



*State of New Jersey
Commission of Investigation*

LOCAL GOVERNMENT:

BOROUGH OF SEASIDE HEIGHTS

MARCH 1997



State of New Jersey

COMMISSION OF INVESTIGATION

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Governor Christine Todd Whitman
The President and Members of the Senate
The Speaker and Members of the General Assembly

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

Respectfully,

Leslie Z. Celentano

Louis H. Miller

M. Karen Thompson

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EXECUTIVE SUMMARY

Introduction

The Commission undertook an investigation into the operations of the Borough of Seaside Heights, Ocean County, in October 1993 in response to complaints from citizens who approached the Commission with allegations of corruption, waste of taxpayer money and other abuses.

Subsequent investigation revealed that individuals in the Borough's employ have been awarded questionable compensation and special services and, at retirement, lucrative benefits – all at taxpayer expense. Credit cards placed at the disposal of Borough officials have been misused. The community's Public Works Department, along with its tools, machinery and supplies, were treated like personal property by its long-time director. Thousands of dollars worth of municipal damage claims were paid based upon falsified paperwork.

Citizens, meanwhile, have paid a high price – not only in terms of taxes and trust. They have been penalized by an inequitable and chaotic application of municipal governing authority, in some instances even to the point of being billed inequitably for drinking water.

This situation persisted and flourished for years due to an utter lack of proper and effective

oversight and accountability by the governing body of the municipality. The Commission's investigation revealed a systemic pattern of fiscal, administrative and procedural deficiencies. Borough officials routinely flouted ordinances they were responsible for enforcing. Despite repeated red flags raised by the Borough's auditors and others, the governing body failed to take corrective action. Even when outside authorities tried to stop certain improper activities – as with repeated notices of environmental violation aimed at halting the illegal disposal of tons of municipal debris into local waters – those activities continued unabated.

This lengthy and comprehensive investigation entailed extensive review of official documents. Dozens of officials, merchants and citizens of Seaside Heights were interviewed and subpoenaed to testify under oath. The Commission recognizes and appreciates the patience and cooperation of those who properly viewed this difficult process as a necessary means to a better end for their community. Indeed, even as the investigation progressed, a number of steps toward reform were undertaken in Seaside Heights.

At the same time, the Commission must note that its investigation was stymied at various crucial junctures, including the fact that many Borough financial records were missing.

Summary of Key Findings

IMPROPER ADMINISTRATIVE PRACTICES

* Borough officials ignored ordinances restricting employee compensation for accumulated sick and vacation leave at retirement or separation, and they awarded expensive compensation packages that placed a significant fiscal burden on the Borough's operating budget.

* Between 1985 and 1994, the Borough made lump-sum payments or obligated itself to future payments for active, retired and resigned employees totaling more than \$1 million. The Commission questions the legitimacy of nearly half that amount, including, in one instance, a \$300,000 "golden parachute" awarded a retiring employee in 1993.

* Job titles and financial stipends were juggled in a way that provided one employee with more than \$63,000 in inappropriate salary payments between 1986 and 1996.

* Select employees were singled out for preferential treatment in salaries and employment status. Two Department of Public Works employees received 17 percent pay hikes under circumstances that raised questions about whether proper and equitable procedures were followed. In another instance, a clerical employee was granted permanent employment status the first day on the job and almost immediately made eligible for medical benefits, skipping the 90-day waiting period required for new employees by the Borough's insurance carrier.

* Health and pension benefits were not administered to Borough employees uniformly. Evidence indicates that such decisions were made on an individual basis, regardless of applicable ordinances and state regulations.

* One key Borough employee crafted a special “employment agreement” for herself that called for the payment of \$7,700 for unused sick leave. The only authorization for the payment was a note from the recipient stating that it had been approved by a member of the Borough Council. The “agreement” also called for the employee to receive lifetime medical benefits to which she was not entitled.

* Favoritism governed billing procedures for water usage. Inequitable treatment was applied in determining which residents and business owners were to install water meters and whether those meters were read. Commercial properties owned by a number of former Borough officials were among those that received favorable treatment.

FRAUDULENT DISASTER/DAMAGE CLAIMS

* In the aftermath of a December 1992 storm, the Borough collected thousands of dollars in disaster relief based upon numerous falsified damage claims filed with both the Federal Emergency Management Administration (FEMA) and with its own insurance carrier.

* The bogus filings contained inflated and duplicative cost estimates for labor and materials and, in some cases, claims for damage that had been the result of pre-existing conditions.

ENVIRONMENTAL DEGRADATION

* The Borough for many years regularly engaged in the improper disposal of large amounts of concrete, debris and other materials, including blacktop, brick, fill, and steel reinforcing rods, despite repeated notices of violation from state environmental authorities. The material was dumped along the Intracoastal Waterway at Seaside Heights and adjoining municipalities in recreational areas used for boating and fishing.

FISCAL MISMANAGEMENT

* The investigation revealed an absence of checks and balances in the Borough's operating procedures and a lack of internal controls for purchasing and the payment of bills. Borough Council routinely authorized payment for purchase orders without proper certification and documentation.

* Taxpayer funds were employed for a range of questionable expenditures, such as personal lunches, flowers, Mass cards, magazine subscriptions and a cellular phone.

* A review of Borough purchase orders showed that many contained false vendor certifications, including such obviously bogus signatures as those of *Santa Claus*, *Omar the Tentmaker*, *U.R. Stuck* and *Olive Oyl*. All were approved for payment.

* Between 1986 and 1991, taxpayer-funded credit cards placed at the disposal of key elected and administrative officials were used to purchase approximately \$2,195 worth of various items and services, including gasoline, meals, automobile rentals, hotel lodging with an in-room movie,

a tuxedo rental, photo finishing and a retirement gift.

MISSING RECORDS

* Borough financial records were discovered missing from a storage area in the attic of the Borough's public works building. Evidence developed by the Commission revealed that on two separate occasions in 1993, a Borough employee was observed removing or discarding Borough business records and files at the DPW building after hours.

MISUSE OF BOROUGH RESOURCES

* Substantial amounts of material purchased at taxpayer expense, including windows, tools, bricks, concrete, lumber and decorative stone, were purloined for personal use. Some of this material was stored temporarily at the Department of Public Works building in a locked area that came to be known to Borough employees as "the candy room."

* The misuse of Borough resources was facilitated by an absence of inventory control in the Department of Public Works, which serves as the Borough's leading purchaser of hardware and supplies.

* Certain Borough residents were provided with personal services at public expense. The services included snow removal from privately-owned driveways and lots by Borough employees utilizing Borough equipment on Borough time.

-CONFLICTS OF INTEREST

* The investigation revealed instances in which Borough officials allowed their roles as public servants to blur with their private interests. In one instance, a ranking police official attended a dinner meeting to solicit political campaign support from local business owners. Those in attendance included a known associate of organized crime.

FRAUDULENT ABSENTEE BALLOTS

* An examination of irregularities and unresolved issues related to the 1991 mayoral primary revealed wholesale misuse of the absentee ballot process, including the certification of documents containing fraudulent names, suspect addresses, obvious misspellings and errors, and forged signatures.

TEXT OF REPORT

IMPROPER ADMINISTRATIVE PRACTICES

Retirement/Separation Agreements

Borough officials routinely ignored ordinances governing compensation for accumulated sick and vacation leave at the time of employee retirement or separation. They opted instead for *ad hoc* payments that placed a significant fiscal burden on the municipal budget. Between 1985 and 1994, the Borough made lump-sum payments or obligated itself to make payments to retired, resigned and active employees totaling more than \$1 million. The Commission questions the legitimacy of nearly half that amount.

The most egregious example involved a special retirement package awarded to former Department of Public Works Superintendent Leonard Ipri. After 47 years of service, Ipri retired from the Borough on May 31, 1993, with a “golden parachute.” In addition to his regular pension, Ipri was awarded \$300,000 for unused sick and vacation leave, payable at \$50,000 annually for six years. The payments were attributed by Ipri’s retirement agreement to 707.75 days worth of unused vacation and sick days that Ipri supposedly accumulated during his career with the Borough – 357.5 accumulated vacation days and 350.25 unused sick days. The Commission found, however, that based upon Ipri’s salary level at the time of his retirement in 1993, the value of the time cited was \$230,556.64 – nearly \$70,000 less than the total amount awarded to him. No documents exist to support the \$300,000

award, and no Borough officials could explain how the figure was calculated.

Moreover, it is questionable whether Ipri was even entitled to the amount of \$230,556.64. Commission staff analyzed Ipri's leave balances by adding time credited and subtracting both days utilized and leave time "sold back" to the Borough since 1979. From 1984-93, the ten-year period prior to his retirement, Ipri was allowed to sell back 408.5 unused sick days, for a total of \$78,800. Based on the Commission's calculations, Ipri thus retired with an accumulated balance of only 23.25 unused sick days and 357.5 vacation days. Since a Borough ordinance in effect at the time limited payment to 30 unused vacation days upon retirement, the Commission calculates Ipri's total entitlement for unused sick and vacation days to be only \$13,014.83 – some \$287,000 less than he actually was awarded. Additionally, Borough records reflect that days sold back to the Borough by Ipri during 1992 and 1993 were not deducted from his accumulated leave balance.

The Commission also found that, in addition to the proceeds of his "golden parachute," Ipri is receiving nearly \$20,000 annually in excess pension benefits. This resulted from the improper inflation of his pensionable salary through the inclusion of items not permitted for use in pension calculations.

Starting in 1986, and extending until his retirement in 1993, certain components of Ipri's salary – longevity,¹ sick pay and overtime compensation – were not itemized in his employment contracts. This lack of itemization disguised the fact that these non-pensionable components were incorporated into Ipri's ordinated pay, whereas salary ordinances for the remainder of the Borough workforce

¹Annual salary increment based upon length of employee service.

reflected base pay only. Borough records reflect that as early as April 1, 1987, officials knew, or should have known, that the practice was not permissible. In February 1988, the state Division of Pensions sent the Borough formal notice that such compensable items cannot be recognized for pension purposes. That notice states in part:

By law, compensation for overtime and lump sum payments for sick days do not fall within the scope of "base salary" and cannot be recognized as creditable salary for retirement benefit purposes. One of our concerns is whether the base salary. . .is in any way comprised of compensable items that the Division of Pensions, in accordance with applicable laws, does not recognize for pension purposes.

There is no evidence that any of Ipri's employment agreements were approved by Council.

Other questionable employee compensation arrangements, most also undocumented by official Council action, involved the following:

* Two employees were granted retroactive salary increases in exchange for waiving receipt of five years' worth of additional pension credits each under an early retirement program. Under state pension rules, public employers cannot selectively choose personnel to participate in early retirement programs and exclude others, which appears to have been the case in Seaside Heights. Also, by retroactively boosting salaries for select employees and trying to exclude them from the additional five-year pension credit, the Borough shifted the cost of the added years' benefits from the Borough to the State Pension Fund.

* One employee was paid 25 percent of accumulated sick leave after resigning from

employment with the Borough. The Borough Administrative Code in effect at the time provided compensation for leave time only upon retirement, not voluntary separation.

* Retiring employees were compensated for up to 100 percent of accumulated sick time even though the applicable Borough Code at the time capped such payments at 25 percent. Employees were also paid for unused vacation in excess of the 30-day maximum authorized by the Borough code.

* Cash settlements were given to employees for unused vacation time, despite the lack of annual leave records to support leave balances.

* “Termination Settlements” in excess of sick and vacation balances were awarded to some employees. Borough records do not reflect the basis for these settlements.

* Select employees were allowed to remain on the Borough payroll for lengthy periods utilizing sick leave prior to retirement when, in fact, they were not sick, thus circumventing both the Borough Code and state law. By remaining on the payroll, employees also gained additional pension credit.

* Employee longevity bonuses in some instances were included in regular paychecks, while others were awarded longevity through lump-sum payments. State Division of Pension directives require that within a unit or department of an organization, the base-salary calculation for all employees must be uniform with respect to the method of compensation for longevity pay.

The Borough's failure to adhere to ordinances or to establish reasonable limitations governing both accumulation of employee leave and payment for accumulated leave continue to subject the community's taxpayers to financial liability. In an effort to limit this financial exposure, the Borough Council in January 1994 imposed a \$15,000 cap on payouts per employee for accumulated sick leave. The cap, however, was not retroactive.

Inequitable Health Benefits

Health benefits for Borough employees were not administered consistently. Decisions to provide medical coverage were made by the Mayor or a member of the Council on an *ad hoc* basis, regardless of applicable municipal ordinances or the Borough's contract with its medical insurance provider.

Employees received health benefits to which they were not entitled. In one instance, part-time employees, who ordinarily would have been excluded from eligibility for health benefits, were able to negotiate personally with a member of the governing body for coverage. Other employees, meanwhile, were not enrolled in benefit plans to which they were entitled.

Although health benefits were to be provided only to Borough employees, an agreement existed whereby two non-employees received medical coverage at taxpayer expense. In March 1987, Borough Administrator John Adams left the Borough's employ to join the private accounting firm of Russo, Gorby & Skinner, the Borough's auditor of record. In exchange for Adams being allowed to remain on the Borough's health benefits plan, a partner in the firm, Jerry R. Skinner, reduced auditing

fees charged to the Borough. In October 1988, when Adams left the firm, Skinner negotiated with the Borough to continue the arrangement for himself. As a result, the Borough substituted Skinner for Adams on the medical plan. Skinner, in turn, continued the reduced accounting fees. Consequently, Skinner's credibility as an independent auditor for the Borough was seriously compromised.

The Commission also found for the period 1982-1994, the Borough violated the terms of its agreement with its medical provider by awarding medical benefits to certain employees without requiring them to be either full-time employees or to serve a 90-day waiting period. The practice of providing immediate medical coverage was extended to a former Borough Administrator, a former Chief Financial Officer and to persons elected to the part-time position of Borough Council.

In one instance, the Commission found nepotism associated with the granting of medical benefits. Borough Clerk Bettsey Arnold's daughter, Patti Genander, received coverage for health benefits well before the 90-day waiting period expired. Genander's eligibility was backdated on a medical plan enrollment form to give the appearance that the waiting period had actually elapsed.

Deputy Borough Clerk Barbara Larsen, whose responsibilities include the processing of new employee medical forms, answered questions on the subject during an unsworn interview by Commission staff in the presence of a lawyer from the then-Borough Attorney's office. Later, Larsen refused to answer questions concerning this matter before the Commission under oath, citing her Fifth Amendment privilege against self-incrimination. In the interview, Larsen identified Genander as an employee whose eligibility was backdated to allow her to receive benefits without completing the 90-day waiting period, and stated that she had acted based upon instructions from Genander's mother,

Borough Clerk Bettsey Arnold. She also stated that Paul Forino,² the Borough's insurance agent at the time, told her to backdate employee starting dates to avoid a waiting period, since many of the Borough's employees had been in temporary status for a long period of time prior to becoming permanent. Arnold herself testified that it was typical to bypass a waiting period for medical coverage, and she denied telling Larsen to date Genander's health-plan enrollment as of her hiring date. In an interview with Commission staff, Forino denied having directed Larsen to backdate starting dates on insurance enrollment forms.

Additionally, the Commission found that Genander, unlike other newly hired clerk-typists, was granted permanent employee status from her first day of employment with the Borough. Permanent employees receive benefits not afforded provisional employees. Payroll Clerk Ann Stabile testified that she was given instructions pertaining to Genander's status from Arnold herself in June 1991:

Q. . . [W]ere you instructed to put her on payroll?

A. Permanent from the first day.

Q. Do you recall who gave you the instructions?

A. Yeah, Bettsey Arnold.

Q. . . Was it abnormal?

A. Oh, yes. Yes. Employees weren't put on permanent first day.

. . . .

A. I don't ever remember an employee being put on permanent the first day they started.

²On January 12, 1996, the Borough's former insurance agent, Paul Forino, was sentenced to a custodial sentence on one count of theft by deception and six counts of forgery in connection with an insurance fraud prosecution involving, among others, the Borough of Seaside Heights. He was also ordered to pay over \$700,000 in restitution.

Q. How would they normally be –

A. They would be hired as a temporary, then anywhere from three months to two years later, they would be put on permanent.

Questionable Compensation

Over the years, the Borough has paid stipends³ to some employees in addition to regular salaries. In many instances, stipends were awarded for duties performed during regular working hours and which appeared already to be part of the employee's existing official job description. In a number of cases, the extra pay has been incorporated into employee base salaries. This practice precludes the possibility of an automatic reduction in pay when the employee no longer performs the duties in question.

The most significant example involves Borough Clerk Bettsey Arnold. As Borough Clerk since July 6, 1983, Arnold has held a number of other titles for which she was paid stipends in addition to her base salary as Clerk. An examination of Arnold's payroll records reveals that, for the period 1986-96, she received as much as \$63,651 in inappropriate salary payments. The overpayments were a result of several factors, all of which were linked to stipends she received.

By incorporating stipends into Arnold's salary, the Borough enabled her to continue to be compensated for duties she no longer performs.⁴ Arnold was appointed Borough Treasurer in 1987,

³Compensation paid over and above the salary established for an employee's primary position.

⁴ N.J.S.A. 40A:9-165 prohibits reductions of the Borough Clerk's salary as set by ordinance during the term of appointment.

receiving an annual stipend of \$5,000 with the appointment. In 1988, Borough Council passed a salary ordinance incorporating the Treasurer stipend into the salary of the position of Borough Clerk. In 1989, Arnold was appointed to the successor position of Chief Financial Officer. Arnold received both the Treasurer stipend (\$5,000) and that of the Chief Financial Officer (\$1,500) from 1989 until her resignation as CFO, effective December 31, 1991. The Treasurer stipend having been incorporated into Arnold's Borough Clerk salary, Arnold lost only the CFO stipend when she resigned as CFO. From 1992 to the present, Arnold has continued to receive the Treasurer stipend, resulting in excess payments of \$38,372.57 through 1996.

In 1987, Arnold also held the position of Borough Games of Chance Collector for which she received an additional stipend of \$3,225. In 1988, although that stipend was reduced by ordinance to \$1,500, no corresponding reduction followed in Arnold's overall salary. Instead, the difference in pay was rolled into her compensation as Clerk.⁵ Commission staff calculates that, for the period 1988-96, the excess for Games of Chance Collector paid to Arnold through her Borough Clerk salary was \$22,862.71.

In 1987, Arnold was paid \$2,000 more than could be identified through positions established by Borough salary ordinances. The Borough payroll clerk testified that Arnold directed that the money be added to her salary to compensate her for the position of Welfare Director, a position which had become vacant. Borough records do not reflect that this was authorized or approved by the Borough Council.

⁵In 1992, the remainder of the stipend for Games of Chance Collector was incorporated by ordinance into the base pay of the Clerk.

In addition, in 1986 and 1987 Arnold's longevity pay inappropriately was based in part on stipends, resulting in overpayments totaling \$415.

Summary of Overpayments to Bettsey Arnold
(1986-96)

Treasurer's salary	\$38,373
Games of Chance Collector's salary	22,863
Unauthorized stipend	2,000
Longevity calculation	<u>415</u>
Total	<u>\$63,651</u>

Questionable Employment Agreements

Prior to 1993, employment agreements for certain key Borough employees were never submitted to the Council for approval. There are no resolutions documenting any official Council action concerning the agreements. Examples include the annual employment contracts granted to Leonard Ipri, the Borough's highest paid employee, and the 1990 employment agreement of Borough Clerk Bettsey Arnold. Arnold testified that this was not an unusual practice in Seaside Heights:

- Q. Contracts are ordinarily approved by Council; is that right?
A. Not all the time, no. Leonard's contract was never approved at a Council meeting.
- Q. Was yours approved by the Council?
A. No, not that I know of. By a resolution? No, they did not do it.
- Q. One Council member would negotiate a contract?
A. They did that lots of times. . . I don't remember it ever going before the whole Council.

Arnold also testified that there was no review of Borough contracts, including her own, by the Borough Attorney:

Q. Isn't it ordinarily true that the Borough attorneys review all contracts or should review all contracts?

A. Should review. That wasn't the case.

Q. And the attorney did not review yours?

A. No.

In an interview, former Borough Attorney William T. Hiering, Jr. confirmed that during his tenure as Attorney for the Borough of Seaside Heights between 1974 and 1992 and in 1994, he was not involved in preparing or reviewing individual employment contracts. He stated that he was unaware that any such contracts existed.

Borough Clerk's Contract

In 1990, Borough Clerk Arnold received \$7,700 for "cashing-in" unused sick days.⁶ The Borough's Payroll Clerk testified that the only authorization she received for making the payment was a note from Arnold herself stating the payment was *approved by Tony Vaz*. Arnold testified that she asked Vaz, then a member of the Borough Council's Finance Committee, if she could sell back sick leave she had not used. Arnold also said that money to fund the buy-back was placed into the municipality's Administrative/Executive budget line, against which Arnold's salary is charged. A review of Borough records, however, revealed that Arnold's sick leave payment actually was charged

⁶ Practice by which the Borough pays employees for a portion of accumulated sick leave.

against the water/sewer utility operating fund's budget, which carried a \$50,000 unfilled, but budgeted position. Vaz testified that he could not recall checking into the source of the funds.

Ann Stabile, the Payroll Clerk, testified that in late 1992 or early 1993 she discovered in her files a 1990 employment contract for Arnold. Stabile said the document, which purported to authorize the "cashing-in" of sick leave by Arnold, had not previously been part of those files. Stabile testified:

A. I found the contract in [Arnold's] folder, which surprised me because any contracts that were ever made. . .I was always given a copy of. As soon as it was signed, I was given a copy to put in their payroll folder.

. . . .

Q. You never saw this contract?

A. No.

Q. Any of those times?

A. Never. . . .I am a stickler for putting things in order. If I am filing something from two years before, then I am going to have to sort through them to get to that section to file it.

Q. So you were through that file several times?

A. Many times, sure.

Q. You don't go through them once a year?

A. I am constantly in permanent files for one reason or another. I never laid eyes on it before. It was never given to me to file away.

Arnold testified that it was possible that she placed a copy of the contract in the Payroll Clerk's files herself. She recalled that her action may have coincided with the appearance of articles in a local newspaper concerning Borough issues.

The employment agreement – which was drawn up by Arnold herself – bears her signature and those of then-Mayor George Tompkins and Deputy Borough Clerk Barbara Larsen, who served as a witness. But the document is unlike other Borough contracts and agreements in that it bears no execution date. Moreover, no Council resolution authorizing or even referring to the contract or its terms was discovered in the Borough files.⁷ Larsen testified that she did not know when the contract was signed, nor did she review the contract when asked to witness it by Arnold.

Arnold testified that she did not discuss the specific terms of the contract with Vaz, nor with Tompkins. When shown the contract, along with Arnold's note, Vaz testified that he assumed he had authorized the payment, but he had no specific recollection of the event:

Q. . . .Do you recall specifically authorizing Mrs. Arnold to do this?

A. Not specifically, but perhaps I did.

. . . .

Q. Can you be a little more specific as to whether you recall it or not?

A. Again, I think so. I believe so.

Q. Did you okay it?

A. I'm assuming I did.

Arnold's 1990 employment agreement also stipulated that she receive full lifetime medical coverage upon retirement, without regard to years of service or age. According to a Borough resolution passed in September 1978 and still in effect, the municipality is authorized to provide lifetime

⁷The only other employment contract for the Borough Clerk was negotiated in 1994, during the course of the Commission's investigation, and covers the period 1994-96.

health benefits to all retired employees with 25 or more years of service, provided the employee has reached at least 60 years of age. Based upon both age and length of service, Arnold was ineligible for lifetime medical benefits. The terms of her 1990 contract also were in violation of the statute in effect at the time, N.J.S.A. 40A:10-23, which stated that lifetime health coverage may be provided by a municipality for employees only under three circumstances: retirement while on a disability pension; retirement after 25 years or more of service; or retirement after 15 years of service at age 62 or older.

In his testimony before the Commission, former Mayor Tompkins identified his signature on Arnold's employment agreement but stated he had no specific recollection of the circumstances:

Q. . . .Do you remember signing it?

A. No, I don't.

Q. Do you remember Mrs. Arnold asking you to sign anything like this?

A. No. I mean, it's very possible I signed it. I'm not saying I didn't sign it.

. . . .

Q. Do you remember ever discussing a contract with Mrs. Arnold or –

A. I didn't personally, no. It would have been discussed with Mr. Vaz, who was the Finance Chairman.

Q. Okay. And Council would have approved it?

A. Yes.

There was no evidence of Council action concerning Arnold's "buy-back" or her 1990 contract.

Inequitable Employee Promotions/Raises

Two Borough employees received simultaneous provisional promotions under circumstances that raised questions about favoritism and proper oversight of personnel matters.

In 1990, Public Works Department employee Robert Arnold, husband of Borough Clerk Bettsey Arnold, and his DPW co-worker, Robert Kaminski, each were granted a 17 percent salary increase as a result of promotions. The Commission was unable to find evidence of full Council approval of this action. It was not reflected in the Council meeting minutes, and there was no indication of department-head approval on the personnel action forms.

Payroll Clerk Ann Stabile testified that Borough Clerk Bettsey Arnold instructed her to give promotions and raises to Robert Arnold and Kaminski in August of 1990:

A. [Bettsey Arnold] said to me that Bob Arnold and Bob Kaminski, who worked with Bob Arnold, were to get a raise. . . . They decided to pay both of them the highest amount that anyone, aside from the electricians, were getting at that time at the top scale.

Q. When you say “they decided,” who decided to pay?

A. Mayor and Council.

Q. She conveyed that to you, Bettsey Arnold?

A. Yes. She told me that they were both Maintenance Repairers now and they were to get the top salary as a Maintenance Repairer.

Borough records reflect an August 24, 1990 note from Borough Clerk Arnold to Payroll Clerk Stabile documenting the promotions of Robert Arnold and Robert Kaminski. The message instructed Stabile to change the titles of Robert Arnold and Robert Kaminski to *Maintenance Repairers effective back to January 1, 1990*, with reference to retroactive pay adjustments. Kaminski and Arnold were to

be compensated at the maximum rate for Maintenance Repairer. A salary ordinance approved in September 1990 lists the job category of Maintenance Repairer, but does not mention the names of any individuals filling the positions. New Jersey Department of Personnel forms reflect that on October 26, 1990, both men were granted provisional appointments effective January 1, 1990.

Stabile also testified that she was instructed specifically by Bettsey Arnold not to inform DPW Superintendent Ipri of the personnel actions:

A. . . I was told specifically not to let Leonard Ipri know.

Q. Bettsey told you not to tell Leonard?

A. "Do not tell Leonard."

Guido (Guy) Mazzanti, a Council member at the time and a member of the Finance Committee, testified that he first learned of the raises when Leonard Ipri complained to him that they had been put through without Ipri's approval. Mazzanti further testified that he learned that Council member Anthony Vaz negotiated the raises without full Council approval:

Q. . . [D]id you check with anybody on the Finance Committee?

A. I talked to Tony [Vaz] about it.

Q. What did he say?

A. Well, he admitted he did it, but he made a mistake.

Q. He said he made a mistake?

A. Yes, because Leonard got ahold of him, too.

Members of the Council who were questioned about the Arnold/Kaminski matter stated that

they were either unaware until after the fact of the promotions and raises, or did not recall the issue.

Former Council member Vaz initially testified that he believed the Council had approved the actions. Upon further questioning, Vaz stated he could not be certain as to whether the Council action he recalled took place in 1990 or in 1992, when the Council passed a resolution officially memorializing the permanent appointment of Robert Arnold to Maintenance Repairer.⁸

Borough Clerk Arnold denied telling the Payroll Clerk not to inform Ipri of the promotions and raises for her husband and Kaminski:

Q. Do you recall telling Ann Stabile to put them in as maintenance repairers at the maximum salary and not to tell Leonard?

A. No, I never said that.

Q. You never told her not to tell Leonard?

A. No, I did not.

When questioned on this subject, Robert Arnold refused to answer, citing his Fifth Amendment privilege against self-incrimination. Ipri cited the Fifth Amendment in refusing to answer any questions about Borough business.

⁸ Commission staff reviewed tape recordings of Council meetings and budget sessions for 1990 and found no reference to personnel actions involving Arnold or Kaminski. Kaminski remained in the provisional appointment until his retirement effective July 31, 1992.

Inequitable Water Meter Installation/Billing

Borough officials have failed to establish uniform procedures regarding the installation and reading of water meters, as required by terms of an agreement reached in 1984 with the state Board of Public Utilities. Among a total of some 1,900 water customers who purchase water from the Borough, meters were installed at approximately 400 properties. Of those, only about 50 were read for billing purposes on a regular basis. Witnesses testified that these decisions were left to the discretion of the Borough's Superintendent of Public Works, Leonard Ipri.

On several occasions beginning in 1986, Borough employees notified Ipri and members of the Council about the water-meter problems and discrepancies, and recommended solutions. No corrective action was taken. The Commission found inequities in the determination of who received water meters and whether or not those meters were read, and instances where, inexplicably, meters were read but the customers were billed on fixture rates.⁹ Moreover, some owners of commercial establishments, including former Borough officials, were never required to install meters on their properties; or the meters that had been installed were never read, and they continued to be billed on fixture rates. Meters reported broken were never fixed or replaced. In other instances, users purchased water meters in order to obtain certificates of occupancy (COs), but the meters were never installed. Installations were left to the responsibility and expense of customers with no follow-up by the Borough.

⁹ Rate based on the number and type of water fixtures as opposed to actual water usage.

In one case, a local business was notified initially that the bill for water usage would be based on the number of water fixtures on the premises. Subsequently, DPW Superintendent Ipri informed the owner that a meter would be required. The business owner purchased a meter from the Borough in order to obtain a CO, but never installed it. In fact, Borough records reveal that the meter was never picked up by this customer. As a result, the establishment was not billed for the entire 1991 calendar year.

In 1993, the Borough's water and related sewer billings became the subject of civil litigation brought by customers who complained of inequitable billing practices. As a result of this litigation, the Borough switched the billing of all water utility accounts to fixture rates, and, while not admitting liability, agreed to make payment of settlements totaling approximately \$180,000 from public funds.

Seaside Heights was under an administrative consent order from the New Jersey Department of Environmental Protection (DEP) requiring the Borough to complete the installation of water meters and to begin billing customers via meter rates by June 30, 1996, or face fines. On October 18, 1995, the Borough requested an extension of that deadline. In July 1996, the DEP granted approval of the extension until December 31, 1997, contingent upon the Borough meeting specific criteria. The Borough is in the process of complying with those directives.

FRAUDULENT DISASTER/DAMAGE CLAIMS

In the aftermath of a December 1992 storm, the Borough collected thousands of dollars in disaster relief based upon numerous falsified damage claims filed with both the Federal Emergency Management Agency (FEMA) and with its own insurance carrier.

DPW Superintendent Ipri, the Borough's Emergency Management Coordinator at the time, was out of town when the storm hit. The Assistant Emergency Management Coordinator, DPW worker Louis DiGuilio, was initially called upon to assess damage. DiGuilio, who testified that he had received no training on his Emergency Management Coordinator duties, said that he, along with two other Borough employees, prepared the preliminary damage assessment. DiGuilio testified that he estimated damages to be between \$200,000 and \$400,000 and that Ipri's secretary, Kathy Cerbone, typed up a damage assessment report, which he signed.

The Commission located two preliminary damage assessments in Borough and FEMA records, one for \$1 million and a second for \$2.5 million. DiGuilio testified that he had no knowledge of either document, and neither bears his signature. When questioned about what had become of DiGuilio's own preliminary damage assessment, Cerbone testified that "[e]verything was given to Mr. Ipri when he came back from vacation."

Upon his return after the storm, Ipri, in conjunction with a federal and state inspection team, prepared detailed individual claims called damage survey reports (DSRs) for 40 different projects. Based on the Borough's submissions, FEMA determined that 32 of the projects qualified for financial

assistance.¹⁰

The Commission questions the legitimacy of 10 of the 32 FEMA projects, five of which received both FEMA awards and insurance payments. The Borough received a total of \$154,057 in payments from FEMA and the Borough's insurer for the projects in question. The Commission has developed evidence that disputes the validity of \$123,665, or about 80 percent, of the \$154,057 in total payments on those claims.

Analysis revealed that the Borough submitted claims to both FEMA and its insurer that included inflated labor and material costs, as well as claims for damage from pre-existing conditions. In addition, the Borough did not always comply with FEMA requirements concerning notification of existing insurance. FEMA rules state that if the cost of a project is anticipated to be covered by the applicant's insurance, the FEMA claim should be suspended pending determination of insurance coverage. Because the Borough did not follow proper procedure, it received duplicate payments from FEMA and the insurance company for several claims. The investigation also revealed that due to the high volume of claims filed with FEMA in connection with such disasters, relatively small claims go unaudited.

Suspicion of fraudulent claims was noted in a December 31, 1992, insurance adjuster's report to the Borough's insurer: *We inspected alleged damages with Leonard Ipri, Public Works Superintendent. It appears he is intentionally overstating relationship of damages claimed to the 12-*

¹⁰ The Borough was awarded a total of \$367,590, consisting of \$289,099 funded by FEMA, and \$78,491 in insurance proceeds.

11-92 storm. Please advise if you have any records for prior losses. The Commission, however, found no evidence of follow-up, and the claims were paid.

The projects for which questionable or improper claims were filed include:

Beach Control Fence

A combined total of \$10,050 was received from FEMA and the insurer for the cost of replacing a fence on Hierung Avenue. Documented costs totaled only \$6,599, resulting in an overpayment of \$3,451.

Boardwalk Ramp Repair

Three separate claims were submitted for the repair of boardwalk ramps at Sampson, Blaine and Carteret avenues. The Borough received two payments of \$13,538 each for the Sampson Avenue and Blaine Avenue ramps, and \$5,175 for the Carteret Avenue ramp, for a combined total of \$32,251 from FEMA. Although there is no dispute that the boardwalk ramps were damaged by the storm, the replacement ramps were not built in compliance with the Americans with Disabilities Act (ADA). FEMA requires compliance with ADA specifications for landings, railings and curbing to warrant payment approval.

Several DPW workers testified that there had even been discussions concerning the Borough's plans to rebuild the ramps in conformity with ADA specifications, yet Ipri, who directed the work,

failed to follow those requirements.

Michael O'Donnell, a principal with the Borough's engineering consulting firm testified that the ramps were already under construction prior to his being requested to prepare a sketch for submission to FEMA. O'Donnell also confirmed in testimony that the ramps did not conform with ADA requirements, despite a bill he submitted stating, *Check if ramp is in conformance with ADA requirements*. O'Donnell advised the Commission that he was not requested to perform any inspection services during the construction of the ramps. Further, O'Donnell acknowledged that he did not conduct a final inspection to determine if the ramps complied with ADA.

Boardwalk Speakers

Ipri submitted a FEMA claim for \$19,193.50 for boardwalk speakers reportedly damaged by the storm. Ipri later de-obligated a portion of the claim noting, *Not Storm Damage – Speakers were stored away for the winter*. The speakers were also listed as a storm-related claim for insurance purposes. The Borough received \$2,667 from insurance for speakers plus a total of \$356 in a duplicative claim from FEMA. The Commission questions the entire \$3,023 awarded.

Christmas Decorations

The Borough was awarded a total of \$21,000, (\$2,950 in payments from FEMA and \$18,050 from the Borough's insurer) for damaged Christmas decorations.

DPW workers assigned to the project testified that most of the repair work was completed using salvaged materials. Based upon analysis of the project, only \$2,950 appears to be a valid claim. The FEMA payment was also duplicative of the insurance payment, which was, in itself, excessive.

Electric Distribution

The Borough received \$24,895 from FEMA and \$16,550 from its insurer, a total of \$41,445, for damage to the Borough's electrical supply system. A combined total of \$3,540 was identified as duplicate claims awarded by both FEMA and the insurer. FEMA and insurance awards in the amount of \$35,110 for this project appear to be based on questionable claims. Material costs of \$12,460 were attributable to pre-existing conditions, including submissions for an electric light standard that had been previously damaged in an auto accident. The Borough even submitted a claim supported by photographs depicting used electric transformers sitting in the DPW yard awaiting shipment. The transformers had been replaced for various reasons and had not sustained any storm-related damage.

Ipri de-obligated a claim for one transformer on the basis that the damage sustained by the transformer was not storm-related. However, he did not withdraw the Borough's insurance claim for this item, and the insurance company paid the claim.

No more than 20 hours of labor actually was devoted to work on this project. Therefore, \$19,110 in labor costs claimed through FEMA and insurance appear to have been improper.

Storm/Sanitary Sewerage Lines

Misrepresentations were made to FEMA to obtain funding for a claim of damage to Borough storm and sanitary sewerage lines. A prerequisite for eligibility for such a claim is that the Borough regularly maintain and clean the lines. FEMA inspectors were initially told by Ipri that no such maintenance program existed; thus, FEMA determined the project to be ineligible. On appeal, Ipri asserted his comments were misunderstood and that the Borough did, in fact, have a regular maintenance program. As a result, FEMA reinstated eligibility and granted the Borough \$14,850. In sworn testimony, DPW workers confirmed that no such maintenance program ever existed.

Ipri also represented to FEMA that two DPW workers devoted a combined total of more than 300 hours to this project. Those workers testified, however, that they had not worked on the project at all.

Tree Replacement

The Borough was awarded \$3,750 by FEMA for the cost of replacing 25 trees, most of which were not damaged by the storm, but rather had been vandalized or poorly maintained. Only about six of the trees, valued at a total of \$900, were actually destroyed by the storm.

Boardwalk Electric Wire and Conduit

Another example of inflated material and labor costs involves the award of \$15,347 to the Borough (\$10,414 from FEMA and \$4,933 from insurance) for boardwalk electric wire and conduit. The analysis substantiated only \$1,267 of costs associated with this project, resulting in questionable payments of \$14,080, including the entire FEMA award and \$3,666 of the insurance payment. In this instance, the Borough again received duplicate compensation through insurance and FEMA.

The Commission received information that Ipri instructed one DPW worker, James Bellio, to go out after the storm and cut existing speaker wires to make it appear that they had sustained storm-related damage. Bellio denied receiving such instructions or speaking to other Borough employees about any such directive from Ipri. Bellio's testimony was contradicted by other witnesses. Kathy Cerbone, then-secretary to Ipri, testified that Bellio told her about cutting the wires. Cerbone said she reported the information to then-Chief Financial Officer Judith Tiernan, who memorialized the conversation in a letter dated July 8, 1993, to the Borough Attorney. Tiernan testified that after learning of what Bellio had told Cerbone, she personally questioned Bellio about the matter. Tiernan said Bellio confirmed that the wire-cutting incident had indeed occurred. But neither Bellio nor Cerbone, she said, would put their statements in writing. Tiernan testified:

- A. Jimmy Bellio said, I can't put that in writing. I need this job.

- Q. What about Kathy Cerbone; according to the memo, you asked her to put it in writing?
- A. She would not put it in writing, either.

* * *

Numerous witnesses in interviews and sworn testimony stated that Borough officials had submitted fraudulent claims to FEMA in connection with prior storms as well. In some instances, employees were directed to stage photographs in such a way as to make the damage appear worse than it actually was.

Various Borough officials were aware of and, in some cases, supported Ipri's efforts to obtain FEMA and insurance payments to which the Borough was not entitled. Mayor P. Kenneth Hershey, himself a former long-time Council member, testified that it was a matter of Ipri "trying to get stuff for the town."

One blatant example involved Ipri's submission of a FEMA claim for \$73,252 for damage to a municipal parking lot. FEMA disallowed the claim because it was the result of pre-existing, not storm-related, conditions. Mayor Hershey was questioned regarding Ipri's attempt to obtain funds for the parking lot:

- Q. Are you aware that Leonard had attempted to submit a damage claim to FEMA for over seventy-three thousand dollars for storm damage to that lot in connection with the December of '92 storm?
- A. I got to give him a lot of credit for trying.

Leonard Ipri asserted his Fifth Amendment privilege against self-incrimination on all issues

related to the Borough.

ENVIRONMENTAL DEGRADATION

The Commission found that over the course of two decades through 1992, Borough employees regularly engaged in the improper disposal of large amounts of concrete and other materials, including blacktop, brick, steel reinforcing rods and fill. The debris was dumped along the Intracoastal Waterway below and beyond the mean high water line of Barnegat Bay in Seaside Heights and adjoining municipalities, much of it in recreational areas.

Virtually every DPW worker, as well as members of the Council, testified that they were aware of the practice and that it was carried out under the direction of then-DPW Superintendent Leonard Ipri. DPW workers also testified that private citizens, including contractors, were authorized by Ipri to use the area as a dumping ground as well.

Documents on file with the state Department of Environmental Protection reflect repeated warnings, notices of violations and threats of administrative penalties against the Borough as a result of the dumping dating back to March 24, 1972. The investigation revealed that the dumping continued even after Borough officials became aware of the State's disapproval.

In addition to violating existing statutes and despoiling the environment, the improper and illegal dumping of concrete has also had a damaging effect on the Borough's storm drain system. A 1990 New Jersey Department of Transportation memorandum indicated that concrete and fill dumped along the ramp area of Route 35 blocked the flow of water from a storm drain and caused flooding along the highway. Efforts to remove the blockage have left a large excavation pit.

During the course of the Commission's investigation, efforts were begun by the Borough to clean up the debris below the mean high water line.

Ipri refused to answer questions about this and other issues, invoking his Fifth Amendment privilege against self-incrimination.

FISCAL MISMANAGEMENT

Failure to Scrutinize Purchase Orders

An examination of Borough purchase orders over the 10-year period from 1986-95 revealed that through 1992, they were paid with little or no review to determine their legitimacy as public expenditures. The purchase orders frequently lacked appropriate approvals and back-up documentation, and, at times, the required certifications were accomplished by use of rubber signature stamps.

The Council's lack of review is evidenced by the approval of vouchers bearing obviously false claimant certifications. For example, in 1986 and 1987, signatures on purchase orders reflect the names of more than two dozen celebrities, notorious rogues, athletes and fictional characters. Signatures on Borough purchase orders included such bogus certifications as those of: *Santa Claus*, *Buddy Holly*, *Olive Oyl*, *U.R. Stuck*, *Juan Valdez*, *Lawrence Taylor* and *Captain America*. The Commission has not been able to find any present or former member of the Council who recalled seeing these certifications.

Questionable Expenditures

The Borough had no policy governing the propriety of expenditures. As a result, a long-standing practice evolved in which taxpayer money was used for questionable disbursements, including employee parties, magazine subscriptions, donations, flowers and Mass cards.

In March 1992, Judith Tiernan was hired as the Borough's Chief Financial Officer.¹¹ During sworn testimony, Tiernan described the fiscal procedures, or the lack thereof, that she found when she arrived on the job:

Q. Were there any guidelines? Can you recall any guidelines as to what were permissible expenditures?

A. There were no guidelines. They did what they wanted to.

. . .

Q. As a Chief Financial Officer, is there any general policy or was there any policy...about what can be paid for in these kinds of expenditures: flowers, Mass cards, donations, subscriptions?

A. If there was a policy in Seaside Heights, they never followed it. When I went in there, I bought secretary vases and paid for it out of my own pocket. It should have been the procedure there. Just like anything in Seaside, there was no policy.

The Commission found the following examples of questionable expenditures for the period 1986-95:

* The Borough charged taxpayers for subscriptions to such periodicals as *Time*, *Newsweek*, *Working Woman*, *Kiplinger's Personal Finance Magazine*, and various other Kiplinger publications.

One of the subscriptions was mailed to a Council member at his home address.

* Charitable contributions were made by Borough officials at taxpayer expense. Witnesses told the Commission that members of the Council possessed authority to request, by verbal directive, that Borough checks be prepared and sent to charities of their choice. An examination of Borough

¹¹Borough Clerk Bettsey Arnold resigned as CFO effective December 31, 1991.

records revealed that the checks typically were in amounts of up to \$100 each.

* Flowers for a wide variety of occasions, including Secretary's Day, were paid for out of the public coffers. According to witnesses, decisions were made arbitrarily by officials of the governing body as to the recipients of flowers. Records reflect payments for Mass cards and fruit baskets to be sent in similar fashion.

* Over the years, Public Works Superintendent Leonard Ipri's home telephone bills were paid for by the Borough. Telephone records revealed numerous calls placed from his home in Seaside Heights to Ipri family members in Florida. Ipri was never required to reimburse the Borough for personal calls.

* In December 1989, Council member Anthony Vaz received a cellular telephone valued at \$799 at taxpayer expense. The expenditure did not appear on the Borough's bill list, and there is no documentation in the Council minutes reflecting official approval of the purchase. The only certifications that appear on the purchase order for the car phone are signature stamps of Vaz and of the Borough's then-Chief Financial Officer, Bettsey Arnold. Vaz testified that the purchase had been informally approved by his Council colleagues on grounds that it would facilitate his conduct of Borough business. No other Council member recalled approving the expenditure. There is no record indicating any restrictions on the use of the phone for personal purposes. The phone usage was billed to Vaz, and the bills were paid by him. Vaz turned in the phone to the Borough upon leaving office.

* For many years, the Borough regularly funded parties for Borough employees. In 1995, for

example, taxpayers picked up the tab for two such social functions. In August of that year, the Borough held an “Employee Appreciation Evening Dinner” for employees and guests at a local restaurant at a cost of \$838. In December 1995, Borough officials hosted an “Employee Holiday Party” at a cost of \$600.

* Credit cards were issued for a number of years to Borough officials with no mechanism in place to control or monitor their use. Payment vouchers submitted for approval of credit card charges contained no explanation of how the charges were related to Borough business and, in the majority of instances, no back-up receipts were attached. Despite the lack of documentation, which made verification of the proper use of these credit cards virtually impossible, Borough Council approved payment of the bills in every instance reviewed by the Commission.

During the period examined, March 1986 - March 1991, these official credit cards were used for purchases totaling approximately \$2,195 for restaurant meals, car rentals, overnight accommodations (including an in-room movie), a tuxedo rental, a retirement gift, photo finishing and gasoline. Borough records reflect that only a portion of the expenditures examined was reimbursed. In addition, several Council members confirmed that Borough credit cards were used on occasion to pay for dinners in the aftermath of funeral viewings.

The Borough also lacked adequate administrative controls for the processing of purchase orders for payment. The same individual who effected a purchase or incurred an expense was permitted to sign off on the purchase order as the only approving authority. For example, in the case of the cellular telephone for Council member Vaz, the purchase was made by Vaz himself, and he was

the only member of the governing body whose signature appeared authorizing payment. The expenditure did not appear on any bill list, thus calling into question whether the full Council was even made aware of the purchase.

When shown specific purchase orders for questionable expenditures, some Council members stated that they were unaware of the purchases and, in many instances, said they would not have authorized payment had they been aware of the nature of the expenditures. When – and if – the purchases appeared on bill lists for Council consideration, the commitment to pay for them had already been made and, in some instances, the goods had been received.

Council members who served at the time of such activity told the Commission that they relied on the Borough's full-time staff to insure documentation was in order. Under questioning, however, they acknowledged that the system used in the Borough over the years to authorize and approve payment of bills was "haphazard," "sloppy" and "lackadaisical." Mayor Hershey, a former Council member, testified regarding the Borough's payment procedures:

Q. Can you tell us, when you served on Council, how vouchers were handled. . .[h]ow payment was authorized on vouchers? [W]ere they brought before Council? Were you given copies?

A. Yes, we were given copies.

Q. Would it happen at regular meetings, at the Council meetings?

A. Actually, we had the vouchers to look at, but we never knew. . . if you looked at thirty of them, you didn't know whether there was thirty other ones that you didn't sign.

Q. In other words, you saw some vouchers?

A. Yes.

Q. Were you given back-up documentation with the vouchers?

A. Such as?

Q. Well, if it was a bill, would you have a bill attached to it?

A. Supposed to, but then some come through without that. Very haphazard system.

Q. Were you given bill lists at that time?

A. Yes, but then a lot of things would just be one line and you couldn't tell.

Despite the crucial role played by members of the Borough's paid staff, elected members of the Borough's governing body share responsibility for payment of poorly documented or questionable expenditures. The purchase orders in question appeared on bill lists which the Council routinely approved, albeit in summary fashion. Even a cursory review of purchase orders by these elected officials, as well as insistence upon full documentation from the staff beforehand, would have served as an effective mechanism to insure accountability.

Witnesses could not recall any instance when members of the Council refused to pay bills. In one case, Borough employees told the Commission that the Council had even approved a purchase order for a fleet of Cadillacs that had been submitted by staff, as a joke, to demonstrate the gross lack of review by the elected governing body.

* * *

During his tenure with the Borough, former Public Works Superintendent Ipri refused to

forward back-up documentation for purchase orders when he submitted bills to Borough Hall for payment. Ipri submitted the original purchase orders but insisted on keeping all invoices that theoretically supported the purchases.

Several Borough employees testified that when they challenged the payment of vouchers lacking documentary support or proper certification, they were told to process the payments anyway by Borough Clerk/then-CFO Arnold. Current CFO Barbara Risley, a clerk-typist at the time, was questioned about the processing of purchase orders:

- Q. Did you ever discuss it with Bettsey Arnold, or anyone else there in the office, about the fact that you did not have any documentation to pay these bills?
- A. Yes. Particularly stuff that would come from the Public Works Department would never have anything. We were just told to pay them.

Borough Clerk/former CFO Bettsey Arnold confirmed during her testimony that she instructed employees to pay bills without supporting documentation but said she did so in order to keep pace with Borough operations:

- Q. From the perspective of the women working in the financial office or the business office, you were, in essence, their supervisor, is that right?
- A. Right.
- Q. Are you the person that they came to with their complaints about the fact that the system wasn't working?
- A. Right.
- Q. Can you recall instances where you directed them to go ahead and pay it or go ahead and process it anyway? . . .

- A. Well, we would have to go ahead or the whole town would have stood still. . .I know saying ‘No, you can’t buy something’ and hoping that they would start doing it right, but it just – it never worked when we tried that.

Failure to Heed Auditors’ Reports

The Commission’s investigation revealed wholesale failure by the Borough’s elected and administrative officials to act upon criticisms and recommendations by outside auditors. A review of audit reports between 1986-94 showed that the Borough governing body was admonished repeatedly about the need for reform and improvement in a range of areas, including the failure to maintain a general ledger for fiscal oversight; the absence of required signatures or written authorizations and certifications for vouchers; and about missing or inapplicable back-up documentation for vouchers. The Borough’s failure to adopt auditors’ recommendations over the years exemplifies the municipality’s lack of fiscal oversight. Borough Clerk/former CFO Bettsey Arnold addressed the issue in testimony:

- A. . . .I don’t believe I ever remember any of the [auditors’] recommendations being discussed by Council.
- Q. . . .You don’t remember them being discussed?
- A. [Council members] would basically all say yes, they read the audit, they would all be given the audit, and they would take them home. You would assume that once they signed that piece of paper, that they all read –
- Q. As the CFO, was there any burden or duty on your part to try to incorporate or implement the recommendations of the auditor?
- A. I didn’t ever try to do that, no.

Lax Scrutiny of Borough Insurance

The Commission analyzed payments to the Borough's insurance agent, Forino Insurance Associates. For the years 1987-89, the Borough was not equipped with an adequate system to reconcile insurance policies and endorsements against premium payments.¹² Borough files contain limited detail relating to changes in coverage, endorsements and invoices. For example, for 1989, payments totaling \$375,000 were paid in five installments between December 1988 and June 1989. An additional payment of \$7,684 for endorsements was made in December 1989. No copies of endorsements were present in the files. Actual premiums covered by the \$375,000 in payments, according to documents in the files, totaled only \$319,924. No explanation exists to reflect the excess payments of more than \$55,000 over documented premiums.

Because of the scarcity of records, the Commission was unable to track such discrepancies further. The Commission also was unable to find a contract with Forino Insurance Associates for the years reviewed. Borough employees responsible for overseeing insurance testified that they did not realize such discrepancies existed.

Deputy Borough Clerk Barbara Larsen, whose day-to-day duties included paying the Borough's insurance bills, testified that there was no reconciliation performed to determine if disbursements paid by the Borough matched insurance premiums and endorsements on policies. Larsen further testified that she "assumed" it was the responsibility of the auditors to reconcile the insurance payments:

¹²An endorsement is a notification representing a change in an insurance policy that occurs subsequent to the policy inception date.

Q. Were you able to reconcile the premiums paid to the actual insurance coverage?

A. No, I didn't do that.

Q. . . .Why not?

A. Well, in some instances I didn't have the policies. . . .A lot of endorsements back and forth and back and forth that I, you know, didn't have possibly copies of, and we had the auditors that came in and audited the insurance.

Q. [Did you have] some type of documentation [of] the individual policy, or did you get a summary invoice from Mr. Forino?

A. . . .I got a summary invoice.

Q. Did anyone ever tell you to get detailed invoices or detailed –

A. No.

Q. – policies?

A. No.

. . . .

Q. Were you able to determine which policies the different installments were paying for?

A. No.

Q. . . .[W]as there ever any end-of-the-year reconciliation as to what the Borough had paid Forino and what the policies actually cost?

A. The auditors, I assumed, audited the insurance policies.

Q. You didn't handle anything like that?

A. No.

. . . .

Q. Were you ever told to keep track of the premiums paid versus the insurance declarations?

A. No.

- Q. Was there anyone who had the responsibility to keep track of that, as far as you know?
- A. I assume the auditors when they did the audit.

Borough Clerk Arnold, who also served as Chief Financial Officer at the time, testified that although her office was responsible for handling the Borough's insurance, she never personally checked on it.

The Commission's investigation revealed that it was not routine for any Borough auditor to reconcile insurance payments unless specifically directed to do so.

Improper Charges Against Bonds

A review of Borough expenditures between 1986 and 1991 revealed numerous improper charges against Borough bond ordinances. In one instance, matching blazers for the Mayor and members of the Borough Council were charged against a bond ordinance authorized only for construction of a water tower. In another instance, monies bonded specifically for resurfacing a parking lot and a tennis court were improperly used to purchase a snow plow and an aerial lift.

A key factor underlying these improper expenditures is the Borough's failure to employ an adequate system to track the allocation and use of bond money. Witnesses told the Commission that they relied instead on the Borough Auditor to reconcile the numbers and to charge expenditures to appropriate accounts at the end of the year. In the Department of Public Works, Superintendent Ipri was given unilateral authority to maintain bond expenditure records while at the same time deciding

how those expenditures could be charged. Borough Clerk/former CFO Arnold testified:

Q. Mr. Ipri kept track of the bond money himself?

A. Yes.

Q. Did you or anyone in Borough Hall ever disagree with how he had allocated expenditures?

A. Yes.

Q. Was it common?

A. Yes.

Q. How was that handled?

A. Most times I would try and argue with him as best as I could. There came a point when the auditors, in doing the audit, would say this is what was left in certain bond ordinances. He would get very upset about that, saying that they changed his figures. It was all in how – he basically still had the same amount of money, but it was in different places than he had had it. Because when the auditors came in to do the audit they would charge the purchase orders back to the bond ordinance that it should have been charged to.

Improper Bidding Procedures

Analysis of the Borough's bid files for the period January 1987 - September 1996 revealed that over the years the Borough failed to follow proper bidding procedures. Although the Borough, beginning in 1992, instituted a number of changes in procedures governing both bidding and the award of contracts, significant deficiencies remain because of the failure to implement the changes. For example, contrary to the applicable ordinance, the using departments do not provide bid specifications to the CFO. Additionally, the CFO is not always notified of expenditures for work, materials or supplies where the aggregate amount is expected to exceed the threshold for public bidding. While the Mayor and Borough Council are empowered to authorize receipt of bids and are to choose a time and

place for doing that, the function is often performed instead by the Borough Clerk.

The Borough continues to accept cash as a bid guarantee or security deposit, in violation of the Local Public Contracts Law. Borough records reflect inconsistent compliance with the 48-hour bid deposit rule. Estimates of reasonable costs, moreover, are only provided in instances when the Borough engineer or architect has supervised the bidding process. It was also noted that single bids are received frequently.¹³ This is particularly the case in connection with project bids managed by Borough officials rather than the engineer or architect who has advertised beyond local newspapers and generated more responses.

Through the years, the Borough has awarded contracts to low bidders on a per item basis, rather than as part of an overall low bid, for such materials as tires, electrical supplies and chemicals. This practice tends to foster collusive bidding. In 1995, for example, two instances were noted in which contracts were awarded on a per item basis in which the number of bidders (three) matched the number of items (three) and in which each vendor bid on only one item.

* * *

The Borough Council in 1992 adopted an ordinance creating the position of Chief Financial Officer/Central Purchasing Agent with assigned duties to include all responsibility for the handling of bids. That ordinance was never fully activated. Certain duties related to bid procedures continue to be

¹³ For the period January - August 1996, nine of 18 (50 percent) submissions were single bids.

handled by the Borough Clerk.

Improper Charges/Electric Utility Account

Expenditures charged to the Borough utility accounts should either be related directly to the utilities or, in the case of allocated costs, should be documented, consistent and based upon a reasonable relationship to the utility. A review of the Borough electric account revealed instances of improprieties in both areas. Administrative expenses and salaries were improperly charged to the utility account. In addition, the basis for allocated costs – for items such as insurance, vehicle leases, fuel and accounting fees – were neither consistent nor documented.

Improper Handling of Scrap Metals/Misuse of Revenues

The Borough lacked accountability over revenues generated from the sale of recyclable metals and copper wire. Witnesses told the Commission that Department of Public Works employees, under the direction of former DPW Superintendent Ipri, periodically burned insulation from large quantities of wire to salvage the metal for recycling purposes. In order to avoid detection, the burning typically took place on cloudy, foggy days.

DPW workers testified that cash proceeds from the sale of scrap wire were turned over to Ipri. DPW worker Joseph Paolo, who currently serves as Provisional Superintendent of Public Works, explained the procedure:

- Q. Do you know what happened to the proceeds?
A. Went to Leonard [Ipri.]
- Q. How do you know that?
A. That's the procedure.
- Q. They would give – was it cash?
A. The scrap metal joint would give you cash with the ticket receipt [and it] would be in an envelope and you went back and gave it to him.

DPW worker Douglas Smith testified:

- Q. Did you ever take the wire yourself to the junk yard?
A. Yes.
- Q. And how was it handled?
A. It was put into a dump truck and taken to the scrap yard and cash was given.
- Q. And what did you do with the cash?
A. Gave it to Mr. Ipri.

Former longtime DPW worker Anthony Poane, who also was involved in transporting the scrap metal to the junk yard, testified that he returned with envelopes of cash “many times.” Poane said that on each occasion he gave the envelopes to Ipri.

Despite employees reporting that significant amounts of money were collected in exchange for scrap metal, including, in one instance, \$3,800 in cash, a review of Borough cash receipt records for the years 1984-91 showed only five instances where deposits of more than \$100 were recorded for the sale of scrap. Of the five deposits, four were in amounts of \$400 or less while one, recorded in

February 1984, was in the amount of \$2,370.10. There were no entries for the years 1987,¹⁴ 1989 and 1990. A review of Borough records produced no evidence of receipts for money received from the recycler. Borough Clerk Bettsey Arnold, CFO at the time, testified that proceeds received by the Department of Public Works should have been submitted to her as Fiscal Officer. Arnold could recall only one or two instances when the Borough received money for recycling scrap metal or surplus wire.

Former Superintendent Ipri, given the opportunity to answer questions related to these and other issues, refused to testify, citing his constitutional Fifth Amendment privilege against self-incrimination.

Corrective Measures

Immediately prior to and during the course of the Commission's investigation, the Borough implemented various corrective measures designed to impose greater fiscal accountability. Analysis of Borough purchase orders for the period 1993-95 revealed compliance for key attributes tested.¹⁵

In April 1995, the Borough enacted a Payment of Claims Ordinance, which sets forth procedures for the payment of purchase orders, including approval requirements of vendors, the Chief Financial Officer and members of the Borough Council. In addition, the ordinance specifies

¹⁴For 1987, there were a number of entries listed as MRNA (Municipal Revenue Not Anticipated) without any specific explanation. It is possible some of these may have represented scrap metal sales.

¹⁵ See Purchase Order Analysis p. 73.

requirements for recordkeeping, as well as reimbursement for travel expenses and payroll. The Borough also adopted purchasing policies and procedures, in accordance with that ordinance, for the purpose of assisting *the various departments in acquiring the goods and services necessary to perform their designated functions in an efficient manner. It also permits the establishment of uniform policies covering Borough-Vendor relationships, as well as departmental relationships, while exercising control over expenditures.*

MISSING RECORDS

In October 1992, then-CFO Tiernan learned that many of the Borough's financial records lacked supporting documentation. At her urging, the Borough Council in December 1992 ordered an examination of the Borough's capital account over a four-year period from 1986-89.¹⁶ Three months later, on March 4, 1993, it was discovered that certain financial records needed for the examination were missing. The records, which should have been maintained by the finance office, had been kept instead at the Borough's public works building by DPW Superintendent Ipri.

Two DPW employees told the Commission that on separate occasions in early 1993, they observed Ipri removing or discarding Borough business records and files at the public works building after hours. Former DPW worker Anthony Poane testified that in early 1993, he saw Ipri inside the public works building placing files containing Borough records into black plastic trash bags. Poane, who drove a Borough trash truck, also testified that on two or three other occasions he found numerous trash bags filled with paper in and around a Borough garbage truck when he reported to work:

- Q. You are talking about the 30, 40, 50-gallon bags?
A. Yes. They were thrown in back of the garbage truck. I came out and got the truck started in the morning to go to work. They would be in the hopper, on the ground, all over the place.

¹⁶The report of the financial examination concluded that of \$1,477,927.45 in expenditures not supported by invoices, auditors were able to substantiate nearly \$879,300.27 by using alternative methods, thus leaving a net total of \$598,627.18 in unsubstantiated expenditures.

Q. So in the morning, you are saying, there were trash bags there that were not there the night before?

A. No, they were not. Papers were all over the yard.

. . .

Q. . . [A]re you talking about paper towels or paper?

A. Business records.

Q. How about colors, were there any colors?

A. Blue, green, yellow ones, pink ones.

Q. Had you ever seen papers like that before?

A. Yes. They came off of vouchers.

Ipri was also seen removing boxes, tools and filing cabinets by DPW worker Richard

Applegate:

Q. Was it in the day or in the evening?

A. That was at night.

. . .

Q. When you went in the door what did you see?

A. I saw Leonard Ipri wheeling filing cabinets out the overhead door to the Borough pickup.

. . .

Q. Was it one set of file cabinets, do you remember?

A. Two small ones stacked on top of each other.

. . .

Q. What did you see him do?

A. He loaded the two filing cabinets on the back of the truck and then he ran back in his office. . . .

. . .

Q. Did you get a chance to see if there was anything else on the truck?

A. There was two filing cabinets, there was boxes, like file boxes, the cardboard file boxes, and there was what looked to be boxes of drills from the storage room.

Applegate described the file boxes Ipri was removing as similar to those typically used by the Borough to store vouchers. He recognized the file cabinets as those from Ipri's office.

As previously noted, former DPW Superintendent Ipri refused to testify, citing his Fifth Amendment privilege against self-incrimination.

MISUSE OF BOROUGH RESOURCES

Abuse of Public Property

The failure to scrutinize purchase orders, combined with missing Borough records, assumes added significance because the Department of Public Works – the major purchaser of materials and parts for the Borough – had no system to monitor and control its own inventory.

Several Borough employees described purchases of excessive amounts of materials – tools, paint, vehicle parts, and supplies such as anti-freeze – beyond the municipality’s apparent needs. They described how DPW Superintendent Ipri constructed a room at the public works building in which he stored large amounts of materials and tools paid for by the Borough. Only Ipri had access to this locked storage area, which came to be known among Borough employees as “the candy room.”

Testimony revealed that, over the years, much of this material, including distinctive color-coded equipment and tools, was observed at Ipri’s two Borough homes.¹⁷ DPW worker Douglas Smith testified:

Q. Were you ever at Mr. Ipri’s home?

A. Yes.

Q. Were you inside?

A. Yes.

¹⁷Color-coding was not an inventory method but rather a means to delineate the various Borough departments to which tools and equipment were assigned.

- Q. How about the house next door?
A. Yes.
- Q. Did you see any materials stored in the house next door?
A. Yes.
- Q. What types of materials?
A. Tools, ladders, saws, extension cords.
- Q. A large quantity of materials?
A. Yeah, building materials, windows, wood, sheetrock, whatever it would take to remodel a house.
- Q. Did you recognize any of those items that you saw in there to be the same type that you had at Public Works?
A. Yes.
- Q. Did they look like it was Borough materials?
A. Some of them were.
- Q. How do you know they were?
A. You can tell by the color. Everything we have, either shovels or wheelbarrows or brooms, were painted a specific color for the department. Tools that were at the main shop were usually red, color-coded.
- Q. And you saw color-coded materials at Mr. Ipri's house?
A. Yes.
- Q. Did you have any idea what [they were] doing there?
A. They were being used in the remodeling of his house.

DPW workers also testified that in 1993 – during the course of the Commission's investigation – various goods, including bricks, windows, a toilet, decorative stone and lumber suddenly turned up at the public works building. DPW worker Douglas Smith recalled a conversation he had with Ipri when a truckload of lumber and other materials was delivered to the DPW garage shortly before Ipri's retirement in 1993:

A. A truck from Woodhaven Lumber showed up one day with assorted pieces of lumber on it, plywood, two-by-fours, a couple of rolls of roofing paper, a can of roofing cement, and it was delivered and put inside the Public Works garage.

Q. Did anyone tell you what it was doing there?

A. Yes.

Q. Who told you?

A. Mr. Ipri said that he had, over the 45 years that he had worked for the Borough, had borrowed a few things, and now that he was retiring, he wanted to make the slate clean and return some of the things that he had bought, just out of good faith.

Another DPW worker, James Bellio, testified about a conversation he had with Ipri concerning the appearance of these materials:

Q. Do you recall. . .around the time that Leonard Ipri retired, that certain materials reappeared or appeared. . .at Public Works?

A. Yes.

Q. What do you recall about that?

A. Two-by-fours. Just one morning, I walked in and there were a load of two-by-fours in the garage.

Q. How big a load?

A. Eight foot – probably four dozen.

Q. They weren't there the day before?

A. No.

Q. Do you recall things...such as toilets or windows or decorative stone . . .appearing at the Department of Public Works?

A. . . [T]here's a little room where our telephones are kept, and outside that window, there were a lot of brick, and one morning, a lot more brick appeared out that window.

. . . .

Q. Do you know where these materials came from?

A. The boss – I inquired because that’s my department. I asked the boss, and what he told me was he borrowed them and he brought them back.

Q. The boss, being Leonard Ipri?

A. Yes.

As previously noted, former DPW Superintendent Ipri refused to testify in connection with the Commission’s investigation on the basis of his Fifth Amendment privilege.

Fuel Pilferage

Beyond the lack of inventory control, the Borough’s Public Works Department maintained no vehicle maintenance logs and no control on motor-fuel usage. DPW workers, in interviews and testimony, stated that it was not uncommon for employees to take Borough fuel for personal use.

Former DPW worker William Cole described the practice:

Q. Was it possible for borough employees to come in in the morning and take fuel?

A. Very easy.

Q. Why would it have been very easy?

A. Because we all had keys.

Former DPW worker Anthony Poane described the lack of controls on fuel usage at the Borough pumps:

Q. Is there any kind of system of control at the pumps to keep track of the fuel?

A. No.

Q. No logs or no records?

A. Sure, there is a log. Who is going to fill it? If you are going to steal something, are you going to put your name there? No. I used to watch them do it.

During the course of the Commission's investigation, the Borough established a fuel supply contract with a retail gasoline vendor and took steps to phase out its own pumps.

Private Service at Public Expense

Several Department of Public Works employees testified and affirmed in interviews that for decades, through the winter of 1994, it was not uncommon for them to be directed by DPW Superintendent Ipri, by his successor or by members of the Borough Council to perform work at private residences while on Borough time and using Borough equipment. Workers were directed to perform a variety of tasks at private properties, including cleaning up debris, trimming trees and performing minor electrical and plumbing work. DPW worker Douglas Smith testified regarding the practice:

Q. Would anyone who called get the work done, or would it depend?

A. If you were anybody that was in the know or on their side or whatever you want to call it, anybody that was anybody.

Q. But what if you weren't anybody or you weren't on the right side?

A. Sometimes you could. Everything depended on the mood Mr. Ipri was in, or if the person that called knew a politician and said something to them, and then they ordered Mr. Ipri – he did take orders from them occasionally.

Q. From whom. . . ?

A. From the Mayor and Council.

Q. How would you know that?

A. He would always say that [he had] bosses, too. They tell him to go do something, he has to go do it.

. . .

Q. Was Mr. Ipri the person [who] would give you those assignments?

A. Yes.

Q. Was he the only person [who] could give you the assignment?

A. No. A Council [member] could.

. . .

Q. What if you went out and did it on your own or for somebody else, could you get in hot water. . . ?

A. Yes.

It has also been a longstanding practice for Borough workers to plow snow from the homes of sick, disabled and senior citizens. The investigation revealed that the plowing was expanded to allow DPW workers to use Borough equipment on Borough time to clear commercial properties and certain private residences. Residents and business owners called the DPW to place their address on a list to be plowed.

Borough employees testified that in February 1994, Ipri's successor, then-DPW Superintendent Kathy Cerbone – his former secretary – directed DPW workers to plow private properties before the Borough thoroughfares and hydrants were cleared. DPW worker Smith testified:

Q. Were you ever called off the regular plowing job in the streets to go plow private property?

A. In 1994, I was, yes.

Q. How was it done the year [Cerbone] did it?

A. Well, she attempted to do it more haphazardly instead of on a structured basis that Mr. Ipri did. We would be in the middle of plowing a street with a snow plow, and she'd make us stop, go over to so and so's house to plow their driveway because they had to go to a doctor or something like that.

Q. Or to go plow a private business?

A. Yes, and she was chastised. . .for that, because there was a new Mayor and Council who didn't understand that we had always done that. They thought she was doing personal favors. What she did wrong is she did it out of order. She didn't wait until we finished clearing the public facilities, the streets first and then go and do it.

COMMISSIONER MILLER: I gather you didn't cover everybody in town, though?

THE WITNESS: Only people that called. I mean, there were a lot of people that didn't know that we would do it and never bothered to call. And they'd be standing there going, 'Gee, they're cleaning his driveway out and they're not doing mine, why?' But they just never called. If anybody had called, they would have been put on the list.

Joseph Paolo, the current DPW Provisional Superintendent, confirmed Smith's testimony:

A. . . .[I]n the middle of trying to clear the streets, you were taken off the street jobs to go clean out this driveway, go plow out this liquor store, go plow out this other commercial business. . .[T]hings were being done before we even finished the streets.

Q. So this was different from when Ipri had been there?

A. Definitely.

Cerbone denied handling snowplowing any differently than in prior years:

Q. . . .[T]wo of the DPW employees indicated they weren't finished with their regular plowing of the streets when you wanted them to go and

do residential properties, and that was what caused part of the problem.

Do you recall that occurring?

- A. No, I don't recall that occurring. If they said we have to do this, we have to do that, and I would say fine, when you finished that –

As a result of controversy within the community surrounding the practice of private snowplowing at taxpayer expense, the Borough Council adopted a temporary policy in February 1994 prioritizing snow removal in the following order: public streets, hydrants and drains, fire and police chiefs' home driveways, and churches.

CONFLICTS OF INTEREST

The Commission's investigation revealed instances in which Borough officials repeatedly have allowed their roles as public servants to blur with private interests. As far back as 1983, for example, then-Mayor George Tompkins failed to recuse himself in connection with a proposal before the Borough Planning Board – of which he was a member – to develop property owned by an entity in which he was a partner. Planning Board minutes for March 9 of that year reference a resolution granting site plan approval and requested variances for concession stands and amusement rides to be placed on a parcel of land owned by Tompkins Realty Inc. Records reflect that Tompkins himself offered the resolution, which passed unanimously.

Other examples of obvious conflicts include:

* Shortly before the 1994 municipal primary election, a dinner meeting was initiated with local business owners in order to solicit political support. Those in attendance included then-Deputy Police Chief Nathan Horowitz, former Council member Anthony Vaz – whose wife was a Council candidate at the time – nightclub owner John Saddy and Vincent J. Craparotta, Jr., the owner of real estate in Seaside Heights on which several licensed liquor establishments are located. Craparotta is an organized crime associate. Then-Deputy Chief Horowitz was questioned about his attendance at the dinner:

COMMISSIONER DINTINO: And [in] your position as Deputy Chief in '94, you had a sit-down dinner. . .when you and Tony Vaz were soliciting [Craparotta's] support to support a particular candidate in

that election. Do you consider that proper conduct for a Deputy Police Chief?

THE WITNESS: Probably not.

COMMISSIONER DINTINO: If you had to reflect and do it again, would you do it?

THE WITNESS: Would I do it again? I probably wouldn't, but I don't know. You know, to be truthful with you, I don't know how to answer that question.

According to former Deputy Chief Horowitz, it is not uncommon for Seaside Heights police officers to be actively involved in political campaigns. As to Craparotta, Horowitz testified that he knew Craparotta to be "an organized crime person" at the time of the political dinner.

The Commission questions the propriety of a prominent local law enforcement officer participating in a blatantly political meeting with individuals – particularly one linked to organized crime – whose commercial interests are subject to Borough regulation. At the time of the meeting, for example, attendee John Saddy had various applications related to his establishment pending before the Borough Council and Planning Board. Also, in addition to general law enforcement duties, police officers play a direct role in the investigation and regulation of licensed liquor establishments.

* Owners of private interests have been subjected to undue pressure for failure to provide political support. In one instance, several Borough business owners testified that on primary election day 1994, former Mayor and then-Council candidate George Tompkins confronted them at the Borough polling place and threatened them with retaliation for their support of his political opponents. Tompkins denied the confrontation occurred.

* Borough Clerk Bettsey Arnold handled a number of matters directly related to herself or members of her immediate family, including her 1990 employment agreement, her husband's 1990 raise and promotion and the 1991 hiring of her daughter. Also in 1991, Arnold was directly involved in the processing of purchase orders for her son's boardwalk cleaning contract. The purchase orders in question lacked independent approvals certifying job performance. In one instance, Arnold signed the purchase order as *Treasurer* authorizing payment, and she signed her son's name in the section labeled *Claimant's Certification and Declaration*. In the spring of 1995, Arnold played a role in the hiring process for a police officer position for which her son was a candidate. By involving herself in matters related to the residency status of other candidates whose names preceded that of her son on the hiring list, Arnold exceeded her ministerial role as Borough Clerk.

* While a member of the Borough Council in 1989, Anthony Vaz attempted to postpone the municipality's tax sale of a property owned by a fellow Council member. Vaz denied the effort, but he was contradicted by two witnesses, including the would-be beneficiary of the attempted postponement.

* Three Borough employees received gift certificates in amounts up to \$100 apiece from local business owners each Christmas season between 1988 and 1994. To date, the governing body has failed to enact a policy regulating acceptance of gifts, despite reservations voiced by some employees. The routine offering of such emoluments was curtailed in 1995 as a result of the Commission's inquiry.

FRAUDULENT ABSENTEE BALLOTS

The contest for political power in Seaside Heights became especially fierce in 1991, when then-

Councilman P. Kenneth Hershey challenged long-time Mayor George Tompkins in a primary election in which absentee ballots comprised 21.6% of the total votes cast.¹⁸

The machine count on election night, June 4, 1991, gave Hershey 277 votes and Tompkins 259. The incumbent, however, received nearly 80% of the 148 absentee ballots and won the election by a final tally of 379 to 305. Because of the unusually high proportion of absentee ballots cast for Tompkins and based on alleged improprieties involving those ballots, defeated candidate Hershey filed a lawsuit challenging the outcome of the election. As the result of a settlement of the suit, a special primary election was held, which Hershey won.

The Ocean County Prosecutor's Office conducted a criminal investigation into absentee ballot fraud allegations that had been raised in Hershey's lawsuit. Then-Borough Council President Michael Graichen was admitted into the pretrial intervention (PTI) program for two forgery-related charges concerning unspecified ballot documents. No other persons were charged.

* * *

During the course of the Commission's investigation into Borough affairs, numerous residents of Seaside Heights expressed continuing concerns regarding improprieties that occurred in the first 1991 primary. In the interest of helping to put these issues to rest and in view of the Commission's long-held belief that "the privilege of casting a secret ballot in an honest election is an integral part [of

¹⁸ In the two preceding primary elections held in 1989 and 1990, absentee ballots comprised 5% and 3.4%, respectively, of the total number of ballots cast.

the democratic process],”¹⁹ the Commission undertook its own inquiry of the matter.

The Commission’s investigation leads it to conclude that there was a wholesale misuse of the absentee ballot process in connection with the first 1991 mayoral primary election. For example:

- * People listed as messengers on absentee ballot applications and/or as bearers of completed absentee ballots were not required to have performed the designated function personally, as mandated by law. Witnesses testified that they were unaware of the technical requirements related to the transportation of absentee ballot applications and absentee ballots. Witnesses further testified that these documents were left at drop-off points and any of a number of the campaign workers might have signed the documents and/or transported the documents to county election offices without regard for the requirements relating to absentee ballots.
- * There was little or no verification conducted at the Ocean County Clerk’s office to insure that persons delivering absentee ballot applications were the authorized messengers designated by the applicants. Moreover, documents were accepted with fraudulent names, suspect addresses, obvious misspellings and errors, and forged signatures.
- * Ballots were accepted at the Ocean County Board of Elections without compliance with statutory sign-in procedures. One individual who signed as the bearer of 84 absentee

¹⁹ Opening statement of then-SCI Chair Joseph H. Rodriguez at the Commission’s hearing held on December 14 and 15, 1978, concerning “Investigation of Abuses of New Jersey’s Absentee Ballot Law.”

ballots, testified before the Commission that he had delivered at most 30-40 ballots, only a portion of which he had personally collected from voters. He further testified that he was asked by someone at the Board of Elections on election day to sign in the remainder of the absentee ballots which had been delivered by unidentified persons. As a result, that individual's name was listed on the Board's sign-in sheets as the bearer of many of the questionable ballots, including ones that were bogus. In testimony before the Commission, a Board worker who assisted the bearer in filling out the sign-in sheets confirmed the occurrence.

- * During interviews with Commission staff, many persons in whose name ballots had been cast said they had not voted absentee in the 1991 mayoral primary election. The investigation revealed the "voters" believed that they had completed the act of voting when merely executing an application for an absentee ballot.

PURCHASE ORDER ANALYSIS

(Referenced from FISCAL MISMANAGEMENT, p.54)

	<u>COUNCIL APPROVAL</u>		<u>BACKUP</u>	<u>TREASURER'S CERTIFICATION</u>	
	Original	Stamped		Original	Stamped
1986	-0-	1%	37%	*	*
1987	-0-	-0-	21%	*	*
1988	2%	9%	28%	*	*
1989	12%	10%	44%	*	*
1990	8%	91%	87%	-0-	-0-
1991	-0-	-0-	95%	-0-	99%
1992	77%	-0-	96%	69%	-0-
1993	98%	-0-	100%	99%	-0-
1994	99%	-0-	100%	99%	-0-
1995	97%	-0-	100%	99%	-0-

*1986-89 purchase orders did not call for treasurer's certification

REFERRALS AND RECOMMENDATIONS

The Commission refers the results of its investigation to the following agencies of government for review and whatever action is deemed appropriate:

- * Office of the United States Attorney
- * Office of the Attorney General
- * Division of Local Government Services
- * Division of Pension and Benefits
- * Division of Taxation
- * New Jersey State Police, Emergency Management Section

The Commission makes recommendations in the following key areas:

1. Revision and Codification of Borough Ordinances and Resolutions

A review of Borough records and witness testimony reveals inconsistent enforcement of ordinances and resolutions. During the course of the investigation, the Borough has undertaken a revision and codification of its ordinances. Special attention should be given to insuring that those ordinances and resolutions which are not being enforced are repealed and those that remain are consistently and fairly enforced.

2. Resolutions Documenting Personnel Actions, Retirement Agreements and Employee Contracts

A Borough ordinance should be enacted requiring that resolutions be adopted by Council for personnel actions such as hirings, promotions and raises. Similarly, retirement agreements and employee contracts should be reviewed by the Borough attorney, approved by full Council, and memorialized by resolution. Retirement agreements should document the basis for the calculation of economic terms.

3. Adherence to Pension Rules and Regulations

The investigation revealed instances where the Borough has improperly inflated salaries on which pensions are based through the inclusion of items not permitted for use in pension calculations. Members of bargaining units were not all treated similarly with respect to payment of certain salary components. The Borough should strictly comply with the Division of Pension and Benefits rules and regulations regarding an employee's salary base for pension purposes.

4. Payment Policy for Accumulated Time

The Borough should place additional limits on payment for unused sick leave upon retirement. The State of New Jersey's policy of limiting payment for accumulated sick leave to a lump-sum representing one-half of the employee's unused sick leave, calculated at the employee's current salary up to \$15,000.00, should serve as a guide. Such a policy is important because Governmental

Accounting Standards Board (GASB), Statement No. 16, dated November 1992 – “Accounting for Compensated Absences” calls for the measurement of accrued compensation time to be included in the liabilities of state and local governmental entities. Since funds should be reserved annually based on anticipated (future) compensated absences for which employees will be paid, e.g., sick and vacation lump-sum buy-outs, the fiscal burden on a municipality could be considerable.

5. Water Meters

In order to promote fairness and maximize compliance, the Borough should examine the feasibility of taking responsibility for the installation of the water meters for all customers. If the Borough opts to leave the responsibility to each customer, a deadline for installation should be established and penalties set for failure to adhere to it.

6. Disaster Relief Funding Agreement

The State of New Jersey should require recipients of disaster relief to execute an agreement incorporating, among others, the following terms: prohibition of duplicate benefits, notification of insurance coverage, and submission of an audit of agreement compliance. The State of Florida’s *Disaster Relief Funding Agreement* could serve as a guide.

7. Greater Oversight of Fiscal Affairs by the Governing Body

The Commission has repeatedly noted the failure of local government officials to adequately oversee the expenditure of taxpayer money. This point was also reinforced in a January 25, 1996, Ocean County grand jury presentment covering another municipality which stated, “government officials must bear the responsibility to insure that at all times, the best interests of the public are rigorously safeguarded.”

The Commission does not believe, however, that the State has ever been sufficiently aggressive in making sure that municipal officials meet that responsibility. It recommends, therefore, that the Department of Community Affairs be given the tools to monitor more closely this aspect of local government and to act decisively whenever shortcomings are discovered.

8. Prohibit Expenditure of Funds for Receptions for Borough Officials/Employees

Public funding of essentially social events for Borough officials and employees is not appropriate. The Borough should adopt State of New Jersey guidelines for entertainment and official receptions, which severely restrict such expenditures for the benefit of public officials and employees.

9. Compliance with Bid Procedures

The Borough should comply with its Purchasing Policies and Procedures resolution regarding bids and bidding procedures which have not been followed in the past. In addition, because they are essentially fiscal functions, it is also recommended that all duties related to bidding should be transferred immediately to the CFO/Central Purchasing Agent pursuant to a Borough ordinance already in effect.

The Commission also makes the following additional recommendations regarding bidding procedures:

- * An estimate of reasonable cost should be provided before a notice to bidders is advertised.
- * The Borough should research additional vendor sources in order to encourage a more competitive bidding environment and eliminate the receipt of single bids. In addition, the Borough should solicit bids in a wide range of periodicals and trade magazines.
- * The Borough should eliminate the acceptance of cash deposits in violation of State law. The Borough should also comply with the 48-hour bid deposit rule and establish a consistent policy for the return of bid deposits.
- * Where possible, the Borough should eliminate the practice of awarding bids on a per item basis (versus overall low bidder) on the same contract.

10. Review Expenditures Charged to Utility Accounts

Expenditures charged to the Borough utility accounts should either be related directly to the utilities or, in the case of allocated costs, should be documented, consistent and based upon a reasonable relationship to the utility.

11. Implement Inventory Control Procedures/Maintain Fixed Asset Inventory

To help to control loss of Borough equipment through theft or misappropriation, inventory control procedures should be implemented.

To insure accountability, maintenance and fuel logs should be maintained for all Borough vehicles.

In order to strengthen accounting controls and comply with statutory requirements, the Borough should continue to update and maintain a fixed asset inventory annually.

12. Ban Private Work

The Borough should not allow employees to do private work on Borough time or permit them the use of Borough equipment to perform such work.

13. Compliance with Local Government Ethics Law

The Borough's municipal officers and employees should comply with the Local Government Ethics Law.

14. Prohibit Acceptance of Gifts

The Borough should promulgate a policy prohibiting its municipal officers and employees from soliciting, receiving or agreeing to receive any compensation, reward, gift, employment or other thing of value from any source having any dealing or interaction with the Borough. As a reminder, notice of the prohibition should be provided annually to Borough employees and public officials.

15. Limit Political Activity by Police

Police should be sensitive to involving themselves in solicitation of political support within their jurisdiction from individuals or entities which they encounter in connection with their official duties. Police officials have an obligation to avoid situations where conflicts of interest or appearance of conflicts can arise.

16. Satisfy Outstanding Tax and Utility Bills

The Borough should enforce the ordinances which require that delinquent taxes, utility bills and assessments be satisfied before permits or licenses are issued. Similar requirements should apply to planning board approvals. Further, the Borough should enforce the ordinance which calls for the suspension of licenses or permits upon failure of a property owner to bring taxes current upon notice from the Borough.

* * *

The SCI's investigative team for this investigation was directed by Counsel Charlotte K. Gaal and conducted by Special Agents Marilyn D. Cichowski, Judith A. Gore, Dennis McGuigan and William P. Rooney, Investigative Accountants Michael R. Czyzyk and Christine F. Klagholz and Investigative Analyst Debra A. Sowney.

APPENDIX

N.J.S.A. 52:9M-12.2, effective June 28, 1996, provides that

[w]henever a proposed State Commission of Investigation report is critical of a person's conduct, a copy of the relevant portions of the proposed report thereof shall be sent to that person prior to the release of the report. Upon receipt, the person criticized shall have 15 days to submit a written response of a reasonable length which the commission shall include in the report together with any relevant evidence submitted by that person.

The following materials are the responses submitted pursuant to that statute.

When the Commission sends a portion of a proposed report to a person, it is accompanied by a letter advising the recipient that disclosure of the report, except as necessary to facilitate the preparation of a response, could be a violation of N.J.S.A. 52:9M-15a, punishable as a crime of the third degree. When, as in the case of this report, the Commission receives evidence that an unauthorized disclosure has occurred, the matter is referred to the Attorney General as required by N.J.S.A. 52:9M-8.

In considering the responses that follow, the reader should note that they are not in all cases under oath and, in some cases, may not even be a statement by the affected individual himself.

March 10, 1997

RECEIVED
97 MAR 11 AM 10:25
STATE COMMISSION OF
INVESTIGATION
TRENTON OFFICE

Charlotte K. Gaal, Counsel
State of New Jersey
Commission of Investigation
28 West State Street
CN 045
Trenton, New Jersey 08625-0045

Re: Response to proposed report on the Borough of Seaside Heights.

Dear Ms. Gaal:

In the section of the report regarding Inequitable Health Benefits there is a sentence that reads as follows: "Although health benefits were to be provided only to Borough employees, an agreement existed whereby two non-employees received medical coverage at taxpayer expense." It should be noted that both Federal Law, Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), and State Law, Public Law 99-272, Title X, allow the continuation of health benefit coverage to former employee's for 18 months. I am requesting that this information be inserted in the report following the sentence identified above. The report goes on to say that the auditing fees were reduced to off-set the costs of the insurance. If this is true, there was no additional costs to the taxpayer, and the phrase "taxpayer expense" should be deleted.

I am additionally requesting that the report be rewritten to indicate that I participated in the health benefits after leaving the Borough's employment under the allowable COBRA laws, and that only the method of payment for the benefits on my behalf by my new employer, Mr. Skinner, my have been unorthodox and questionable.

Yours truly,


John F. Adams

MOHEL & BRAENDER
A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
206 COURT HOUSE LANE
TOMS RIVER, NEW JERSEY 08753

S. KARL MOHEL
BRUCE R. BRAENDER, JR.

TELEPHONE (908) 914-2000
TELEFAX (908) 914-9697

March 11, 1997

BY FAX AND REG. MAIL

Charlotte K. Gaal, Esq.
Counsel,
State Commission of Investigation
28 West State Street
CN 045
Trenton, NJ 08625-0045

RECEIVED
97 MAR 14 AM 10:25
STATE COMMISSION OF
INVESTIGATION
TRENTON, NJ

RE: Ms. Bettsey Arnold-Seaside Heights Report

Dear Ms. Gaal:

As you are aware, I represent Bettsey Arnold with reference to the "investigation" undertaken by your Commission. In accordance with your instructions, this correspondence shall serve as the "written response" to your commission's comments concerning Ms. Arnold. I have delineated it so as to follow the structure of the redacted document which was provided to us.

As to the allegation re IMPROPER ADMINISTRATIVE PRACTICES

Ms. Arnold's job titles and financial stipends were never "juggled." Two members of council, Anthony Vaz and Guy Mazzanti, sat with her and agreed to the changes according to the percentage of time spent on each position. She was offered the position of

treasurer because Mr. Mazzanti and Mr. Vaz did not want to appoint the two people who were interested in the position and Ms. Arnold was used by them so as not to have to appoint one of the other individuals. It was Mr. Vaz' and Mr. Mazzanti's decision to pay Ms. Arnold the salary at that time.

The two public works employees mentioned in the SCI report did not receive 17% pay increases - they were promoted to the title of Maintenance Repairer. (See Application for Promotional Exam of Robert Arnold attached hereto as Exhibit A.)

The clerical employee mentioned was not granted permanent employment status but was listed as a permanent provisional. All permanent employees, including permanent provisional employees, received insurance from the starting date of employment. (See list attached hereto as Exhibit B.)

The employment agreement was not "crafted." It only allowed Ms. Arnold to buy back sick time as many other employees had done. (See list attached hereto as Exhibit C.) It was never meant to grant her lifetime medical benefits. In fact, she does not obtain medical benefits as a result of her employment with the Borough. Instead, she receives them through her husband's coverage.

As to Allegations of INEQUITABLE HEALTH BENEFITS

The administration of health benefits by the Borough was not designed or maintained by Ms. Arnold. The manner that it was administered was the same as it had been prior to her employment by the Borough.

As to the remark in the SCI report concerning nepotism as associated with medical benefits, it should be noted that this was handled as directed by the Borough's former insurance agent. It was not a decision made by Ms. Arnold. In fact, Ms. Arnold never told Ms. Larsen on what date to enroll any employee in the insurance program.

At the time Ms. Genander was hired, there had been several instances where employees in her status had received benefits. In fact, even some part time employees had received benefits. Beyond that, one employee had even taken insurance benefits in lieu of pay for a part time position.

As to allegations of QUESTIONABLE COMPENSATION

When Ms. Arnold performed the duties by which she was paid by stipend during her normal working hours, she had to stay at night in order to complete her regular duties. There were many occasions where she was there until 8 or 9 p.m. According to a report done by John F. Laezza in January of 1992, 90% of Ms. Arnold's time was in carrying on the duties of the Borough Clerk. That is why her salaries were adjusted by the Borough.

With reference to payment for her services as Games of Chance Collector, Ms. Arnold still attends to those duties though in 1992 the stipend was incorporated into her base by the

then Finance Officer Judy Tiernan. Note that the two Borough Clerks employed prior to Ms. Arnold also received stipends for the duties of Games of Chance Collector. Ms. Arnold still handles these duties and is entitled to compensation for it.

Councilman Mazzanti had authorized that the \$2,000 salary be paid to her for handling the welfare recipients who she had to work with. At the time, the Borough was not in the state program and the Borough was plagued with problems that Ms. Arnold had to handle in addition to her normal duties as clerk. Dealing with these matters during the day required her to continue working into the evening hours in order to finish her normal duties.

As to longevity stipends, we will leave that to your calculations.

As to Allegations Re QUESTIONABLE EMPLOYMENT AGREEMENTS

In reference to contracts, the Borough Attorney did not review contracts because there were very few contracts promulgated at that time. There weren't even contracts when a bid was awarded. Surely, Mr. Hiering, the Borough Solicitor at the time, was aware of the existence of the employment contracts.

As to allegations concerning the BOROUGH CLERK'S CONTRACT

Although Ms. Arnold's contract bears no execution date, there is a date on the first page. There were never any resolutions authorizing any contracts at this time. Ms. Arnold spoke to Mr. Hiering about this matter. Furthermore, Ms. Arnold did not have, and still does not have, medical benefits on her own through the town. She was always a dependent of her husband and his benefits and she would not have been able to obtain lifetime health benefits in her own name at that particular time.

As to allegations of INEQUITABLE EMPLOYEE PROMOTIONS/RAISES

Leonard Ipri had recommended that Robert Kaminski and Robert Arnold be promoted to Maintenance Repairers. It took some time for the Department of Personnel to call for an exam and when announced several other employees also took it. However, Mr. Kaminski did not. (See January 14, 1992 correspondence of Ms. Arnold to Mayor and Council, attached as Exhibit D.) It is impossible for the your commission to have reviewed all of the tape recordings because in the past the tapes were recorded over and reused.

Note that Ms. Arnold never instructed Ann Stabile not to inform Mr. Ipri of the raises. Beyond that, it would be impossible to keep the existence of the raises from Mr. Ipri since he would receive the pay checks, usually without envelopes, in his mailbox for distribution.

As to allegations involving FISCAL MISMANAGEMENT

Ms. Arnold tried many times to get control over expenditures but to no avail. (See letter to Atty. Hiering, attached as Exhibit E; See letter to Barbara Risley, attached as Exhibit F; See letter to Leonard Ipri, attached as Exhibit G.)

As to allegations Involving Conflict of Interest

Must Ms. Arnold abandon her duties when a matter pertains to a member of her family? The payroll clerk pays herself and her brother. Should that have been changed so that someone else writes the checks? If the job performance of Ms. Arnold's son's cleaning of the boardwalk was unsatisfactory, certainly she would have heard from Mr. Ipri. Certainly the Mayor and Council would have heard complaints from the boardwalk businesses.

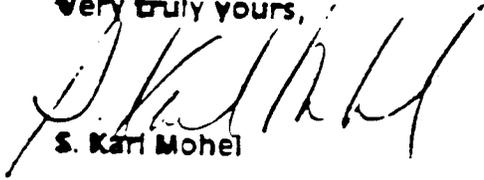
As for the hiring list for police officers, Ms. Arnold did exactly as she had done for all previous lists for police officers. There are many municipalities where a municipal clerk or other person in a supervisory capacity has relatives who also work for that municipality. This is not unique to Seaside Heights.

Conclusion

Ms. Arnold has reviewed the excerpts the SCI provided to her as well as what someone leaked to the newspapers. She has spent several years of her life dedicated to the Borough of Seaside Heights and its inhabitants. The political motives of both the instigators of this investigation and the investigating agency itself are well recognized. It

It is unfortunate that Ms. Arnold has been made to suffer based on someone else's political agenda.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Karl Mohel', written in a cursive style.

S. Karl Mohel

cc: Bettsey Arnold

RECEIVED
GILMORE & MONAHAN

97 MAR 14 AM 10:25
PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

STATE COMMISSION ON
INVESTIGATION
TRENTON OFFICE
ALLEN STREET PROFESSIONAL CENTER
TEN ALLEN STREET
P.O. BOX 1640

GEORGE R. GILMORE
THOMAS E. MONAHAN
CHARLES W. HUTCHINSON
*Certified Civil Trial Attorney

TOMES RIVER NEW JERSEY 08754
(908) 240-6000
TELECOPIER No (908) 244-1840

ANNEMARIE SCHEIBER*
STEPHEN E. FORAN
GUY P. RYAN**
THOMAS A. KULIE
CHRISTOPHER J. CONNORS
JEAN L. CIPRIANI
*Member N.J. & Pa. Bars
**Member N.J. & Pa. Bars

March 11, 1997

Charlotte K. Gaal, Esq
COMMISSION OF INVESTIGATION
CN 045
Trenton, NJ 08625-0045

Re: Borough of Seaside Heights

Dear Ms Gaal

Enclosed please find an Affidavit prepared by James Bellio in response to the Commissioners' notice of proposed report.

Thank you for your attention

Very truly yours,



GUY P. RYAN
For the Firm

GPR:dk
Enclosure
C.R.R.R.

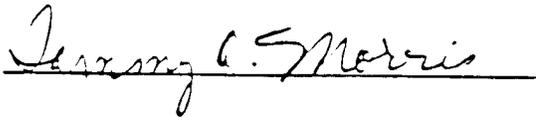
cc: Mr. James Bellio

unsuccessfully sought to obtain Leonard Iprri's position after his retirement, openly held animosity and hatred for Iprri. The SCI fails to include this in its report and overlooks the obvious credibility problem with Cerbone's testimony.

3. Likewise, former Borough Administrator Judith Tieman never claims to have witnessed me or any other individual damaging the Borough's public address system. Rather, the SCI claims that in a "letter dated July 8, 1992" Ms. Tieman memorialized a conversation regarding the alleged wire cutting. If the date of this letter is correct, then it would have preceded the December storm and, therefore, the alleged wire cutting by nearly six months. More importantly, I never advised either Ms. Tieman or Ms. Cerbone that I was instructed to or had cut the Borough's wire.


JAMES BELLIO

Sworn to and subscribed before me
this 6th day of March, 1997.



TAMMY A. MORRIS
Notary Public of New Jersey
My Commission Expires 7/3/2001

RECEIVED

March 3, 1997

97 MAR -7 AM 10:21

State of New Jersey
Commission of Investigation
28 West State Street
Trenton, NJ 08625-0045

STATE COMMISSION OF
INVESTIGATION
TRENTON OFFICE

ATTN.: Charlotte K. Gaal, Esq.

RE: DRAFT REPORT

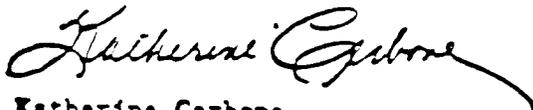
Dear Mrs. Gaal:

I am in receipt of your letter and Draft Report as of this date.

Regarding the boardwalk electric wire cutting incident-- I do not recall being ask to place anything in writing regarding that event by Mrs. Judith Tiernan. Mr. James Bellio approached me regarding this incident asking 'what he should do.' I stated to him that stating the truth to Mrs. Tiernan, Borough Administrator at that time, would be the best thing to do since telling the truth was the best thing to do regarding any questionable event.

As far as the infamous snow plowing of 1994--it was then, as was in previous practice for many years before to open up any resident, whether it be a business or homeowner's driveway that was plowed shut by either the county or the Borough employees during severe snowfalls. Streets were cleared by some of the employees, while other employees cleared snow away from hydrants, corners, etc. If streets and thoroughfares were not cleared first--driveways could not be opened up first--and men could not be removed from the job of clearing streets to open up any driveways. Again, if anyone called the Borough Plant for assistance with the plow to open up their driveway at the street, they would be placed on a list--a practice that was in effect for many years. I did no personal favors for anyone other than what was always done in the past.

Respectfully submitted,



Katherine Cerbone

PATTI & BRIAN P. GENANDER RECEIVED
6 SPRING STREET
BEACHWOOD, NEW JERSEY 08722 97 MAR -7 AM 10: 23
Home Phone 908-341-4089

STATE COMMISSION OF
INVESTIGATION
TRENTON OFFICE

March 03, 1997

State of New Jersey
Commission of Investigation
28 West State Street
CN 045
Trenton, New Jersey 08625-0045

Attn: Charlotte K. Gaal

Re: Notice of Proposed Report

Dear Ms Gaal

Enclosed please find my response to your summary.

I was hired by Councilman Anthony Vaz and was to begin my employment with the Borough on June 10, 1991. However, on June 8, 1991, early in the morning I was hospitalized for four days. Council Vaz advised me to rest and start on June 17, 1991.

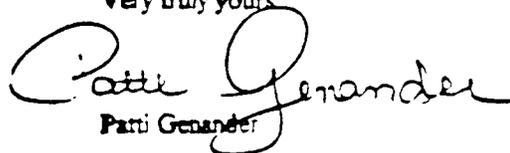
I was then told that I would be working with Roberta Andrade in the Borough Hall until the end of the summer when I would be transferred to the court.

I was still covered by my insurance with the First National Bank of Toms River/FDIC/First Fidelity Bank.

When I started work I was given various applications/consent forms to fill out for pension, insurance and the secretaries' association. I did not speak to my mother about filling these forms out.

Enclosed please find copies of the file that I have with the First Fidelity Bank paying my bills.

Very truly yours


Patti Genander

Enc. File from FDIC

HIERING, HOFFMAN AND GANNON
COUNSELLORS AT LAW

28 RADLEY AVENUE

P.O. BOX 5258

TOMS RIVER, NEW JERSEY 08754-5258

(908) 349-1800

FAX # (908) 286-2275

*REPLY TO MAIN OFFICE

March 11, 1997

RECEIVED

97 MAR 13 AM 10:31

MONMOUTH COUNTY OFFICE

86 MAIN AVENUE

OCEAN GROVE, NJ 07756

(908) 938-7117

SUNKEN BRANCH MALL

1071 HWY 37 WEST

TOMS RIVER, NJ 08753

WILLIAM T. HIERING, JR.

RONALD E. HOFFMAN

CERTIFIED CIVIL TRIAL ATTORNEY

THOMAS G. GANNON

BRIAN E. RUDOFF

MICHAEL J. MCKENNA

DIANA L. ANDERSON

*MEMBER NJ AND PA BARS

FILE NO. _____

Charlotte K. Gaal, Esq.
State of New Jersey
Commission of Investigation
28 West State Street
CN 045
Trenton, New Jersey 08625-0045

RE: NOTICE OF PROPOSED REPORT - RESPONSE

Dear Ms. Gaal:

I hereby acknowledge receipt of a hand-delivered letter dated February 27, 1997 directed to the undersigned and concerning the Notice of Proposed Report involving an investigation of the Borough of Seaside Heights.

My response to the comments mentioned in the report are as follows: "Both employees mentioned, namely the Borough Superintendent of Public Works and the Borough Clerk, are individuals who would not normally have separate contracts as would a local bargaining unit. The Courts have ruled that they cannot force a municipality to negotiate a contract. See Mass v. Shrewsbury, 174 N.J. Super. 25 (App. Div.), cert. den. 85 N.J. 129 (1980). These employees would typically receive the benefits of other Borough employees as set forth in the Borough's Administrative Code or policy and their salary would be covered by an annual salary ordinance. As indicated in the report, these agreements were never submitted to the undersigned nor was I aware of, or asked to review these individual contracts. As a retained hourly professional employee, our office would only review what was authorized by the governing body or the administrative staff.

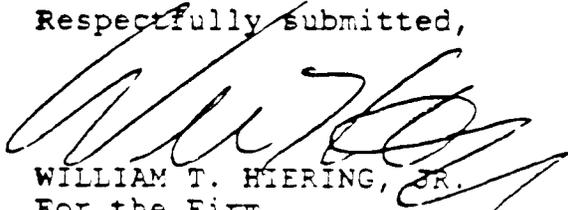
The statement in the report indicating that the undersigned was "not involved in employment contracts" is overly broad and should only refer to the two contracts of the Borough Superintendent and the Borough Clerk. Annually, the undersigned

HIERING, HOFFMAN AND GANNON
COUNSELLORS AT LAW

March 11, 1997

often reviewed professional service contracts where new professionals were hired. Our office was also involved in at least the review, if not, the negotiation of the various collective bargaining agreements with the various unions within the Borough.

Respectfully submitted,



WILLIAM T. HIERING, JR.
For the Firm

WTH, Jr./jm

Certified/RRR/2782 874 607

LAW OFFICE OF
PATRICK SHEEHAN
6 Hooper Avenue
Toms River, New Jersey 08753

(908) 473-1400
FAX (908) 473-1411

RECEIVED
97 MAR -6 AM 10:41
STATE COMMISSION OF
INVESTIGATION
TRENTON, NEW JERSEY

March 5, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Charlotte K. Gaal, Esquire
State Commission of Investigation
28 West State Street
CN 045
Trenton, NJ 08625-0045

Re: Barbara J. Larsen/Proposed Seaside Heights Report

Dear Ms. Gaal:

I am in receipt of a redacted copy of the SCI's report regarding the Borough of Seaside Heights. Please accept this letter as a response of my client, Barbara J. Larsen.

It is difficult to analyze the report in context as certain portions of the text have been deleted. My client is unable to determine whether a true picture is portrayed of the Borough's handling of health benefits. The report refers to one instance where the Borough Clerk's daughter received health benefits immediately upon employment with the Borough. This particular employee received health coverage effective on the first day of the month following her employment. Over the years there were other instances where employees received immediate health benefits upon employment. On the other hand, there were

instances where employees worked for the Borough for several years without receiving the health benefits that they were entitled to. This pattern was decided by the governing body.

The report fails to relate the following regarding Borough health insurance. Prior to approximately 1982, the Borough's health insurance carrier provided immediate coverage. Then the Borough switched to Aetna health insurance. Aetna required a 90 day waiting period before covering new employees. Paul Forino, the Borough's insurance agent, told Barbara Larsen to backdate the employment date for new hires in order to maintain a consistent practice. Since he was the municipality's insurance professional, she did not question his instruction.

The redacted report refers to Barbara Larsen answering questions during an unsworn interview by Commission Staff in the presence of "her attorney." In fact that was not her attorney. It was Ronald Hoffman, Esquire, then Borough Attorney for Seaside Heights. My client strenuously objects to the inclusion of her exercising her Constitutional Fifth Amendment privilege against self-incrimination in response to questions of the SCI. Every American has this right. The Commission's inclusion of her exercise of her Constitutional Rights immediately after the incorrect statement that she submitted to an unsworn interview in the presence of "her attorney" unnecessarily casts her in a bad light. There is no mention in the report that my client testified on two separate occasions before the SCI for a total of

approximately 8 hours. There is also no mention that Barbara Larsen informed the Commission Staff that the backdating practice was directed by Paul Forino.

The final three pages of Ms. Larsen's report deal with "Lax Scrutiny of Borough Insurance." There were problems with the Municipality's insurance agency, Forino Insurance Associates, which was owned by Paul Forino. One of the problems was Mr. Forino's forgery of Barbara Larsen's signature on documents submitted to insurance companies and premium finance agencies. Interestingly, there is no mention of the fact that Barbara Larsen alerted the appropriate Borough Officials about these problems. There is no mention that she testified before the State Grand Jury which ultimately led to Paul Forino's indictment. The copy provided to us is devoid of any reference to the Attorney General's investigation, indictment and successful prosecution of Paul Forino for theft, fraud and related offenses in his insurance dealings with the Borough of Seaside Heights. Indeed, Mr. Forino is presently serving a New Jersey State prison sentence as a direct result of my client's assistance and cooperation in the Attorney General's prosecution.

We question the Commission's motivations in including this chapter in the report. However, since it was included the entire story should be told. Complete reference to the criminal prosecution of Mr. Forino is necessary in order to make an accurate report.

Since we have not been provided with the full report, we are unable to provide any further comment as to whether my client's testimony is taken out of context or not.

Respectfully submitted,



PATRICK SHEEHAN

PS:mj

cc: Mrs. Barbara Larsen

I have reviewed the above and it constitutes my response pursuant to N.J.S.A. 52:9M-12.2.



BARBARA J. LARSEN

RECEIVED

March 12, 1997 97 MAR 14 AM 10:24

STATE COMMISSION OF
INVESTIGATION
TRENTON OFFICE

Charlotte K. Gaal, Esq.
State of New Jersey
Commission of Investigation
28 West State Street
CN 045
Trenton, NJ 08625-0045

Re: Draft Report, Seaside Heights
Response of George Tompkins

Dear Ms. Gaal:

I George Tompkins have reviewed the sections of the proposed Commission report and would like to make the following comments:

I vehemently deny that I made any threats to businessmen in retaliation for failure to provide political support during the 1994 primary campaign.

The Commission draft report refers to threats made on election day 1994. However I assume that the Commission means to refer to the primary election in 1994 as I was not involved in the general election of 1994 as I lost in the primary.

I would like to point out to the Commission the bias of John Saddy, the owner of the Bamboo Bar, who apparently testified that I had threatened retaliation for not providing political support in the 1994 primary election. Mr. Saddy has been a political enemy of mine for years in Seaside Heights and I am sure dislikes me intensely.

I do recall seeing John Saddy on primary election day in 1994, at the Firehouse, a polling place. Mr. Saddy had been involved with Mr. Vincent Craparotta, another bar owner, in driving bar patrons to vote. On that day I observed Michael Rogers drive a van owned by Mr. Craparotta to the firehouse with a voter. Mr. Saddy had been in the van. While Mr. Saddy accompanied the voter into the firehouse I spoke to Mr. Rogers. I had known Mr. Rogers and had been friendly with him. I had in fact performed his

Charlotte Gaal, Esq.

March 12, 1997

Page 2

marriage ceremony. There was no argument or threat made as I spoke to Mr. Rogers. He indicated to me that in fact that he was voting for me but that he had to work with "them", meaning the bar owners, as most of his business was done with them. Mr. Rogers had a business where he hauled debris and garbage where most of his business was working for the bars in town. I did not speak to Saddy.

I had previously worked for and accomplished the changing of the bar hours to 2:00 a.m. in order to conform with the surrounding towns hours. The closing time for the bars had been 3:00 a.m. The bar owners were opposed to the earlier closing time and Mr. Saddy and Mr. Craparotta had been very active in opposing the change. I did not anticipate Saddy to give me any political support based on my stance on the closing times.

I know that the local property owners association had also opposed the longer bar hours and I believe that I had their support. An example of the way Mr. Saddy acts is what he did to Sue Carter who I believe was the President of the Property Owner's Association. He used his sign board in front of his bar to malign her just because of his animosity towards her based on her position opposing longer bar hours. It should be noted that after the 1994 election the bar owners got what they wanted and the hours were changed back to 3:00 a.m. The bar owner's in Seaside Heights are a very powerful force in the town.

Mr. Saddy and I never got along and there was obvious animosity between us however I strongly deny making threats to him or to anyone else in the 1994 election as indicated in the draft report of the Commission.

In reference to the 1983 Planning Board application by Michael Graichen for a business to be placed on my property I realize that I was wrong in taking part in the decision. My involvement was in being a partner in owning the land being used for the business and I was not involved in the business itself. My only defense to that action was that as far as I recall it was an application without any opposition and in fact nothing ever happened in relation to the business after the application was approved. No one was trying to hide anything and I believe that it was common knowledge that I owned the property in question. I can only assume upon looking back that it appeared to be a routine

Charlotte Gaal, Esq.

March 12, 1997

Page 3

matter which I acted on. Upon reflection I should not have participated in the matter.

Very truly yours,

A handwritten signature in cursive script that reads "George Tompkins". The signature is written in black ink and is positioned above the printed name.

George Tompkins

Robert A Gasser
Attorney at Law
228 Main Street (2nd. Floor)
P.O. Box 1223
Toms River, New Jersey 08754
(908) 244-4488

Fax # (908) 505-2124

March 12, 1997

VIA FAX (609) 633-7366 & FEDERAL EXPRESS

State of New Jersey
Commission of Investigation
28 West State Street
C.N. 045
Trenton, New Jersey 08625-0045

Attention: Charlotte K. Gaal, Counsel

Re: Anthony E. Vaz / SCI

Dear Ms. Gaal:

With reference to the above captioned matter, pursuant to Section 8 of P.L. 1996, C. 44, enclosed herewith please find Mr. Vaz's response to the SCI's draft report.

PROCEDURAL HISTORY

By way of procedural history, please note for the record that the initial SCI draft report was delivered to my office on February 27, 1997. Subsequently, on March 3, 1997, a revised and corrected draft was delivered to my office. In response to the revised draft, in a letter dated March 5, 1997, we requested an extension of time to file Mr. Vaz's response and a copy of Mr. Vaz's transcript in order to adequately prepare the response. James Morley of the SCI responded in a letter dated March 5, 1997, denying the request for an extension of time to answer and the request for a transcript.

CONFLICTS OF INTEREST

In response to the charge of "Conflicts of Interest," it is important to point out that portions of the initial draft appeared in the Asbury Park Press dated February 28, 1997, alleging that Mr. Vaz was a Councilman at the time of the dinner meeting with Vincent Craparotta and Deputy Chief Horowitz. In addition, the Asbury Park Press article depicted Mr. Vaz as a Councilman associated with a person who, the SCI alleges, is an organized crime figure.

RECEIVED
97 MAR 13 AM 10:00
STATE COMMISSION OF INVESTIGATION
TRENTON, NJ

State of New Jersey
Commission of Investigation
Attention: Charlotte K. Gaal, Counsel
Re: Anthony E. Vaz / SCI

March 12, 1997
Page 2

It is important to point out that Mr. Vaz was NOT a Councilman at the time of the dinner meeting which occurred in or about May of 1994. His final term of office ended December 31, 1992. It is beyond comprehension how, after a three and one-half year investigation, the initial draft of the SCI report inaccurately and recklessly stated that Mr. Vaz was a Councilman in May of 1994, which allegation was released to the Asbury Park Press (a criminal offense according to the SCI).

Apparently in response to the Asbury Park Press article, the revised draft of the report now states that Mr. Vaz was not in fact a Councilman at the time of the meeting. However, the revised report states that Borough Officials (s in the original and revised draft) were at the dinner meeting. Once again this is incorrect since Nathan Horowitz was the only Public Borough Official at that meeting.

As to the dinner meeting, this does not constitute a "conflict of interest" in light of the fact that Mr. Vaz was NOT a Councilman. Unfortunately, the Asbury Park Press published the article which now necessitates the need for a response by Mr. Vaz.

Both Vincent Craparotta and John Saddy were leaders in the "Tavern Community," which group had, and continues to have, political strength in the Borough. It is Mr. Vaz's further recollection that Mr. Saddy was a member of the Executive Board of the Tavern Owner's Association.

It is interesting to note that at the time of the dinner meeting Mr. Vaz was advised by the Association leaders that they would not support Mrs. Vaz and her running mates on the ticket in the June, 1994, primary election since they planned to give their support to an opposition group. They further expressed that the opposition group was more receptive to the tavern owners' needs. In fact, it is also important to point out that the winning candidates in the November, 1994, election did in fact participate in changing the Borough Ordinance by extending the time and hours of operation for the Seaside Heights Retail Consumption Liquor Licenses, including the tavern owners who supported these candidates.

Contrary to the allegations that appeared in the SCI report, Mr. Vaz had no personal knowledge as to what affiliations Mr. Craparotta had other than the Tavern Owners' Association.

It must be stressed that the implications and innuendoes that appeared in the Asbury Park Press are untrue, misguided and misplaced and have subjected Mr. Vaz and his family to public criticism and scorn based upon the inaccurate reporting.

MUNICIPAL TAX SALE

As to the portion of the SCI report regarding the allegation that Mr. Vaz attempted to postpone the municipal tax sale of a property owned by a fellow Council member, Mr. Vaz vigorously continues to deny the allegation that he attempted to postpone that sale.

Mr. Vaz's only recollection in this matter was an inquiry to the Tax Collector at the time as to her opinion, as the Tax Collector, whether there was any criteria in the New Jersey Statutes that would authorize the governing body to accept a structured payment for delinquent taxes and thereby extend the time period for the foreclosure.

In response to Mr. Vaz's inquiry as to the legal requirements, the Tax Collector advised him that the Statute did not in fact provide for any further extensions or structured payments which ended the matter.

Based upon the aforementioned response, Mr. Vaz did not in any way pressure, force exert, or coerce the Tax Collector to adjourn the tax foreclosure.

QUESTIONABLE EMPLOYMENT AGREEMENTS (BOROUGH CLERK'S CONTRACT)

As to the portion of the SCI report regarding Bettsey Arnold's unused sick days, it is important to point out that it was a long-time policy of past Mayors and Councils to pay employees for unused sick days based upon a simple theory of good economics. It was the Mayor and Council's policy that all employees be able to purchase their sick days prior to retirement since it would be a cost savings to the Borough because there was a strong likelihood that the employee would be earning a higher salary immediately prior to the time of retirement. It is essential that we point out that the buy-back policy was applied to numerous employees and not just to Bettsey Arnold.

INEQUITABLE EMPLOYEE PROMOTIONS/RAISES

As to the portion of the SCI report regarding the above issues, it is important to point out that the seventeen (17%) percent increase to the Borough employees represented the difference between a laborer's salary and the provisional maintenance repairman's salary in which they were promoted.

It is essential to point out that at the time of the promotions, Mr. Vaz was Chairman of the Personnel Committee as a Councilman and he was responsible for all negotiations with the Department of Public Works.

In 1990, there were numerous personnel issues in the Department which required Mr. Vaz's intervention. At all times during the negotiations, Mr. Vaz personally spoke to each Council person to keep them abreast of the negotiations.

In fact, the Council persons later supported the provisional promotion of Robert Arnold, and in fact, to the best of Mr. Vaz's knowledge, on or about January of 1992, the Mayor and Council formally approved the permanent promotion of the Robert Arnold based upon the results of the Civil Service Tests taken by the candidate.

FISCAL MISMANAGEMENT (QUESTIONABLE EXPENDITURES)

As set forth in the SCI report, Mr. Vaz was in fact issued a portable cellular phone which was purchased by the Borough when he was a Councilman and then involved with numerous governing body Committees, including, but not limited to, Chairman of the Budget and Finance Committee, Fire Committee, Personnel Committee and Utility Committee.

Based upon his involvement in the aforementioned Committees, Mr. Vaz was required to communicate on a daily basis with numerous Public Officials including the Engineer, Attorney, Mayor and Public Works Director.

Based upon the aforementioned demands on Mr. Vaz and the fact that his employment was in Middlesex County, the Mayor and Council agreed to purchase the portable

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cellular phone to be used by Mr. Vaz because of his personal commitment to the aforementioned Committees.

Most importantly, as set forth in the SCI report, Mr. Vaz personally paid for the phone calls for the portable cellular phone from his personal funds, and he did in fact return the phone to the Borough when his position as Councilman ended.

It is also important to point out that Mr. Vaz paid for the phone calls he made with the portable cellular phone, even for calls that were made on behalf of the Borough as a Councilman and he did not seek reimbursement for them.

It is also essential to point out that Mr. Vaz was not the only Borough Official who had the use of a portable cellular phone. To the best of his knowledge, numerous Borough employees were issued portable cellular phones by the Borough, including members of the Police Department.

In fact, to the best of Mr. Vaz's knowledge, to this day, Borough employees have not only been issued cellular phones but also pagers by the Borough.

As to the reference in the report to the fact that only two signatures appear on the voucher for the phone, to the best of Mr. Vaz's knowledge, that was the policy adopted by the Mayor and Council and at no time did anyone ever question the policy, including the Borough Attorney and Auditor.

In fact, Mr. Vaz on several occasions gave the phone to the Chief of Police during the summer months to use the portable cellular phone for police functions.

CONCLUSION

It is the position of Mr. Vaz that this response constitutes a full and conclusive answer to both the initial and revised and corrected draft reports.

Clearly, the revised and corrected draft reports failed to establish that which the inaccurate initial SCI draft report alleged—namely, that Mr. Vaz had a conflict of interest as a result of the dinner meeting of May, 1994.

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Clearly, the employment agreement, the employee promotions and raises and the allegation of fiscal mismanagement issues are all cogently and persuasively set forth in Mr. Vaz's detailed and credible explanations contained in his testimony and this response.

It is Mr. Vaz's hope that this response shall receive the same fervent and unexpurgated publication and exposure as did the INACCURATE initial SCI draft which was rushed to publication on February 28, 1997. Only then can justice be done and the outstanding community reputation of Mr. Vaz, damaged by these false allegations, be restored.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Gasser', with a large, sweeping flourish extending to the right.

ROBERT A GASSER

RAG:pav