³⁹	\$ 843.84	1977
Jack Maculso	\$ 773.52	1977
James Ingram	\$ 481.44	1977
Robert Compito	\$ 421.92	1977
Jeremiah Mahoney	\$ 334.02	1977

The S-I-C joint venture (i.e., 63rd Street job) forms W-2 reflected 10 more of the names and corresponding earnings, as follows:

<u>Name</u>	<u>Wages</u>	<u>Year</u>
Michael Paradiso	\$11,978.67	1979
Frank Petrullo	\$ 3,218.77	1977
Richard T. Fitzsimmons	\$ 1,540.00	1977
Dominic Falciglia	\$ 936.16	1977
Lloyd Edwards	\$ 868.48	1978

²³⁹ Busso's name was misspelled "Buoso" on his form W-2.

<u>Name</u>	<u>Wages</u>	<u>Year</u>
Stanley Lucas	\$ 641.92	1978
Nancy Fitzsimmons	\$ 448.00	1979
Curtis English	\$ 377.60	1978
James Lenhart	\$ 341.76	1979
Joseph Noto	\$ 128.20	1978

Neither the Schiavone Construction Company payroll nor that of any investigated subsidiary bore any of the remaining names.

ii. Local 29 Records

Local 29 and its Pension and Welfare Funds were subpoenaed to produce all documents relating to the foregoing 19 persons' membership and status in Local 29 and their respective employment. In response to the subpoenae, Local 29 Pension Fund cards²⁴⁰ were produced for all but Michael Paradiso and Richard T. and Nancy Fitzsimmons; "no records" were reported with respect to those three persons. These Pension Fund cards were not identical in format to those supplied by Montuoro's counsel; the Local 29-produced cards included, inter alia, the identity of each worker's employer and the specific months for which he was credited as having worked. There were, however, no substantive discrepancies between the Local 29-produced and Montuoro-produced records. Examined

240 S.P. nos. 410582-410600.

jointly, for the years 1976-1979, the two sets of records reflected the following with respect to the nine employees at issue on the Fitzpatrick-Schiavone (Vernon Boulevard job) payroll:

<u>Name</u>	<u>Dates Employed</u>	<u>Total Hours Worked</u>
Carmine Buonanno	June-Dec. 1976 Jan.-Dec. 1977 Jan.-Feb. 1978	1072 1791 239
Martin Purtell, Jr.	May 1977	32241
Arthur Martin	Jan.-May 1977	642242
Frank Russo	Aug.-Oct. 1976 Jan.-Feb. 1977	225243 194
John Busso	July-Dec. 1976 Jan. 1977	1011.5 88
Jack Maculso	Jan. 1977	80

-
- 241 As noted in Section V.D.2.a.i., supra, Purtell's W-2 reflected \$10,520.95 for 1977. Purtell addressed this discrepancy in his interview with an agent of the Special Prosecutor, noting that he was not a Local 29 member. See Section V.D.2.b.iii.F., infra.
 - 242 In addition, 168.5 hours of work for another contractor were credited to Martin for the months of August and December 1977. His total hours for 1977 thus aggregated 810.5. S.P. nos. 410591 and 250015. However, Sanzo informed the Special Prosecutor that on July 4, 1977, Martin was seriously ill with leukemia. See Section IV.D.4.d., supra.
 - 243 Strikingly, Russo's record reflected not only 162 hours of work for Fitzpatrick-Schiavone during September 1977 but an additional 192 hours worked the same month for another contractor. A copy of this record (S.P. no. 410592) is attached as Exhibit 30. Including this double credit for September plus other reported work for another contractor in the fourth quarter of 1977, Russo's total hours for 1977 were 745. Id. and S.P. no. 250016.

<u>Name</u>	<u>Dates Employed</u>	<u>Total Hours Worked</u>
James Ingram	Oct.-Nov. 1977	51
Robert Comito	Jan.-Feb. 1977	44
Jeremiah Mahoney	Jan. 1977	35

The accumulated Pension Fund records also reflected, with respect to seven of the ten²⁴⁴ employees at issue on the S-I-C (63rd Street job) payroll:

<u>Name</u>	<u>Dates Employed</u>	<u>Total Hours Worked</u>
Frank Petrullo	1977 ²⁴⁵	335.5
Dominic Falciglia	July 1977	104
Lloyd Edwards	Mar.-April 1978	92
Stanley Lucas	May-June 1978	68
Curtis English	Mar. 1978	40
James Lenhart	Oct. 1979	32 ²⁴⁶
Joseph Noto	July 1978 ²⁴⁷	8.5

- 244 All three of the remaining employees, Michael Paradiso, Richard T. Fitzsimmons and Nancy Fitzsimmons, were brought to the attention of the Special Prosecutor as possible no shows by the Brooklyn Strike Force, not Montuoro. S.P. no. 200577. The Funds' administrator, Cavalieri Jr., reported that he had no records pertaining to any of them. S.P. nos. 410581, 410601.
- 245 The Local 29-produced Pension Fund card did not reflect that Petrullo was credited for work as a Local 29 member after January 1973. S.P. no. 410599. The Montuoro-produced card (S.P. no. 250556) is the source of the above entry.
- 246 Lenhart was credited with an additional 50 hours of labor for other contractors in February and May of 1979; his total hours were 82. S.P. no. 410596.
- 247 The Pension Fund card for Noto recited that he was employed not by SCC but by "Defoe". This is evidently an error as he received a W-2 from SCC. See Section V.D.2.a.i., supra.

iii. Expert Handwriting Analysis
of Certain Paycheck Endorsements

The Special Prosecutor obtained the paychecks payable to three of the four alleged no shows named by Montuoro--Busso, Buonanno and Martin--from the Brooklyn Strike Force, which had subpoenaed them in 1979. At the Special Prosecutor's request, SCC provided the Frank Russo paychecks. The endorsements on the reverse sides of the 109 checks were presented to a certified examiner of questioned documents together with 291 exemplars of the handwriting of Herbert Aikens, Local 29's shop steward on the Vernon Boulevard job. The examiner concluded that Aikens had endorsed Buonanno's name on two occasions.²⁴⁸

b. Evidence Concerning Persons
Allegedly or Potentially Involved

i. SCC Personnel

A. Gennaro Liguori

1. 1979 Grand Jury Testimony. On March 21, 1979, Gennaro Liguori testified before a federal grand jury sitting in the Southern District of New York. [GRAND JURY MATERIAL
DELETED.]

2. 1982 Grand Jury Testimony. [GRAND JURY
MATERIAL DELETED.]

248 A copy of the examiner's report is annexed as Exhibit 31.

B. Lyle Smith

1. 1979 Grand Jury Testimony. Lyle Smith also testified concerning no shows before the grand jury sitting in the Southern District of New York on March 21, 1979.

[GRAND JURY MATERIAL DELETED.]

2. 1982 Grand Jury Testimony. [GRAND JURY MATERIAL DELETED.]

C. John C. Carter

1. Interview. During his interview with an agent of the Special Prosecutor on March 2, 1982, John C. Carter stated, inter alia, that, among his other duties, he was responsible for reviewing timesheets on a daily basis. Because of a then pending claim [between SCC and the NYCTA], Carter closely monitored both timesheets and costs. Moreover, Carter was familiar with most of the Local 29 workers on the job. He said that he would have detected it had there been employees who, although not working, were receiving paychecks. At no time was he led to suspect the existence of any no shows.

Additionally, Carter was aware that Herbert Aikens regularly cashed paychecks for Local 29 members on the Vernon Boulevard job. Carter considered that to be a matter of routine, one of Aikens' duties as shop steward.

2. Grand Jury Testimony. John Carter testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

D. Kenneth E. Carter

1. Statement to the FBI. At the request of the Special Prosecutor, agents of the FBI interviewed Kenneth E. Carter, former office manager on the Vernon Boulevard job, on May 4, 1982, in West Germany. As reflected in the report of interview,²⁴⁹ Carter said, inter alia, that he was

previously employed with Schiavone Construction Company (SCC) of Secaucus, New Jersey, from 1968 until late 1980, when Carter quit the company for personal reasons and started traveling around the world . . . Carter held the position as on-site office manager on the Vernon Boulevard project at Long Island City, New York, from 1974 until he left the company in 1980.

His responsibilities as office manager at the Vernon Boulevard project were basically the coordination of recordkeeping functions in connection with the project. He was the only clerical employee of SCC on the project. One of his primary duties was payroll records and preparation. Other major duties were inventory and requisitioning of equipment, some supply purchasing, and safety procedures.

* * *

Carter advised there were, on the average, about 150 workers on the Vernon Boulevard project, a figure which varied from time-to-time depending on the stage of construction and the type of work being done. There were usually between 10-20 work crews on the job, each headed by a foreman and a work crew might vary from 5 to 50 workers, depending on the job. There were also several sub-contractors involved in the project from time-to-time, however, Carter was not involved with their work crews, time-keeping, or payrolls.

249 A copy of which is annexed as Exhibit 85.

Carter described the payroll and time-keeping procedures as follows: Since all the workers were union workers, all hiring and scheduling of work crews was handled by the project manager through the appropriate union locals. Carter would be notified by the project manager that a particular work crew was to be starting on the job and on the day the crew started, the foreman would bring the crew into Carter's office and after presenting their identity and Social Security numbers, etc., they would be employed. Carter would furnish the foreman some blank time sheet forms and then every day the foreman would turn in to Carter a time sheet for the previous day listing the worker's names and the hours they worked. These were then furnished to the project manager for approval. Although the project manager had the approval authority and responsibility, this authority was usually delegated to the superintendents who worked more closely with the work crews on the actual work being done. Since the superintendents were much more familiar with the particular jobs being done, they were in a much better position to actually know who was and who was not on the job. After approval of the time sheets, usually by both the superintendent and the project manager, Carter entered the data on computerized ledger sheets which were then picked up by company courier every Monday morning.

The time sheets were then processed at Secaucus by a data processing company and the payroll checks were then delivered to the job site on Wednesday for distribution to the workers on the same day.

A company courier brought the paychecks to the job site on Wednesday morning where Carter received them and distributed them, usually just before or during the lunch hour, when the men who were working underground would be coming up for lunch. The checks were usually already separated according to union and each work crew, headed by a foreman. Carter then distributed the checks to the appropriate foreman or union steward, who in turn distributed the checks to each worker on his crew.

The company utilized an auditing procedure in connection with the distribution of payroll checks which worked in the following manner: About every two months, sometimes less frequently, the checks would be brought to the job site by an SCC accountant rather than the usual courier. Either Carter himself or one of the stewards who was assigned to

work in the office would accompany the accountant to the job site where each foreman would be told to gather his crew in order to receive their paychecks. Each worker would then have to appear, present identification, usually a New York driver's license or Social Security card, and sign for receipt of the check. No particular accountant ever performed this audit regularly and the accountant who came to the job site was usually a different one each time. The head of the payroll department at Secaucus, New Jersey, Joseph Aulisi, performed this function at the Vernon Boulevard project maybe once or twice between 1974 and 1980.

Carter advised he was never notified in advance that an auditor was coming. It did occur on perhaps one or two occasions that in talking to someone at SCC headquarters in Secaucus on other routine matters, it would come out in conversation that one of the accountants was coming to the job site, which obviously meant an audit, but Carter never relayed this information to anyone, with the possible exception of casually mentioning it to the general manager. Carter also noted that it was usually fairly obvious to anyone who was paying attention that an audit was going to occur on a particular Wednesday in that the regular company courier usually arrived between 9-10 a.m., with the payroll checks on a given Wednesday morning. If the checks had not been delivered to the site by 10 a.m., or so, that was usually a good indication that an accountant/auditor was bringing the checks as they usually came a little later, around noon, to distribute the checks. Again, no one would know this until after 10 a.m. or so when the regular courier had either not arrived yet or had arrived and not brought the paychecks with him, so that one could speculate that the checks were being delivered later by an auditor.

Carter advised he was not aware of anyone having had any advance knowledge of or receiving prior notification of an audit to be conducted and felt sure that if such were the case he would have known about it.

In response to a question concerning his knowledge of "no shows" or "ghost workers," Carter advised he is familiar with the practice: however, he is not aware of any such practices occurring on the Vernon Boulevard project. Carter advised that one of his unofficial functions was to keep a check

on such practices and his routine duties called for him to occasionally go out to the job site and check with the foremen and/or various workers on a number of administrative-type matters. Carter always made it a point to engage the foremen and workers in casual conversation about the job or other matters and to ask about what this or that worker or crew was doing and how the job was going and in so doing was able to pretty well determine who was and who was not on the job site. All of the workers also had to report initially to Carter when they first started on the job, so that he in effect had met all of them personally and through handling the time sheets on a daily basis was quite familiar with the names of the workers and which crew they belonged to. As noted previously, it was also the responsibility of the various SCC superintendents on the job site to insure that the workers were actually on the job and to review and approve the time sheets submitted to Carter by the various foremen.

Carter stated he felt fairly certain that the practice of "no shows" or "ghost workers" did not exist to any degree and he certainly was not aware of it, if it did. Carter stated it is in the nature of worker-foreman relationships that occasionally a worker will have a good excuse to be off the job for an afternoon, for reasons maybe related to family sickness or some personal problem and upon being requested, the foreman will unofficially let the man go and then go ahead and submit a time sheet to show the man had worked. Carter stated that although he did not positively know of such occurrences, he suspected this type of situation probably occurred from time-to-time on a very limited scale.

Carter estimated that about two or three times a year he detected a situation wherein a time sheet was submitted for a worker whom Carter knew had not been on the job the day before. When he received the time sheet in such a situation, Carter immediately notified the project manager and the foreman who had submitted the time sheet and in no instances was the worker paid for that day. In most of these situations it was simply an oversight by the foreman.

When asked about the names Arthur or "Artie" Martin, Frank Russo, Carmine Buonanno, and John Busso, Carter advised the name of Artie Martin meant nothing

to him. As to Buonanno, Carter has heard that name in connection with an alleged Mafia or Cosa Nostra "Family" in New York, but could not recall the name Carmine Buonanno nor associate it with anyone at the Vernon Boulevard project. Carter advised Frank Russo is a very common name but could not associate it with anyone at the Vernon Boulevard project, as is also the case with the name John Busso. Carter advised that as timekeeper he was familiar with the names of workers at the Vernon Boulevard project: however, a large percentage of these workers had Italian names and the above four names did not seem familiar to him as employees at Vernon Boulevard.

Carter advised he was certainly familiar with Sonny Petito, a foreman of Local 29 of the Blasters, Drillrunners and Masons [sic] Union. Carter stated that to the best of his knowledge, Petito never had any advance knowledge of company payroll audits and felt there was no way he could have received any such advance knowledge.

Carter stated that Local 29 of the Blasters, Drillrunners and Masons Union usually had five or six crews on the job, each with a foreman and a general foreman to coordinate the various work crews. Petito held the position of foreman and general foreman for Local 29. Carter was familiar with the name of Louis Sanzo as president of Local 29 and recalled he visited the Vernon Boulevard project maybe once or twice during the six years Carter was on the job.

* * *

Carter reiterated he had no knowledge of any "no shows" in connection with Local 29 or any other unions and expressed his belief that such practices did not occur on the Vernon Boulevard project, at least not on a significant scale and that any such occurrences were on a very limited and isolated basis. Carter also stated he was not involved in any "kickback" arrangements with any union or company officials and knew of no such arrangements among other employees or SCC and union officials.

Carter stated he is very familiar with Raymond Donovan, the executive vice president of SCC, who had held that position during the entire time Carter worked for SCC. Carter stated it was his understanding that Donovan owns 35% of SCC and his

expertise is in labor relations and he generally handles purchasing of concrete and steel for the company. He stated he believed Donovan may have visited the Vernon Boulevard project site once during 1974-1980 and described his role in the company as being more oriented towards the financial end than the actual construction jobs.

Carter stated he has met Donovan many times at company social and business affairs and is on a first-name basis with him as well as with all the officers and directors of SCC. Carter described SCC as a very close-knit company, sort of a family situation in which everyone is on a first-name basis. There are about 200 employees of SCC who work with each other on a very informal basis. Annually, the company sponsors a trip for most of the employees' trips such as a week-long cruise on a ship to the Caribbean where business and company affairs are discussed in an informal atmosphere. During these and other company affairs, Carter has become well acquainted with Donovan as well as his family. Carter stated he had no knowledge of Donovan being involved in any sort of illegal or unethical activities.

Exhibit 85 at 1-7.

2. Statement to the Special Prosecutor. In an interview with the Special Prosecutor on May 19, 1982, Kenneth Carter repeated that he had no advance notice of payroll audit by SCC and that, to his knowledge, no one else on the Vernon Boulevard job had any such advance notification. He further reiterated that he was unaware of any no show employees on the Vernon Boulevard job. Moreover, he doubted that no shows existed to any significant extent on that job.

3. Grand Jury Testimony. Kenneth E. Carter testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

E. Joseph Aulisi

Agents of the Special Prosecutor interviewed SCC Payroll Manager Joseph Aulisi on May 3, 1982. Among other things, Aulisi stated that, as an audit procedure, approximately 6 to 12 times per year, SCC performed spot checks on its various construction projects. Either Aulisi himself or a timekeeper from another job site personally distributed the payroll checks to the workers at Vernon Boulevard, requiring the workers to present identification, usually a Social Security card, and sign for their checks on a prepared audit form. The checks of employees who were absent were returned to the office where the employees had to report on the following day to receive them.

Ordinarily, on the day immediately preceding any particular payroll audit the decision to conduct that audit was made. After the decision was made, Aulisi called the timekeeper who would perform it and instructed him to report to Aulisi's office in Secaucus on the next day. Because timekeepers were required to report to the Secaucus offices for various reasons, such an instruction would not immediately suggest a payroll audit and would in no event have disclosed which site was to be audited. Even when the timekeepers were advised that they were to report to SCC headquarters because they were to conduct an audit, they were not informed which site would be audited.

Asked about possible collusion among timekeepers, Aulisi stated that he had no indication that any such exist. Moreover, he said that, if it did exist, he doubted that Kenneth Carter would have been included as Carter was not, to Aulisi's knowledge, well liked or trusted among the employees.

Aulisi was unaware of any no show employees on the Vernon Boulevard job, and he was confident that the spot check system would have uncovered them had there been any. He did not recall whether he personally handled any spot checks in which he distributed checks payable to Carmine Buonanno, Frank Russo, John Busso or Arthur (Artie) Martin. Aulisi stated that he never advised Amadio (Sonny) Petito or Kenneth Carter of forthcoming payroll audits. Further, he was unaware of any other person who might have provided such advance notification to Petito or Carter.

F. Mario Capogrosso

1. Interview. During his January 28, 1982, interview by an agent of the Special Prosecutor, Mario Capogrosso stated that he was unaware of any no shows on any SCC construction projects with the exception of the working Teamster foreman whose no show status on the 63rd Street project led to the indictment of Harold Gross, but not SCC, by a grand jury sitting in the Eastern District of New York. 250

2. Grand Jury Testimony.

[GRAND JURY MATERIAL DELETED.]

ii. Local 29 Personnel

A. Louis C. Sanzo (Immunized)

[GRAND JURY MATERIAL DELETED.]

B. Amadio Petito (Immunized)

[GRAND JURY MATERIAL DELETED.]

C. Herbert Aikens

1. Statement to the Special Prosecutor.

Herbert Aikens was interviewed by agents of the Special Prosecutor on February 9, 1982. Aikens, a member of the Executive Board of Local 29 since 1976, stated that, in his capacity as shop steward on the Vernon Boulevard job, he occasionally cashed paychecks for Local 29 members.

He explained that the timekeeper, Kenny [Carter], who was responsible for issuing the paychecks, sometimes failed to distribute them until after lunch. The Local 29 members were by then back at work in the excavation. At such times, Aikens collected all Local 29 member's paychecks from Carter and delivered them to each worker by passing it down to him in a bucket from a cat walk above the cut. Those workers who chose to do so endorsed their checks and placed them back in the bucket for Aikens to retrieve and cash.

Aikens carried all endorsed paychecks to a check cashing service located at 40th Avenue and 21st Street in

Long Island City.²⁵¹ Aikens there endorsed each check, obtained separate envelopes for each worker's pay, and deposited the proper amount in each envelope. He then returned to the job site and distributed to each worker his money. Aikens received no consideration for cashing those checks.

Aikens insisted that he cashed Local 29 members' checks only when the timekeeper failed to distribute them before the lunch break. If the workers obtained their paychecks before lunch, they cashed their own checks during lunch.

There were approximately 72 members of Local 29 working on the Vernon Boulevard job, Aikens stated, and he knew all of them. Moreover, when distributing the checks, he kept track in a book he maintained which contained the names of all members on that project.

At no time, Aikens stated, did he ever sign another man's name on any SCC paycheck. Aikens was absolutely certain that the individuals who signed those checks were in fact those to whom the checks were made out. He was unable

251 On April 15, 1982, agents of the Special Prosecutor interviewed Gilbert S. Stevens who in 1977 was the manager of Queensboro Check Cashing, 39-44 21st Avenue, Long Island City, New York. Stevens said that he knew Herbie Aikens to have been a shop steward for Local 29 on SCC's Vernon Boulevard job. Every Wednesday, SCC's payday, Aikens came to the Queensboro Check Cashing with a number of paychecks to cash. Aikens was the only one who cashed multiple checks from the SCC job. Generally, Aikens carried three to five checks ranging from \$200 to \$250 each. During the approximately six month period in which Aikens was permitted to cash checks at Queensboro check cashing, the store handled approximately \$20,000 per week in Schiavone-Fitzpatrick payroll checks.

to explain why certain of the endorsements on the backs of some paychecks were misspelled.

Approximately twice every month and a half, Aikens reported, an auditor from SCC's home office arrived at the Vernon Boulevard site on payday. On such occasions, the timekeeper, the auditor and Aikens went down into the excavation to distribute the checks personally to each worker. The timekeeper required each worker to sign for his check. Without exception, there was a worker for each check; he could not recall there ever having been even one more check than workers.

Local 29 members accrued vacation stamps, redeemable in cash, for each they worked on the Vernon Boulevard job. When a worker accumulated a certain quantity of stamps, Local 29 issued a vacation check in the worker's name. As shop steward, Aikens gathered those checks at Local 29, took them to Manufacturers Hanover Trust branch at 86th Street and Third Avenue in Manhattan in order to cash them. The branch manager, after telephonically confirming with Local 29 the propriety of cashing the checks, and after Aikens endorsed each check, authorized the check cashing.²⁵² Aikens then

252 On March 23, 1982, agents of the Special Prosecutor interviewed R. Brancanti, Assistant Manager of the Manufacturers Hanover Trust branch located at 85th Street and Third Avenue. Brancanti stated that he was familiar with Herbie Aikens who, approximately two or three years ago, came into that branch to cash co-endorsed checks issued by Local 29. Aikens related he was cashing the
(Footnote Continued)

delivered the respective sums to the workers who had accrued the vacation benefits.

According to Aikens, he never cashed any vacation check for a non-existent person nor did he ever keep any of the money generated from cashing vacation checks.

2. Grand Jury Testimony (Immunized)

On May 5, 1982, following the entry of an order pursuant to 18 U.S.C. § 6002 directing him to testify, thereby conferring use immunity with respect to his testimony, Herbert Aikens testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

D. Joyce Y. Cole

1. Statements to Labor Department. A Special Agent of the U.S. Department of Labor twice interviewed Joyce Cole during February 1979. In her February 1 interview, Cole reportedly stated, inter alia:

Vacation Fund money was obtained by "no show" union employees. Such employees were carried on the employee rolls and employee checks made out to these

252 (Footnote Continued)

checks for Local 29 workers who were unable to leave the jobsite. Aikens provided a Local 29 union identification card when cashing the checks, and he never cashed more than two or three on any visit. As a matter of bank policy, Brancanti always telephoned Local 29 officials before cashing the checks to insure that Aikens was authorized to receive payment. Brancanti received such approval usually from Cavalieri, Jr. but also, on occasion, from Mario Montuoro. Once approval was obtained, Brancanti authorized payment to Aikens on those instruments.

fictitious employees were picked up from the employer and taken to the union and cashed. In addition to the "fictitious employees" [sic] salaried [sic] checks cashed at the union office, the Vacation Stamps, which were a part of the employees' fringe benefits, were also cashed in, at the union, in behalf of the "fictitious employees". Vacation checks are cashed twice a year, June and December. HERBERT AIKENS, Shop Steward, and employee, was one of the individuals endorsing "fictitious employees" salaried [sic] checks and Vacation Fund checks at the union. One of the employer contractors which was involved in "no show" or "fictitious employees" was SCHIAVONE FITZPATRICK. Two such "fictitious employees" were RUSSO and BUONNANNO [sic].

Official report of interview, S.P. nos. 150221-150222.

On February 5, 1979, Cole further advised the Labor Department agent, according to his report of interview, that:

CARMINE BUONNANO [sic] was a "no show" fictitious employee with SCHIAVONE FITZPATRICK Construction Co. BUONNANO owns his own business. He sharpens bitts [sic] for construction. He works out of his home. He also has a truck and repairs equipment and tools for CONSOLAZIO CONSTRUCTION CO., as well as for MUORTORE CONSTRUCTION CO.

JOHN BUSSO is also a "no show" fictitious employee. BUSSO either has his own business or works for AROMA-RITE, 46-23 Skillman Ave., Long Island City. BUSSO also allegedly worked for SCHIAVONE FITZPATRICK during 1976. BUSSO was in jail in 1975 or 1976, or both, at Rikers Island.

S.P. no. 150227.

2. Grand Jury Testimony.

[GRAND JURY MATERIAL DELETED.]

E. Samuel Cavalieri, Jr.,
(Immunized)

Samuel Cavalieri, Jr., testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

F. Charles Smith

Charles Smith, a member of Local 29 since 1953 and a running mate of Mario Montuoro in 1980 Local 29 elections, testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

iii. The Alleged No Shows

A. John Busso

1. Interview. John Busso was interviewed on March 19 and April 13, 1982. Busso stated, among other things, that he worked as a drillrunner on the Vernon Boulevard job in approximately 1977 or 1978.²⁵³ His foreman was Sonny Petito; his hours were reported by the Local 29 shop steward, Herbie [Aikens]. Busso never received a check for work he had not performed. He was paid by SCC check; the shop steward cashed Busso's checks for him and, without exception, returned to Busso his full net pay.

2. Grand Jury Testimony. John Busso testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

3. Incarceration. A review of records at the Rikers Island archives reflected that John Busso was incarcerated weekends only from May 17 1976, until May 1, 1977. Busso was not in custody Monday through Friday.

253 Busso concluded that he might have worked for only a few weeks in 1977 because his unemployment insurance book reflected that he had collected benefits for much of the year.

B. Carmine Buonanno

1. Statement to the Special Prosecutor. Carmine Buonanno was interviewed by an agent of the Special Prosecutor on April 2, 1982. Among other things, Buonanno stated that, during 1976, 1977 and 1978, he worked as a drillrunner and helper on the Vernon Boulevard job. Buonanno obtained his employment through Sonny Petito and worked on Petito's crew. He worked with Charlie D'Angelis and Jimmy Lauer, Buonanno's brother-in-law.²⁵⁴

Petito or Herbie Aikens was responsible for maintaining Buonanno's time records. Occasionally, Buonanno noted, someone from SCC conducted spot checks of employee attendance. Buonanno stated that he was present on the job site for every day that he was paid by SCC, and he was never paid for any day that he was absent from the site. His pay for 1977 amounted to approximately \$19,000.

According to Buonanno, Petito or Aikens cashed Buonanno's checks because Buonanno was given no time to do

254 Following Buonanno's grand jury appearance, James Lauer was interviewed by an agent of the Special Prosecutor. Lauer, a member of Local 29 since 1968 and an elected official for the past two years, stated that he was not instrumental in getting Buonanno his job at SCC--that, indeed, Buonanno antedated Lauer in service at Vernon Boulevard. Lauer did not recall having asked Petito to obtain employment for Buonanno on the Vernon Boulevard job. Lauer added that, while he did not work side-by-side with Buonanno, he ran into him at the Vernon Boulevard job site and occasionally lunched with Buonanno and other employees. [GRAND JURY MATERIAL DELETED.]

so. Aikens or Petito even endorsed Buonanno's name on the back of his check as they did for certain other workers. Buonanno received all of his pay from Aikens or Petito, and he did not kick back any sum because he had "been in the construction business too long".

Buonanno, who said he is also known by the nickname "Al Bananas," said that he had never heard of any Frank Russo.

2. Grand Jury Testimony (Immunized). Carmine Buonanno appeared before the grand jury on April 14, 1982. His counsel advised that Buonanno would not testify on the ground that any such testimony might tend to incriminate him. Consequently, on the same date, Judge Charles P. Sifton of the United States District Court for the Eastern District of New York entered an order pursuant to 18 U.S.C. § 6002 compelling Buonanno to testify, thereby conferring upon him immunity with respect to the use of such testimony. Buonanno testified thereafter.

[GRAND JURY MATERIAL DELETED.]

C. Arthur Martin

Concerning the late Arthur Martin, Vito D. Derasmo of Local 29 testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

D. Frank Russo

Agents of the Special Prosecutor unsuccessfully attempted to locate Frank Russo. No one by that name resided at either the address appearing on Russo's form W-2 from 1977 or the current address at which the Internal Revenue Service has him listed.

Indeed, at the latter address, no one had heard of him. Similarly, inquiries made of the letter carriers delivering to Russo's apparent addresses, and a New York State motor vehicle registration check, proved unavailing. Finally, on April 13, 1982, the Special Prosecutor asked Louis Sanzo's counsel to determine whether Sanzo knew Russo's whereabouts. On the same date, Sanzo's counsel responded that Sanzo did not have that information.²⁵⁵

E. Michael Paradiso

Michael Paradiso testified before the grand jury, in accordance with an order issued pursuant to 18 U.S.C. § 6002, on May 13, 1982, one week after he was adjudicated in civil contempt of court for his refusal to be sworn or answer any questions and two days after the United States Court of Appeals denied his motion for a stay of the sanctions imposed in connection with that contempt. [GRAND JURY MATERIAL DELETED.]

F. Martin Purtell, Jr.

Martin Purtell, Jr., was interviewed by an agent of the Special Prosecutor on March 16, 1982. Purtell stated

255 Local 29 records provided to the Special Prosecutor reflected payments toward a union book by Frank Russo as follows:

9/9/76	\$30
9/23/76	\$30
10/12/76	\$20
11/12/76	\$30
12/16/76	\$30
Total	\$140

Balance: \$75.

S.P. nos. 385175, 385189, 385208, 385246 and 385313.

that, from late 1976 until July 1, 1977, he worked as a laborer on a lather crew²⁵⁶ at the Vernon Boulevard job. Throughout his employ, Purtell worked on the crew of lather foreman Robert Burns, who maintained the timesheets. Moreover, Purtell was a member not of Local 29 but, rather, of the Excavators Union, Local No. 731.²⁵⁷

His employment on the Vernon Boulevard job was not steady, Purtell said, but on an as-needed basis. He was paid by check and he gave none of his pay to anyone else. His SCC salary for 1977 was the \$10,520.95 amount reflected on the W-2 bearing his name. The only other income Purtell had in 1977 was \$2,172 that he earned from an elevator company in Philadelphia; that income was earned at a different time during the year from his SCC income.

Purtell stated that he worked for all of the money which he received from SCC. He further stated that he was not aware of any no show employees on the Vernon Boulevard job, either in his crew or in any other crew.

G. Frank Petrullo

On March 15, 1982, an agent of the Special Prosecutor interviewed Frank Petrullo. Although Petrullo did not

256 Lathers tied together the metal support rod within cement. Purtell was responsible for moving the rods into position for the lather to tie.

257 Purtell was shown a copy of the Local 29 Pension Fund card bearing his name. That card (S.P. no. 410586) reflected that 32 hours of labor were credited to Purtell by Local 29's Pension Fund in May 1977. Purtell said he knew nothing about it.

initially recall whether he had worked for SCC in 1977, stating that he worked many jobs in the course of a year, he did recall working for a "blasters outfit" in or about that year.

Following a review of his 1977 tax return, Petrullo noted that he had then worked for SCC. He concluded that the "blasters outfit" in which he worked must have been on the SCC project. However, Petrullo did not recall the location of the project or the names of his foreman and/or fellow workers. Petrullo was never a dues-paying member of Local 29.

All of the salary that Petrullo received he worked for, he said. Moreover, he kept the money he was paid. He never turned any of it over to any third person.

H. Richard T. Fitzsimmons

Richard T. Fitzsimmons was interviewed by an agent of the Special Prosecutor on March 26, 1982. Fitzsimmons, who is the son of Local 147 business agent Richard E. Fitzsimmons,²⁵⁸ worked for SCC in 1976 and 1977 during his summer vacations from school. The younger Fitzsimmons was employed as an office worker at the SCC offices in the Barbizon Hotel at an hourly wage of \$3.00 or \$3.50. He was paid by check and either he or his mother cashed the checks. He worked all the hours for which he was paid, and he did not kick back or give any of the money he earned to anyone.

258 See Section IV.D.3.d.i., supra.

I. Dominic Falciglia

On March 16, 1982, an agent of the Special Prosecutor interviewed Dominic Falciglia, who reported that he had worked for SCC during 1977 for approximately three weeks. Falciglia did not remember from whom he had learned about the job opening or who, if anyone, secured the job for him. Falciglia worked at the 63rd Street job as a nipper. He was responsible for opening the drill shed in the morning, oiling the drill guns and keeping the drill bits sharp. He worked on a crew of approximately 10 workers.

Falciglia's starting salary was something over \$300 per week. He worked for all of the money he was paid and he kicked back none of it to anyone. Falciglia observed that, although he never joined Local 29, the union withheld certain dues from his paycheck. He believed that he received approximately \$25 from the union after he terminated his employment for the dues withheld.

J. Jack Maculso

An agent of the Special Prosecutor interviewed Jack Maculso on March 22, 1982. Maculso stated that he worked for SCC for approximately nine days in January 1977 on the Vernon Boulevard job. He obtained his job through his uncle, John Busso, and he worked for Sonny Petito's crew as a laborer. Maculso described himself as a "gofer" who packed sandbags and got drill bits, lunch and most anything else requested by the crew members.

Maculso reported to work every morning at the hut in which the explosives were maintained. He worked every day for which he was paid and he gave none of his pay to anyone else as any kind of "kickback." Maculso was paid by check, and he cashed his checks at a check cashing service.

After his nine day stint, Maculso was laid off. He did not belong to Local 29 prior to the Vernon Boulevard job and he never went back to work as a union member thereafter.

K. Stanley Lucas

On March 14, 1982, Stanley Lucas was interviewed by an agent of the Special Prosecutor. Lucas recalled having worked for SCC for approximately one month in 1978 as a driller's helper. He was employed on the 63rd Street job.

The \$641 amount reflected on Lucas's form W-2 was correct, he said. Lucas stated that he worked for all of the pay he received and that he did not turn over to anyone any part of his salary.

L. Nancy Fitzsimmons

An agent of the Special Prosecutor interviewed Nancy Fitzsimmons, the sister of Richard T. Fitzsimmons and the daughter of Local 147 business agent Richard E. Fitzsimmons, on March 16, 1982. Ms. Fitzsimmons stated that she was employed by SCC during her summer vacation from school in 1979. She worked at the 63rd Street job office answering the telephones and doing filing work. She worked in that capacity for only a few weeks. Ms. Fitzsimmons said

that she earned all of the money that she was paid and that she never gave any of that money to any third person.

M. Robert Compito

Robert Compito was interviewed by an agent of the Special Prosecutor on March 17, 1982. He stated that he worked for SCC on the Vernon Boulevard job for a little over one week in approximately December 1977. Compito obtained his job through his cousin, Joseph Ragussa. Other than his immediate boss, whose first name was Sonny, Compito was unable to recall the names of any other workers on the job with him. When he contracted hepatitis, he was forced to cease working, and he never resumed on the Vernon Boulevard job.

Compito stated that he worked for all of the salary that he was paid. He further said that he received his entire salary, that he kept it and did not turn any of it over to any third person.

N. James Lenhart

On March 14, 1982, James Lenhart was interviewed by an agent of the Special Prosecutor. Lenhart recalled having worked for SCC for approximately two weeks in 1979. However, he did not recall the exact location of the job on which he worked because, he said, he had many jobs that year. It was his recollection that he worked for approximately two weeks in February 1979 on some job for the Port Authority.²⁵⁹

259 According to the Local 29 Pension Fund records, Lenhart
(Footnote Continued)

Lenhart was a driller's helper on the Vernon Boulevard job. He acknowledged that the \$342 amount reflected on the form W-2 bearing his name was the correct amount of gross wages that he earned on the job. He said that he earned all of the pay that he received, and he did not kickback any sum to any third person.

O. Jeremiah Mahoney

Jeremiah Mahoney was interviewed by an agent of the Special Prosecutor on March 14, 1982. Mahoney stated that he worked for SCC for one week in approximately February 1977 on the Vernon Boulevard job. His duties included changing bits on an air track. He was laid off after approximately one week due to lack of seniority.

Mahoney worked for all of the salary he was paid, he received his full salary and he did not turn any of his money over to anyone, he said. He acknowledged that the \$334 sum reflected on the form W-2 was the actual amount of gross wages that he earned from SCC in 1977.

P. Curtis English, Jr.

On April 7, 1982, Curtis English was interviewed by an agent of the Special Prosecutor. English stated that he

259 (Footnote Continued)

worked for SCC in October 1979. However, he did work for another contractor in February of 1979; further, he worked again for Schiavone-Fitzpatrick in February 1980. S.P. no. 410596.

was employed as a helper on the 63rd Street job for approximately one week before he was laid off due to a strike. His duties included such miscellaneous jobs as filling sandbags and assisting blasters and drillers. Mario Montuoro got English his job.

English stated that he earned all of the salary that he was paid and that he did not kick back or payoff any sum to any third person.

Q. Joseph Ragusa

On May 27, 1982, Joseph Ragusa was interviewed by agents of the Special Prosecutor. Among other things, Ragusa stated that he had been a member of Local 29 since 1972 and that Sam Cavalieri, Sr., is his uncle.

Ragusa stated that he had worked on three SCC projects: the Vernon Boulevard job and Sections 5A and 5B of the 63rd Street job. On the Vernon Boulevard job, Ragusa said, workers had no advance notice of payroll audits by SCC. 260 On both Sections of the 63rd Street job, he was a

260 Attorney James Harmon of the Brooklyn Strike Force received an anonymous letter alleging, inter alia, that Ragusa had, among other things, taken a vacation with Raymond Donovan. Questioned about that allegation, Ragusa dismissed it out of hand. He said that he had met Mr. Donovan, but did not know him personally. To the best of his recollection, Ragusa said, he never even saw Mr. Donovan on a job site.

blasting foreman and maintained all time records for Local 29 members. He denied that he had ever been a no show employee or that there were any no shows on the jobs on which he had served as chief blaster.

R. Others

Joseph Noto, James Ingram and Lloyd Edwards could not be located. Agents of the Special Prosecutor attempted to locate each of the three at the addresses reflected on their 1977 forms W-2; none of them could be found. Current addresses were obtained from the Internal Revenue Service and checked, but the three men could not be located. In view of the minimal amounts of money earned by each of them--\$128.20, \$481.44 and \$868.48, respectively--this inquiry was not further pursued.

iv. Secretary Donovan

During his May 10, 1982, statement to the Special Prosecutor, Secretary Donovan stated he did not know, and had never met, Carmine Buonanno, John Busso, Arthur (Artie) Martin, or Frank Russo. Mr. Donovan was unaware whether Buonanno, Busso, Russo or Martin were no shows. To Secretary Donovan's knowledge, SCC did not have any no show employees on the Vernon Boulevard job.

Secretary Donovan had nothing to do with authorizing payment to, or in the name of, any no show employees on any SCC projects. To his knowledge, none of the principals of SCC authorized any such practice. [GRAND JURY MATERIAL
DELETED..]

3. Conclusions

a. The Grand Jury

The grand jury on June 18, 1982, declined to indict Mr. Donovan with respect to his testimony before the grand jury concerning the no show allegation.

b. The Special Prosecutor

Substantial evidence indicates that there were no show employees on SCC's Vernon Boulevard job. Moreover, in the view of the Special Prosecutor, there is evidence that perjury was committed before the grand jury in connection with the no shows. However, that perjury was not committed by Secretary Donovan and does not involve or implicate any person covered by the Ethics in Government Act. It is, therefore, being referred to the Department of Justice for further action.

There is insufficient evidence to warrant any prosecution of Secretary Donovan with respect to the no shows on the Vernon Boulevard job or his testimony concerning the same.

VI. ALLEGED TIES TO ORGANIZED CRIME

In addition to the Montuoro allegations, a series of allegations purportedly linking the Secretary to various alleged organized crime figures (the "organized crime allegations"), some of which dated back to Mr. Donovan's confirmation hearings, came to the attention of the Special Prosecutor. Various informants, many anonymous, proffered the allegations; very few claimed to have firsthand knowledge of the matters alleged. An intensive investigation by the Special Prosecutor failed to uncover credible evidence that Secretary Donovan, who denied any personal or business relationship with any known organized crime figures,²⁶¹ had such associations.

A. The Allegations

1. Szapor Allegations: Relationship With the Moscatos

Joseph G. Szapor, formerly a federally protected witness who has in the past been convicted of counterfeiting, hijacking and illegal possession of firearms, made a series of "organized crime" allegations commencing shortly after Secretary Donovan's confirmation (the "Szapor allegations"). The theme of the Szapor allegations was a relationship between

261 Hearings on the Nomination of Raymond J. Donovan, of New Jersey, to Be Secretary of Labor Before the Senate Committee on Labor and Human Resources, 97th Cong., 1st Sess. 335 (January 30 (legislative day, January 5), 1981) (the "Hearings").

the Secretary and Philip (Brother) Moscato ("Moscato"), reputedly an organized crime figure originally from Jersey City, New Jersey.²⁶²

a. Statements to the FBI and DOJ

i. February 6, 1981

In a telephone interview with an FBI agent on February 6, 1981, Szapor stated, according to the official report of interview²⁶³

that during the period of 1960 through April, 1979, while he operated the business known as Joe's Truck Stop, 340 Tonnelle Avenue, Jersey City, New Jersey, he learned that it was "common knowledge" in the Northern New Jersey area that Schiavone Construction Company (SCC) made "payoffs" in order to obtain preferred contracts through the rigging of construction bids. Szapor advised that he had no personal dealings with SCC in a business sense, nor did he have any direct involvement with Ray Donovan or SCC in any scheme whereby "payoffs" were made for "labor peace".

Szapor advised that he knows of Ray Donovan from having observed Donovan in the presence of Philip "Brother" Moscato, along with Moscato's brother, Joey Moscato, at the Lil'[sic] Red Buggy, an Italian restaurant located just off Kennedy Boulevard in Jersey City, New Jersey. Szapor recalled having observed Donovan in Moscato's presence on several occasions during the period of approximately 1976 or 1977. The Moscato brothers did

262 Senate Comm. on Labor and Human Resources ("Senate Labor Committee"), Report on the Nomination of Raymond J. Donovan, of New Jersey, to be Secretary of Labor, 97th Cong. 1st Sess. 19 (1981) (the "Senate Report"); Locklin, "Senate Didn't Get All FBI Has on Moscato," The Record, Feb. 10, 1981, at A1-A2; S.P. no. 101231.

263 A copy of which is annexed as Exhibit 32.

business as Moscato Brothers Construction Company (MSCC) and to the best of Szapor's recollection maintained an office in Arlington, New Jersey.

Exhibit 32 at S.P. no. 101499.

ii. December 7, 1981

Ten months later, on December 7, 1981, Szapor telephoned an attorney in the Department of Justice Organized Crime Strike Force located in Newark, New Jersey (the "Newark Strike Force"). The Szapor allegations of December 7 were considerably more detailed and broader than those made on February 6, 1981. As set forth in a December 11, 1981, memorandum²⁶⁴ prepared by the Newark Strike Force attorney who received the call, Szapor said:

"You know that stuff about Donovan, well now I'm willing to come forward with it." I indicated to Szapor that I knew that he had previously furnished information with regard to Raymond Donovan, but that I did not know the precise details of the information. Szapor advised me that he had seen Raymond Donovan in the company of Salvatore Briguglio, Philip Moscato and Nunzio Provenzano. I did not inquire of Szapor as to how many meetings he had witnessed or as to which of the individuals were present at any meetings that he witnessed-- since he was referring to information which he had previously given to Special Agent Hersh of the FBI during Donovan's confirmation hearings. Szapor further advised that he had seen Donovan in the company of these individuals at a restaurant on Newark Avenue in Jersey City, New Jersey. Szapor recalled that, in an attempt to refresh his (Szapor's) recollection, Special Agent Hersh had driven Szapor to the area of the restaurant (during the period of the Donovan hearings), and Szapor was able to identify the location in question.

²⁶⁴ A copy of which is annexed as Exhibit 33.

Szapor further stated that the reason that he was calling was to advise the Government that he was now willing to testify about the information which he had previously provided but which he had refused to testify about at that time. Szapor requested that he be put in touch with Special Agent Hersh, who has since left the Newark Field Office of the FBI. Szapor indicated that he wished to speak to Special Attorney Thomas Weisenbeck, an attorney that Szapor had worked with as a Government witness in the trial of United States v. Nunzio Provenzano, et al. Inasmuch as Weisenbeck was not available at that time, Szapor agreed to call back at approximately 11:00 a.m. on Wednesday, December 9, 1981. Szapor did not call back at that time. During his conversation of December 7th, Szapor indicated that he had become estranged from both his wife and girl-friend, that he had lost his job, and was now willing to come forward because, "I ain't got nothing now."

Exhibit 33 at S.P. nos. 101517-101518.

The late Salvatore Briguglio was, as is Philip Moscato, a reputed organized crime figure whose name was brought before the Senate Labor Committee during the confirmation hearings.²⁶⁵ Nunzio Provenzano is the brother of Anthony (Tony Pro) Provenzano. Nunzio Provenzano has been convicted on labor racketeering charges.²⁶⁶

265 Senate Report at 32-33 (including the Insert). See also Exhibit 48, annexed (Locklin, "Senate Didn't Get All FBI Has On Moscato," The Record, Feb. 10, 1981, at A1, col.1).

266 Provenzano's counsel advised the Special Prosecutor that the conviction was recently affirmed by the United States Court of Appeals for the Third Circuit.

b. Statement to the
Special Prosecutor

Agents of the Special Prosecutor interviewed Joseph G. Szapor on February 16, 1982. His allegations on that date took yet another turn. Szapor said, among other things, that he was acquainted with Philip (Brother) Moscato and Moscato's brother, Frank (Chickie) Moscato. Szapor had been introduced to the Moscatos by Szapor's friend and former business partner, Joseph (Trixie) Ross. Szapor related a rumor that the Moscato brothers and SCC were "dealing" on various construction contracts: bypassing the bidding process and agreeing to share the work on certain projects rather than to compete against one another. However, Szapor had no personal knowledge of any facts corroborating this allegation.

Szapor stated that in approximately 1967 and 1968 the Moscato brothers purchased the Red Buggy Restaurant ("Red Buggy") in Secaucus, New Jersey. The Red Buggy was destroyed by fire within a couple of years of its opening, and the Moscatos thereafter purchased the Li'l Red Buggy Restaurant ("Li'l Red Buggy") on Newark Avenue in Jersey City. Szapor frequented the Li'l Red Buggy. On virtually every visit, Szapor saw the Moscato brothers present. In approximately 1974-1975, the name of the establishment was changed to the Casa Dante Restaurant ("Casa Dante's"). Szapor continued to patronize Casa Dante's and, even though the restaurant may have undergone a change in ownership, Szapor continued to see the Moscatos there two to three times per week.

While dining in Casa Dante's in 1976-1977, Szapor stated that he observed the Moscato brothers at a table with Raymond Donovan. Szapor might have been introduced to Mr. Donovan on that occasion, but he tended to believe that he had not--that someone in his party had identified Mr. Donovan to Szapor from a distance. Szapor could not recall the identities of his dinner companions.

At a later date, which he could not specify, Szapor said that he again observed Mr. Donovan in the company of the Moscatos at Casa Dante's during the evening hours. On that second occasion he recognized Mr. Donovan from the prior occasion. Szapor was unable to recall with whom he was eating on the second occasion when he observed Mr. Donovan in the company of the Moscatos. However, Szapor noted that when he ate at Casa Dante's he was customarily accompanied by Joseph Ross and Szapor's secretary, Norma Delvecchio, or out-of-town guests.

On at least one of the two occasions that Szapor remembered seeing the Moscatos and Mr. Donovan together, they sat at the table which Szapor described as the Moscatos' favorite: the first table on the right-hand side entering the main dining room of Casa Dante's.²⁶⁷

267 Annexed as Exhibit 34 is a scale drawing of Casa Dante's prepared by the FBI at the Special Prosecutor's request. The main dining room of the establishment appears on the upper half of the page. The table identified by Szapor is that located on the lower right-hand corner of that room.

In contrast to his reported statement of December 7, 1981, Szapor asserted that, while he knew Salvatore Briguglio and often saw Briguglio in Casa Dante's, he could not recall ever having seen Briguglio in the restaurant with the Moscatos.

Moreover, again in contrast to his December 7 statement to the FBI, Szapor acknowledged that, while he might have seen Nunzio Provenzano at Casa Dante's, he was uncertain whether he had ever seen Nunzio Provenzano there in the presence of either the Moscatos or Mr. Donovan.

Asked to identify other possible witnesses to the alleged Casa Dante meetings of Mr. Donovan and the Moscatos, Szapor mentioned a delegate from Local 560 known to him only as "Lutzy." Szapor knew of no one else who frequented the restaurant.

Shown a series of the photographic spreads including pictures of Messrs. Donovan, Liguori, DiCarolis and Schiavone (the "SCC spreads"), Szapor selected a photograph of Raymond Donovan as depicting the man whom he had observed with the Moscatos on two occasions in Casa Dante's. Szapor believed that Mr. Donovan was wearing glasses on those occasions. Szapor denied that he had seen any photographs of Mr. Donovan in the newspapers or on television. Apart from the photograph of Mr. Donovan, Szapor selected from the SCC spreads only the photograph of Joseph DiCarolis. While he was certain that he had seen that man somewhere, Szapor could

not remember the date or location. Prior to having been shown any photographs, Szapor stated that he might have seen Ronald Schiavone together with the Moscatos at Casa Dante's. However, when shown a spread including the photograph of Ronald Schiavone, Szapor could not identify any of the individuals, including Ronald Schiavone. Szapor correctly identified, from another spread of photographs, Philip Moscato.²⁶⁸

c. Grand Jury Testimony

Joseph G. Szapor testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

2. Picardo Allegations

Ralph M. Picardo, another former participant in the federal witness protection program whose admitted crimes include loansharking, fencing, labor racketeering and conspiracy to commit murder, played a prominent role as a source of allegations during the Secretary's confirmation hearing,²⁶⁹ Picardo brought six allegations (the "Picardo allegations") to the attention of the Special Prosecutor. Three of the Picardo allegations alleged a relationship between Mr. Donovan and Salvatore (Sally Bugs) Briguglio; the fourth a relationship between Secretary Donovan and Armand (Cokey)

268 At the time of the Szapor interview, no photograph of Frank Moscato was available.

269 See Senate Report at 10-19, 26-27, 32-33.

Faugno; the fifth a relationship between the Secretary and William V. Musto; and the sixth a relationship between the Moscatos.²⁷⁰ The Picardo allegations, as made to the Special Prosecutor, were materially at variance with those he asserted at the time of the Secretary's confirmation hearings.

Many were internally inconsistent as well.

a. Alleged Relationship with Salvatore (Sally Bugs) Briguglio

i. Blank Invoice Payoff Scheme

A. Statements to the FBI and Others

During January 1981, Ralph Picardo made a series of statements concerning Secretary Donovan to agents of the FBI and others. On January 13, 1981, according to a report of interview²⁷¹ Picardo told an FBI agent that he

recalled Schiavone Construction Company (SCC) as a firm located on Paterson Plank Road, Secaucus, New Jersey. Picardo became involved with SCC during either the latter part of 1967 or the early part of 1968, as the result of his employment at O.K. Trucking (OKT), a firm operated by Al Checci. Checci managed or operated OKT on behalf of its hidden owner, Salvatore Briguglio, an individual who

270 The backgrounds of Salvatore Briguglio and Philip Moscato are discussed above, in Section VI.A.1., supra, and below, in Section VI.A.2., infra. Faugno's organized crime affiliations are set forth below in, inter alia, Sections VI.A.2.a.i., infra. New Jersey State Senator and Union City Mayor William V. Musto was convicted on March 26, 1982, of conspiring with a government contractor to inflate construction costs on two projects and of sharing in the proceeds; he was sentenced to seven years imprisonment. New York Times, May 11, 1982, at B1, cols. 5-6.

271 A copy of which is annexed as Exhibit 35.

was employed as a Business Agent at International Brotherhood of Teamsters (IBT) Local 560, Union City, New Jersey. Briguglio brought Picardo to OKT in order to learn the trucking business. During this period OKT operated approximately six trucks and was involved with local cartage work. OKT did not own any Interstate Commerce Commission (ICC) authority.

Picardo visited SCC on approximately 15 or 20 occasions in order to "pick up" checks which were offered as payment for "labor peace" on behalf of SCC. Picardo "dropped off" invoices which were prepared in order to generate checks for the alleged rental of trucks/tractors to SCC by OKT. Picardo advised these invoices were fraudulent since OKT never furnished any equipment to SCC and the invoices were merely a method utilized to generate "pay offs". Subsequent to his receipt of these checks, Picardo furnished the checks to Checci, who then cashed these checks and furnished them to Briguglio. Picardo recalled several of these checks being made payable to OKT or XYZ Leasing (XYZL) in the amounts of approximately \$500. XYZL was a company operated by Picardo. During this same time period trucks/tractors legitimately rented for approximately \$100 per week.

Picardo recalled that he furnished these invoices to and received the checks from an individual employed at SCC whom Picardo recalled as having the first name of Ray. This individual impressed Picardo as being one of the executives at SCC since he had his own office in the company while the majority of the other employees did not. As the result of his extensive dealings with Salvatore Briguglio, Picardo learned that Briguglio generally always dealt with management level employees in the generation of "pay offs" for "labor peace". Picardo was unable to recall if this individual had the last name of Donovan. Picardo described this individual having the first name Ray as being a white male, in his mid to late 30's, who had a medium build and stood between 5' 11" and 6' 0" in height, with medium colored hair.

Through discussions with Briguglio, Picardo learned that the "labor peace" which was granted to SCC by Briguglio, involved the use of non-union owners/operators by SCC in lieu of union drivers. The use of non-union owners/operators resulted in a considerable savings to SCC. Picardo further

learned from Briguglio that Briguglio also received money from a company operated by Philip "Brother" Moscato as the result of subcontract work done for SCC by Moscato's company. Moscato gave these monies to Briguglio.

Exhibit 35 at 1-2.

In a second interview on the same day,²⁷² Picardo advised that, in response to an FBI agent's request, he

viewed a photograph of Raymond Donovan which was contained on the front page of the New York Times newspaper, dated January 13, 1981. Subsequent to his review of this photograph, Picardo advised that the individual depicted in this photograph was the same individual whom Picardo knew to have the first name Ray, who was employed at Schiavone Construction Company (SCC), Secaucus, New Jersey, and who furnished Picardo with "pay offs" on behalf of SCC. The individual depicted in the photograph appeared older, heavier, and had somewhat darker hair than when Picardo had dealt with him. Picardo additionally recalled the individual as having worn glasses with plastic frames, rather than the metal frames as was depicted in the photograph.

Exhibit 36.

Two days later, on January 15, 1981, Picardo was interviewed at FBI headquarters in the presence of a Newark Strike Force attorney, two Senate Labor Committee staff assistants and two FBI agents (the "January 15 Picardo interview"). As set forth in the report of the January 15 Picardo interview,²⁷³ Picardo said that

he first became associated with the Schiavone Construction Company (SCC), Secaucus, New Jersey, in

272 A copy of the formal report of interview is annexed as Exhibit 36.

273 A copy of which is annexed as Exhibit 37.

approximately 1965 or 1966. At that time he was working for Sal Briguglio, a reputed Capo in the Vito Genovese La Cosa Nostra (LCN) family. He was also in association with Armand Faugno and Tony Provenzano also reputed organized crime figures. Mr. Picardo noted that the purpose of the association with Briguglio was to learn the trucking business by working for O.K. Trucking Company, a firm owned silently by Briguglio but operated by an individual named Al Checci who is now deceased. As part of his job, Mr. Picardo was told by Briguglio to take invoices to the SCC. He was told to go to SCC and ask for "Ray" to deliver the invoices and pick up checks. Mr. Picardo recalled that he was told by Sal Briguglio that the "Ray" he was to contact at SCC was an executive of the company. He further recalled that he had no difficulty in locating the person known as "Ray" at SCC he simply asked a secretary where to find "Ray" and he was directed to him. Mr. Picardo noted that "Ray" had what appeared to be a private office while others at SCC did not and therefore, he presumed "Ray" was an executive at SCC. He was not positive, however, that the office he saw was in fact "Ray's" office. It was Mr. Picardo's recollection that the office that he believed to be "Ray's" was "up a flight of stairs." He described the SCC offices to be in what appeared to be a remodeled residence on Patterson Plank Road, at the end of the street, across from a ready mix concrete company. Mr. Picardo could offer no specific description of what he believed to be "Ray's" office. He described "Ray" as being 5 feet 11 inches to 6 feet tall, about 38-40 years of age (at that time), having a medium frame, dark brown hair, and wearing glasses that might have had plastic rims. He could recall no singular distinguishing or identifying marks or characteristics for "Ray."

Mr. Picardo stated that he made deliveries to SCC about 10 times over a period of approximately one year. He stated of these 10 occasions, he dealt directly with "Ray" on only 3 or 4 occasions. He stated his dealings with "Ray" were brief and only took enough time for "Ray" to hand him an envelope. He advised they never developed a personal relationship during these contacts. Mr. Picardo recalled that he would deliver blank invoices for truck leases or rentals and would receive from "Ray" or his representative an envelope which would contain a check drawn on the SCC bank account made out to O.K. Trucking or XYZ Leasing in the amount

of approximately \$500.00. Mr. Picardo stated he knew this was incorrect because O.K. Trucking only had 6 trucks and they were all occupied on a daily basis delivering lamp shades. Therefore, they could not be rented or leased to SCC and the approximately \$500.00 payment to O.K. Trucking from SCC was actually a payment for no services rendered. Mr. Picardo stated that on occasion the check he received from SCC would be made out to XYZ Leasing which was a dummy company.

After approximately his second delivery to SCC, Mr. Picardo recalled he was told by Sal Briguglio that the checks he received from SCC were paying for SCC "Labor Peace." Which he understood to mean that SCC could use nonunion labor on some occasions without union disturbance. The fact that SCC could use nonunion labor on certain jobs would be a financial saving for SCC. Briguglio also told Mr. Picardo that the original extorting of SCC to obtain "labor peace" had been begun by Armand Faugno, who is now believed to be dead, but his body has not as yet been located. Mr. Picardo stated Faugno kept records of these transactions which have been seen by Mr. Picardo, the last time being in the possession of Sal Briguglio in approximately 1972. Mr. Picardo pointed out that Sal Briguglio was killed in a mob slaying in New York and the whereabouts of these records are unknown and probably impossible to locate.

Mr. Picardo stated very few people knew of his relationship with SCC and those that did are now either dead or in jail and would be uncooperative. He named some of those persons still alive and in jail as Tony Provenzano, Ste[ph]en and Thomas Andretta. He indicated these people were aware of his duties and relationship with SCC because they shared in the profits made from the extortion of "Labor Peace" money in New Jersey. Mr. Picardo stated he only sold "Labor Peace" to SCC, but he knew that others had to be also selling "Labor Peace" because that was the only way you could operate in the construction business in the State of New Jersey.

* * *

With regard to his personal association with "Ray" from SCC Mr. Picardo stated he only saw him briefly on three or four occasions during the course of a year approximately 14 of 15 years ago.

He never knew what "Ray's" last name was and he never saw "Ray" place any checks in the envelope he picked up. However, when he heard a news broadcast indicating President-Elect Reagan had named a Cabinet member who had been an officer in SCC he knew the person had to be "bad" because SCC is "bad." Subsequently, when asked by an FBI Agent to view a photograph in the newspaper of Secretary of Labor designate Raymond J. Donovan, he did and positively identified him as the "Ray" he had received envelopes from at SCC in 1965 or 1966. Mr. Picardo stated that there was absolutely no doubt in his mind about this identification.

Exhibit 37 at 1-2, 4.

On January 19, 1981, an FBI agent again contacted Picardo in order to ascertain whether Picardo was certain that the Ray with whom he allegedly dealt at SCC wore glasses at the time that Picardo had his dealings with him. According to the official report of interview:²⁷⁴

Picardo advised that he is unable to recall specifically but to the best of his recollection the individual wore glasses at the time Picardo had his dealings with him. Picardo specifically noted that the face depicted in the photograph on the front page of the New York Times on January 13, 1981, is in fact the same individual whom Picardo dealt with at SCC.

Exhibit 38.

B. Statements on the Today Show

Although he declined to appear before the Senate Labor Committee allegedly because of poor health,²⁷⁵ Picardo

274 A copy of which is annexed as Exhibit 38.

275 S.P. no. 465001.

nonetheless appeared on the Today Show while the confirmation hearings were in progress. On January 29, 1981, Picardo was interrogated by a television reporter concerning his labor peace payoff allegation, as follows:

ROSS: Your allegation is that on a number of occasions in 1965 as a bagman for corrupt Teamster officials in New Jersey you went to the [Schiavone] Construction Company and received payoffs from Raymond Donovan.

PICARDO: That's correct, sir.

ROSS: Do you stand by those allegations?

PICARDO: I sure do, sir.

ROSS: Behind you is a picture of Raymond Donovan. Are you sure that's the same Raymond Donovan?

PICARDO: Yes, sir.

ROSS: There's no doubt in your mind, no chance of a mistaken identity?

PICARDO: No, sir.

ROSS: You say he was trying to buy labor peace. What do you mean by the term labor peace?

PICARDO: Favorable concessions from different labor unions, not only the Teamsters, but the-- other construction-related unions within the local area.

ROSS: The money that you say he gave you, what happened to that money?

PICARDO: I turned that money over to Salvatore B[ri]gu[g]lio and Armand [Faugno].

ROSS: Who are they?

PICARDO: They're two captains in the Vito Genovese organized crime family.

S.P. no. 465001.

C. Statement to the
Special Prosecutor

On March 9, 1982, Ralph M. Picardo was interviewed by the Special Prosecutor in the presence of Picardo's counsel. Picardo stated, among other things, that he first met Raymond Donovan in the mid 1960s. Picardo was then working for Salvatore Briguglio, who told Picardo that he was collecting money from SCC for labor peace. Briguglio always spoke of SCC collectively, he never mentioned Mr. Donovan specifically.

According to Picardo, SCC was one of many companies from which Briguglio was making collections; Picardo was one of Briguglio's collectors. Routinely, when Picardo picked up cash, he dropped off an envelope full of blank invoices. Some invoices bore a company's letterhead; others were blank invoices obtained at stationery stores. SCC was the first construction company involved in this scheme.

When he was first instructed to go to SCC, Picardo already knew where the company was located. Picardo was an habitue of the Midway Tavern which was located nearby, as was the home of Picardo's first wife. Picardo had previously waited for buses across the street from SCC's offices.

Before his first visit to SCC, in about 1965, Picardo was directed by Briguglio to drop off an envelope at the receptionist's desk. He proceeded to do so, without identifying himself to the receptionist or notifying her where he was from. The envelope that he handed the SCC receptionist

was plain and sealed. Picardo did not know which companies' names appeared on the invoices he believed to be contained in that envelope. The SCC receptionist did not open the envelope, but she promptly handed him another envelope in return.

Briguglio later instructed Picardo to return to SCC, to drop off an envelope with a man named Ray and to pick up a check in return. Picardo was unable to estimate the lapse of time between his first and second visits to SCC. However, his second visit also occurred during 1965, within the first six months of that year. On the second visit, Picardo was certain that the blank invoices which he delivered were on O.K. Trucking Company ("O.K. Trucking" or "O.K.") letterhead: those invoices he saw.

On the second visit, Picardo arrived at SCC's offices within 20 minutes after receiving instructions from Briguglio. One man alone was waiting in the reception area; no one else was present. The man identified himself as Ray in response to Picardo's statement: "I'm here to deliver this envelope to a person named Ray." The man was wearing black framed plastic glasses. He and Picardo exchanged envelopes.

Picardo did not open the envelope which he received. However, it was obvious to him that the envelope, which was not bulky, contained a check and not cash. Picardo gave the envelope to Sal Briguglio in the O.K. Trucking Co. office, a trailer located on Tonnelle Avenue in North Bergen,

New Jersey.²⁷⁶ Briguglio did not open the envelope in Picardo's presence.

Picardo did not recall whether he drove, or was driven, to SCC on either of the first two visits.

It was in late 1965 or 1966 that Picardo next returned to SCC. The invoices taken to SCC on the third visit bore XYZ Leasing Co. ("XYZ") letterhead. He saw the invoices, not filled out, being placed into the envelope prior to his departure from the O.K. Trucking office trailer. As usual, Briguglio had given Picardo his instructions. Precisely when Briguglio did so, Picardo could not say. He did say that no one else was present at the time.

Picardo did not have any specific recollection of his third trip to SCC. He thought that Michael Gretchin may have driven him, waiting outside until Picardo returned. Picardo did not recall having asked for Ray on his third visit; he added that he would have recalled it had he done so. Nor did Picardo recall to whom he gave the envelope filled with blank XYZ invoices. In exchange for his envelope, Picardo once again received a sealed envelope which he did not open. He did not remember whether he gave the third envelope to Briguglio, as he had the first two.

276 According to Picardo, the same trailer served as an office for O.K. Trucking and B & R Truck Lines ("B & R") simultaneously. The trailer was located just opposite the Chateau Renaissance Motor Inn and Restaurant ("Chateau Reinaissance").

In summary, contrary to his January 1981 statements, Picardo told the Special Prosecutor that he went to SCC's offices a total of no more than three times. Picardo expressly denied that he ever told any FBI agent that he had visited the SCC premises more than two or three times or, more specifically, that he had been there ten times.

Also contradicting his January 1981 statements, Picardo told the Special Prosecutor that on only one occasion did he see Mr. Donovan--namely, on his second of the three visits. Picardo denied that he told an FBI agent in January 1981 that he saw Mr. Donovan on three of ten visits.

Apart from Michael Gretchin, Picardo identified Al Cecchi as the sole possible source of corroboration for his story: According to Picardo, Cecchi might have arranged one of Picardo's trips to SCC.

D. Grand Jury Testimony
(Immunized)

On March 10, 1982, Ralph M. Picardo appeared before the grand jury. His counsel advised that Picardo would not testify, relying on his Fifth Amendment rights against self-incrimination. Accordingly, on March 10, 1982, Judge Charles P. Sifton of the United States District Court for the Eastern District of New York entered an order pursuant to 18 U.S.C. § 6002 directing Picardo to testify thereby conferring statutory use immunity with respect to his testimony. Picardo proceeded to testify on the same date. [GRAND JURY MATERIAL
DELETED.]

ii. Direct Cash Payoffs

A. Statements to the FBI

In a January 13, 1981, statement to an FBI agent, Picardo reported that:

During approximately 1971 or 1972, Picardo learned through discussions with Sal Briguglio, that Briguglio had received direct cash "pay offs" from SCC in exchange for "labor peace" afforded SCC on a "big Port Authority job."

Exhibit 35 at 2.

In the January 15 Picardo interview, he elaborated on this allegation:

Subsequent to Mr. Picardo's relationship with SCC, he recalled he was told by Sal Briguglio that SCC was making direct cash payoffs to him and that he was receiving these payoffs from Ray, the boss of Schiavone. He recalled this information was furnished to him in late 1969 or early 1970. Mr. Picardo advised it was his belief that SCC paid for "Labor Peace" mentioned earlier by Briguglio, for the construction on the Port Authority Landfill in 1971 or 1972 which subsequently became the Newark Airport.

At approximately the same time, Mr. Picardo recalled being told by Briguglio that the Muscato [sic] contractors were an LCN run operation and were subcontractors to SCC frequently as a means of insuring "Labor Peace."

Exhibit 37 at 3.

B. Statement to the Special Prosecutor

During his March 9, 1982, statement to the Special Prosecutor, Picardo related a conversation that he recalled

having had with Salvatore Briguglio in 1972 or 1973.²⁷⁷ Briguglio then informed Picardo that "Ray from Schiavone" was "one of my best cash deals." Picardo then modified, and paraphrased, Briguglio's statement to: "Ray was his best cash payer."

Picardo said that Briguglio made that statement immediately prior to his leaving the office to go see Ray. Briguglio returned approximately one to one and one-half hours later, with money. Picardo did not know the amount involved. He stated that Gabriel Briguglio, Ste[ph]en Andretta, Thomas Andretta and/or Anthony Provenzano were, possibly, witnesses to this occurrence.

C. Grand Jury Testimony
(Immunized)

[GRAND JURY MATERIAL DELETED.]

iii. Archer's Restaurant Dinner

A. Statements to the FBI

In his second statement to the FBI on January 13, 1981, following his perusal of a photograph of Mr. Donovan in the New York Times,

Picardo further recalled having once observed this individual in the company of Salvatore Briguglio at Archer's Restaurant, Fort Lee, New Jersey. Picardo recalled this observation having taken place during approximately 1971 or 1972. Tommy Eboli and Armand Faugno were also present along with Brugiglio [sic] and this individual. Picardo was not aware of the

277 Picardo dated the conversation to sometime after Anthony Provenzano was released from prison in early 1972.

exact reason for this meeting since he himself was not in attendance. Picardo was present at the restaurant along with a date having dinner.

Exhibit 36 at 1.²⁷⁸

Two days later, during the January 15 Picardo interview, Picardo similarly related the Archer's Restaurant allegation:

Mr. Picardo also recalled that in 1971 or 1972 he was at Archer's, a restaurant in Fort Lee, New Jersey, and a "wateringhole for [T]eamsters" when he saw the person he recognized as "Ray" from SCC sitting at a table with Tommie Eboli, head of the Vito Genovese LCN Family and Sal Briguglio. Mr. Picardo said he did not know the purpose of their association and could not tell if it was business or social. He advised that several days subsequent to observing "Ray" at Archer's he was told by Sal Briguglio that the person he, Picardo, had seen in the company of Briguglio and Eboli was "Ray, one of the executives from SCC."

Exhibit 37 at 4.

B. Statement to the
Special Prosecutor

During his interview with the Special Prosecutor on March 9, 1982, Picardo substantially repudiated his earlier allegations about Archers. He stated that he had never seen Salvatore Briguglio and Raymond Donovan together. He had, however, seen Armand Faugno with Mr. Donovan at Archer's Restaurant in the late 1960s.²⁷⁹ Picardo was present in the

278 In the first statement given by Picardo to Special Agent Hersh on January 13, 1981, Picardo made no mention of the Archer's Restaurant dinner allegation. See Exhibit 35.

279 Picardo related the date of the Faugno/Donovan dinner to (Footnote Continued)

restaurant dining with a woman friend; he was not seated with Mr. Donovan and Faugno. Although Picardo stated that he had seen Tommy Eboli with Faugno at Archer's on other occasions, Eboli was not present with Donovan and Faugno that evening.

C. Grand Jury Testimony
(Immunized)

[GRAND JURY MATERIAL DELETED.]

b. Alleged Relationship with
Armand Faugno

In addition to Picardo's substitution of Faugno for Briguglio as the organized crime figure with whom he allegedly saw Mr. Donovan dining at Archer's Restaurant, Picardo separately alleged that SCC made illegal payoffs to Faugno in the 1960's and 1970's and that the payoffs were effected through a scheme involving dummy invoices and undelivered goods and services.

i. Statements to the FBI

In a January 13, 1981, interview with a Special Agent of the FBI, Picardo initially described the scheme used to generate the payoffs to Faugno; he

related that "pay offs" for "labor peace" on job sites involving SCC were generated through a company known as Pre Cast Concrete (PCC), a firm located

279 (Footnote Continued)

a period of time prior to his having seen Faugno at Archer's with Ralph Wilson, the owner of a race horse, Jim French, well known as a three-year old in 1971. Picardo surmised that the dinner was well before Faugno's disappearance in 1972.

near Lakewood, New Jersey. Picardo believes PCC to be a subsidiary of SCC. These "pay offs" were generated by fraudulent billing for precast concrete road dividers which were utilized during the construction of the Long Island Expressway. Picardo's company, Taylor Trucking, delivered these concrete items to the job site on behalf of PCC and SCC. Through discussions which Picardo had with Armand Faugno, Picardo learned that Faugno received "pay offs" out of PCC.

Exhibit 35 at 2.

During the January 15 Picardo interview two days later, Picardo expanded upon this allegation:

Mr. Picardo stated that in 1968 he was in part ownership of the Taylor Trucking Company in New Jersey. His partners were Sidney Cohen and John Picone. He described them as operating a flat bed hauling company used primarily to haul precast concrete slabs to a[n] SCC site. The name of the company Taylor was hauling for was Pre Cast Concrete. Mr. Picardo recalled that at the same time he was the sole owner of Coastal Trucking, 3711 Dell Avenue, North Bergen, New Jersey. Mr. Picardo stated that Taylor Trucking would often haul the same slab of precast concrete to the Schiavone site as often as twenty times receiving payment for the haul on each occasion ["ghost loading"]. He stated that he would be paid directly by Pre Cast Concrete as would Armand Faugno who was selling "Labor Peace" at that time to Pre Cast Concrete. The money to make these payments was obtained from the overpayments by SCC to Pre Cast Concrete for goods not received. It was Mr. Picardo's opinion that there was no way that the personnel at SCC could not be aware that this was going on because of the volume of the expenditures and the shortage of goods. In addition to Mr. Picardo's co-owners in Taylor Trucking, he said Mike Gretschin [sic], who currently lives in Utica, New York, was an employee of Taylor Trucking and might be able to corroborate what he had said if Gretschin can be located.

Exhibit 37 at 3.

**ii. Statement to the
Special Prosecutor**

Picardo's March 9, 1982, statement to the Special

Prosecutor is irreconcilable with the statements he had made in January 1981. To the Special Prosecutor, Picardo said that Precast Concrete Company ("Precast Concrete" or "Precast") was a legitimate company that manufactured a variety of concrete products, including highway dividers and construction materials. Picardo, through his companies, Coastal Truck Lines ("Coastal") and, later, Taylor Trucking Co. ("Taylor Trucking"), distributed Precast Concrete products.²⁸⁰ Picardo billed Precast Concrete for various products which he did not deliver. Additionally, invoices were signed by job foremen at various construction sites for phony and short shipments.²⁸¹

Picardo then billed Precast Concrete for his companies' trucking services. Precast thus funnelled contractors' "labor peace" payments (for goods not delivered) to organized crime figures such as Picardo and his partners²⁸² for

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- 280 According to Picardo, he was set up in business by Armand Faugno who had previously done business with Precast Concrete through a separate truck company. Faugno, whom Picardo described as an organized crime figure on the same level as Salvatore Briguglio and Anthony Provenzano, was forced to yield his legitimate trucking business due to an investigation by some New Jersey State commission. Picardo said that Faugno had an arrangement of some sort with an organized crime figure who owned Precast Concrete.
 - 281 Picardo identified the drivers for Coastal and Taylor Trucking as: Michael Gretchin; Clyde Chamberlain; Michael and Gerard Paldino; and Thomas Jefferies.
 - 282 Picardo identified Armand Faugno, Anthony Provenzano and Gabriel and Salvatore Briguglio as his partners in Coastal.

services not provided. The purpose of the payoffs was to permit the contractors to use nonunion help, or so Faugno advised Picardo. Picardo said that he had no direct contact with Raymond Donovan at any time in connection with this scheme.

In 1968-1969, one of Picardo's companies delivered Precast Concrete products more than ten times to an SCC job site located approximately fifty feet from the Queens-side entry to the Queens-Midtown Tunnel, near the cemetery overpass. The deliveries to the SCC job site, on which Picardo saw SCC equipment, were made at the direction of Armand Faugno. Asked what documentation existed concerning these deliveries, Picardo reported that all Coastal, O.K. and Taylor Trucking records were destroyed in a fire.

In addition to the Queens job site of SCC, which Picardo first labelled the sole SCC site to which his companies made Precast Concrete deliveries, Picardo believed that such deliveries were also made to a Port Newark or Newark Airport landfill project of SCC. Picardo was uncertain whether the landfill site was located at Port Newark or at the Newark Airport.

Picardo denied that he had ever told anyone that any of his trucks hauled the same concrete products back and forth to the same job site as many as twenty times without ever discharging the load. Picardo labelled the suggestion absurd, although he conceded that he used the same bill of lading more than once. All of the documents, including the

bills of lading, involved in the transactions were furnished by Precast Concrete.

Picardo reiterated that nothing linked Mr. Donovan to the scam, that he could buy off mere foremen to accomplish his purposes and no one higher up the corporate ladder need have been involved. Non-existent or undelivered goods could simply be written off as damaged.

iii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

c. Alleged Relationship with William V. Musto

In the course of his January 13, 1981, interview with the FBI, Picardo stated that he had "learned through Briguglio that William Musto, the Mayor of Union City, New Jersey, assisted SCC in obtaining various contracts."²⁸³ In the January 15 Picardo interview two days later, Picardo elaborated:

Mr. Picardo advised that SCC was known in the construction community as being the only construction company in the State of New Jersey and if you also were in the construction business then you were a subcontractor to SCC. He said that the record would show that SCC had no labor problems and received public contracts through the influence of a man who he believed to be a state senator by the name of Musto, who was LCN oriented, and was the SCC connection in getting state contract awards.

Exhibit 37 at 3.

283 Exhibit 35 at 2.

d. Alleged Relationship
With the Moscatos

i. Statements to the FBI

Picardo also associated Mr. Donovan with the Moscatos, for the first time in his January 13, 1981, interview with the FBI:

Through discussions with Briguglio, Picardo learned that "labor peace" which was granted to SCC by Briguglio, involved the use of non-union owners/operators by SCC in lieu of union drivers. The use of non-union owners/operators resulted in a considerable savings to SCC. Picardo further learned from Briguglio that Briguglio also received money from a company operated by Philp [sic] "Brother" Moscato as the result of subcontractor work done for SCC by Moscato's company. Moscato gave these monies to Briguglio.

Exhibit 35 at 2.

In an abbreviated fashion, Picardo reiterated this allegation in the January 15 interview, in which he said that sometime between late 1969 and 1972, he "recalled being told by Briguglio that the Moscato Contractors were an LCN run operation and were subcontractors to SCC frequently as a means of insuring "Labor Peace".²⁸⁴

ii. Statement to the
Special Prosecutor

During his March 9, 1982, interview with the Special Prosecutor, Picardo related that, in Teamsters Local 560 offices in 1973, Briguglio informed Picardo that SCC was to award to Picardo a subcontract in connection with construction

284 Exhibit 37 at 3.

at the Meadowlands sports complex and/or the New Jersey Turnpike ("Turnpike") spur into that complex. In the course of two conversations, in the presence of Gabriel Briguglio, Charles Ciampi, Stephen Andretta and Thomas Andretta, Briguglio instructed Picardo to obtain a number of dump trucks to be in a position to perform this subcontract.

While Picardo was in the process of seeking out suitable dump trucks, Briguglio was imprisoned. Picardo was subsequently advised by Briguglio that Briguglio was receiving money from the Moscatos who had obtained the twenty dump truck contract in 1973 or 1974. However, while the subcontract which the Moscatos obtained was for the same work which Picardo expected to receive, but was not awarded, Picardo was not certain that the Moscatos secured their contract from SCC. Indeed, he was not certain that it was precisely the same contract. The Moscatos performed their contract through City Construction Company ("City Construction").

iii. Grand Jury Testimony (Immunized)

[GRAND JURY MATERIAL DELETED.]

3. Napoli Allegations

Shortly after publication by Fortune magazine of a cover story detailing several of the organized crime allegations²⁸⁵ an ABC Television producer telephoned the

285 Rowan, "The Charges Against Reagan's Labor Secretary,"
(Footnote Continued)

Special Prosecutor to advise that a Giacomo (Jack) Napoli had information concerning the Secretary that merited the Special Prosecutor's attention. Following an initial telephone conversation on May 13, 1982, the Special Prosecutor arranged for an FBI agent to interview Napoli, a former protected witness who was dismissed from the Federal witness protection program because of his criminal activities. After reviewing a report of that interview, the Special Prosecutor interviewed Napoli and subpoenaed him before the grand jury.

a. Alleged Relationship with Jacob Zax, Et Al.

i. Statement to the FBI

During his May 13, 1982, interview with an FBI agent (the "May 13 interview"), Napoli made only one reference to Jacob (Jakey) Zax: Napoli alleged that Zax was a partner of a Bayonne, New Jersey, judge in the ownership of certain supermarkets.²⁸⁶ Napoli alleged no relationship between Mr. Donovan and Zax.

ii. Statement to the Special Prosecutor

During his May 20, 1982, statement to the Special Prosecutor, Napoli claimed a social and a business relationship

285 (Footnote Continued)

Fortune, May 31, 1982, at 80. Although cover-dated May 31, 1982, a press release concerning this article was given national media attention on May 11-12, 1982; the article appeared on the newsstands on approximately May 14, 1982.

286 S.P. no. 103001A.

existed between Mr. Donovan and Jacob (Jakey) Zax. Indeed, Napoli asserted that the first time he saw Mr. Donovan was in the company of Zax at a restaurant, Dominic's, in Bayonne, New Jersey, in 1975. While Napoli did not meet Mr. Donovan on that occasion, he said that Zax subsequently advised him of Mr. Donovan's identity. Napoli characterized Zax as an old-time Bayonne bookmaker.

Napoli claimed first to have met Mr. Donovan at a church affair, a card party organized by his mother-in-law, Wanda Kamienski, at the Top Hat Restaurant ("Top Hat") in Bayonne in May 1975. On that occasion, Zax introduced Napoli to Mr. Donovan, who was also in the company of Nicholas Furina and John DiGilio. Zax told Napoli that Mr. Donovan was associated with SCC.

In addition to meeting Mr. Donovan through Zax in 1975, Napoli learned that Mr. Donovan held an ownership interest in a trucking concern, Frigid Express. According to Napoli, Mr. Donovan's partners in Frigid Express were John DiGilio, Joseph A. (Bayonne Joe) Zicarelli, as well as Zax.

iii. Grand Jury Testimony

Giacomo (Jack) Napoli testified before the grand jury. [GRAND JURY MATERIAL DELETED.]

b. Alleged Relationship with Joseph Paterno

i. Statement to the FBI

During the May 13 interview, Napoli alleged that he saw Mr. Donovan in the company of Joseph Paterno in the

Clam Broth House Restaurant ("Clam Broth House") in Hoboken, New Jersey, in the latter part of April 1976.²⁸⁷ In addition to Paterno, Mr. Donovan was in the company of Salvatore Briguglio and Frank (The Bear) Basto.²⁸⁸

ii. Statement to the Special Prosecutor

On May 20; 1982, Napoli's Clam Broth House allegation was rather different: he placed Mr. Donovan in the establishment with Joseph Paterno and Vincent DeLeo (deceased), rather than the late Salvatore Briguglio.

iii. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

c. Alleged Relationship with Salvatore Briguglio

i. Statement to the FBI

During the May 13 interview, Napoli asserted that he had seen Mr. Donovan in the company of Salvatore Briguglio, as well as Joseph Paterno and others, in the Clam Broth House in Hoboken in April 1976.²⁸⁹ He did not otherwise place Mr. Donovan in the presence of Briguglio, although he was asked if he had "any further recollection of the specific locations where [he] saw Mr. Donovan with any of these people."²⁹⁰

287 S.P. no. 102998A.

288 Id.

289 S.P. no. 102998A.

290 S.P. no. 103002A.

ii. Statement to the Special
Special Prosecutor

During his May 20, 1982, interview with the Special Prosecutor, Napoli stated that he observed Mr. Donovan with Salvatore Briguglio not at the Clam Broth House but at the Freehold Raceway in New Jersey. Napoli was in the company of his uncle, Christopher (Chrissy Tic) Furnari, whom Napoli described as an organized crime figure from Brooklyn. Because Furnari and Briguglio were acquainted, the two of them talked while Napoli re-introduced himself to Mr. Donovan, mentioning that they had previously met at the Top Hat affair in Bayonne several months earlier. Napoli conversed with Mr. Donovan for approximately one-half hour on that occasion.

iii. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

d. Alleged Relationship with
Philip Moscato

i. Statement to the FBI

In the course of the May 13 interview, Napoli asserted that Mr. Donovan was "connected up to his eyes" with Philip (Brother) Moscato.²⁹¹ Napoli stated that in 1979 he attended

291 S.P. no. 102997A.

a party in the Sea Inn on ah Palmdale Beach Boulevard in Hall[a]ndale, Florida, and I met Donovan again at this party. It was a closed party. M[o]scato, myself, Donovan, ah Joe Puma, Anthony [Induisi], Chukobrown (phonetic), ah who else was there, oh Joe [Paterno], every wise guy there from Hall[a]ndale to North Hollywood to Hollywood and to Miami was there and Donovan was right there.²⁹²

Napoli dated this Sea Inn party to the Saturday preceding Mother's Day in 1979.²⁹³

ii. Statement to the
Special Prosecutor

On May 20, 1982, during his interview with the Special Prosecutor, Napoli made no mention of a Sea Inn Restaurant ("Sea Inn") party on the Saturday preceding Mother's Day in 1979. Rather, he said that he saw Mr. Donovan, for the first time since 1975, in February or March 1979 when Napoli went to the Sea Inn for lunch with his brother, John Napoli, Jr., and Dennis Cinnante. While at the Sea Inn, Napoli observed Mr. Donovan seated at a table with Philip Moscato. Napoli approached the table and greeted both Moscato, whom he knew, and Mr. Donovan.

Thereafter, while Napoli was in the restaurant, he was joined for lunch by Alphonse (Allie Boy) Persico, Carmine Persico, Hugh MacIntosh, Andrew Russo and John Matera. During their luncheon, Alphonse Persico extended an invitation

292 Id.

293 S.P. no. 102998A.

to Napoli to attend a cocktail party that evening at the Diplomat Hotel ("Diplomat") in the honor of Paul Vario, who had just been released from prison.

Napoli accepted the invitation, and went to the cocktail party that evening. At the Diplomat party, in addition to all of those with whom he had lunched, Napoli saw Mr. Donovan with Philip Moscato. He also saw Anthony (Black) Induisi and Thomas Farese.

Further, Napoli again saw Mr. Donovan in the company of Philip Moscato in Florida a few weeks after the Paul Vario cocktail party. In early 1979, Napoli was golfing at Doral Country Club in a benefit tournament staged for the Parkinson Disease Foundation. Moscato played in a foursome that included Joseph Santoro and Butch LaGrasta. Moscato was playing in the foursome in front of Napoli. After the ninth hole, Moscato left the green and proceeded to the bar area. Napoli witnessed Moscato in a heated argument with Mr. Donovan at the bar.

In 1980, Napoli last saw Mr. Donovan at Francesco's Restaurant ("Francesco's"), Lodi, New Jersey. Napoli was dining with his wife; his brother-in-law, Edward Kamienski; and Kamienski's wife. Mr. Donovan, who was seated at another table, acknowledged Napoli's presence and sent a round of drinks over to the Napoli table. As Napoli was leaving Francesco's after the meal, he observed Philip Moscato entering the restaurant. Although Napoli did not see Moscato in

the presence of Mr. Donovan, Mr. Donovan was still in Francesco's when Moscato arrived.

iii. Grand Jury Testimony

[GRAND JURY MATERIAL DELETED.]

4. Other Allegations Concerning Relationships with Organized Crime Figures

From a variety of sources and informants, the Special Prosecutor received other organized crime allegations. Those allegations involved some of the same names discussed above--Salvatore Briguglio, Philip Moscato, William V. Musto--and a plethora of others. Most of the allegations, all of which are set forth below, derived from anonymous informants whose lives, the Special Prosecutor was informed, would be in jeopardized if their identities were known. Accordingly, the Special Prosecutor received only the information, not the identity of the anonymous informant.

a. Salvatore Briguglio

i. Cash Payoffs

Albert (Al) Cecchi or Checci (a/k/a Al Cohen) and Ralph Picardo were allegedly bagmen for Salvatore Briguglio and made pickups of illegal payoffs from Raymond J. Donovan.

Frederick S. Furino was also allegedly implicated in making cash pickups from Secretary Donovan for Briguglio.

When Salvatore Briguglio was in prison, Vic Alteri--now deceased--and Salvatore Briguglio's brother, Gabriel, allegedly made pickups from Mr. Donovan.

During the early to mid-1960s, SCC allegedly overpaid, intentionally, on the purchase of several large cranes. The funds generated by the overbilling were used to make payoffs to Salvatore Briguglio.

ii. Free Construction Materials

Allegedly, SCC provided building materials to Salvatore Briguglio at no charge for use in the construction of Briguglio's home.

iii. Bid-Rigging

Salvatore Briguglio allegedly furnished to Mr. Donovan information which Briguglio received through his contacts with municipal and state agencies in Northern New Jersey concerning the lowest bids submitted by other construction companies on various projects. It was alleged Mr. Donovan then used that information to underbid the competition and obtain the contracts for SCC. Mr. Donovan allegedly paid Briguglio for his assistance in thus securing contracts.

iv. Social Relationship

Sources alleged the existence of a social relationship between Mr. Donovan and Salvatore Briguglio. Messrs. Donovan and Briguglio were alleged, inter alia, to have been boyhood friends, to have "somewhat" grown up together, to have had a "longstanding" relationship, to have been "thick," to have socialized together on a regular basis, and the like. Among the various places at which the two were alleged to have socialized: Sid Allen's Restaurant ("Sid Allen's"),

Englewood Cliffs, New Jersey; The Chateau Renaissance, Union City, New Jersey; Ichi Ban Bar ("Ichi Ban"), Union City, New Jersey; Briguglio's home, Washington Township, New Jersey; and an unknown location on Long Island.

Among those who allegedly were knowledgeable of the relationship between Mr. Donovan and Briguglio were any number of Local 560 officers, business agents or members (e.g., Stephen Andretta, Thomas Andretta, Paul (Chuck) Ciampi, Frederick Furino, Anthony Provenzano, Nunzio Provenzano); Briguglio's longtime friend, Joan Torino; Briguglio's brother, Gabriel; a woman named Jeannie to whom Mr. Donovan was allegedly quite close for a number of years; personnel from the various social establishments frequented by Messrs. Donovan and Briguglio; various other alleged organized crime figures; and various legitimate businessmen whom the Special Prosecutor contacted, interviewed, and, in most cases, put before the grand jury.

b. William Masselli

William Masselli, co-owner of an SCC subcontractor, Jopel Trucking and Contracting Co., pleaded guilty in 1981 to, among other things, using a telephone facility in furtherance of a cocaine conspiracy and conspiracy to steal interstate shipments of goods.²⁹⁴ He is, moreover, reportedly a

294 See United States v. Masselli, No. 81 Cr. 0342-01 (MEL),
(Footnote Continued)

"'self-admitted soldier' in the Genovese Mafia family."²⁹⁵ Allegations concerning the existence of a relationship between Mr. Donovan and Masselli initially came to light during the Secretary's confirmation hearings and they still lingered at the time of, and following, the appointment of the Special Prosecutor.

i. Senate Record

An allegation developed by the FBI's New York office consisted of the charge that "the upper management of Schiavone [Construction Company] is aligned with organized crime elements through business and social ties with Jopel Construction [Company] . . . which is headed by William Masselli."²⁹⁶ Concerning this allegation, the following exchange was reported in the transcript of the Secretary's confirmation hearings:

THE CHAIRMAN. Now, there has been a generalized allegation that you, through your position at Schiavone Construction Company, had social and business ties with organized crime figures.

Is that true, or not true?

294 (Footnote Continued)

Transcript of Proceedings at 10 (S.D.N.Y. Nov. 24, 1981), and United States v. Masselli, No. S-Inf. 81 Cr. 325-01 (LWP), Transcript of Proceedings at 3 (S.D.N.Y. Nov. 23, 1981).

295 Time, December 21, 1981 at 30, col. 1. See also Lardner, "Reputed Mafioso Goes Slowly Toward Jail," Washington Post, Jan. 22, 1982 at A2, col. 1.

296 Senate Report at 23.

MR. DONOVAN. That's not true.

THE CHAIRMAN. Do you know of any organized crime figures with whom you have had business or social ties?

MR. DONOVAN. I do not, at least not to my knowledge. None has been identified to me as being organized crime people.

THE CHAIRMAN. An unnamed FBI source has indicated that Schiavone Construction Co.'s top management is "closely ali[g]ned with organized crime elements through Jopel Construction Co."

Now, do you, or Schiavone Construction Co., do business with Jopel Construction Co.

MR. DONOVAN. We do.

THE CHAIRMAN. Do you know one William Masselli?

MR. DONOVAN. I do.

THE CHAIRMAN. Is Mr. Masselli connected with Jopel Construction?

MR. DONOVAN. He is.

THE CHAIRMAN. Do you have any knowledge that Mr. Masselli may have ties to organized crime?

MR. DONOVAN. I do not.

THE CHAIRMAN. Has Mr. Masselli ever introduced you to or acquainted you with reputed organized crime figures on either a business or social basis?

MR. DONOVAN. He did not.

THE CHAIRMAN. How many total contacts have you had with Mr. William Masselli?

MR. DONOVAN. I have searched my mind on that. It can't be more than three times that I have ever seen Masselli in my life. They were in passing, on the job site. The man is our subcontractor. So I would say three times is accurate.

THE CHAIRMAN. Have they been on a close or a social basis or more a contract business basis?

MR. DONOVAN. Totally on a contract business basis.

THE CHAIRMAN. You don't know him personally or socially at all other than you've met him in the contract work?

MR. DONOVAN. That's correct.

Hearings at 335-336. The Senate Labor Committee concluded, based upon the foregoing, that the allegation did not constitute "a justifiable reason to withhold Mr. Donovan's confirmation."²⁹⁷

ii. Subsequent Allegations

The June 8, 1981, issue of Time magazine carried an article²⁹⁸ reporting that "court-sanctioned wiretaps of Masselli's operations in New York City did indeed record conversations between Masselli and Donovan," although the Senate had apparently voted to confirm the Secretary's appointment without knowledge of this fact.²⁹⁹ By letter dated June 16, 1981,³⁰⁰ Senators Orrin G. Hatch, Chairman, and Edward M. Kennedy, Ranking Minority Member, of the Senate Labor Committee wrote to Director William Webster of the FBI making inquiries concerning the information set forth in the June 8 Time

297 Senate Report at 25.

298 A copy of which is annexed as Exhibit 41 (the "June 8 Time article").

299 Exhibit 40 at col. 3.

300 A copy of this letter is annexed as Exhibit 42.

article. Three additional letters were exchanged between Director Webster and Senators Hatch and Kennedy in July and August of 1981 dealing with the same subject matter.³⁰¹

On January 11, 1982, Senate Labor Committee staff members informed a member of the Special Prosecutor's staff that they had serious reservations concerning the origins and nature of the SCC-Masselli relationship, specifically including the potential organized crime influence which might be involved. Numerous articles in the press thereafter sounded related themes.³⁰² In addition, the Special Prosecutor received information from various sources that (a) Masselli laundered money through SCC for illicit purposes and (b) SCC funnelled unlawful payoffs to construction labor union representatives through Jopel.

iii. 1979 Superbowl

An anonymous informant provided information to the Special Prosecutor that Secretary Donovan attended the Superbowl in Miami, Florida, in January 1979 together with

301 A copy of Director Webster's July 6, 1981, letter to Senator's Hatch and Kennedy is annexed as Exhibit 43; the Senators' July 10, 1981, letter to Director Webster is Exhibit 44; and the Director's August 10, 1981, letter to the Senators is Exhibit 45.

302 See, e.g., J. Anderson, "Labor's Donovan is Disputed By Records," Washington Post, Jan. 22, 1982 at C15, cols. 3-6; R. Rowan, "The Payoff Charges Against Reagan's Labor Secretary," Fortune, May 31, 1982 at 80, 82, 86.

Masselli and an assortment of other organized crime figures.³⁰³

iv. December 1981 Masselli-Levin Meeting

An Assistant United States Attorney ("AUSA") from Newark, New Jersey, prepared a memorandum dated December 30, 1981, concerning an alleged attempt by Masselli to extort SCC by threatening to disclose unlawful kickbacks which Masselli had previously paid to the company. As described in the memorandum,³⁰⁴ the AUSA received a call from SCC counsel Theodore W. Geiser on the evening of December 29, 1981:

Apparently [Ronald] Schivone [sic] contacted Ted Geiser [following receipt of a message from Masselli requesting a meeting], who suggested that Schivone not meet Masselli but instead send Morris J. Levin, House Counsel for Schivone Construction, to the meeting.

On December 29, 1981, Morris J. Levin (Buzz) met with Masselli in Secaucus, New Jersey. The meeting was in a car and the only persons present were Levin and Masselli. Apparently, Buzz Levin asked Masselli if he was carrying a wire, and Masselli demonstrated that he had no wire by taking off his pants. Masselli is alleged to have explained to Buzz Levin that he needed money since he was going away (jail),

303 The same or a similar allegation had been raised during the Secretary's confirmation hearings. The Senate report recites that the "Committee Staff has advised that an instance of Ray Donovan's consorting with known criminal elements was a junket to an NFL football game which Donovan attended." Senate Report at 25. The Committee's majority disposed of that charge with the observation that the "FBI dismissed this allegation out of hand because the FBI knew who was on the junket in question. Ray Donovan was not on the trip" (*id.* at 26).

304 A copy of which is annexed as Exhibit 46.

and had some financial matters he wanted to clean up.

Masselli is alleged to have presented a xeroxed copy to Levin of a letter apparently written on the letterhead of Joseph DiCarolis the president of Schivone Construction.³⁰⁵ Ted Geiser relates that, in fact the document was in DeCarolis' handwriting but that there were several changes on the document that were not in his handwriting. The letter is purported to demonstrate that Masselli paid \$20,000 to get the contract from Schivone Construction. The way it was left is that people from Schivone Construction would get back to Masselli and set up a meeting for December 30, 1981.

Ted Geiser explained to me the background between Masselli's relationship with Schivone Construction. Masselli is a principal or officer of the JoPel Contracting. JoPel holds the excavation subcontract of Schivone Construction for the subway work presently being done in New York City. One of the principals of the JoPel Corporation is a black politician, which allows JoPel to qualify as a minority business. Apparently Schivone gave a \$200,000 start-up loan to JoPel in order to get things going. There is a formal contract for the bulk of the work. Presently there is a civil suit arising out of that contract in New York City. The merits of that suit were not discussed during the telephone conversation I had with Mr. Geiser. Regarding the document purporting to demonstrate a \$20,000 kickback to Schivone, Mr. Geiser explained that the person in Schivone Construction responsible for the contract with JoPel was Al Magrini. At this point the conversation becomes confusing for me. I recall Mr. Geiser explaining that there were tax consequences of this alleged kickback . . . that is the only kind of exposure Schivone Construction has. If payments were made, they were apparently made as part of the start-up loan repayment, as interest or principle, I don't know. And I, quite frankly, don't know the nexus between the two.

In any event, we left it that I would contact Ted Geiser the morning of December 30, 1981 to tell him

305 A copy of this document (the "DiCarolis paper" or "paper"), which is handwritten on "From the Desk of Joseph DiCarolis" note paper, is annexed as Exhibit 62.

what aid this office and the Federal Bureau of Investigation would render. Mr. Geiser expressed that he wished to have the FBI brought in on the matter and to have any meeting with Buzz Levin and Masselli recorded.

Exhibit 46 at 1-3.

v. Contacts Between Levin and Nat Masselli During the Investigation

William Masselli's son, Nat, was interviewed by the Special Prosecutor's staff on May 11, 1982.

Nat stated that one day prior to the scheduled federal grand jury appearance of his father, Nat was approached by Louis Sanzo who had previously called him to arrange a meeting. Sanzo told Nat that he had just lunched with Morris (Buzz) Levin, SCC House Counsel. Sanzo gave Nat two telephone numbers for Levin,³⁰⁶ with whom Nat was previously acquainted.

The following morning, Nat Masselli telephoned Levin from a public telephone booth on Borden Avenue in Long Island City. After changing extensions, Levin told Nat that he wanted to speak to him about the DiCarolis paper and explain that it reflected savings of money to William Masselli. Nat said that, although he knew that such was not the meaning of the paper, he would pass Levin's message to his father. Nat asked Levin why, in view of his father's imminent appearance before the grand jury, Levin had waited so long to contact

306 Subsequently, the Special Prosecutor determined that at least one of the Levin telephone numbers provided to Nat were unlisted home numbers for Levin.

him. Levin responded that he had previously attempted to convey the message personally to William Masselli when the latter had come to SCC's Secaucus offices.

In addition, Levin repeated that the DiCarolis paper reflected savings which inured to the benefit of JoPel and the Massellis. Nat said that it was his understanding that SCC claimed earlier that the paper was used in an extortion attempt by his father. This Levin denied, and he reiterated once more that the paper reflected only the ways that Jopel saved money by dealing with SCC. Levin stated that "we" wanted to make sure that William Masselli knew what the piece of paper meant.³⁰⁷

At one point in the conversation, Levin referred to another lawyer representing SCC who provided the DiCarolis paper to William Masselli. Levin expressed the view that it was not smart of that lawyer to have done so. Nat Masselli did not remember the lawyer's name.

C. Anthony (Tony Pro) Provenzano

An anonymous informant alleged that during the mid-1960s, SCC furnished approximately \$50,000 worth of building materials to former Teamsters official and convicted felon Anthony (Tony Pro) Provenzano for use in his home. One

307 Throughout the conversation, Levin continually spoke in the first person plural, but he did not indicate whom he was including within the "we." Nat Masselli assumed that Levin referred to SCC.

source's contention was that SCC was "paying off" Provenzano because it sent no invoices or bills to him. Later that source charged that a named individual was observed signing receipts for materials taken from SCC vehicles. In any event, the payoff to Provenzano allegedly arose out of Mr. Donovan's purported relationship with Salvatore Briguglio.

d. John (Jack) McCarthy

Another anonymous source advised that former labor consultant and convicted felon John (Jack) McCarthy was a "close associate" of Secretary Donovan. There was also an allegation that McCarthy had been retained by SCC in the 1960s.

e. Cornelius Gallagher

An anonymous informant alleged that Cornelius Gallagher, a former Congressman and convicted felon, was on the SCC payroll. The implication was that there was an improper relationship between Mr. Donovan and Gallagher.

f. Anthony Gallagher

Newark Strike Force Attorney-in-Charge Robert Stewart provided to the Special Prosecutor excerpts from four court-authorized intercepted conversations of Anthony Gallagher in which Mr. Donovan's name was mentioned. No other information or allegation of any relationship between Mr. Donovan and Anthony Gallagher was received by the Special Prosecutor.

g. Timothy Murphy a/k/a Thomas Pecora

An anonymous informant alleged that Mr. Donovan had a relationship with Timothy Murphy a/k/a/ Thomas Pecora.

h. John Albert

An unknown source advised that John Albert, another convicted felon, had information concerning Mr. Donovan. The implication was that that information involved a relationship between Mr. Donovan and organized crime figures and/or that there might exist a relationship between Mr. Donovan and Albert.

i. John Riggi

An anonymous informant alleged that Mr. Donovan had a relationship with John Riggi.

j. William V. Musto

Another source informed the Special Prosecutor that he had heard that William V. Musto³⁰⁸ had a relationship with Mr. Donovan. Specifically, the source advised that the late Charles Zorse, a convicted felon, was introduced to Mr. Donovan by "Pop" Musto, Sr., and, Musto, Jr., whose first name the source did not know, who were alleged to have strong political connections in New Jersey.³⁰⁹ The source further stated that Zorse's wife "knew all of Zorse's activities and

308 See Section VI.A.2.c., supra.

309 S.P. no. 103012A.

should be aware of the details," including "the dealings between her husband and Musto . . . and Donovan."³¹⁰

k. Daniel Kapilow

An anonymous informant alleged that Mr. Donovan had financial dealings with Daniel Kapilow.

l. Matthew (Matty the Horse) Ianniello

Another anonymous source stated that on at least one occasion Mr. Donovan had met with Matthew (Matty the Horse) Ianniello.

m. Anthony (Tony Ducks) Corallo

An anonymous source alleged a "close associat[ion]" between Mr. Donovan and Anthony (Tony Ducks) Corallo.

n. Jerry Catena

Another anonymous informant reported that Mr. Donovan was closely associated with Jerry Catena.

o. Philip Buono

An anonymous source alleged that Mr. Donovan met on at least one occasion with Philip Buono, an associate of William Masselli.

p. Joseph (Hooks) Verlezza

An anonymous informant alleged a relationship between Mr. Donovan and Joseph (Hooks) Verlezza.

q. Vincent Marino

An anonymous source alleged a meeting between Mr. Donovan and Vincent Marino.

310 S.P. nos. 103011A, 103012A.

r. Albert Facchiano

An anonymous informant alleged a meeting between Mr. Donovan and Albert (Chink) Facchiano of Miami, Florida.

s. Anthony (Tino) DeAngelis

Another anonymous informant alleged a relationship between Mr. Donovan and convicted felon Tino DeAngelis.

5. Kelly Allegations: Various Relationships; Bid-Rigging

Patrick Kelly, a protected federal witness who operated in an undercover capacity for the FBI in New Jersey, provided certain general information concerning Secretary Donovan both at the time of the confirmation hearings and to the Special Prosecutor. Kelly claimed no specific information nor personal knowledge of the substantive allegations, which it was learned related to two conversations to which he was a party.

a. Statement to the FBI

On January 26, 1981, Patrick Kelly was interviewed by telephone by a Special Agent of the FBI in connection with the FBI inquiry concerning then Secretary-designate Donovan. According to the report of interview:³¹¹

Mr. Kelley [sic] advised that the Schiavone Construction Company has the reputation of having connections with the Genovese organized crime family, principally involving Joey Adonis, Jr., Peter LoPaca and Tino Fiumara. He was unable to identify anyone at the Schiavone Construction

311 A copy of which is annexed as Exhibit 39.

Company who was in contact with these individuals. He believed these connections were used in dealing with fill dirt connected with the Garden State Parkway extension in Bergen County, New Jersey.

Mr. Kelley stated he had heard Mr. Donovan's name mentioned only once and this was during a meeting he attended with Allen Turtletaub, Sam Malfatano [sic] and Mike (last name unknown), an employee of Malfatano. He recalled the discussion concerned how the State of New Jersey divided road contracts in different counties with companies like Schiavone getting the contract one place and other companies getting contracts elsewhere. Mr. Donovan's name was mentioned by Mike in connection with participation in bid rigging to obtain these contracts. He could not recall Mike's last name but said a former attorney with the Strike Force in New Jersey, Carl LoPresti, would probably know him. Mr. Kelley did not elaborate on his comments.

Mr. Kelley was also asked if he knew of any relationship of Patty Mac (Macarolli) with Reliable Trucking and any relationship of either with Schiavone Construction Company and Mr. Donovan. He said he did not know a Reliable Trucking and he never heard Patty Mac mention Schiavone Construction Company or Mr. Donovan.

Exhibit 39 at 1-2.

b. Statement to the Washington Post

According to an article published in the February 3, 1981, edition of the Washington Post³¹² Patrick Kelly on February 2, 1981, "spoke with a reporter under a pseudonymn [sic] at first."³¹³ Although Kelly denied to the Special

312 Lardner, "GOP Senators Assail 'False Allegations,' Urge Approval of Donovan," Washington Post, February 3, 1981, A7, col. 1 (the "February 3 article"). A copy is annexed as Exhibit 40.

313 Exhibit 40 at A7, col. 4.

Prosecutor that he had ever conversed with any reporter from the Washington Post,³¹⁴ due to the ambiguity of the reference to the reporter's use of a pseudonym and in view of Kelly's comments with respect to the substance of the article,³¹⁵ that portion of the article purportedly quoting and paraphrasing Kelly warrants scrutiny. It recites:

[A]n FBI informant named Pat Kelly who has testified at several trials of organized crime figures told The Washington Post that a member of the Genovese Crime Family, Joe Adonis, Jr., told him several years ago that "we have the inside there [at Donovan's company]."

* * *

Kelly said his conversations with Adonis about Schiavone Construction took place around April or May of 1977 when Adonis told him that a trucking company of which Adonis was a partner was hauling dirt for Schiavone in the Saddle Brook, N.J. area. "I was working in an undercover capacity with another trucking company," Kelly said. "At different times we would be talking about getting fill dirt, stuff like that, and it would come that, well, Schiavone had this coming up, and we could use that over there. He [Adonis] said, 'We have the inside there, we have the go-ahead.' Verbiage like that. Tough-guy talk."

He said Adonis also told him that Adonis' trucking company "would have the last looks at bids and prices" for Schiavone subcontracts. On another occasion, in 1977, Kelly asserted, he and several others involved in a project calling for second mortgage money were sitting in a Paterson, N.J., lawyer's office when the discussion turned to a paving company that one of the men, named Mike C., had worked for.

314 See Section VI.A.3.c-d., infra.

315 Id.

"Mike brought up (word) about an investigation the state of New Jersey was conducting with reference to bid-rigging," Kelly recalled. Mike brought up that it was a good thing he was not brought before the grand jury, that so-and-so company arranged to take this job, that Schiavone took another, and as such-and-such company took another . . . and that Donovan was at one of the meetings at which the job was parceled out."

Exhibit 40 at cols. 1, 3-6.

c. Statement to the Special Prosecutor

On May 17, 1982 Patrick Kelly was interviewed by the Special Prosecutor. He stated, among other things, that he remembered no conversations in which the name Donovan was used and only two conversations in which the name, Schiavone Construction Company, arose. One of the conversations (the "Adonis conversation") occurred in approximately 1976 (perhaps 1977) in Jersey City, New Jersey, in the offices of Alamo Transportation ("Alamo"), by whom Kelly was employed. Alamo was a "sting" operation jointly coordinated by the FBI and the New Jersey State Police.

Kelly recalled speaking with Joey Adonis, Jr., and Richie Mazziotta concerning potential customers for fill which Alamo might have available for sale. Adonis at that time had a trucking company with Mazziotta which was hauling fill to a location on the Saddle Brook Parkway which SCC was widening. As Kelly recalled, Adonis said in words or substance, that he had a "connection" in SCC, that SCC was buying fill at that time and that Adonis believed that SCC could use more. Kelly understood that the "connection" was

more in the nature of a political connection than an organized crime tie. To the best of Kelly's recollection, Mr. Donovan's name was not used by Adonis or Mazziotta. Kelly also observed that certain of the conversations in Alamo's offices were videotaped or tape recorded and that any such recording would be the best evidence of what was said during the conversation.

The second conversation (the "Casella conversation"), which Kelly recalled occurred in approximately 1975, prior to the establishment of Alamo in December of that year. The participants in the conversation were Michael Casella, Alan Turteltaub, Sam Malfitano and Kelly. Casella mentioned that SCC, Turco Paving Company ("Turco") (Casella's employer) and Passaic Valley Crushed Stone were involved in bid-rigging on New Jersey projects. Kelly did not recall Mr. Donovan's name having been mentioned by Casella or any other person present. Kelly added that, at the time of this conversation, he was daily dictating reports which were often transcribed by the FBI and that this conversation would likely have been summarized in such a report. If Mr. Donovan's name were mentioned, it should appear in any summary of the conversation, Kelly said.

With respect to the February 3 article, Kelly stated that he had never spoken to the reporter who wrote it nor to anyone else associated with the Washington Post in January or February of 1981. The only persons with whom he spoke at

that time were one FBI agent and one investigator from the Senate Labor Committee. Both of those conversations took place over the telephone.

Addressing himself to the substance of the February 3 article, Kelly said that it was inaccurate in the following respects:

- i. As to the "April or May of 1977" date for the Adonis conversation, Kelly believed that the conversation most likely occurred in 1976.
- ii. Adonis never said anything about "bids and prices," much less having "last looks" at SCC's bids.
- iii. The Casella conversation occurred prior to the establishment of Alamo in December 1975, not "in 1977."
- iv. Mr. Donovan's name was not mentioned in the Casella conversation.

Finally, aside from the foregoing conversation, Kelly never heard anything about SCC's being connected with organized crime.

d. Grand Jury Testimony

Patrick Kelly testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

6. Alleged Payoff to Union Official

Another confidential source reported that Mr. Donovan was present at a time when an unlawful payment was made to an unknown official of a certain union. The source stated that he had no firsthand information concerning this transaction, nor did he know the identity of the particular

labor representative to whom the payment--of a specified sum--allegedly had been made. The payment was allegedly designed to guarantee "labor peace" on an SCC subway project in New York City. [MATERIAL DELETED.]

7. [ALLEGATION DELETED.]

8. The Erra Allegation

On December 22, 1981, S. Michael Levin, Attorney-in-Charge of the Department of Justice Organized Crime Strike Force in Miami, Florida ("Miami Strike Force"), sent a memorandum to one of his superiors in the Justice Department in Washington, D.C.³¹⁶ In that memorandum, Levin recounted a telephone conversation of December 21, 1981, between himself and William Meadows, a Miami attorney who formerly served as United States Attorney for the Southern District of Florida:

Mr. Meadows told me that he had a "very vague" recollection of a contact regarding Raymond J. Donovan, now Secretary of Labor, when Meadows was prosecuting a case against Pasquale Erra for tax evasion and willful failure to file. Mr. Meadows said that his best recollection is that the prosecution occurred sometime in 1966 or 1967. He stated that the critical issue was the question of Erra's control of the Johnina Bar and that in connection with this the name "Schiavone" came up. His best recollection is that the FBI had interviewed someone at Schiavone who stated that they came to Miami and stayed at the Johnina during the winter months and had seen Erra in the bar giving directions as if he was in control there. Prior to trial Meadows interviewed the individual and his statements were consistent with the FBI memorandum. Shortly thereafter

316 A copy of this memorandum is annexed as Exhibit 47.

and prior to putting the witness on the stand, Meadows reinterviewed the witness who claimed a total blank as to the events and as to Meadows' interview with the witness just a day or two before. Meadows asked the individual with whom he had had dinner the night before, and the person said that he had had dinner with Erra. Meadows thinks the individual may have been Donovan but is not sure and does not recognize the pictures of Donovan that he has seen in the paper.

I asked him whether or not he recalled the name of the FBI agent who provided the interview or the name of the IRS case agent, and Meadows could recall neither. He stated that E. David Rosen, a Miami attorney, had represented Erra during the prosecution.

Exhibit 47.

9. The Donelan Allegation

a. Statement to the FBI

On January 23, 1981, James J. Donelan was interviewed by agents of the FBI concerning certain matters which Donelan wished to raise in connection with Mr. Donovan's pending confirmation. As set forth in the report of interview,³¹⁷ Donelan stated, inter alia:

Donelan advised that he has known Raymond J. Donovan the Executive Vice President of Schiavone Construction Company, Secaucus, New Jersey, since approximately 1961, and advised that his last active association with Donovan occurred in approximately 1970 to 1971. Donelan said he has not spoken to Donovan since 1970 or 1971, but during the period 1961 to 1971, he would describe his association with Donovan as one of being a close personal friend and an individual who had extensive business dealings with Donovan through Donovan's position at Schiavone Construction Company, and

317 A copy of which is annexed as Exhibit 71.

Donelan's own position with two companies that Donelan owned during this period.

Donelan advised that he was once a partner in a company called Flashers, Incorporated [which] . . . provided safety equipment rentals for construction jobs and other related projects such as public utility jobs, et cetera (etc.). Donelan stated that Flashers, Incorporated, became a subcontractor on virtually all of the Schiavone Construction Projects, during the early 1960's, as well as, being a subcontractor on the construction projects of numerous other companies. . . . Donelan stated that in October, 1967, he sold his half interest in Flashers, Incorporated, and formed American Highway Sign Company, a New Jersey corporation wholly owned by Donelan. Donelan stated he continued to provide the same service as Flashers, Incorporated, and continued his association in this regard with Schiavone Construction Company and Donovan.

* * *

Donelan advised that a problem developed in 1969, primarily because Schiavone Construction failed to honor a verbal agreement made between Donelan and Jack Frost a relative of Donovan, who was then acting as the purchasing agent for Schiavone. Donelan advised that this problem occurred because Frost had committed Schiavone to the financial backing of purchases for highway signs and cash advances to cover the payrolls of American Highway Sign Company, and use of Schiavone trucks and equipment to deliver the signs on a project on the construction of the New Jersey Turnpike. . . . Donelan stated he would never have taken the project on if it had not been for the commitments made by Frost, who he (Donelan) felt was speaking for Donovan when the commitments were made. Donelan stated that it is his own fault that he did not obtain the commitments in writing, but felt nevertheless that at the time when the commitments were made and the deal was struck he had no reason to believe that Schiavone Construction would not follow through on its commitment to him. As the project developed and Donelan began having problems he found that Frost was not going to deliver on his promises, and attempted to discuss the situation with Donovan. He finally obtained a meeting with Donovan, who told Donelan that Frost did not have the authority to make the commitments in the first place and also indicated that Frost had been

telling Donovan that Donelan had a drinking problem and that Donelan was not doing everything he was supposed to do to complete the project. Donelan stated he eventually delivered on the contract receiving no assistance from Schiavone Construction, but also had tremendous problems with state inspectors that he had never experienced before on any jobs he had with Schiavone Construction.

Donelan stated that as a result of the aggravation concerning this particular project he subsequently suffered a heart attack and was advised by doctors to get out of the construction business. Donelan stated he did so and began operating a grocery business which had previously been operated by his parents.

* * *

Donelan stated that it was his impression that Schiavone Construction had a reputation of being "ruthless" of withholding payments on contracts to "squeeze" subcontractors, and Donovan seemed to have been the one at Schiavone who had the reputation of handling this kind of activity.

Donelan advised that Schiavone and/or Donovan owned the Fiddlers Elbow Country Club which is located along Interstate 78, in Northwest, New Jersey, near the Pennsylvania line in the vicinity of Netcong, New Jersey. Donelan stated that the country club is near an exit ramp that appeared to have been created to facilitate access to that club. Donelan stated that it is his understanding that while building Interstate 78, Schiavone and Donovan saw the land available and purchased it for the club. Donelan advised that Donovan told him about buying the land for the club before the highway project was under way in the middle 1960's.

Concerning labor negotiations, Donelan stated he had not known that Donovan was ever involved in labor negotiations at Schiavone Construction. Donelan stated that it was his understanding that Ronnie Schiavone handled all of the labor contracts and negotiations for the company.

Donelan stated that Donovan never demanded any kickbacks from him or any other kind of payments, or inducements for contracts that he (Donelan) obtained with Schiavone Construction as either Flashers, Incorporated, or American Highway Sign

Company. Donelan stated he had observed that Schiavone Construction seems to have few or no labor problems, and he stated that it was "common knowledge" that "no show" positions and "no work" positions existed in the construction industry as a result of labor negotiations. Donelan advised however that he was not aware of any specific allegations that Donovan or Schiavone Construction had paid for labor peace or were extorted by labor union officials in order to ensure labor peace.

Donelan stated he had no knowledge that Donovan knew or associated with any organized crime type individuals or labor union officials, and further stated that it was his impression that Ronnie Schiavone handled the labor negotiation aspect of the business.

Donelan stated that Schiavone Construction Company seemed to be very adept at being low bidder on construction projects and then being able to have cost overrun or change orders approved as the project continued. Donelan stated he could recall discussing this in a general sense with Donovan, who seemed to take the position that Schiavone Construction success at operating in this manner was due to the fact that they did their "homework" and were very smart businessmen. Donelan advised however, that Donovan and officials at Schiavone Construction were supposedly very close to the New Jersey Turnpike Commissioner or Executive Director named Flanagan, who supposedly was the individual who would approve cost overrun or change orders.

Exhibit 71 at S.P. nos. 101477-101481.

b. Statement to the Senate Staff

Some sixteen months after making his statement to the FBI, Donelan telephonically provided to a Senate Labor Committee investigator a distinctly sharper rendition relating to several of the same subject matters. As paraphrased in the May 20, 1982, letter from Chairman Hatch and Ranking

Minority Member Kennedy to the Special Prosecutor, 318 Donelan stated that

he had a close relationship with Raymond Donovan from 1960 to 1970. He stated that he had a company which made warning flashers for highway construction. When he first met Donovan, Donovan and Schiavone had only one rented office and were a very small home improvement company. Donelan stated he would stop at Donovan's office at the end of the day and they would talk and drink scotch. Within a very short time he stated that the Schiavone Company was making millions on New Jersey turnpike construction.

He stated that Donovan told him he was able to get bids through inside information from William Flanagan, who was then and still is the head of the New Jersey Turnpike Authority. Donovan claimed to have known Flanagan since childhood. Donelan describes details as to how Donovan was able to underbid other companies and still make a lot of money through renegotiations on certain items once he had the contract.

Donelan said it was rumored that Donovan and Schiavone had connections with organized crime figures. He saw persons he considered as possibly organized crime figures when he would stop in to visit with Donovan in his office at the end of the day. Donelan would leave the room when they came in.

He stated that it was well known that Schiavone had no labor problems because of these connections.

Schiavone's purchasing agent told Donelan that they knew the Kantor property was actually owned by the city. Dumping there saved the Schiavone Company a lot of money.

Donelan says he has a picture of himself, Donovan and Cornelius Gallagher taken at a bar he owned in Bayonne on St. Patrick's Day in 1968.

He states that Donovan knew who Briguglio was but he never saw them together. He claims that Donovan reneged on money owed to him in 1970 and

that he brought a suit against Schiavone. The day before the trial he was mugged and his car was stolen. When his car was located, the only thing missing were his records for the lawsuit. Valuables were left in the car.

He states that Donovan was able to arrange for an exit from the limited access highway which runs near the Fiddler's Elbow Country Club.

At one point, he claims, Donovan wanted him to front for him in the proposed purchase of the Great Western Hotel Chain. He declined.

He states that the Schiavone Company charged the state for fill it used to build the golf course at the Fiddler's Elbow Country Club.

Mr. Donelan states that he was interviewed for six hours by the FBI in January, 1981, approximately three days before our Committee voted to favorably report Donovan's nomination. The Committee never received a summary of any such interview, and learned of this information for the first time on May 20, 1982.

Exhibit 72 at 1-2.

c. Statement to the Special Prosecutor

On May 22, 1982, an agent of the Special Prosecutor interviewed James J. Donelan in the presence of his counsel. Among other things, Donelan stated that he and Mr. Donovan were relatively close friends from 1961 until approximately 1970, when a business dispute led to the disruption and, ultimately, severance of their relationship. Mr. Donovan never asked Donelan, for any type of payoff, kickback or other inducement for the business he secured from SCC over the years. Further, Donelan stated that he never made a payoff either to Mr. Donovan or anyone else affiliated with SCC. Donelan, moreover, had no personal knowledge that either Mr. Donovan

or SCC ever placed individuals in no show jobs.

In the early 1960s, Mr. Donovan told Donelan about a close relationship that existed between Mr. Donovan and William J. Flanagan, Executive Director of the New Jersey Turnpike Authority (the "Turnpike Authority"). According to Donelan, Mr. Donovan made remarks to the effect that all SCC had to do was bid low enough to get a particular contract and, from that point, SCC had no further problems. It was Donelan's opinion that SCC knew that Flanagan would approve excessive SCC cost overruns on Turnpike Authority projects. Consequently, SCC bid very low on Turnpike Authority jobs.

Donelan denied that Mr. Donovan ever stated that anyone associated with SCC made payoffs to Flanagan. The inference, however, was there, according to Donelan.

Mr. Donovan told Donelan that SCC was purchasing the land for Fiddler's Elbow before the Route 78 highway project was underway in the middle 1960s. Donelan was unable to provide any details concerning the method by which SCC arranged for an exit to be placed at Fiddler's Elbow. However, he intimated that something sinister might be involved.

Donelan went on at great length, throughout the 4-1/2 hour interview, about his personal grievances with, and lawsuits against, SCC arising out of the business relationships between the companies in the 1960s. In doing so, Donelan provided no information relating to any purported criminal activity on the part of Mr. Donovan or SCC.

d. Grand Jury Testimony

James J. Donelan testified before the grand jury.

[GRAND JURY MATERIAL DELETED.]

10. [ALLEGATION DELETED.]

B. Results of Investigation

1. Alleged Relationship with the Moscatos

Although the Secretary was evidently ignorant of it during his confirmation hearings,³¹⁹ SCC had done a little more than \$5,000 worth of business with the Moscatos between 1970 and 1973.³²⁰ This fact, which was initially disclosed

319 See, e.g., Hearings at 345:

THE CHAIRMAN: Have you heard of Moscato Contractors before these matters were brought up by the FBI.

MR. DONOVAN: I did not.

THE CHAIRMAN: Have you ever done business with Moscato Contractors?

MR. DONOVAN: We have not.

The Senate Labor Committee observed in its report that the "records of the FBI Newark Field Office disclosed no reference to Moscato Contractors. The FBI reviewed active and inactive vendor cards at Schiavone and found no card for Moscato Contractors." Senate Report at 19.

320 The Special Prosecutor obtained from SCC one invoice addressed to SCC from, and the corresponding SCC check to, Moscato Bros. Inc., 600 Belleville Turnpike, Kearny, New Jersey, in the amount of \$825. Three of the invoices to SCC from, and corresponding SCC checks to, City Construction Co., 75 Glenwild Avenue, Bloomingdale, New Jersey, in the respective amounts of \$2400, \$445, and \$1396.50, were also obtained. Copies of these invoices and checks, which totalled \$5066.50 were introduced as Grand Jury Exhibits 88-88G.

in a New Jersey newspaper article,³²¹ was confirmed by SCC to the FBI following Secretary Donovan's confirmation.³²² FBI Director Webster, responding to a post-confirmation Senate inquiry, so advised the Senate Labor Committee by letter dated June 1, 1981.³²³ To the Special Prosecutor, Philip (Brother) Moscato (but not Frank (Chickie) Moscato) said that he recalled having met Secretary Donovan--indeed, having met him on more than one occasion. However, Moscato's recollection in 1982 conflicted with his statement in February 1981 that he doubted that he had ever met Mr. Donovan. Moreover, the circumstances of his meetings with Mr. Donovan, and the length of time which had elapsed since he recalled last seeing the Secretary, led Philip Moscato to volunteer that the Secretary may well not remember him. Frank Moscato disavowed ever having met Mr. Donovan. The Secretary, moreover, disclaimed any recollection of either Moscato. Further, none of the numerous friends, acquaintances and co-workers of the Moscatos who were interviewed by the Special Prosecutor was aware of any relationship between Mr. Donovan and either Moscato.

321 Locklin, "Senate Didn't Get All FBI Has on Moscato." The Record, Feb. 10, 1981, at A-1, col. 1; a copy is annexed as Exhibit 48.

322 The SCC Corporate Secretary and Counsel so advised an FBI agent in Newark on February 11, 1981. S.P. no. 101506.

323 A copy of Director Webster's June 1, 1981, letter to Senators Hatch and Kennedy is annexed as Exhibit 49.

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