

PUBLIC HEARING REPORT
and
RECOMMENDATIONS
by the
STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION
on the
UBVERSION BY ORGANIZED CRIME
and
OTHER UNSCRUPULOUS ELEMENTS
of the
CHECK CASHING INDUSTRY

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**STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION**

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August, 1988

TO: The Governor and the Members of the Senate and the General Assembly of the
State of New Jersey

The New Jersey State Commission of Investigation is pleased to submit this Public Hearing Report and Recommendations on the Subversion by Organized Crime and Other Unscrupulous Elements of New Jersey's Check Cashing Industry, pursuant to N.J.S.A. 52:9M-10 of the Act establishing the Commission. The investigation was conducted under N.J.S.A. 52:9M-2, which authorizes the Commission to investigate the faithful execution of the laws of the State, the conduct of public officials and any matter concerning the public safety.

Respectfully submitted,
Henry S. Patterson, II, Chairman
James R. Zazzali
Barry H. Evenchick
W. Hunt Dumont

ACKNOWLEDGMENT

This report is the final project in which John O. Davies, Jr. participated prior to his retirement as the Commission's Executive Assistant. It contains the last of more than 5,000 pages of reports the Commission published during his eleven and one-half years of service, all of which he either wrote or edited. On behalf of all members and staff, past and present, the Commission wishes to acknowledge his invaluable contribution to its important work.

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INTRODUCTION

Evaluation Confirmed Need for Probe

The State Commission of Investigation (SCI) began its inquiry into New Jersey's check cashing industry after receiving information from law enforcement authorities about questionable transactions that were being processed by specific check cashing entities. An evaluation of this data indicated that certain check cashers, licensed and unlicensed, were being utilized for nefarious purposes—including the evasion of federal and state income, sales and other taxes, bankrupting of companies, defrauding of corporate stockholders and creditors, and laundering of cash obtained from gambling, narcotics, embezzlement, extortion, loansharking and other illegal activities. These preliminary findings shared certain characteristics—that the industry was being subverted both by unscrupulous entrepreneurs for tax evasion and other fraudulent purposes and by members or associates of organized crime factions operating in North Jersey and New York. The Commission determined that its staff evaluation warranted a formal investigation which was authorized by the adoption on September 10, 1986, of a resolution stipulating that its scope and objectives were to be:

Whether the laws of the State of New Jersey are being faithfully executed and effectively enforced with reference to the check cashing industry; whether such laws are adequate to protect public justice and the interests of the people of New Jersey; and whether, and to what extent, the check cashing industry has been infiltrated, perverted, adversely affected by or utilized for the benefit of various individuals, groups and entities engaged in organized criminal activity or racketeering.

Background of Industry

Privately operated check cashers serve vital social and economic functions by providing thousands of people who do not or cannot use regular banking facilities with their only alternative

for cashing Social Security and other government benefit checks and payroll checks. Since this alternative banking service is the only way many people can obtain ready cash with which to purchase essential food, clothing and shelter, it has been regulated by the New Jersey Department of Banking (DOB) since 1951, with the primary objective of assuring stability and integrity within the industry. The regulatory process involves the licensing of cashiers, requirements for bookkeeping and for periodic reporting to, and audits by, the regulators, and establishing reasonable limits on check cashing fees.

The regulatory program governs an industry that generates a remarkably large volume of transactions by a relatively small number of entities, an economic imbalance that invites the evils plaguing non-bank check cashing in New Jersey. There are about 80 DOB-licensed check cashers. They annually cash more than four million checks worth more than a billion dollars. And they collect upwards of 10 million dollars in fees.* These official statistics do not include the activities of unlicensed check cashers and cannot, of course, reflect the estimated millions of dollars worth of transactions that are not recorded or reported by licensees. Needless to say, as the Commission noted at its public hearing on the industry, check cashers may be few in number "but constitute a business with such a huge dollar volume and such a constant flow of cash that it presents a potent temptation for fraud, loansharking and other criminal activities."

The SCI Investigation

The Commission's investigation was highlighted by extensive field work during which every licensed check casher was visited at least once and by an exhaustive review of books and records, including hundreds of thousands of checks. More than a score of the more questionable enterprises were monitored by SCI agents on numerous occasions. At least 70 witnesses were

*See chart: New Jersey Check Casher Activity, px 00.

NEW JERSEY CHECK CASHER ACTIVITY*

	1984	1985	1986
Number of Check Cashers	75	79	79
Total Number of Checks Cashied	3 Million	3.6 Million	4 Million
Total Amount of Checks Cashied	\$742 Million	\$886 Million	\$1.1 Billion
Amount of In-State Checks	\$673 Million	\$759 Million	\$855 Million
Amount of Out-of-State Checks	\$69 Million	\$127 Million	\$205 Million
Amount of Fees Collected	\$6 Million	\$8 Million	\$10 Million

*Figures rounded, based on data from Department of Banking.

interviewed in the field by SCI investigators and questioned by the Commission at executive sessions at the SCI office. Some 35 witnesses, several of whom exercised their Fifth Amendment right to refuse to respond to questions, were subpoenaed for appearance at the Commission's public hearing on April 26, 27 and 28, 1988, at the State House Annex. About 160 exhibits were assembled for the public hearing, including excerpts from sworn private testimony which were read into the public hearing record when certain witnesses refused to answer questions. The exhibits also included a number of charts prepared by the SCI to clarify the testimony. Most of those charts are included in this report.

During the course of its probe, the SCI learned that another inquiry into check cashers was being made by the New Jersey Department of the Public Advocate's Office of Citizen Complaints. The Public Advocate's report, with recommendations for regulatory reforms, was issued in January, 1988. It focused primarily on the check cashing industry's utilization by people "with limited incomes who regularly receive government checks." The report confirmed that check cashers charged excessive and illegal fees, that the statutory and regulatory governance of check cashers was widely violated and that numerous unlicensed entities were cashing checks for fees in violation of the law. The Commission during its inquiry received the cooperation not only of the Public Advocate, but also the New Jersey Division of Criminal Justice and the New Jersey State Police, similar law enforcement agencies in New York and other jurisdictions, and particularly the New York State Commission of Investigation, the New York State Organized Crime Task Force and the U.S. Internal Revenue Service. The DOB, through Commissioner Mary Little Parell, was most cooperative in producing data from its Consumer Credit Bureau, the agency which directly supervises the check cashing industry. Finally, the late Clifford Crolius of Jersey City, a state investigator and former city detective, provided exceptional assistance.

Commission's Opening Statement

Chairman Henry S. Patterson, II, opened the public hearing with a statement summarizing the reasons for the inquiry and explaining the objec-

tives of the hearing itself. He emphasized at the outset that the Commission was aware that most licensed check cashers are law-abiding citizens and businesses and that the investigation was part of an effort to erase the cloud that certain venal operators had cast over the industry. He recalled that the SCI's interest had been aroused by the receipt of law enforcement advisories that, "despite a comprehensive regulatory system, check cashers were suspected of engaging in activities that violated both the letter and the spirit of the law and their special service to the public was being subverted by organized crime figures."

Patterson continued:

Our investigative findings have confirmed these suspicions. Indeed, many statutory and regulatory reforms must be imposed if this industry is to continue its vital function of providing cash for people who for one reason or another can't or won't use regular banking services. The purpose of these hearings as with all of the SCI's public actions is to generate public interest in promoting changes that will restore the industry's integrity by compelling it to obey a much more stringent regulatory system.

We will hear from State banking officials on the regulatory problems which are numerous and complex and how the process can be improved. We also will hear from victims of unscrupulous check cashers whose misconduct and greed have led to excessive and unlawful fees and to embezzlement and bankruptcies, and, finally, we will hear from certain check cashers whose enterprises have been infiltrated by organized crime figures to launder dirty money, to finance loansharking and to evade income taxation.

One of the mandates of the SCI's enabling statute is that we expose wrongdoing in such a manner as to generate public and governmental interest in expeditious efforts to curtail the particular misconduct involved. That is what we hope these three days of public hearings will [accomplish] for the check cashing industry and for the public that relies on check cashing services—compel immediate corrective action by the legislature and the administration.

PUBLIC HEARING—FIRST DAY (April 26, 1988)

DOB's Problems With Check Cashers

Testimony by the hearing's first witness, State Banking Commissioner Parell, helped to set the stage for the remainder of the forum. Questioned by Executive Director James J. Morley, she noted that no state regulated check cashers until the mid-1940s when New York and Illinois enacted control laws, followed in 1951 by New Jersey's Check Cashing Law. California also enacted a law but repealed it in 1983. However, that state's 1988 legislature is considering proposals to reinstate controls over check cashers. Parell said New Jersey's statute was modeled after New York's, which was adopted to control such abuses as fee-gouging, loansharking and tax evasion. She reviewed various provisions of the New Jersey statute, including its fee limitations of 1 percent on checks drawn on New Jersey financial institutions and 1½ percent on out-of-state checks, and its prohibitions against loans or discounting of checks and against cashing post-dated checks. She recalled that a requirement that licensees maintain net worth and liquid assets of \$5,000 was increased in 1985 to \$50,000. She said a 1964 amendment repealed any limitation on the face amount of check cashing transactions and that a 1979 revision replaced criminal sanctions for violations of the law with civil penalties of \$1,000 per offense, plus license forfeiture or nonrenewal. Reflecting the Commission's concerns about the viability of the statute, Morley requested clarification of the 1979 change:

Q. Do you have any understanding of why the criminal sanctions in the statute were removed and replaced by civil penalties?

A. It's my understanding that that has been part of a general effort over a long period of time by my Department to decriminalize the regulatory process, enabling my Department in general to be able to handle the matter from beginning to end and impose regulatory [or] civil sanctions effectively. As you know, the standard of proof is lower. We can move more quickly and efficiently, theoretically, if the De-

partment is able to seek and impose the sanctions, so that has been the general theory under which most of our statutes have been decriminalized.

200 Percent Increase In Out-of-State Check Cashing

Pointing to the Commission's "Check Casher Activity" chart (see p. 2), Morley noted that there had been a 200 percent increase from 1984 to 1986 in the amount of out-of-state checks cashed (from \$69 million to \$205 million) as against a 27 percent rise in the cashing of in-state checks (from \$673 million to \$855 million). He sought an explanation:

Q. Is there any suspicion on the part of your Department—and you have to rely on the records of the check casher—that the dollar amount of out-of-state checks is under-reported to any degree?

A. Yes. It has come to my attention that certain check cashers were reporting to us as in-state checks an indeterminate number of out-of-state checks, and they were doing this under the erroneous view that if they were only charging the 1 percent fee as for an in-state check, they could lump all of their checks together. This has not been a widespread practice, and we have taken steps to correct it in the future; however, that figure is under-reported, I believe.

Q. Does the Department have any opinion as to why the out-of-state dollars are increasing so disproportionately?

A. I can give you some factors that may be contributing to this, although they don't serve as a full explanation in my mind. First of all, many of the out-of-state checks appear to emanate from New York State which, of course, is very close to us. The New York check cashing law has a \$2,500 per check limit, with the exclusion of certain government checks and insurance proceeds and certified checks, so any check

over \$2,500 that a person would want to present to a check casher in the New York-metropolitan area, that check will come to New Jersey at this point under our law. Furthermore, I understand that in New York almost all of the check casher bank accounts are in only one depository institution, namely Manufacturers Hanover, and that that bank has a policy against permitting check cashers to deposit corporate checks. So despite the fact that the New York law does not discriminate between natural persons and businesses, the depository does, so again corporate checks from out of state in the metropolitan area are likely to go to New Jersey.

Counsel Morley displayed another SCI chart demonstrating where in New Jersey the \$205 million in out-of-state checks were cashed—44 percent in Hudson County, 29 percent in Essex and 27 percent in all other counties.*

Q. *As is plain from the chart, the overwhelming majority of the out-of-state checks, almost three-quarters, were cashed in Hudson and Essex counties. Could you tell us what you think causes that phenomenon?*

A. Well, first of all, the preponderance of check cashers are located in those areas, anyway, for various reasons including the high population, the relatively low income of the population and the fact that there are many small industries in that area [such as] small manufacturing concerns, transportation, garment. That doesn't explain the out-of-state. It just explains a heavy concentration in those two counties. As to the out-of-state, I think location is the primary key, location near to New York.

Morley next called for the Commission's chart illustrating how many check cashing entities are located in each county of the state.** The number of such entities ranged from 28 and 16 in Essex and Hudson to seven in Passaic and Camden, five in Middlesex and Mercer, four in Union, three in Bergen, two in Atlantic. Four counties had only one check casher each and the remaining eight

had none. Morley again noted the heavy concentration of check cashers in certain areas:

Q. *As you've testified, there's an obvious heavy concentration in Essex and Hudson counties and in the northeastern corner of the state in general. Let me ask you this: As opposed to the regulatory restraints that exist in New York, and which may, in addition to socio-economic factors, contribute to the concentration of check cashers in the northeast, what's the situation from a regulatory point of view in Pennsylvania?*

A. Nothing.

Q. *And I suppose, conversely, then that would contribute at least to some degree to the lack of activity in out-of-state checks in the south?*

A. Except, you see, Camden, and its urban nature I think explains the numbers there.

"Exhaustive" Application Process

Commissioner Parell described in detail the process for reviewing and acting upon license applications, a complicated process that includes fingerprints, fiscal audits and character references, among other requirements. She described the procedure as "pretty lengthy and pretty exhaustive." Chairman Patterson pressed her for more details:

CHAIRMAN PATTERSON: Commissioner, how long does the process usually take?

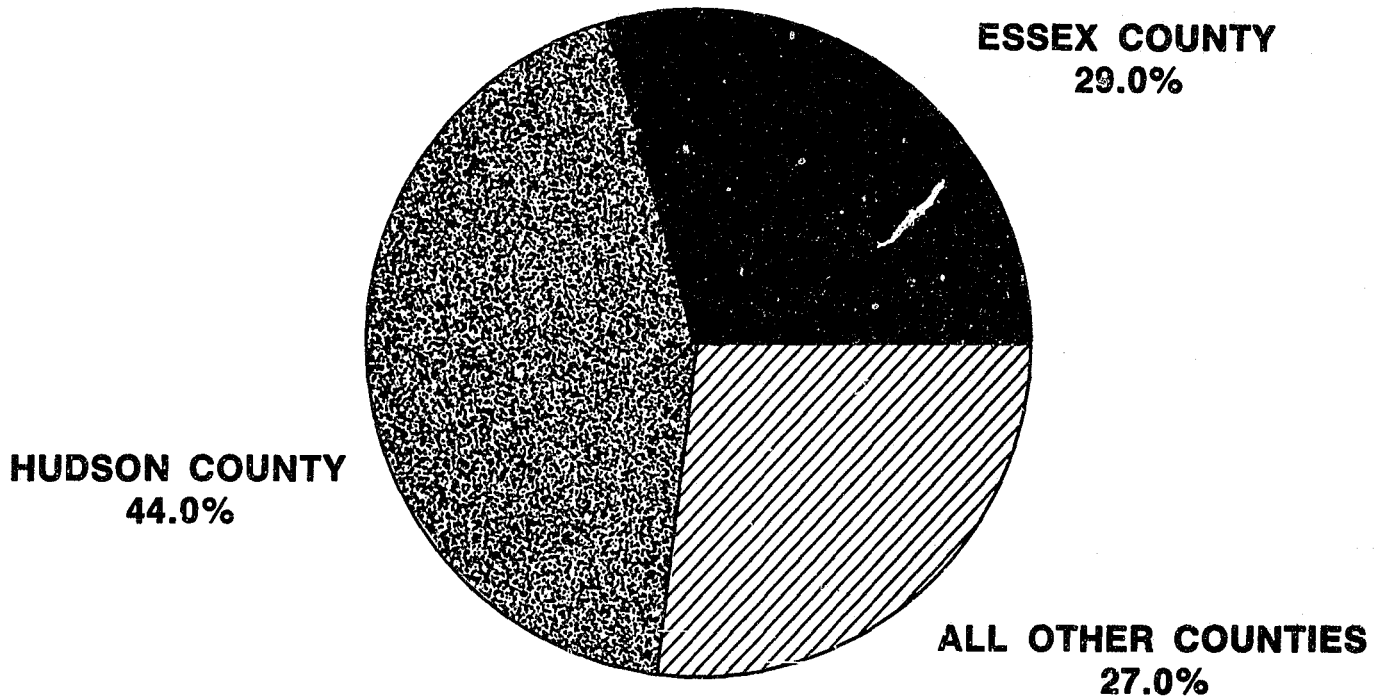
WITNESS: Mr. Chairman, it's a very lengthy process. We have I think in the past four years entertained approximately 30 applications. Of those to date five have been granted. The rest are in various stages of processing . . . Three of the approximately five which we licensed have been opposed in litigation by other check cashers through their trade association and we have pursued the litigation up through the Appellate Division, receiving during the past four months three favorable decisions.

CHAIRMAN PATTERSON: So an applicant can expect to spend perhaps 18 months in the process of being approved or disapproved?

*See chart, p. 6.

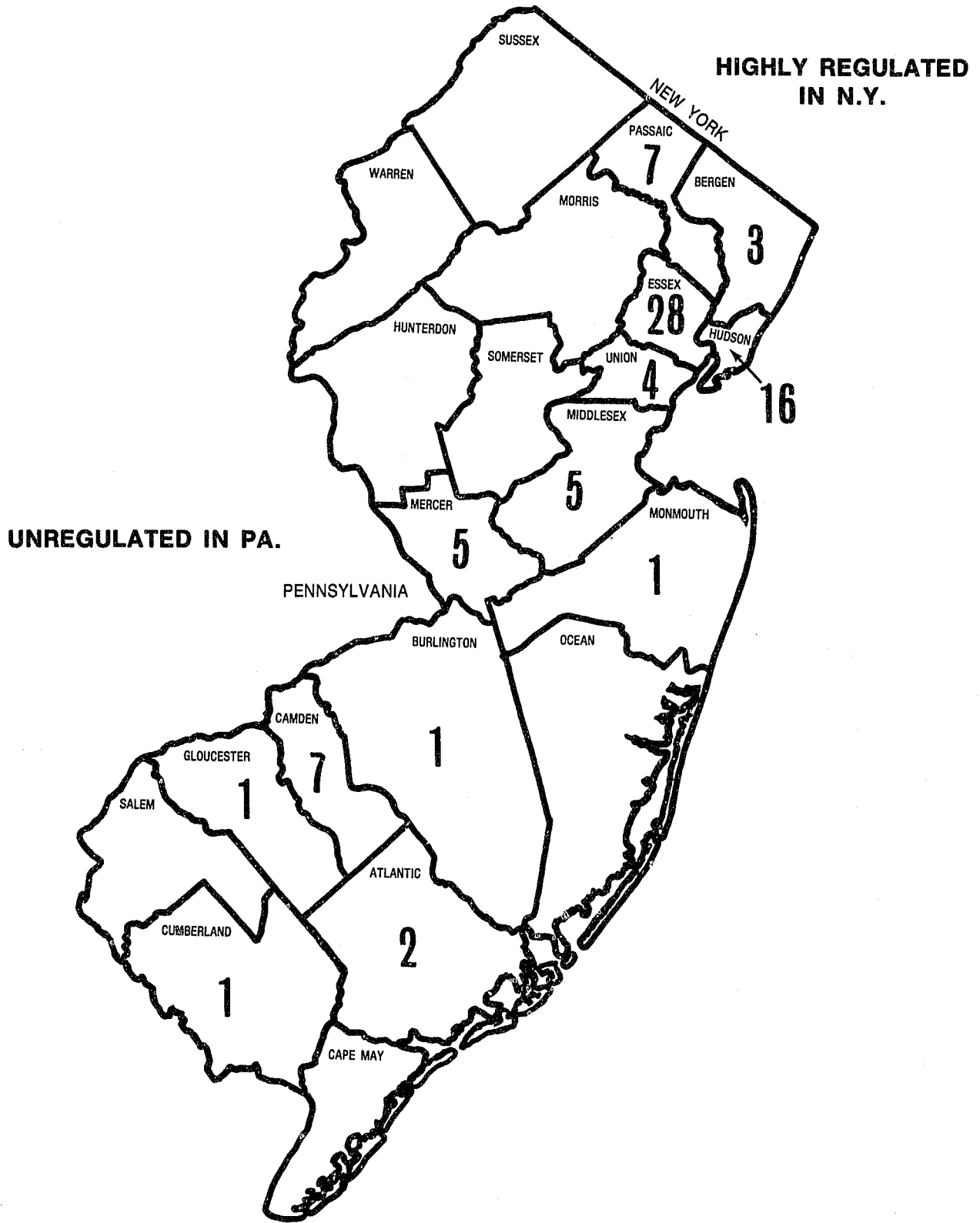
**See chart: *Licensed Check Cashing Sites in New Jersey*, p. 7.

TOTAL \$ AMOUNT OF OUT-OF-STATE CHECKS



Based on data from Department of Banking

LICENSED CHECK CASHING SITES IN NEW JERSEY



WITNESS: That's right.

CHAIRMAN PATTERSON: And then faces a lawsuit to boot?

WITNESS: Oh, absolutely. This lawsuit business is very much with us at the present but all other things being equal . . . we could probably get it done in a year or 18 months.

Parell testified that for fiscal 1988 her Department's Consumer Credit Bureau scheduled 27 audits of check cashers, or almost a third of the total licensees. The Bureau, however, is also responsible for examining numerous other licensed financial services, she added, such as small loan lenders, secondary mortgage lenders, state-chartered credit unions, foreign money remitters, and insurance premium finance lenders. Unlike check cashers, audits of some financial services are mandated by law. Morley's questioning reflected the Commission's concern about the DOB's physical ability to maintain an effective examination pace:

Q. *Even in the area of those institutions which have mandatory examination requirements is the Department, given present resources, able to meet the statutory mandate?*

A. I regret to say that we are not. This is something that we annually report in our budget submissions.

Q. *You mentioned some of the statutes are under review, and I would suppose that the effort is to conform the statutes to the realities?*

A. Even as we constantly endeavor to conform our capabilities to what we would consider to be the standard.

Q. *Now, how large a staff are you authorized in the Bureau?*

A. Our current authorization is at 11. We also have two examiners on loan from the Banking Division and as of last year we were authorized to augment by five additional positions, four of them professional; however, we're going to have to substitute out the two on loan. But may I add, please, that as of the most recent budget hearings we have stated that our number one priority for this year is to establish a Special

Investigations Unit, which I regard as being potentially very important to enable my examiners to get out in the field more.

Q. *In your opinion, assuming that you had the opportunity to put the Consumer Credit Bureau in whatever shape you thought was the best, will those numbers of examiners enable you to conduct the number of examinations that you feel should be conducted each year by the Bureau?*

A. . . . If we were able to keep at the job, then the staffing which I have just described to you will enable us to get to each licensee once every two years physically and do spot checks . . . Once every two years is the best I can do with what I'm looking at in terms of a full complement under existing current requirements.

CHAIRMAN PATTERSON: But you said you preferred to do it every year?

WITNESS: I would prefer to do it every year, Mr. Patterson, but if I'm only getting to one-third of my licensees on average now, then you would have to triple my staff and give me a Special Investigations Unit.

No Limits On Check Amounts in New Jersey

At the conclusion of Morley's discussion with Parell, various SCI commissioners requested clarification on areas of her testimony.

Commissioner W. Hunt Dumont questioned Parell about the lack of a limitation on the face amount of the checks that can be cashed in New Jersey compared to New York's \$2,500 limit:

COMMISSIONER DUMONT: Do we have any idea about how many checks are over \$2,500 as opposed to those under?

WITNESS: Yes. I can't quantify it for you because the basic reporting would not reveal that but when we do an in-depth study of what we would consider to be a problem licensee, that's the kind of thing we look for and what we do find is a bulk of checks which exceed \$2,500.

COMMISSIONER DUMONT: And do we know the source or sources of these higher checks?

WITNESS: Many of them are out-of-state.

Commissioner Dumont also asked whether the prolonged licensing process was a reason for check cashers operating without licenses:

COMMISSIONER DUMONT: You indicated there's an unusually long process to obtain a license. Do you feel this discourages [individuals] from getting a license; therefore, we have a higher incidence of unlicensed check cashers or is that not a fact?

WITNESS: First of all—the answer is yes, clearly. The lengthy time frame, the amount of disclosure, the submission of fingerprints for everybody who works in the place, all of these requirements, while they have a legitimate public purpose, I'm sure [they] have the effect of discouraging a greater number of licensed check cashers. A \$50,000 capital and net worth requirement and a \$50,000 liquid asset requirement is very high. It's not the sort of thing that your average corner enterprise is likely to want to maintain just for the privilege of taking a fee to cash checks.

COMMISSIONER DUMONT: Do you see a way to streamline the process without sacrificing the benefits of that process?

WITNESS: I think that could be done to—up to a degree and among my recommendations will be that we drop back to the capital level and liquid assets level that New York has now, which is \$10,000. Their's was originally \$5,000 like ours and they clearly recognized this balance problem, that one might argue that you need higher financial wherewithal in order to make this more of an industry, you know, more of a distinct industry. Others might argue, "Let's make the service, this legitimate service, more freely available in the community." . . . On the other hand, we have to be very rigorous because of the historical potential which is still very much with us for civil and criminal abuse.

Commissioner Barry H. Evenchick asked about the litigation that has confronted prospective licensees:

COMMISSIONER EVENCHICK: I'm curious—if you're able to generalize—where the licensing or re-licensing procedure has ended up in court, has there been any discernable pattern as to the basis for the objections that brought these cases into the courts?

WITNESS: Oh, yes. There used to be a requirement of . . . community need in the statute. That used to provide a basis for the existing licensees to object on the ground that this was going to damage them. That was taken out of the statute. We still, however, have in the statute the notion of being able to be managed efficiently and effectively and indeed there's a provision that permits me to revoke a license for insufficient business. Based on those two provisions, objectors look at the economic feasibility aspect of the application, which is public, and they maintain that there isn't a sufficient need in the community to support more than what they're already providing . . . You have a very sharp philosophical dispute between the Check Cashers Association and my Department to the effect that, since prices here are restricted, we don't have price competition and therefore the market area of a licensee should be protected from potentially-destructive competition. That is their philosophy. When they come to a court case, they make specific objections to specific findings that we make.

Commissioner Evenchick asked what improprieties were being exposed by the DOB's periodic audits:

COMMISSIONER EVENCHICK: Finally, where exams have been conducted over the past year or two by your Consumer Credit Bureau, what kinds of problems have been found in the records of these licensees?

WITNESS: We have found many violations. We have found failure to post the [fees] sign—they are required to post the sign. Failure to post the license, failure to have employees fingerprinted as they are required to do, absence or neglect of business records which enable us to review their daily activity. We have seen evidence of postdated checks, I believe. We certainly have seen what we construe to be evidence of loans, [reflected by] large amounts of bounced checks in some cases.

Commissioner James R. Zazzali also asked about the effect of allowing checks of unlimited amounts to be cashed by licensees:

COMMISSIONER ZAZZALI: Commissioner, do I understand correctly that there is no cap or lid on the amount of the check that can be cashed?

WITNESS: In New Jersey there is not at the present time. There once was.

COMMISSIONER ZAZZALI: And you testified I think in your opening statement that in 1964 or thereabouts there was such a cap? In the amount of \$250?

WITNESS: Yes.

COMMISSIONER ZAZZALI: Maybe I was reading too much into it, but when you stated that you seemed to grimace. I infer from that you think that there should be a cap or a restriction of some kind?

WITNESS: Well, you know, if a large volume of out-of-state checks is coming into New Jersey to check casher outlets and many of them appear to be emanating from New York which has such a cap and many of the checks appear to be over the New York cap limit, then it would appear to me that we ought to seriously consider having our law be as tight, if not tighter, than New York's. The average check in this State presented to a check casher is approximately \$254 last year, so a check over \$2,500 would be most unusual in terms of the average.

How Check Cashing Crooks, Cheats Operate

The seamy side of the check cashing business was portrayed by the next witness, Thomas R. Boney, a supervising investigator in the New Jersey Criminal Justice Division's Organized Crime and Racketeering Bureau. A former federal Internal Revenue Service agent, he has lectured extensively on money laundering and other criminal enterprises reflecting his investigative experiences. He prepared a chart on the check

cashing industry,* which he used to illustrate his testimony about criminal activities involving check cashers that he had encountered during his professional career.

For example, under questioning by SCI Counsel Charlotte K. Gaal, Boney recalled a case involving an individual who, facing a "grim situation financially," borrowed \$20,000 from a loanshark:

He was instructed to pay back an equivalent of roughly \$10,000 or \$15,000 as interest over a relatively short period of time, less than a year, which would have put the interest into a usury category, in excess of 50 percent. [He] satisfied the loan [but] at that point the lender was murdered. A short time after this, [the borrower] was approached by other people connected with organized crime and he was instructed that another party had assumed the loan and that he should continue to make payments. He explained he thought it was completely satisfied. He was told to make roughly another \$20,000 in payments. He was instructed to take checks from his [place] of employment, make them out to any payee, take those checks to a check cashing business and it would be applied against his debt, which he did.

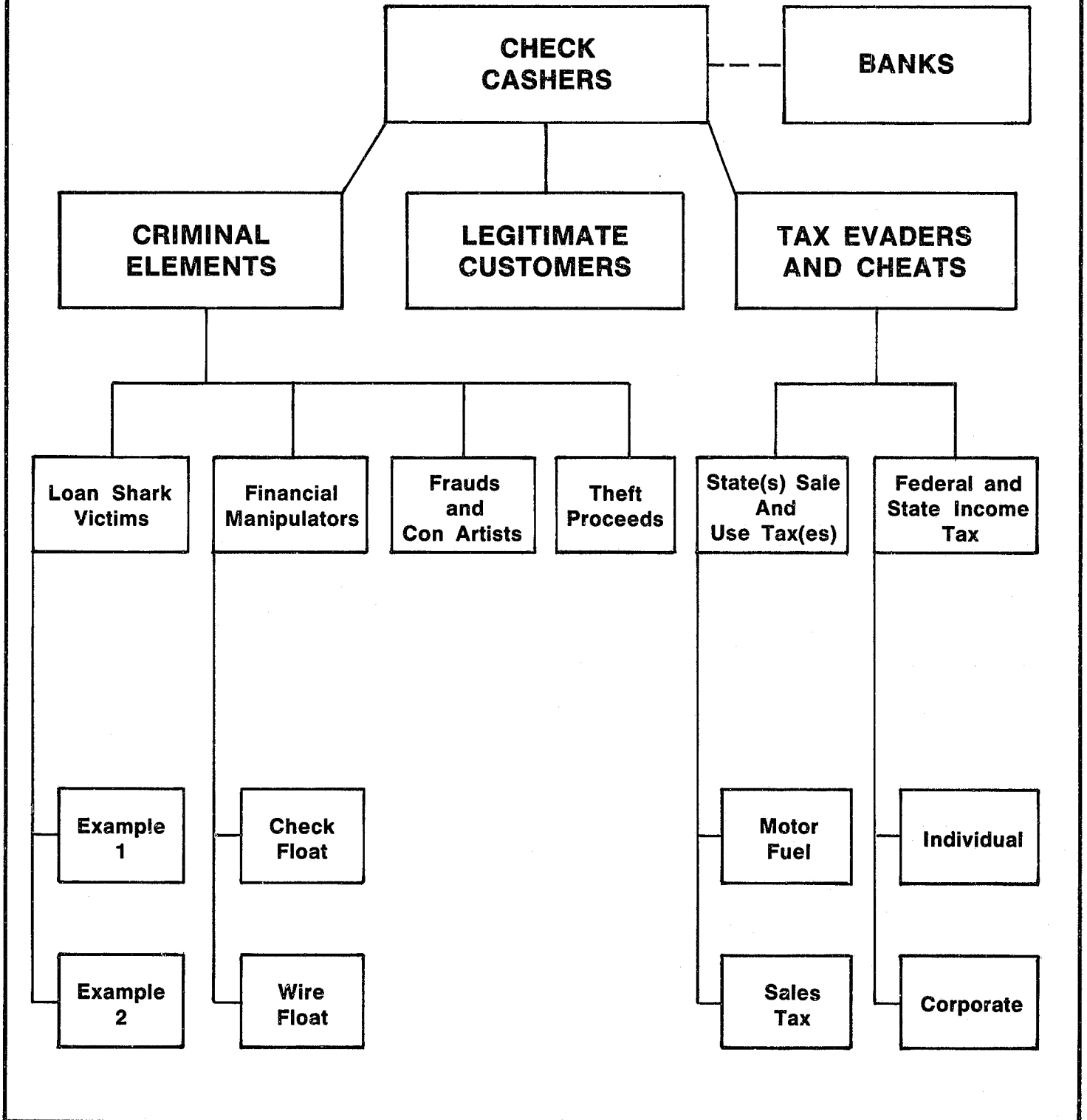
Check Kiting Via Check Cashers

Boney also described check kiting incidents, involving the generation of cash based on a series of checks negotiated at banks, permitting the check casher to utilize funds which actually don't exist in his accounts during the three-day or four-day "float" period before the checks clear. The witness said he encountered a check cashing business that handled about a million dollars worth of transactions a month. Counsel Gaal:

- Q. *Did they run into a problem with the bank?*
- A. They did run into a problem with the bank. The problem was the bank was of the opinion they were building up a float. In other words, they were receiving the benefit of checks that were cashed with no hard cash backing it up . . .

*See chart on p. 11.

CHECK CASHING INDUSTRY



Because of this float building up on uncollected funds, the bank wanted that account closed.

Q. *Did the check casher have collateral at the bank to cover the uncollected—*

A. What happened was the account was closed, the bank was not victimized from a legal standpoint and the account did transfer to another bank . . . the account [was] transferred to a second bank and the activity repeated itself.

Q. *Based upon your investigation have you noted that at times there appears to be a relationship between the check casher and a bank officer at a bank?*

A. Yes.

Q. *What have you noted?*

A. I noted not only the increase in volume as the relationship continues but also a personal relationship developing between—in this one situation the principal of the check cashing company and the bank officer.

Q. *Now, with respect to that check cashing business we've been speaking about did you learn that other law enforcement entities were looking at that check casher in addition to yourself?*

A. That's correct.

Q. *That included the Federal Government?*

A. Yes, the Federal Strike Force out of Newark.

Q. *How about I.R.S.?*

A. The I.R.S. also.

Q. *Did you engage in a joint investigation?*

A. Yes, we did.

Q. *And what did you find?*

A. What we saw is demonstrated by this one particular business. When the funds were closed out of the Trust Company of New Jersey, they opened another account at the Fidelity Bank with a \$105 deposit. In turn, within a 30-day period, with just \$105 available, roughly

\$120,000 of funds were issued against their account.

Q. *And did they get the funds basically by drawing against the uncollected checks?*

A. Well, at this point in time there was no source of deposit. It was simply \$105 . . .

Post-Dated Checks Facilitate Check Casher Loans

Boney said his inquiries involved a number of unlicensed check cashers as well as licensees. He told how one financially strapped customer of an unlicensed check casher was able to borrow money by cashing post-dated checks that were discounted at the rate of 1 percent per day. The testimony continued:

Q. *Initially what was the pattern of that person's borrowing, and by borrowing I mean with respect to the check casher?*

A. He had an arrangement with his check casher that he would take a check. It would be post-dated for a short period of time, say, in the area of three to five days and they would give him a discount. As an example, if it was a \$1,000 check at 1 percent commission per day, he would receive \$990 and so on. If it was three days, \$30 would be taken out. The distinction here between a normal transaction and his transaction is that right up front it was described that this would be the interest on the checks.

Q. *You used the figure 1 percent per day. Is that a figure that you learned was the rule of thumb during—*

A. That was the figure he stated to me as the interest charge.

Q. *He told you he paid 1 percent per day?*

A. 1 percent—he called it "vig" interest.

Q. *Did his level of activity at the check casher increase? In other words, did the checks become larger?*

A. Yes, they did become larger. It stepped up to where his loan grew from \$1,000 up to 10 or \$15,000 over a period of time and this continued for a period of years.

Q. *Did that activity for this victim continue at other locations?*

A. As far as I can determine it did.

Q. *Did he initially offer to cooperate?*

A. Oh, yes, he did.

Q. *And what happened?*

A. This check cashing company employed off-duty police officers of Jersey City and he, in fact, didn't know who they were and when he would go into the business he would see a display of weapons inside in holsters. He actually felt that these people may not be law enforcement officers; that, in fact, this business . . . could hire hired guns and they might be out to visit him if he fell behind in his payments.

Q. *The term "vig" or "vigorish" has come up. What is that?*

A. As I mentioned, this was described as [mob jargon for] the interest charged.

Boney described the case of a con artist with organized crime connections named J.J. Frankel of New York, who utilized the services of a Jersey City check casher in perpetrating security frauds:

I became involved in analysing different records where I saw a large volume of activity through Merrill Lynch accounts in New York City. These were cash management accounts in the name of Frankel. There were significant overdrawn balances, closewards to a million dollars of total overdrawn balances. I researched the pattern of activity. Geographically it came back to areas of Arizona, Texas and New Mexico. I contacted a banker in those areas who was apparently victimized by the activities of Mr. Frankel in a series of securities offerings of which he received funds and they found their way to New York City and then, in turn, to Cash Services of Jersey City.

Q. *And do you know what the investigation involved?*

A. There again it would have been securities offerings, violations of the S.E.C. Act.

Q. *I was wondering if there's any particular individual target that comes to mind?*

A. At that point in time it, of course, was Frankel who was the target.

Q. *What happened to Mr. Frankel?*

A. In November of '82 it's reported that he leaped from a building in New York and killed himself . . . In Mr. Frankel's case he goes back—it is documented by different admissions in public courts in New York City, Federal and State—as having a long-standing history dating back to the mid-70s with, for instance, Anthony Salerno of the Genovese organized crime family, a fellow who's been described publicly as a loanshark's loanshark, a fellow named Ruby Stein out of New York City. He had a—for lack of a better description—a very checkered past with a former partner of his in a lottery situation in New York State who turned up murdered. This is the exact same Mr. Frankel that we investigated.

Frauds Crossed State Lines

Counsel Gaal asked Boney for other recollections of investigations involving check cashers:

Q. *Have you found the use of fictitious payees, either fictitious individuals or the use of fictitious business names, being utilized by customers of check cashers?*

A. Yes. We found patterns of that where they were instructed to enter the payees in a variety of names, both individually, corporate, trade names, this type of thing, so that there's no clear trace as to the cash transaction.

Q. *Could a business, in fact, by using a fictitious payroll or fictitious business names on checks, end up with business deductions for these checks?*

A. Yes, they could.

Q. *Are you familiar with the term "swag"?*

A. That's a term that I've come to know as representing stolen property.

Q. *Do you recall an instance involving stolen property tying in with check cashing?*

A. I was advised by an informant—down in South Jersey—that . . . if you're into this area of stolen property, it's C.O.D. and when they buy it, they need currency to take property, and I was told that these types of [check cashing] businesses do furnish that type of available cash.

Q. *Now, in the area of tax evasion did you find out-of-state customers, in particular New York customers, but it could be others, utilizing New Jersey check cashers?*

A. Yes we did.

Q. *Any particular types of industries in New York come to mind?*

A. Yes. We found a pattern as to furriers from the fur district in Manhattan and also jewelers that we saw a continued volume of checks from these types of parties. Again, there was another investigation we had where the matter was completed resulting in a guilty plea, basically a series of governmental false billing frauds where the proceeds were negotiated through check cashers to hide or conceal the trail.

Q. *New Jersey check cashers?*

A. Yes.

Q. *Was it a licensed check casher?*

A. In this case it was a licensed check casher. Regarding the New York activities with these different parties, furriers and jewelers, we traced this into a pattern where almost every two or three days representatives of the check casher would go to New York City with currency, that we would follow them to the banks and they would take out currency—in excess of \$100,000 for their trip—and meet with the check casher and they would trade checks for

the currency and so forth. I interviewed the check casher in New York City—

Q. *What did he tell you?*

A. Basically admitted to it. Basically . . . to avoid the statute as far as [in] New York dealing with corporate checks and checks over certain amounts of money.

Q. *In other words, he said he couldn't cash checks over a certain amount of money and he couldn't cash corporate checks in New York so he would feed them through a New Jersey check casher?*

A. That's right, and instead of making a full 1 percent, he can make a 1/2 percent on his money. In this case, he's making \$500 just for swapping a bag.

Commissioner W. Hunt Dumont asked Boney whether the statutory requirement for filing Currency Transaction Reports, or CTRs, whenever a transaction involves more than \$10,000, was being obeyed by check cashers:

COMMISSIONER DUMONT: During your investigation did you uncover evidence that these forms were not being filed?

WITNESS: That's correct.

COMMISSIONER DUMONT: And what is the purpose of this form?

WITNESS: It's basically a disclosure form that is submitted to the U.S. Department of the Treasury. In turn, it's filed with the Internal Revenue Service and if a taxpayer accumulates enough of these forms he's ultimately called in for an income tax audit.

COMMISSIONER DUMONT: Am I correct with respect to the various criminal elements that you have pointed out who are check cashers, it would be attractive to them not to have this form filed with the I.R.S.? Is that correct?

WITNESS: That's true.

COMMISSIONER DUMONT: Did you find that there is a higher incidence of the failure to file these forms with check cashers than there is with banks?

WITNESS: My experience shows that banks are, of course, more conscientious, especially within the last five years, in filing these forms than are check cashing companies.

Chairman Patterson asked about the impact of the CTR filing requirement on unlicensed check cashers:

CHAIRMAN PATTERSON: Did the unlicensed check cashers avoid [filing] the CTR forms to hide the fact that they're check cashers?

WITNESS: Yes, they did. They did in the period that I examined it.

A Bust-Out Victim of the Check Cashing Process

The Looted "Partnership"

A bust-out is a scheme customarily employed by organized crime to deplete the assets of a legitimate business, thus forcing it into bankruptcy. A victim of such a corporate looting, John T. Decina of Brick Town, recalled his experience at the Commission's hearing. Married and father of two children, Decina told how an organized crime-linked "partner" during 1985-86 utilized two check cashers to funnel money out of his partnership, ultimately leaving him with a failed company and \$250,000 in debt.

Decina's troubles began after he met a John Frka (actually John Zagorianakos, who was subsequently sought for questioning in a mob murder), who persuaded him to invest in a company, Horizon Container, which Frka created to pick up and deliver container cargo from North Jersey docks. The possibility of a joint venture was being discussed in May, 1985, when Decina accompanied Frka to Linden to inspect a warehousing facility at 2200 Urbanowitz Avenue for another Frka company, Horizon Distribution Center.

Frka soon after signed a lease for a warehouse belonging to Herbert Siegel, who operated the

North Avenue East Check Cashing business in Elizabeth and who subsequently was convicted of currency violations as a check casher.

In July, 1985, Frka informed Decina that he was being made a half-owner of Horizon Distribution, although the latter never saw the legal papers. About this time, Decina quit his job with a Hackensack shipping concern so he could work full time for Horizon. By this time, also, Decina had invested \$10,000 in Horizon, half of which he obtained from his parents. By September he and his wife and Frka and a woman Frka "represented to be his wife" had co-signed a five-year bank loan.

The Bust-Out Scheme Unfolds

In December, Frka told Decina he was now a 50 percent owner in both of the Horizon companies, and that an accountant Frka enlisted would draw up the incorporation papers. Frka's alleged wife acted as the bookkeeper while Frka stayed at the office and Decina spent 80 percent of his time on the road soliciting business.

Although both Decina and Frka were authorized to sign checks for a bank account maintained for Horizon Distribution, only Frka could sign checks for an account at a different bank that was opened for Horizon Container.

Despite having checking accounts in two banks, Frka handled most of the companies' checking transactions at the North Avenue East check cashing service owned by his warehouse landlord, Herb Siegel. This was the peculiar financial arrangement that became Frka's mechanism for destroying Decina.

The Payroll Frauds

One of the first moves initiated by Frka to promote his scheme was to cash payroll checks at his landlord's check cashing company for amounts in excess of what was actually being paid to Horizon's employees. This caper became simple for Frka to implement because he grad-

ually took over the burden of signing payroll checks, including both the office checks (which Decina had been signing) and the checks for the warehousemen and truck drivers. These checks would be sorted and cashed by Siegel, who would put the money in individual envelopes that were returned to Horizon for distribution to the employees.

SCI Counsel Ileana N. Saros questioned Decina about the pay check situation:

Q. You just described the procedure whereby employees would have their checks taken to North Avenue East for cashing and their money would be brought back in envelopes. Was John Frka part of implementing that procedure?

A. Oh, yes. I'm sure he was. He told the guys to sign their checks and have somebody bring back the cash later on in the day.

Q. Did you have any part in that procedure?

A. I knew it was going on but, you know, I don't think I ever accompanied anybody to a check casher, but I would see the envelopes come back and then being handed out to the guys.

Q. Were checks for petty cash also cashed at North Avenue East Check Cashing?

A. I would assume occasionally petty cash was cashed there, yeah.

Q. Do you know what amounts those checks were for?

A. They should have been no more than . . . \$400 at a time, the normal amount, you know, for gas and tolls and other operating expenses during the course of the day.

Q. And to whom were those checks made out?

A. Probably cash.

Q. Were they also made out to North Avenue East Checking?

A. Yes, yes. There were certain times that they were made out to North Avenue East.

When Decina in early 1986 became suspicious of Frka and began checking on the company's

bank records, he confirmed that the payroll was being skimmed:

Q. When you requested and received copies of payroll checks from the bank did you discover that numerous checks, payroll checks, were written in excess of the employees' salary?

A. Yes.

Q. And do you know who received over what the employees rightfully were to have received?

A. Well . . . It's kind of hard to prove, but if somebody's making \$400 a week and he's getting a check for a thousand dollars a week and Jack is signing the check and the money's coming back to be put in the envelope, I would assume that's where the money was going.

Q. And John Frka is the one who arranged the procedure to have employees' payroll checks taken to the check casher and brought back?

A. Yes.

Check Casher Promotes Bank Loan

For various reasons, a new warehouse location for Horizon was obtained, in Elizabeth. The site was proposed by a real estate agent selected by Frka, who also signed the lease. At the suggestion of check casher Siegel, the former Horizon landlord, Decina arranged a loan at a bank with the help of a bank officer that Siegel recommended. Siegel, Decina said, told him he'd "never get anywhere without a good bank," a tip that indicated check cashers found friendly bank officials handy to know. Siegel obviously had an "in" at the bank since his banking friend "was expecting" to be contacted by Decina and immediately promised that "everything would be taken care of." The speed with which Decina obtained a six-figure loan astounded him, as he recalled it:

Q. From the point that you spoke with that bank official, how long did it take to get your loan approved?

A. I'd like to say overnight it happened so fast but I'm sure it took maybe five days, five working days.

Q. *And how much was the loan for?*

A. Half of it was given as working capital equal to \$50,000 and the other half was given in a revolving credit line of \$50,000 which could be used and drawn on, you know, as necessary.

Q. *So the total was \$100,000?*

A. Right.

Q. *What was your reaction to that amount?*

A. I said, "This must be a great business we went into because the bank recognizes, you know, that amount of money totally unsecured."

Q. *The loan was unsecured?*

A. Yes, and nobody's signature was necessary except myself and Jack Frka's. In fact, they didn't even have to meet Jack Frka. They just said, "Bring the papers down to Jack and he'll sign them and bring them back to the bank."

Q. *Did you use \$50,000 of that loan as a security deposit for the [new] location?*

A. Yes.

Q. *And that was on November 7, 1985?*

A. Right.

Q. *Ultimately how much of the \$100,000 in the loan was used?*

A. \$85,000.

Signs of Looting Develop

As 1985 closed, Decina said, Horizon's business appeared to prosper, to the extent that he and Frka began drawing salaries, for the first time, of \$300 a week. Then came the first of a series of personal and corporate setbacks. For one thing, Frka's behavior changed; "he became very irrational, argumentative, basically violent" toward everyone, Decina said. Later developments indicated that Frka may have been smitten by bust-out fever since the looting of Horizon was by then well underway. Decina's suspicions that some-

thing was amiss were confirmed during early 1986, when he learned that he had not been made a partner of the trucking company, Horizon Container, as Frka had promised. Counsel Saros discussed this lapse with the witness:

Q. *When the accountant for the businesses informed you that he received the incorporation papers back from Trenton and that the trucking company papers did not contain your name as a partner, did you confront Jack Frka with that fact?*

A. Yes, I did.

Q. *What did he tell you?*

A. The trucks were his and they would always be his and I had no right to the trucks.

Q. *Even though he had told you that you would be a 50 percent partner?*

A. That's true.

At about the same time, Decina learned that the Horizon bank account was overdrawn and its payroll checks were not being honored:

Q. *And did you later learn that the account was overdrawn by approximately \$14,000?*

A. The day that happened, I was in the office and Jack called the vice president of the bank and said, "You have to honor my payroll checks." At that point the bank gave him, you know—basically carte blanche. It would honor all the checks until the discrepancy was resolved . . . then it was about a week later that no discrepancy existed and the account was overdrawn \$14,000, \$15,000.

Q. *The bank confirmed that it was overdrawn in that amount?*

A. Yes.

Q. *What was Jack Frka's response to that fact?*

A. "Don't worry about it. It's no problem."

Q. *After the accountant learned that the account was overdrawn by \$14,000, \$15,000, what did he do?*

A. I never heard from him or saw him again.

Cash Poor—Despite Boom

The Horizon cash flow was drying up at a time when its business was booming. More omens of trouble ahead came to Decina's attention, as he testified:

Q. *What were you [warned] by one of your employees who handled one of the major warehouse accounts concerning your relationship to Jack Frka and [about] whether or not you should keep a closer eye on the business?*

A. One of the employees, the warehouse manager, was handling our largest account at the time, which was Honda Motorcycle, and told me that he had reason to believe that the money was not right, that with the accounts the size that were being solicited and being brought in, even with a normal receivable lag of 35, 45, 60 days, we should not be cash poor, which is when I got more involved with the checkbook.

Q. *Were you also informed by one of your customers who's a Manhattan candy importer that one of his checks sent to the company was endorsed by Jack Frka and cashed at the North Avenue East Check Cashing?*

A. Yes.

Q. *Were you provided with a copy of that check?*

A. Yes, I was.

Frka also had drawn a company check to be used as a downpayment on a new home, Decina learned:

Q. *Did you observe the [checkbook] recording of a \$5,000 check made payable to a real estate agent as a down payment on a condominium that Jack Frka was buying in Woodbridge?*

A. Yes.

Q. *What did Jack Frka tell you when you confronted him with that fact?*

A. Well, [he said] the check was never going to be cashed. It was only going to be held by the real estate agents.

Q. *Following that checkbook incident what happened to the checkbook?*

A. It disappeared.

Also early in 1986, Decina learned that Frka apparently had filched a \$50,000 third party investment in Horizon. This revelation came from a former associate of Frka who had been a regular participant in secret meetings—from which Decina was barred—that were frequently called by Frka. Counsel Saros questioned the witness on this subject:

Q. *[There was an] individual who was in attendance at some of the closed-door meetings with Jack Frka and others. In January or February, 1986, did he tell you that he gave Jack Frka \$50,000 which he had borrowed as security deposit for the [Elizabeth] location with the understanding that he, in return, would receive 15 or 20 percent of the business?*

A. Yes.

Q. *And did he tell you that Jack Frka endorsed that check and cashed it at a check casher?*

A. Yes.

Q. *Did you ever see or did you know anything about that check?*

A. I had not—I think I wound up seeing a copy and it was for \$49,500 and again it, you know—supposedly went right to the security deposit on the building . . . I knew it didn't because I saw the bank's money after the loan was granted go right to the landlord.

Big Bill Payment Diverted, Cashed

Frka also diverted a check payment to Horizon, that would have covered the overdraft, to his own use. Decina said he had told both the bank and Frka that a payment was to be made to Horizon that would restore the checking account balance—but Frka intercepted the payment:

Q. *Didn't you relay that information to Jack Frka who then sent someone to the customer and obtained the check himself?*

A. Yes.

Q. *So that you never did get that check to put into the bank account?*

A. No.

Q. *Were you able to obtain a copy of that check because the customer had the checking account at the same bank where you had your checking account?*

A. Yes.

Q. *And whose signature appeared as the endorsement on that check?*

A. Jack had signed the check.

Q. *Where was the check cashed?*

A. I believe it was City Check Cashing [of Jersey City].

Q. *Do you know who owns City Check Cashing?*

A. Not really . . .

Q. *Did you learn that Eddie Siegel was the owner?*

A. I was under the impression that Eddie Siegel was the owner, that's true; no relation to Herb Siegel.

Although not related, the Siegels shared one characteristic—their separate check cashing businesses profited enormously from questionable transactions. For example, when Decina complained to the bank about Frka cashing Horizon's receivables for his own personal use at Herbert Siegel's North Avenue East entity, Frka found Eddie Siegel's City Check Cashing service a welcome substitute:

Q. *Did you learn that Jack Frka also cashed checks from other business customers at North Avenue East Check Cashing?*

A. Yes.

Q. *Was that money ever put back into the business?*

A. Not that I know of.

Q. *Did you also learn that Jack Frka cashed a*

number of business checks at City Check Cashing?

A. Yes. City, I think, came after North Avenue. What happened was, after I got involved with the bank that North Avenue and Herb Siegel had sent us to, I was there the day the bank called Herb Siegel and told him not to cash any more receivable checks for Horizon or, you know, that Jack Frka gave him.

Q. *Was that as a result of complaints that you made to the bank?*

A. Yes, it was. And so that's when he found this other check casher at City.

Q. *And the customer checks that he cashed at City Check Cashing, was that money ever returned to the business?*

A. No.

Frka Takes the Fifth

Frka, who was subpoenaed as a witness at the hearing, refused to testify, asserting his Fifth Amendment privilege against self-incrimination. (He was permitted to respond "same answer" as he reiterated his refusal to talk). He did admit that he resided in Edison and was employed by an Elizabeth trucking company, but no other data could be obtained from him. The questions he refused to answer included:

Q. *The investigation conducted by the State Commission of Investigation has established that Jack Frka cashed 50 checks worth over \$50,000 at North Avenue East Check Cashing and approximately 35 checks written in excess of \$66,000 at City Check Cashing. Did you, using the name Jack Frka, cash those checks?*

A. Same answer.

Q. *What did you do with the money that you received from the checks cashed at North Avenue East Check Cashing and City Check Cashing?*

A. Same answer.

Although Frka cashed Horizon's business receivables at two check cashing entities, neither had obtained the required corporate resolutions authorizing such transactions. Since he now knew that Frka was cashing checks from Horizon's customers at check cashers, Decina began notifying all clients to send their payments directly to Horizon's bank. However, each time Decina tried to resolve a problem, another setback would occur. In February, 1986, for example, he learned that Frka had not been paying the rent. He managed to postpone a scheduled eviction. He next persuaded Frka to relinquish his control of company assets and to sign a notice that he was voluntarily leaving the business. Despite the negotiation of a new lease, the enlistment of a new partner, the infusion of new funds by the new partnership's families, Horizon had been ransacked too completely to avoid bankruptcy. As Decina told Counsel Saros:

Q. *And that was directly related to Jack Frka's activities?*

A. Well, I would say most of it. There was no money coming into the company. There was no way to pay the bills or meet payroll or pay rent.

Although Herb Siegel knew that Horizon was out of money, he nonetheless charged excessive fees on the few occasions that Decina had to cash corporate checks at North Avenue East to meet rent and insurance deadlines. Decina recalled that he paid fees of 1½ percent on about \$6,000 worth of checks that Herb Siegel processed, that rate being a half-percent higher than the limit on fees for in-state checks. Later, when Herb Siegel revealed that he intended once again to lease the former Horizon location in Linden to Jack Frka, Decina severed all connections with the check casher. For one thing, in addition to confirming that Frka had cashed 50 checks from Horizon's customers worth \$58,000 at North Avenue East Check Cashing and 35 customer checks worth \$66,000 at City Check Cashing, Decina also learned that Frka signed more than \$10,000 in corporate checks payable to North Avenue East, in amounts of \$1,600, \$2,200 and \$6,780. Such transactions strongly suggested why Herb Siegel so readily accommodated Frka's corporate check cashing spree.

There were other indications that payoffs, or bribes, were a part of Frka's trucking operations. There were, for example, the clandestine meetings Frka had at Horizon's office, from which Decina was excluded. Some of these meetings lasted into the night, and took place weekly during certain periods of the year. Counsel Saros asked Decina about these sessions:

Q. *What were you told why you were excluded from those meetings?*

A. There were certain instances where business was discussed which I—you know, they didn't want me to be privy to, which involved the darker side of trucking and pier work and things like that.

Commissioner James R. Zazzali questioned Decina about Frka's secret meetings:

COMMISSIONER ZAZZALI: Without naming names, can you identify the people who attended these secret meetings? Were they customers?

WITNESS: No, they weren't customers.

COMMISSIONER ZAZZALI: Representatives of other people?

WITNESS: Yes, yes. You know, somebody would be introduced as, "Well, he's got a friend who has a trucking company who might have some business for us." Another one was introduced, "This is my Uncle Sonny who has several connections on the waterfront who helps us move the containers."

COMMISSIONER ZAZZALI: You made a reference to "the darker side" of the trucking business. Can you elaborate on that?

WITNESS: I imagine in order to expedite freight from the piers, you know that some kind of financial compensation has to be given on a daily basis or maybe more than a daily basis to certain people involved with the authority at the piers. I always wondered when I was working in Hackensack [why] Jack Frka and whatever company he was operating at the time was the only trucker that I knew—and I knew just about every trucker in the area—who could ever pull eight import con-

tainers from Redhook Marine Terminal in Brooklyn in one day. That's totally, you know, unheard of in the industry.

Frka's Organized Crime Ties

At one point in Counsel Saro's questioning of Decina, he could not recall whether he had "confronted" Frka with evidence of his misconduct. There were times, the witness said, when such a confrontation was "totally out of the question." Counsel Saros pressed him about this:

Q. *And why was it out of question?*

A. I valued my life, my wife's life, my children's life. I didn't like being threatened. I'm not a fighter.

Indeed, Decina ultimately learned that he had good reason to fear for his safety in Frka's presence:

Q. *Did there come a point in time when you learned that he was wanted [for questioning] by the police in Nassau County?*

A. Yes.

Q. *For what?*

A. It was during a murder investigation.

Q. *Did you learn that it was an organized crime-related murder in that county?*

A. Yes.

Q. *That he was wanted for?*

A. Yes.

Additional evidence of Frka's organized crime connections came later in the hearing when the Commission's chief of organized crime intelligence, Justin J. Dintino, testified. At one point Dintino said that City Check Cashing in Jersey City, where Frka cashed \$66,000 in Horizon receivables, "has always been and is today a front for the DiGilio faction of the Genovese operation, to facilitate extortion payments, pay off loans and launder money."

Bust-Out's Sad Ending

The Horizon companies Frka created no longer exist, nor does the successor company that Decina organized in hopes of surviving Frka's piracy. Decina, now a salaried official of another freight company, recalled the corporate demise with evident chagrin:

Q. *Did you find your business was getting more and more in debt?*

A. Well, we found that we didn't realize the amount of debt we took on because everybody started knocking on the door saying, you know, Jack had bounced the check. Jack had bought merchandise. Jack owed them money, so when we finally sat down and figured out rent and creditors who were knocking on the door, we were up against \$85,000.

Q. *As a result of those financial difficulties did your father have to give up his stock that he put up as collateral with the bank?*

A. Yes.

Q. *And did the landlord take a second mortgage on your home as a result?*

A. Yes, he did.

Q. *When Herb Siegel offered to give you cash for post-dated checks did you accept his offer?*

A. Yes.

Q. *After Jack Frka left the business were you negotiating with the bank to settle the business's debts?*

A. Yes, I was

Q. *Has that been resolved yet?*

A. No, it hasn't.

Q. *And as a result of trying to assist you was your father also in debt?*

A. Yes. He was probably short \$25,000.

Q. *When your business dealings with Jack Frka came to an end did you find yourself in a great deal of debt?*

A. About \$250,000.

Factoring Company Hit By Check Casher Schemes

What is a Factor?

What is known in the commercial world as a "factor" played a prominent role in the opening day's testimony on corporate misconduct involving check cashers. Indeed, a factor—Michael A. Formisano of Rutherford Commercial Corp.—was a significant witness during the proceedings in connection with the cashing of more than \$2 million in Rutherford Commercial checks at check cashers in payment for phony invoices that the factoring company had purchased from certain trucking companies. Formisano was asked at the outset to explain his factoring operation, which is headquartered at another business in which he has an interest, Rutherford Sporting Goods on Park Avenue, Rutherford. As he described it, Rutherford Commercial buys the bills or receivables of a company at a discount, customarily 10 percent, which is the factor's profit after the bills are collected in full. In the meantime, the company that sold its invoices thus has money available, a cash flow, for its day-to-day operations without having to wait up to three months for payments from its customers. Questioned by Counsel Gaal, Formisano testified:

Q. *In essence, then, is it fair to say that factoring is purchasing the receivables of a business at a discount?*

A. Yes.

Q. *And would you as the factor make your money when the receivables were paid?*

A. Were collected, yes.

Q. *Are the receivables of a business typically represented by their invoices?*

A. Yes.

Q. *As a factor when you purchased the receivables of a business would you pay them in the form of a check?*

A. Yes.

Q. *By what percent did you generally discount invoices?*

A. The maximum would be 10 percent and it could go as low as 6 percent.

Q. *Just so we all understand, could you take us through an example using, say, a \$100 invoice or a \$1,000 invoice just so we all understand. Let's assume a customer walks in with—*

A. With a thousand dollar invoice, we would give them a check for \$900.

Q. *Okay. And at some point when the invoice was paid you would receive the thousand dollars?*

A. The thousand dollars, correct.

Q. *Generally how long was the invoice good for?*

A. [In] 90 days we would charge back an invoice if it wasn't paid.

Q. *And just so we all understand, "charge back" means you would charge it back to the customer?*

A. Against [a] new invoice.

Q. *Why did you decide to go into the factoring business?*

A. It seemed like a pretty good way to make money.

Hidden Partner Was Fraud Key

Formisano had at least one reason to be more conservative than he was about the profit prospects of the factoring business so far as his Rutherford Commercial partnership was concerned. That reason was the presence of Vincent J. Murphy of Somerset as a hidden partner in the company, whose 30 percent interest was held by a "good friend," Patricia Englehardt. The other key partner was a Ralph Lucignano Sr. For some reason, Formisano at the public hearing refused to describe Miss Englehardt as a "front" for Murphy in Rutherford Commercial, even though she did nothing but lend her name to Murphy's stock shares. Finally Counsel Gaal had to produce a transcript of Formisano's private testimony at

the SCI last December 22, 1987, to point out to him, and for the hearing record, his sworn testimony on his hidden factoring partner:

Q. *Mr. Formisano, do you recall testifying before the Commission in private session?*

A. Yes, I do.

Q. *Do you recall being asked with respect to Miss Englehardt's shares the following question:*

"Whose idea was it . . . to give her her 30 percent," and your answer was, "Well, it was Vincent Murphy. He didn't want the shares in his name for some reason so he told us to put it in her name."

Question: "Mr. Murphy, in essence, was going to be a partner in the business," and again your answer: "If I could guess as to what was really going on, which I would be doing, I don't know for sure. I would say that he might not have wanted his partners in the trucking company to know that he was going to have anything to do with [a] factor, which at that time and even now didn't make any difference to me . . ." Do you recall giving that answer?

A. Yes.

Murphy, a convicted check kiter, ultimately was responsible for causing Rutherford Commercial to suffer such huge losses that it almost went bankrupt. For example, he steered to Rutherford Commercial the trucking and warehousing receivables of Cardinal Container Co. of Elizabeth, in which Murphy was a principal. That obvious conflict of interest suggests why Murphy may not have wanted some Cardinal Container associates to know that he was also, in his girl friend's name, a part-owner of the factor that was purchasing Cardinal's bills. Ultimately, most of the Cardinal Container invoices purchased by Rutherford Commercial were found to be false and the factor's payments for these bills disappeared after being cashed at an organized crime-connected check casher in Jersey City. As a result, Cardinal Container went out of business—another bust-out victim involving the check cashing industry. And Rutherford Commercial itself all but went broke. The \$300,000 with which Rutherford Commercial bought Cardinal Container's receivables vanished.

Rutherford Commercial suffered an even larger loss, approaching \$1 million, in yet another scam involving the improper cashing of checks at an organized crime-affiliated check casher company. This episode also involved a trucking company, L.A.T. Transportation, Inc., of Newark, whose receivables were also factored by Rutherford Commercial; L.A.T.'s biggest customer, Evergreen International, and phony invoices purchased from L.A.T. by the factor.

These scams were described in detail at the public forum by a series of witnesses, beginning with the episode about the now bankrupt Cardinal Container.

Check Casher Misconduct Abets Embezzlement

The City Check Cashing, Inc., of Jersey City, a confirmed organized crime cash laundering pipeline, figured prominently in the Cardinal Container bust-out, which the Commission has referred to appropriate prosecutorial authorities for criminal investigation. The misconduct involving the check cashing process in this case included the fraudulent diversion of huge amounts of cash, false invoices that were sold to the factor Rutherford Commercial, the attributing of more than \$600,000 in cashed corporate checks of more than \$10,000 to someone other than the individual who actually cashed them, as well as apparent payments via check cashers of usurious interest on loans negotiated with organized crime loansharks.

Bust-out Claims Another Victim

Donald Sanns of Pompton Lakes, who formed the Cardinal Container trucking company in 1979, began looking for a factor to buy his bills at discount at the end of 1985 when his company began to run out of ready cash for its day-to-day operations. He explained the situation under questioning by SCI Deputy Director Robert J. Clark at the Commission's hearing:

Q. *What is a factor to your knowledge?*

A. They buy bills, [which] gives more of a cash flow to your company.

Q. *Bills would be the receivables?*

A. That's right.

Cardinal Container's financial difficulties coincided with similar fiscal problems at another trucking company, Container Pier, which was being managed at the time by Vincent Murphy, the previously identified hidden partner of Michael Formisano in the Rutherford Commercial factoring concern. Sanns, Murphy and a Robert Kayner of Guttenberg, an associate of Murphy, eventually met and agreed to join with Cardinal Container as the owners of a new company called Packed Transport to be located on Newark Turnpike in Kearny. As Sanns recalled in his testimony, his company, Cardinal Container, was to be the operating company and Packed Transport was to be the "managing or holding" company in the deal. Sanns understood the joint operation to mean that "Kayner was to handle the financial and administrative end" and Murphy and Sanns the "operational end." Whatever the various roles these so-called partners played, it was the beginning of the end for Sanns as a self-employed trucking entrepreneur.

Enter Rutherford Commercial

As previously noted, Murphy, the secret "partner" in Rutherford Commercial, led Sanns to that factor's fiscal spider web as a key participant in the Cardinal Container-Packed Transport deal. The arrangement would be for Murphy or Kayner to cash Rutherford Commercial's checks for Cardinal Container's receivables at the notorious City Check Cashing entity in Jersey City. Sanns outlined these developments for Counsel Clark:

Q. *Now, you eventually turned to a . . . factor in early 1986. Is that correct?*

A. That's right.

Q. *And at whose recommendation did you turn to this factor?*

A. Mr. Murphy's.

Q. *What was the name of that factor?*

A. Rutherford Commercial.

Q. *Why did you turn to a factoring operation?*

A. He [Murphy] felt that we could get more cash into the company.

Q. *This was designed to insure you of cash flow available to meet operating expenses and the like?*

A. For the company to grow.

Q. *Now, it's our understanding that based on the receivables that were owed to Cardinal Container, Rutherford Commercial would make checks payable to Cardinal Container. Is that correct?*

A. That's right.

Q. *And Mr. Murphy or Mr. Kayner would pick up these checks at Rutherford Commercial and cash them at City Check Cashing of Jersey City. Is that correct?*

A. That's correct.

The Bust-Out Takes Shape

Sanns didn't realize it at the time, but the bust-out of Cardinal Container via the Rutherford Commercial factoring company and the mob-affiliated City Check Cashing service began as soon as Rutherford Commercial began to buy up Cardinal Container's bills. In fact, between February and November, 1986, about \$900,000 in checks payable to Cardinal Container—including more than \$672,000 of checks in amounts of more than \$10,000 each that were required by law to be accompanied by Currency Transaction Reports—were cashed at City Check Cashing, some by Kayner but most by Murphy. Sanns told the hearing what he knew at the time:

Q. *Now, going to the joint operation, were you endorsing the checks that Rutherford Commercial had made payable to Cardinal Container?*

A. No.

Q. *These checks were being taken to City Check Cashing by Mr. Murphy and Mr. Kayner. Is that correct?*

A. That's right.

Q. *Did you at some point learn that as many as 38 Currency Transaction Reports for checks in amounts of \$10,000 or more totaling over \$672,000 were filed by City Check Cashing between February, 1986, and November, 1986, indicating that you were the person who cashed those checks?*

A. No, no.

Q. *You never learned that?*

A. Well, I was presented with a paper from your [Commission].

Q. *In other words, you learned it from the State Commission of Investigation?*

A. That's right.

MR. CLARK: For the record, Mr. Chairman, the staff has calculated that a total of approximately \$900,000 in checks were cashed at City Check Cashing, including the amounts for which the CTRs were filed.

Q. *Do you recall, Mr. Sanns, signing an undated letter authorizing Mr. Murphy to endorse checks made payable to Cardinal?*

A. Yes, I do.

Sanns Finally Becomes Wary

Mounting concern about whether his Cardinal Container company was losing money caused Sanns to employ an accountant to perform an audit. The bad news that resulted made him even more suspicious of his business associates in the joint operation. He testified about his findings and his reactions:

Q. *And what did you do at that point?*

A. I brought it to an accountant.

Q. *You brought the books and records—to the accountant and asked the accountant to establish whether the company was indeed making any money?*

A. Yes, that's right.

Q. *And he finally reported to you when?*

A. It was around September of '86.

Q. *That was toward the end of the joint operation?*

A. That's correct.

Q. *What did he report to you?*

A. That we were losing money.

Q. *Substantial amount of money?*

A. Yeah, yeah.

More Misconduct Revealed

The more suspicious Sanns became, the more evidence of wrongdoing he found.

For example, he learned that Cardinal Container's weekly payroll included checks that had been made out to fictitious persons. The payroll incident suddenly became a scandal involving a number of misdeeds in addition to payroll padding:

Q. *Did you discover that Cardinal Container checks for driver wages were being cashed for amounts greater than what those drivers should have been paid, based on their time sheets?*

A. Oh, we found that out later on, yes [in] 1987.

Q. *And who was running the driver dispatch desk at the time these payments were being made to the drivers?*

A. Mr. Murphy and [a dispatcher].

Q. *Was Mr. Murphy's daughter, Jacqueline Murphy, also doing some of that work?*

A. Yeah. She helped him out, right.

Q. *Did you get a different dispatcher?*

A. We looked for another dispatcher . . .

Q. *Did this dispatcher, the one that took over from Mr. Murphy, admit to you in October, 1986, that he had at Mr. Murphy's request sent a shipment of products to the wrong destination where the goods were stolen?*

A. Yes.

Q. *Did you find out that Mr. Murphy had borrowed \$10,000 from City Check Cashing to be paid to this dispatcher?*

A. I know he borrowed money. I don't know where he borrowed it from.

Q. *And this money was for the dispatcher?*

A. Yes.

"Wise Guy Association" Payments

There were numerous indications, besides the known connection between the mob and City Check Cashing in Jersey City, that the bust-out of Sanns's company reeked with an organized crime taint. At one point City Check Cashing's Eddie Siegel and his lieutenant, Robert Santoro of Wanamassa, a known organized crime associate who is no stranger to the loanshark racket, loaned Murphy \$39,000, but Sanns denied knowledge of such loans or of any demand that he "make good" on them. He insisted that he was failing to respond not because of any concern for his safety or his family's safety but, on the advice of his lawyer, because of a current lawsuit. Nonetheless, Counsel Clark read from Sanns's executive session testimony at the SCI confirming the loans to Murphy and the Siegel-Santoro attempt to force Sanns to pay them off:

Q. *Do you recall answering that question in private session of testimony to the Commission?*

A. No, I don't.

MR. PATTERSON: Do we have the testimony?

MR. CLARK: We have the testimony, Mr. Chairman, in which Mr. Sanns indicates that at a meeting between himself and Mr. Santoro, Mr. Siegel and Mr. Murphy, Mr. Siegel and Mr. Santoro indicated that Mr. Murphy owed \$39,000 to them and as part of that meeting they requested that Mr. Sanns make good on some of those loans.

However, even more direct implications of organized crime's involvement in the fleecing of Cardinal Container were the indications on the company's payroll recap sheets of apparent loanshark payments to "WGA," (Wise Guy Association), which the SCI's authority on mob activities, Justin Dintino, said referred to La Cosa Nostra soldiers who were also known as "wise guys." Sanns's testimony on this subject confirmed that loan repayments to organized crime were being misidentified as payroll disbursements:

Q. *Did WGA stand for Wise Guy Association? Have you heard that term before?*

A. Yeah, I've heard it before.

Q. *Did you ask Mr. Murphy about those payments to WGA?*

A. Yes.

Q. *What was his response to you?*

A. It was a loan he was paying. I have—I have no idea what it was for.

Q. *Loans from friends of his?*

A. I have no idea what it was for. That was between Murphy and whoever.

Q. *Did you ask him to identify to whom those loans were payable?*

A. We didn't find the papers until after the company was closed.

Q. *But at that time did you ask him?*

A. I recall asking him. We didn't get an answer.

Murphy Tied To Phony Invoices

Sanns finally realized that more than \$300,000 had been skimmed from Cardinal Container by way of an apparently unwary factor, Rutherford Commercial, and of a mob-influenced check casher, City Check Cashing. He testified that Murphy even admitted that he had falsified invoices. The procedure would be for Rutherford Commercial to buy these invoices at a discount, for Murphy to endorse and cash the checks at City Check Cashing—and for the cash to disappear. Counsel Clark discussed these findings with Sanns:

Q. Now, did you hear from Mr. Michael Formisano of Rutherford Commercial, who was calling to say that Cardinal Container owed approximately \$300,000 to Rutherford because of receivables that had not been paid?

A. Yes.

Q. But for which Rutherford had advanced money?

A. Yes.

Q. That was toward the end of this joint operation?

A. That's right.

Q. About September, 1986?

A. Somewhere in there—September, October.

Q. Did Mr. Formisano claim that these receivables were allegedly owed to Cardinal by various companies?

A. Yes.

Q. Did you find out that these companies were operated by people associated with Mr. Murphy?

A. Yes, I did.

Q. Had Cardinal done much if any work for these companies?

A. In the beginning I presume that some work was done.

Q. But not to the extent of \$300,000?

A. No.

Q. Did you learn who prepared the invoices used to bill these companies for the receivables?

A. Yes.

Q. That was Virginia O'Connor [Murphy's secretary]?

A. Yes.

Q. And did she say where she got the instructions for preparing those invoices?

A. She got the instructions from either Mr. Murphy or Mr. Kayner.

Q. Did Mr. Murphy give you any explanation for these phony invoices?

A. No.

Q. Did he say that he needed them to meet any expenses?

A. Yeah, a lot of extra expenses.

Q. Did Mr. Murphy admit in front of Mr. Formisano and Mr. Lucignano of Rutherford that he had fabricated the invoices?

A. Yes.

Q. How much do you figure overall was skimmed from the books in this manner?

A. It had to be more than \$300,000.

Q. In false invoices?

A. Yes.

Confirms Mob Payouts

One of the partners in the Cardinal Container-Packed Transport deal was Robert Kayner, who was during 1986 the comptroller of Vincent Murphy's Packed Transport and a long time associate of Murphy's. He gave illuminating testi-

mony at the public hearing about the payments to "WGA" as listed on the Cardinal Container payroll ledgers:

Q. *Do you recall weekly payments being made to an entity called WGA?*

A. Yes.

Q. *Do you recall what WGA stands for?*

A. . . . I was never told directly what it stood for. It was hinted at . . .

Q. *And what did it stand for as hinted at?*

A. Wise Guy Associates.

Q. *And who hinted that?*

A. I think Vincent Murphy.

Q. *Did Mr. Murphy indicate why these payments were being made?*

A. Well, there was money that had been borrowed for [a] prior business.

Q. *Prior business of Mr. Murphy's?*

A. Yes.

Q. *Did Mr. Murphy deliver the cash to repay these loans?*

A. You mean to WGA?

Q. Yes.

A. Yes. . . . I don't know what happened to the money after that.

Q. *These were in weekly amounts of \$1,640 and \$850?*

A. I think those were the numbers.

Q. *Did you attempt to learn any of the particulars of these loans from Mr. Murphy?*

A. No.

Q. *Did he indicate to you why you might not want to know any of the particulars?*

A. Well, it was indicated that it was better if less people were involved.

"Vig" Payments to a Loanshark

Kayner also testified about loanshark-type payments of usurious interest—"vigorish" or "vig" in underworld jargon—to the City Check Cashing entity in Jersey City on loans it made to Murphy. During this phase of his testimony Counsel Clark referred to a Commission exhibit of a so-called "recap sheet" of such payments to the check cashing business. Kayner's testimony on Murphy's involvement with a check casher-loanshark continued:

Q. *What was the occasion for those loans?*

A. Well, there were times when the money that we received from the factor was insufficient to cover payroll. Payroll checks bounced and, in effect, they made a loan to cover it.

Q. *Was interest charged by City Check Cashing on those loans?*

A. Yes.

Q. *How was that interest determined?*

A. I never quite figured out on what basis they were charging. We were told to pay a certain amount each week on it, on the outstanding [balance].

Q. *Mr. Murphy told you that?*

A. I think so, yes.

MR. CLARK: Could I have C-205* put up on the easel.

Q. *Mr. Kayner, is this a representation of a recap sheet of payments made to City Check Cashing?*

A. Yeah. It looks like a memo that I would have used for myself just to . . . try to keep track of some of the payments.

Q. *The payments to City Check Cashing?*

A. Right.

*See exhibit, p. 29.

LOANSHARK "VIG"* PAYMENTS

5/19	5000 -	<i>City bank</i>	
5/20	5000 -		<i>Allowed 800 to 1000 Rec'd 8000 in checks</i>
<hr/>			
5/22 (1)	1000 -		<i>VIG</i>
5/23	3000 -		<i>Rec'd 1351 1000 1369 1000 1387 1000 1415 750</i>
<hr/>			
5/30 (2)	1506	<i>1000</i>	<i>Applied to check ^{APR} 1000</i>
<hr/>			
6/6 (3)	1000		<i>VIG</i>
<hr/>			
6/10 (4)	1000		<i>VIG</i>
<hr/>			
6/16	2700	<i>750 applied VIG</i>	<i>Rec'd 1769 1000 1774 1000 1778 1000 1783 1000 1788 1000</i>
<hr/>			
6/23 (5)	1000		<i>VIG</i>
<hr/>			
6/25	300		<i>VIG</i> check
<hr/>			
6/27 (6)	1000		<i>VIG</i>
<hr/>			
7/8 (7)	1000		<i>VIG</i>
<hr/>			
7/9 (8)	2000		<i>Applied to check ^{check} only included in with 1000</i>
<hr/>			
7/15 (9)	500		<i>VIG</i>
7/16	500		<i>VIG</i>
<hr/>			
7/15	500		<i>DO UP OF OLD CHECKS</i>
7/19	1000		<i>"</i>
7/20	1000		<i>"</i>

*"Vigorish" = interest paid to a loanshark.

Q. *That would be payments as indicated to you by Mr. Murphy?*

A. Yes.

Q. *Now, several notations there are under the category of "vig" in amounts of \$1,000 or \$500. Now, what did that represent?*

A. Well, that was a characterization I made for myself. It really was interest on what we owed them but because it was—it was never spelled out what rate we were paying or if it was being applied to interest or part principal and part interest. I just termed it that.

Q. *That's short for "vigorish?"*

A. Yes.

Q. *And what is your understanding of what that word means? Is that interest payable to a money lender or a loanshark?*

A. Well, it has that meaning, yes.

Q. *Is that how you understood it?*

A. Well, pretty much so, yes.

Q. *Based on the fact that it was apparently open-ended so far as you know?*

A. Correct.

Q. *Now, do you recall how much the balances of these loans ran at any given time? Approximately \$20,000?*

A. It seemed like that.

Q. *Now, while these bad checks were adding up upon which loans were made and interest paid, did City continue to cash checks of Cardinal Container?*

A. Yes.

Kayner asserted his Fifth Amendment privilege against self-incrimination in response to questions by Counsel Clark on "inflated or false" invoices being used to get money to Cardinal Container from the Rutherford Commercial factor. But he continued to be candid in answering questions about the loanshark payouts when Commissioner Barry H. Evenchick pressed him for more details

about the excessive interest, or "vigorish," that was involved:

COMMISSIONER EVENCHICK: Did you ever discuss with Mr. Murphy or anyone else with whom you were associated in business the matter of the excessive interest or "vig" that was being charged by City Check Cashing?

WITNESS: Yes.

COMMISSIONER EVENCHICK: Tell us, please, about those discussions . . .

WITNESS: I cannot recall specifics. It's just that—that we should try and do something to get money into the business so that—or additional business so that we can eliminate the excessive interest we were paying, or "vig."

COMMISSIONER EVENCHICK: Were any efforts to your knowledge made at that time to avoid having to use the services of City Check Cashing?

WITNESS: That I don't recall.

Murphy's longtime secretary also confirmed the usurious interest payments to "WGA". She was Virginia O'Connor of Hoboken, who acted on orders from Murphy when she listed the "vig" payments to Herb Siegel on the weekly loanshark recap sheets. She was questioned by Counsel Clark:

Q. *Do you know what the initials WGA stand for?*

A. Now I do.

Q. *Did you know at the time you were recording those initials—*

A. Prior to that, no, I did not.

Q. *Did you understand that some of the money that you were putting down in these weekly recap sheets were for loans that were payable?*

A. Yes, I did.

Q. *Do you recall setting aside payments and making records of payments of \$200 weekly?*

A. Yes, I did.

Q. *Did Mr. Murphy indicate to you why these amounts were being paid?*

A. I believe that they were [for] interest, yes.

Q. *Did Mr. Murphy tell you that?*

A. Yes.

BY COMMISSIONER DUMONT: How much were the payments to the WGA? Do you recall?

WITNESS: I only remember one being \$1,600—1,600-something dollars. I don't—I don't recall any other one.

COMMISSIONER DUMONT: Do you recall how often these payments were made to the WGA?

WITNESS: I believe I remember one a week.

COMMISSIONER DUMONT: I see. Over what period of time, roughly?

WITNESS: Oh, I would say maybe a year and a half. I don't really remember.

COMMISSIONER DUMONT: And over what period of time were the payments made of 200 a week?

WITNESS: I would say that—two, maybe three years. I'm just guessing. . .

Murphy Won't Talk

Murphy elected to remain silent, citing his Fifth Amendment right, to almost every question put to him by Counsel Clark. His assertion of the privilege was so frequent that he was permitted to shorten his response to "same answer." Some of Clark's interrogation will be included here to indicate the Commission's investigative concerns relative to Murphy's role in the trucking partnership's deals with the Rutherford Commercial factor and the mob-connected City Check Cashing service:

Q. *Did you ever participate in fabricating or inflating invoices to Cardinal Container customers so that they could be presented to Rutherford Commercial for factored payments?*

A. Same answer, sir.

Q. *During 1986 did you cash Rutherford Commercial checks made payable to Cardinal Container at City Check Cashing in Jersey City?*

A. Same answer, sir.

Q. *Were you ever aware that City filed Currency Transaction Reports indicating that Donald Sanns was the person cashing checks at City in amounts totaling \$672,000 or more when, in reality, you or someone else besides Mr. Sanns had cashed the checks?*

A. Same answer, sir.

Q. *Did you ever deposit any of the proceeds of checks made payable to Cardinal Container into your personal accounts?*

A. Same answer, sir.

Q. *Were you ever aware that Cardinal Container checks for driver wages were being cashed for amounts greater than what those drivers should have been paid according to their payroll records?*

A. Same answer, sir.

Q. *Did you ever ask a Cardinal Container dispatcher to send a shipment of products to the wrong destination so that the goods could be stolen?*

A. No, sir.

Q. *Do you know what the term "WGA" stands for?*

A. That's back to invoking the Fifth Amendment.

Q. *Did you ever run up American Express balances on Cardinal or Packed credit cards knowing that you did not have the ability or intention to pay the balances?*

A. I didn't, no, sir.

Q. *Do you recall being indicted and convicted of a check kiting scheme involving Container Pier Corporation bank accounts which had insufficient funds?*

A. Same answer.

MR. CLARK: For the record, Mr. Chairman, we have a record of an indictment of Mr. Murphy for that, and we understand that it's a matter of public record that he was convicted of that indictment.

According to official records, Murphy was convicted of two counts of bank fraud. On February 11, 1988, he was given a two-year suspended sentence, placed on probation for five years and ordered to make restitution of over \$62,000.

Formisano Trusted Murphy

During Formisano's appearance at the hearing, he indicated that a misplaced trust in Murphy caused him and Rutherford Commercial to accept Cardinal Container invoices without question. He knew Murphy as a hidden partner in his factoring business as well as a principal in the Cardinal Container deal. Counsel Gaal discussed this with Formisano:

Q. *Mr. Formisano, when you first began factoring for Cardinal Container is it fair to say—I'm going to use words that you used when you testified in private session—that things were rolling along rather nicely and accounts were pretty clean and Rutherford was getting its money in a reasonable amount of time?*

A. That's right.

Q. *In fact, was Rutherford Commercial making money at that time?*

A. Yes, it was.

Q. *Mr. Formisano, since Vincent Murphy was part of Cardinal Container did you check the Cardinal Container invoices as thoroughly as you might have?*

A. No, I didn't.

Q. *Did there come a time when things weren't working so smoothly with Cardinal Container?*

A. Yes, there was.

Q. *And was the problem becoming apparent in that some of the invoices were not getting paid?*

A. That's correct.

Q. *Did you have a meeting or meetings with the principals of Cardinal Container?*

A. There might have been more than one meeting, probably more than one meeting. I don't know if all three were at every meeting, but there was definitely more than one meeting.

Q. *When we say the invoices were not getting paid, does that, in effect, mean that the debt to Rutherford Commercial was growing?*

A. Was growing, yes.

Q. *And, in effect, Rutherford Commercial had money out and it wasn't coming back in?*

A. It wasn't coming back in.

Q. *At one of these meetings did Murphy admit that the invoices were false, fraudulent or inflated?*

A. Murphy and Sanns and Kayner, all of them did.

Q. *They all admitted it?*

A. Yes.

Q. *Did you eventually refuse to factor Cardinal Container?*

A. Yes, I did.

Q. *Mr. Formisano, did there come a time when Cardinal Container, in essence, went out of business?*

A. Yes.

Q. *Do you know why or were you told why?*

A. There was just so many stories going to it, you know. We tried to, you know, do what we could to keep them in business because we felt that in business we would have a better chance of collecting the money so we made them a \$10,000 loan, whatever, and then it finally went out, anyway.

Q. *Can you give us a figure as to how much money is still due and owing on Cardinal Container invoices that you factored?*

A. If you are just talking invoices without any interest, factors or anything else, I would imagine it's about \$300,000 . . .

Q. *Mr. Formisano, at some point did you learn that the checks Rutherford Commercial had paid to Cardinal Container on those invoices which were factored were cashed at New Jersey check cashers?*

A. Yes, I did.

Q. *Every check you gave them?*

A. Maybe one was deposited somewhere, but every check . . . went through a check casher.

Q. *Are you still trying to collect on money due to Rutherford Commercial for Cardinal Container?*

A. Oh, yes.

Q. *Through the civil courts?*

A. Civil courts, yes.

The End of the Line for Sanns

Counsel Clark questioned Sanns about the windup of the partnership:

Q. *You presently have as a result of this joint business operation accumulated a certain amount of debts?*

A. That's correct.

Q. *A second mortgage on your home?*

A. That's right.

Q. *\$33,000 that you still personally owe to Mack Truck after it repossessed and sold all your trucks?*

A. That's right.

Q. *You're being sued by American Express for*

\$8,500 in company credit card bills that were run up by Mr. Murphy. Is that correct?

A. That's correct.

Q. *You had to sell your vacation home in Pennsylvania to help to pay the debts of this joint operation?*

A. That's correct.

Q. *You are presently trying to pay off creditors and you are preparing to file for bankruptcy?*

A. That's correct.

Million-Dollar Scam Also Involved Check Cashers

Michael Formisano, the Rutherford Commercial factor, was also the victim of a million-dollar scam involving another trucking company whose receivables, which were purchased at discount, turned out to be mostly phony. This case involved:

L.A.T. Transportation, Inc.;

Evergreen International (USA) Corp., a huge Taiwan container shipping company with a United States headquarters in Jersey City, many of whose invoices were falsified and otherwise misrepresented by L.A.T.,

And Mi Way Check Cashing of Elizabeth and Grand Street Check Cashing of Jersey City, through whom Rutherford Commercial's checks were processed—after which the proceeds vanished.

The scam followed a triangular trail—L.A.T.'s owner, Andrew Thorry of New Milford, would "assemble" the invoices that were sold at discount to the factor; Rutherford Commercial would buy the L.A.T. receivables and try, in vain for the most part, to collect on them, all the while Thorry would be cashing Rutherford Commercial's checks at the check cashers. Unfortunately for Michael Formisano, the false invoices were part of the

collateral he posted for bank loans totaling more than \$900,000. Indeed, all of these loans may be in jeopardy because he can not collect on the receivables.

Unpaid Invoices Piled Up

As with his previous factoring customer, Cardinal Container, Formisano testified that at first the factoring business with L.A.T. "went very well." Suddenly in the spring of 1987, there was a big increase in unpaid invoices, "close to a million dollars," according to Formisano. Questioned by Counsel Gaal, Formisano recalled the incident:

Q. *When you realized that there was such a significant amount of outstanding invoices did you talk to anyone about it?*

A. Yes.

Q. *Well, let me take you to L.A.T. Did you talk to anyone from L.A.T. about it first? Did you ever talk to Andy Thorry about it?*

A. Yes, I did.

Q. *What did he say?*

A. He said that they would be getting caught up, that the president of the company was in Taiwan or, you know, something to that effect.

Q. *Okay. In looking at those invoices were the bulk of them all to one particular customer of L.A.T.?*

A. The bulk of them, yes, but there were other companies involved.

Q. *Who was that one customer?*

A. Evergreen International.

After the discussion with Thorry, Formisano met J. Ernst Celosse, senior vice president of Evergreen International:

Q. *Now, what was the bottom line that you got from this meeting with the gentleman from Evergreen? What was your understanding?*

A. The understanding was that I had a computer read-out of the outstanding invoices due Rutherford Commercial from Evergreen at that particular time, and he said that the amount of money did not correspond with the amount of money Evergreen had in their system and I confronted Andy Thorry with that.

Q. *When you say it didn't correspond, which way was it? Was yours—*

A. Mine was much greater.

Q. *Do you recall how much money Evergreen had outstanding in their system; even a ballpark figure?*

A. It was a very low amount, like 35, \$36,000.

CHAIRMAN PATTERSON: How much of yours was outstanding?

WITNESS: To Evergreen alone, close to a half a million dollars.

Formisano contacted Thorry again. Thorry contradicted Celosse's figures and, as if to prove his point, he quickly produced \$60,000 to \$70,000 in Evergreen checks for Rutherford Commercial. Formisano said this "led me to believe that the information I was getting out of Evergreen was incorrect" and he continued, therefore, to serve as L.A.T.'s factor—for a week or two:

Q. *And after you factored [for Thorry] a little bit longer what did you do?*

A. I told Andy that I could no longer factor L.A.T. Transportation.

Q. *And was that because of this large number of outstanding invoices that were still there?*

A. Yes, yes.

Although Thorry continued to work for L.A.T., a new management team took over the company. The Giampa brothers, Joseph and Frank, told Formisano in July, 1987, they would guarantee L.A.T.'s debts if Rutherford Commercial continued factoring the company's invoices. However, Formisano's financial problems worsened. Counsel Gaal questioned him about his next reversals:

Q. Now, the large number of outstanding invoices, and I'm speaking not just about the ones relating to Evergreen but with respect to any other customers of L.A.T., are they still outstanding today?

A. Yes, ma'am.

Q. Mr. Formisano, did you turn over to the SCI staff this large number of outstanding invoices including the Evergreen International invoices which we've been talking about today? Did you turn them over to us?

A. Yes, at your request.

Q. Mr. Formisano, there are, I guess, four stacks there of invoices, and I'll represent to you that those are photocopies of the outstanding Evergreen invoices that you supplied to us. Do those invoices represent the bulk of that large amount of unpaid invoices that you have been talking about today which built up in the spring of 1987?

A. Yes, ma'am.

Q. Are there other unpaid invoices besides those Evergreen International invoices?

A. Yes.

Q. Now, did the Giampas represent to you that these invoices would be paid?

A. The Giampas represented to me that in their opinion at the time that these invoices were valid and would eventually be paid.

Q. Mr. Formisano, we took those invoices to Evergreen and we learned from a representative of Evergreen that of those 745 invoices, 19 of the invoices representing 23 container moves for a total of only \$8,540 were legitimate invoices which represented work that L.A.T. Transportation had done and, incidentally, had been paid for. The vast majority of the invoices, the remaining 726 invoices, representing 1,421 container moves for a total of \$463,640 are bad invoices; that is, they are not legitimate invoices for work performed according to Evergreen. Were you aware of these facts?

A. I was very suspicious of it . . . I was holding out false hope, I guess, that they would eventually

be paid. However, the State Commission of Investigation did convince me they were no good.

SCI Exposed L.A.T. Scam

Formisano said he learned how his Rutherford Commercial checks to L.A.T. were disposed of from the SCI:

Q. Mr. Formisano, did you have an opportunity to examine the checks you paid to L.A.T. Transportation after you factored the invoices?

A. Yes.

Q. And was that after the SCI subpoenaed your records?

A. Yes.

Q. And how were those checks negotiated?

A. They were cashed at check cashers.

Q. Have you ever been to a check casher?

A. No.

Q. Have you received cash from Thorry or anyone else . . . either for payment of those invoices or for any other reason?

A. No, I did not.

Q. Are you still factoring for L.A.T.?

A. No, I'm not.

Q. When did you stop factoring from them?

A. About eight weeks ago.

What Happened to the Cash?

Formisano testified that Rutherford Commercial was about a million dollars in debt, thanks to the disappearance of his payments for L.A.T.'s purported invoices. He had no idea, he said, what happened to the cash:

Q. *The bulk of the money that you utilized in your factoring business, where did you get that money from?*

A. Most of it was borrowed from banks.

Q. *Can you recall for us how much money you have outstanding from banks and financial institutions in connection with this factoring business?*

A. Not quite a million dollars.

Q. *Mr. Formisano, were the invoices, including the bad ones we've heard about today, part of the collateral for the bank loans?*

A. Yes.

Q. *Presently, what is the L.A.T. debt to Rutherford Commercial?*

A. In total?

Q. Yes.

A. In invoices alone without going into interest or anything else, it's approximately a little bit over a million dollars.

Q. *What is your present financial situation, and I'm speaking about Rutherford Commercial and yourself if it intertwines, as a result of your factoring these invoices?*

A. Not very healthy.

Q. *Mr. Formisano, bad invoices were given to you and through the nature of your factoring business you wrote checks which our investigation has tracked to check cashers which result in untraceable cash. We have taken Andrew Thorry and Vincent Murphy to the check casher and our trail ends with them. Do you know what they did with the cash?*

A. No, I do not.

Evergreen Aided SCI Probe

J. Ernst Celosse, senior vice president of Evergreen International Corporation, in charge of operations, testified candidly about the SCI's discovery of L.A.T.'s billing scam. This international

corporation, which he described as the world's largest container operation, is headquartered in Taiwan but it has a United States office in Jersey City. He confirmed that L.A.T. was one of a number of Evergreen truckers utilized to transport containers to and from Port Elizabeth. Under questioning by Counsel Gaal, he confirmed that the SCI's inquiry had revealed that invoices Rutherford Commercial factored were fraudulent. He also explained the unorthodox manner in which Thorry dealt with Evergreen:

Q. *In response to an inquiry from the State Commission of Investigation, did Evergreen International under your supervision check its records to determine the validity of certain invoices?*

A. Yes, we did.

Q. *Mr. Celosse, I'm going to show you Exhibit C-142. We'll represent to you that these are photocopies of invoices obtained from a factor, Rutherford Commercial, which are according to their records outstanding. Are these copies of the invoices that we asked Evergreen International to check to determine their validity?*

A. Yes, that's correct.

Q. *And I'm going to represent to you, Mr. Celosse, that there are 745 invoices there totaling \$472,144 worth of work. Did you and your staff check those invoices?*

A. Each and every one was checked and double-checked.

Q. *And what did you learn? What did you find out at Evergreen?*

A. That 95 percent were invalid.

Q. *Do you recall [telling] the Commission that of those invoices merely 19 representing a little over \$8,500 worth of work were legitimate invoices [and] L.A.T. had already been paid on them?*

A. That's correct.

Q. *And the remaining, some 726 invoices, were invalid. Is that correct?*

A. That's right.

Q. *What did you learn about the work described on those invoices?*

A. They can be divided into four categories. One would be the container number would be incorrect or not [in] existence—not existing in our fleet of containers. Number two, they would [be] an activity that had taken place but performed by another trucking company.

Q. *Had that other trucking company been paid separately?*

A. Yes.

Q. *L.A.T. had nothing to do with the move?*

A. No. That's correct. Number three, they were either invoices that were legitimate and had been paid and, number four, the invalid invoices.

Q. *Can you tell us what you've learned about how L.A.T. invoices typically got to Evergreen?*

A. The invoices were hand delivered by Mr. Thorry and brought to the Intermodal Department.

Q. *And what have you learned about how L.A.T. was typically paid?*

A. The invoices—the checks would be picked up by Mr. Thorry himself.

Q. *Was that typical of or is that typical of the way invoices come in and truckers are paid with respect to all the other truckers you use at Evergreen? Is that the typical way these things are handled?*

A. It's not typical.

Q. *How is it usually handled?*

A. By mail.

Q. *Does Evergreen still employ L.A.T. Transportation?*

A. No, not at the present moment.

Q. *When did it stop?*

A. Approximately four weeks ago.

Q. *After this investigation began?*

A. That's correct.

Another Silent Witness

Andrew Thorry invoked his Fifth Amendment privilege to remain silent when he was questioned at the hearing about his dealings with Evergreen International and Rutherford Commercial and Formisano. His refusal to answer even those questions that he had answered during his private session interrogation at the SCI was challenged by the Commission but that legal issue could not be resolved within the time frame of the hearing. A reading of excerpts from his private testimony demonstrated that he admitted he had taken checks to check cashers, including North Avenue East in Elizabeth, another outlet in Bayonne and Mi Way Check Cashing in Kearny. (The Bayonne check casher was organized crime associate Anthony Gallagher, who figures in later testimony.) To set the record straight, despite Thorry's refusal to respond other than to cite the privilege, Counsel Gaal asked him certain questions pertinent to the SCI's investigative findings as revealed by other witnesses at the hearing:

Q. *Mr. Thorry, based upon an SCI staff review of books, records and documents available to us we found that you cashed some 1.4 million dollars in checks payable to L.A.T. Transportation between August of 1986 and July of 1987. What did you do with that money?*

A. I exercise my Fifth Amendment rights.

Q. *According to the SCI staff review of books, records, documents made available to us, you cashed over one million dollars of those checks at Grand Street Check Cashing in Jersey City. What did you do with that money?*

A. I exercise my Fifth Amendment rights.

Q. *Mr. Thorry, isn't it a fact that at least 745 of the invoices you factored at Rutherford Commercial were fraudulent?*

A. I exercise my Fifth Amendment rights.

Mob Loans "Processed" Through Check Cashers

The next episode dramatized how mob-connected loansharks can be aided and abetted by mob-influenced check cashers. The victim was Frank Terlizzi of Brick Town, a self-employed plumber and sprinkler installer, who testified that during 1984-85 he borrowed \$60,000 from the brothers Frank and Richard Vonella of Monmouth County. The Vonellas were identified at the hearing by the SCI's organized crime intelligence chief, Justin Dintino, as Genovese organized crime family associates (Richard Vonella subsequent to the loan was jailed on a narcotics conviction). Terlizzi, whose businesses included Rosie Lee and Rosie T Construction companies, testified under questioning by Counsel Carol L. Hoekje that in mid-1984 he needed cash to keep operating:

Q. Did you experience some cash flow problems with your business?

A. Yes, I did.

Q. Were you at that time introduced to a Mr. Frank Vonella?

A. Yes, I was.

Q. Did Mr. Frank Vonella promise to help you out?

A. In what way?

Q. In terms of obtaining financial help?

A. Well, what he did was he got me together with a check cashing place in North Jersey.

Q. Didn't you also . . . receive a loan of money?

A. Yes, I did.

Q. How much did you receive?

A. 60,000.

Q. And how did you receive this money?

A. At a lawyer's office.

Q. Didn't you receive it in two installments?

A. Yes, I did.

Q. And were those cash?

A. Yes, it was.

Q. And who actually gave you the money?

A. Richard Vonella.

Q. Who is Richard Vonella?

A. It's Frank Vonella's brother.

Q. Does Frank Vonella have a nickname and is that nickname Speed?

A. Yes, it is.

Q. After receiving this loan did you have additional cash flow problems with your business?

A. Yes, I did.

Q. Who introduced you to the idea of using a check casher?

A. Frank Vonella.

Q. And did you, in fact, use a check casher to pay back most of the loan?

A. Yes, I did.

Terlizzi said his first transaction at a check casher, consisting of checks for \$2,700 and \$6,000, were handled by Frank Vonella, who took them to Bayonne and "got them cashed [by] a guy named Gallagher . . ." This reference was to Genovese crime family associate Anthony Gallagher of Bayonne, an ally of the Hudson County Genovese crime family boss John DiGilio, who subsequently was slain in May, 1988. Gallagher, who was scheduled as a later witness, is a self-proclaimed "unlicensed" check casher, who was convicted just prior to the SCI hearing of federal racketeering charges in Newark. DiGilio, a convicted loanshark and a fellow defendant with Gallagher, was acquitted of the same federal charges. It was obvious from Terlizzi's testimony that Frank Vonella was accustomed to dealing through Gallagher. If Gallagher didn't cash the \$2,700 and \$6,000 checks, as Terlizzi claimed, Counsel Hoekje wanted to know who did:

Q. Do you know where the checks ended up?

A. The checks were cashed at [North Avenue East] Check Cashing.

Q. *And who runs North Avenue East?*

A. Herb Siegel.

Q. *And did you subsequently use Mr. Siegel to cash many checks?*

A. Yes, I did.

Q. *Now, how did you meet Anthony Gallagher?*

A. I met Anthony Gallagher through Frank Vonella.

Q. *And was there a time when you went up to Mr. Gallagher's to cash a check? At Mr. Vonella's directions as to where to go at that time?*

A. Yes.

Q. *And do you recall where you went?*

A. I went to Bayonne and Mr. Gallagher did not cash the checks. He took me to North [Avenue East] cash checking and they cashed it for me.

Q. *And was that the first place you went to, Mr. Gallagher at 809 Broadway in Bayonne?*

A. I think, yes—it is.

Terlizzi said Gallagher telephoned North Avenue East Check Cashing to inform Siegel that he was on his way over. Apparently concerned for his personal safety, Terlizzi at first contended he couldn't recall the conversation because he wasn't in the room during the call. However, Counsel Hoekje reminded Terlizzi of his private session testimony at the SCI on March 17, 1987:

Q. *Mr. Terlizzi, at the time that you testified before the Commission you were asked this question and you gave this answer.*

"Question: And did he make any calls for you before you went?

"Answer: Yes, he called Herb Siegel up.

"Question: And did you hear the call?

"Answer: I was in the office when he made the call.

"Question: What did Gallagher say on his end?

"Answer: He called Herb. He said 'Herb, I'm sending over Frankie from Rosie T, a friend of Speed. Cash some checks.'"

A. Yes. I recollect that was the conversation.

Q. *And you recollect that you heard that conversation?*

A. Yes, I did.

Terlizzi said that Frank Vonella introduced him to Anthony Castagna of Bayonne, who operated Grand Street Check Cashing in Jersey City, and who was scheduled to testify later during the SCI hearing. He said Castagna, who is an associate of Gallagher, cashed only a couple of his checks. His testimony indicated, however, that most of his transactions were with Herb Siegel:

Q. *And these were checks that your company had received in payment for work that they had done?*

A. They were checks I received from a job and—to pay Mr. Siegel the fee I had to pay him. That's why I made the transaction. I would endorse a check over to Siegel. He would take out any money I owe him.

Paid Twice For Bounced Checks

Terlizzi said he was informed that his checks for \$2,700 and \$6,000 had bounced. He testified that, at Gallagher's direction, he brought repayment for the bounced checks to Gallagher, who "gave the money to Siegel to pay off the checks." Terlizzi never was given the bounced checks. However, he identified an SCI exhibit as a check for \$6,900 that he had given Siegel. Counsel Hoekje questioned why a \$6,000 checking transaction suddenly became a \$6,900 transaction:

Q. *And what does \$900 of that check represent?*

A. It was the interest that I had to pay him on the checks that came back.

Q. *And was that interest on the original \$6,000 check that you had sent up?*

A. Yes, it was.

Q. *Where Mr. Siegel claimed had bounced and he wanted it back?*

A. Yes, it was.

Big "Fees" For Bad Checks

In fact, Siegel customarily charged Terlizzi large fees for bounced checks:

. . . What got me confused when I was giving him checks from my corporation . . . [was that] he was taking out all the money I owed him and giving me the difference in cash.

Q. *When you cashed your accounts receivable checks with Mr. Siegel did Mr. Siegel charge you a flat rate?*

A. Yes. He charged me—if the check was—say a check was for \$6,000—one of the checks was 6,400 bucks—he charged me \$500.

Counsel Hoekje asked Terlizzi to give more details on the payments he was required to make for checks that kept bouncing:

Q. *Mr. Terlizzi, when you were presenting checks to Mr. Herb Siegel that actually bounced, did he ask you for a replacement check?*

A. . . . He would tell me, "Give me a replacement check and make up the difference in another check" to replace any checks that came back plus the interest and plus the service charge he charged me.

Q. *And do you recall what the service charge was for those types of checks?*

A. I remember paying him 1,500 bucks one time.

Q. *Do you remember also testifying that you also paid a charge of \$300 per check for bounced checks?*

A. Yes, I did.

Q. *And is that accurate testimony?*

A. Yes . . .

"Loans" On Post-Dated Checks

Terlizzi was able, for a usurious fee, to get advances on post-dated checks. This tactic of Siegel's actually amounted to loans at loanshark rates. Counsel Hoekje discussed this with the witness:

Q. *Did you present checks to Mr. Herb Siegel that were post-dated checks?*

A. Yes, I did.

Q. *And was this the payroll check situation?*

A. Yes, it was.

Q. *Did Mr. Siegel hold the checks for you?*

A. He would hold them sometimes up to three weeks, yes, he would.

Q. *And did the amount of service charge and interest depend upon the length of time he held the check?*

A. Yes.

Q. *Why were you presenting post-dated checks to Mr. Siegel?*

A. Well, I was having problems meeting my payroll and he said he would help me and I did not realize what I was getting into.

CHAIRMAN PATTERSON: So you were really borrowing money from him?

WITNESS: Yes, yes.

Paid \$27,000 in Usurious Fees in Less Than a Year

Terlizzi testified that he paid as much as \$27,000 in usurious fees to Siegel for cashing his company checks for less than a year during 1984-85. He said he dealt with Siegel because he needed cash in his business, cash to repay the Vonellas and because Siegel threatened him with prosecution:

Q. Now, you testified that you paid various charges to Mr. Herb Siegel and you've also testified that you estimate the amount of money that you paid in charges to Mr. Herb Siegel?

A. Yes.

Q. And was that \$27,000?

A. It was \$27,000.

Q. Why did you continue to deal with Mr. Siegel if he was charging you such—

A. Because he had—some of the checks he wouldn't release to me. He was like black-mailing me. He would say he would go to the prosecutor . . .

Q. At the time that you were cashing the checks, Mr. Terlizzi, and paying all the fees, you were pretty desperate, weren't you?

A. Yes, I was.

Q. And you needed the money, did you not?

A. Yes, I did.

Q. Mr. Terlizzi, do you consider yourself a victim of fee gouging?

A. Yes.

Q. And have you continued to stay in that financial difficulty?

A. Well, right now I'm slowly getting back on my feet, slowly, but it's going to take a long time.

Commissioner Evenchick asked Terlizzi if he realized he was paying illegal fees:

COMMISSIONER EVENCHICK: You knew that the money that you were paying to him was unlawful—

WITNESS: I know.

COMMISSIONER EVENCHICK: —and beyond what he was entitled to, did you not?

WITNESS: Yes, I know.

Vonellas' Organized Crime Link

The SCI's organized crime intelligence chief, Justin Dintino, pinpointed the mob background of the Vonella brothers, who in consort with check casher Herb Siegel had victimized Terlizzi:

BY COUNSEL GAAL:

Q. Does the name of Frank Vonella Jr., also known as Speed, or his brother, Richard Vonella, mean anything to you?

A. Yes, they do.

Q. Are they involved with organized crime and, if so, in what way?

A. Frank Vonella is a Genovese LCN group criminal associate who had close ties to soldier Anthony (Little Pussy) Russo prior to Russo's death. Frank Vonella and his brother Richard ran a loansharking operation in Monmouth County. Richard Vonella is currently in jail on a narcotics conviction. Both Vonellas would not and could not conduct a loansharking operation without the approval of the Genovese organization since it was a Genovese-controlled area. Frank Vonella has an extensive criminal record. It includes convictions for bookmaking, lottery and transporting stolen securities. Electronic surveillance conducted by the federal government in 1982 showed a direct link between Gallagher and Frank Vonella wherein Vonella acted as an intermediary on a loanshark loan of \$25,000 to Gallagher in order for Gallagher to make a down payment on a restaurant in Hallendale, Florida.

Unlicensed Check Casher Gallagher Confirms Mob Ties

Anthony Gallagher of Bayonne, a known associate of the Genovese organized crime family, testified at length about his maverick career as a free-wheeling, unlicensed check casher since the

late 1960s. During the course of his rambling testimony, he cited dealings with other Genovese mob figures, including underboss Venero (Benny Eggs) Mangano and loanshark Frank Vonella. He has long been identified as an ally of John DiGilio, the long time Hudson County enforcer for the Genovese gang, who was found murdered in May, 1988. Gallagher's appearance at the SCI hearing occurred within two weeks of his conviction in Newark of federal racketeering and conspiracy charges. Ironically, DiGilio, a co-defendant in that trial, was acquitted.

Gallagher's name had surfaced in the testimony of previous witnesses as having served as a check casher or as a referral agent for other check cashers or in connection with questionable transactions that these witnesses described in detail. In addition, Gallagher's long association with organized crime was outlined at the hearing by the Commission's expert, Dintino.

Cashed Checks For "Gratuities"

Apparently, because the Department of Banking has no criminal statutes to back up its regulatory control over check cashers, Gallagher was able to operate for many years without being effectively sanctioned. Because the department's inherently weak civil authority was restricted to the check cashers it licensed, who had to obey a rigid regulatory system, Gallagher indicated in his testimony that he was able to operate openly by, as he claimed, accepting "gratuities" rather than charging fees. He explained how he operated as a check casher to Counsel Gaal:

Q. Do you charge a fee for cashing checks?

A. No.

Q. Do you receive any type of remuneration, compensation, gratuity?

A. We normally receive an amount for every check we cash.

Q. Have you called that in the past a gratuity?

A. I call it today a gratuity.

Q. Is there any particular rule of thumb that you have in terms of the amount of the gratuity you might receive or you do receive on a check?

A. About 1 percent.

Q. Have you yourself applied for licenses?

A. Sure.

Q. And what happened?

A. Nothing happens. When you apply to the Department of Banking it gets lost. It drops through the cracks for about a year, two years. I think you got to get seven Senators and 16 Assemblymen and the Governor's deputy to push it and they push it up and you save a year or two.

Q. Have you operated more than one check cashing business at a time?

A. Yes. I have two now.

Q. Now, Mr. Gallagher, you operate and you have operated check cashing businesses in this State without a license. How do you do it?

A. I open a check casher.

Q. And you open the door, and what do you do with the checks and how do you get cash?

A. Well, if you have a bank you deposit them into a bank but as you know banks don't like welfare recipients, banks don't like that type of check, so you have to be very, very circumspect in disposing of your check. I'm talking about the regular governmental checks and the welfare checks. So you go and you open up bank accounts or we have enough people write up, whoever, that open up possibly 12 [accounts]—we could open up a big check casher tomorrow morning right here in Trenton.

Q. Do you have check cashing businesses in Florida?

A. Yes.

Q. And do you send those checks up to New Jersey?

A. Yes.

Q. *And what do you do? Process them through—*

A. Well, now I don't send them up because I have ways of disposing of the checks in Florida.

Q. *At the time you testified in executive session you indicated that you would send them up to New Jersey—*

A. Yes, some of them I still have to send up.

Q. *And they handle them through your New Jersey businesses?*

A. Yes; just float them around.

Q. *Now, Mr. Gallagher, the State of New Jersey, in particular the Department of Banking, requires that check cashers obtain corporate resolutions before they cash checks payable to corporations. Do you require corporate resolutions?*

A. Of course not.

Q. *What do you think of that requirement?*

A. It's a joke.

Q. *Why?*

A. Because it has no force and effect. I mean, it's something that a lawyer would like to have when he goes six months from now or a year from now and sues to collect on a check, but it gives you absolutely nothing. It's a regulation that's worthless.

Q. *Another banking rule is that, in essence, where a check casher is allowing the customer to repeatedly bounce checks or maybe I should say a check casher cashes checks for a customer that repeatedly bounces checks, they should, in essence, get rid of that customer and stop?*

A. Well, that's what the Bank Commissioner says.

Q. *Why do you take issue with that?*

A. Because the people who come to cash checks, 50 percent of the time they're going to bounce the checks . . .

Gallagher said he makes it a practice to cash checks at licensed check cashers. He insisted,

however, on paying a fee that would be half as much as the one point "gratuity" that he received:

Q. *Now, in addition to moving checks to individuals or business accounts, have you on occasion taken checks to licensed check cashers?*

A. Sure.

Q. *Okay. And are you doing that currently?*

A. Yes.

Q. *When you take checks to a licensed check casher is there any rule of thumb as to the fee that you have to pay?*

A. I won't pay them more than a half a point.

Q. *Why?*

A. Because that's 50 percent of the profit. I only charge a point.

Q. *You charge a point and get half a point?*

A. When I say I charge a half a point—I don't want to read four years later that I said we charge a point. When I charge a point, I'm saying that our average amount that we receive as a gratuity for a check is a point. It always has been for 12 years.

Gallagher Is Check "Floater"

Gallagher described himself as a check "floater," as distinguished from a check kiter. However, his process was similar in that he also utilized the time or float period for a bank check to clear to make free use of the proceeds of the check. In organized crime circles, a series of kites, or floats, enables a perpetrator to pyramid an ever increasing amount of cash as loanshark loans, bets or for other illicit purposes, so long as the float can be maintained. Counsel Gaal reviewed the practice with Gallagher:

Q. *Can you tell us what your definition is of a check kite?*

A. I don't use the term "kite". I use the term "float."

Q. *What's a check float?*

A. . . . Let's say Friday is welfare day so welfare day maybe \$100,000 [is needed] to cover welfare and you only have \$20 so . . . you're able to go to a check casher—and you give him a check for \$30,000, the check is flat out no good at the moment when you give it to him.

C. *You give him a no-good check for \$30,000—*

A. Right. We're using the term again—we're using the worst term. We're saying the check is no good at present.

Q. *Which means there are insufficient funds in the bank—*

A. There's zero in the bank. There's one dollar in the bank. We have a \$30,000 check. You bring the \$30,000 check to a check casher. He then gives you \$30,000 in cash. You now can use that \$30,000 all during the day. In other words, you can start with zero and do it all during the day.

Q. *Is it also fair to say that the next day you would continue by cashing a new check?*

A. The cycle may—and, you know, because—banks don't like to cash checks because the worst thing that can happen in banks is to take money out of the banks.

Q. *Now, did you recently devise a way to assist a check casher who needed cash for the weekend?*

A. Yes.

Q. *And was that Grand Street?*

A. Yes.

Q. *And was the methodology that you devised—*

A. It's exactly the same as this, but it failed.

Q. *And why did it fail?*

A. Because an idiot in the bank for Grand Street who had been there for like—since they opened—thought they were trying to rob the bank of the money.

Gallagher Had a \$400,000 "Float"

Counsel Gaal reminded Gallagher that he had previously told the Commission he once maintained a \$400,000 check float. Indeed, he had told the SCI the only reason he operated as a check casher was to enable himself to contrive floats and utilize the cash for loans and other activities. He explained this type of operation:

A. Yeah, I had done that. I'm not sure about the number again. You know it might have been eight or ten accounts.

Q. *Can you do it—*

A. At the time we were doing 400, 500 [thousand dollars] a day.

Q. *How long can you run one of these floats if you don't make a mistake?*

A. It isn't that. It's if the people on the other side don't realize—if the people on the other side see malevolence in you, they can—then they can destroy you. If they don't see malevolence, you can do it forever. It doesn't cost anybody anything.

Q. *Are there also other factors such as a snowstorm which prevent you from getting to the bank to make your deposit—*

A. A snowstorm is the worst thing that can happen to a float.

Q. *Mr. Gallagher, is it fair to say that the floater gets the benefit of cash for whatever purpose he might have?*

A. That's correct. It's also a method to steal, too, and that's why I'm being—I don't know why I haven't taken the Fifth yet, but I'm getting very, very careful in what I'm answering. I'm trying to hold together a statement I have together with what you're asking me but if you stay on target, I'll stay that way. That's what happens. When somebody thinks you're attempting to steal from them you have a problem when you're really not.

Q. *Could it also be said that the floater is getting . . . interest-free loans:*

A. Yes, and I love them.

Gallagher testified that check cashers not only can "launder" money but they also make loans:

Q. *Would you also agree that check cashers can lend money and do lend money?*

A. Sure they do.

Q. *On a regular basis?*

A. I would think . . . I don't know about—I'm not saying that licensed guys would do that because that could jeopardize your license.

Q. *But the unlicensed ones do?*

A. We do.

Q. *When you testified in executive session you gave an example of the businessman who needs money on a Friday, who comes to you and as a check casher, to use the term "kite" or "float" a check, lends him 15,000, he pays a point and he brings the check in on Monday. In essence, that's an advance of money. Am I right?*

A. Of course. It's done all the time . . .

Borrowed From Mobster's Wife

One of the most revealing disclosures by Gallagher was an admission that he had borrowed money from the wife of the Genovese underboss, Venero (Benny Eggs) Mangano, in 1981. SCI Intelligence Chief Dintino said such a transaction indicated that Gallagher was deeply aligned with the Genovese organized crime family. Here are Gallagher's recollections of the loan, which he utilized to end or reduce one of his check float operations:

Q. *Mr. Gallagher, have you had occasion when you borrowed money to bring down a float?*

A. Do I borrow money to bring down a float? Sure.

Q. *And is one of the individuals that you borrowed money from Mrs. Mangano, the wife of Mr. Mangano?*

A. The last loan was in 1981.

Q. *Have you borrowed money from Mrs. Mangano?*

A. Yes, in 1981, yes.

Q. *But you have borrowed money—*

A. Because I've described him in testimony in Federal Court. He's a very, very close friend of mine. I worked on cases that he was involved in, civil contempt cases, and I think one or two are loans that I don't have to pay him back that he forgot about them but he's just a red herring thrown in here for no reason at all . . .

Gallagher's Mob Background

When Gallagher was able to borrow money from Mrs. Mangano, it had to be with her husband's approval. And, according to Chief Dintino, Benny Eggs Mangano as the Genovese family's underboss was a leader of "one of the most powerful organized crime organizations in the country." Counsel Gaal asked Dintino to characterize Gallagher's connection with the Genovese gangsters:

Q. *In your opinion is it significant that an individual such as Gallagher would visit [such] a man on a daily basis and be capable of borrowing a significant sum of money interest-free from him?*

A. It is very significant in that Gallagher is trusted by the Genovese hierarchy and plays an important role in their illegal operations. There is also no doubt in my mind that DiGilio, Mangano and Vincent Gigante, the present boss of the Genovese organization, all receive a piece of Gallagher's legitimate enterprises and illegal criminal activities, including the check cashing facilities he mentioned he owns. Also when called upon for a favor such as utilizing his check cashing facilities for illegal activities, he would have to comply.

"Significant" Criminal Associate

Chief Dintino was asked to outline Gallagher's mob background and connections:

Q. *Do you know of him prior to these hearings and, if so, what can you tell us about him and his activities?*

A. Yes, I have known Gallagher prior to these hearings and Anthony Gallagher is a significant criminal associate of the Genovese crime family. Gallagher primarily serves as a front for Genovese family members [such as] Venero Mangano. His illicit activities include collusive theft, extortion, labor racketeering, tax violations and corruption relative to the waterfront ports of Hudson County. His criminal record reflects an arrest for forgery and a recent conviction for extortion whereby money was being extorted from a stevedoring company in exchange for labor peace at the Military Ocean Terminal in Bayonne, New Jersey. You might say that Gallagher is a mini-Meyer Lansky for the DiGilio segment [of] the crime family.

SCI Agents Check Out Gallagher

SCI Agents Raymond Schellhammer and William P. Rooney testified about their surveillance of Gallagher's unlicensed check cashing establishments at 790 and 809 Broadway, Bayonne. In fact, Schellhammer said he paid a fee rather than a gratuity—despite Gallagher's testimony to the contrary—when he cashed a check at the 790 Broadway establishment:

Q. What was the amount of the check?

A. The check was in the amount of \$275.

Q. And was a fee paid for cashing this check?

A. I received back \$272, and although [the fee] was more than 1 percent of the face value, I didn't make any comment about it.

SCI Accountant Explains Float*

The Commission's chief accountant, Julius M. Cayson Jr., concluded the public hearing's opening day with an explanation of Gallagher's check float manipulation. He was questioned by SCI Counsel William DiBuono:

Q. Does Mr. Gallagher characterize what he does as a float?

*See chart, p. 47.

A. Yes, he does.

Q. Is this a form of check kiting?

A. Yes, it is because the result is the same; that is, the kiter or the floater is using the bank's funds without its knowledge and, of course, without paying interest on the money.

Q. Does Mr. Gallagher's floating activity rely upon the use of a check casher?

A. In the instance that we're going to examine today, yes, it does.

Q. At this point I'll pass out the chart.

A. The staff has prepared this particular exhibit, and in the scenario that we present here Check Number 1 is cashed at a check casher and that particular cash is used for any purpose. It's used for any purpose that the floater wants to use [it for]. Check Number 2 then is cashed also at a check casher and that cash is deposited to cover Check 1. Check 3 covers Check 2, et cetera, until the cash deposits of the check and succeeding checks [extend] for as long as the unauthorized loans are extended. Each succeeding check is used to cover the previous check until such time as the float either collapses or the thing is paid off. The wrinkle here is that instead of using checks which is kiting, currency is used and that, of course, Mr. Gallagher says is the float. I—we can't get any more simple than that.

Q. Does the floater benefit by this activity?

A. Yes. The floater benefits because, in effect, he's getting an interest-free loan.

Q. Is there any way to stop this scheme?

A. The only way to stop a float is to refuse to accept a cash deposit. That is quite extreme, but we have an instance in this investigation that was alluded to earlier in which to destroy the float, a cash deposit was refused.

Q. How difficult is it to identify this type of activity?

A. It is very, very difficult if the perpetrator uses fictitious payees, multiple banks, many bank accounts and cashes his checks under \$10,000 which, of course, thwarts the CTR regulations.

THE GALLAGHER CHECK SCHEME

- Check #1 → Cashed at Check Casher → Used for any purpose, drawn against non-existent—funds**
- Check #2 → Cashed at Check Casher → Cash Deposited to Cover Check #1**
- Check #3 → Cashed at Check Casher → Cash Deposited to Cover Check #2**
- Additional Checks → Cashed at Check Casher → Cash Deposited to Cover Check #3 and succeeding checks for as long as the float—and the unauthorized “loans”—are outstanding**

PUBLIC HEARING—SECOND DAY (April 27, 1988)

NY Gangsters Utilize NJ Check Cashers

The Commission's agenda for the second day of its public hearing highlighted the involvement of out-of-state mobsters—from New York and Pennsylvania—with New Jersey check cashers in the promotion of scams that would provide a cash flow for a variety of illegal activities, including loansharking and money laundering. The initial scenarios outlined by witnesses concerned members and associates of the Gambino and Genovese organized crime families in New York, who profited from the willingness of certain New Jersey check cashers to accept without question the checks of New York corporations, many with obviously fictitious payees. These checks could not be cashed in New York because they either exceeded the statutory limit of \$2,500, or because the only bank in New York City that would process check casher transactions refused to accept checks representing business receivables. As a result of the stringent limitations, regulatory and otherwise, on check cashers in New York, compared with New Jersey's more liberal regulation of the industry, both mobsters and independent swindlers developed a lucrative trans-Hudson courier system for cashing New York business checks in order—more likely than not—to shield huge sums of money from federal or state income taxes and for other illicit purposes.

Prober Confirms NY-NJ Mob Ties

Gregory J. Stasiuk, a principal investigator and accountant for the New York Organized Crime Task Force, confirmed the Gambino mob's role in interstate check cashing. He backed up his testimony with secret recordings by a task force informant of conversations with Gambino gangsters. Counsel DiBuono questioned Stasiuk:

Q. Have investigations in New York identified members of organized crime using check cashing services in New Jersey?

A. Yes, they have.

Q. Would you please elaborate.

A. For approximately three years we had an associate of the Gambino [organized crime] family cooperating with our office as a confidential informant. During that time he consented to have his conversations with criminal associates recorded. He made more than 350 tape-recorded conversations with other Gambino associates, Gambino soldiers and even the upper echelon of the Gambino family. On April 10, 1986, he had a conversation with an individual who was another Gambino associate identified as Butch. In this conversation, Butch related how [he and] a friend of his, who was identified as Joey from Brooklyn, were making money together [by] cashing checks at a check cashing service in New Jersey that Joey had connections with.

Tax Evasion Worth Usurious Fees

The taping of the informant's conversations with "Butch" and "Joey"—the Gambino associates—was broadcast at the hearing. It demonstrated, by means of often obscene dialogue, that the New York mobsters were charging their "clients" as much as 10 "points"—gangland loanshark argot for usurious interest—per check amount and sharing the difference between the New York levy and what their New Jersey check cashing cronies would demand as "fees." The conversations indicated that "Butch" and "Joey" often split as much as seven points after their New Jersey transactions were completed, meaning that the New Jersey check cashers were satisfied with as little as three points per check amount (still at least twice the limit of 1½ percent allowed by New Jersey on out-of-state checks.) Stasiuk interpreted various parts of the informant's conversations with the Gambino henchmen to clarify the recording. For example, "Butch" and "Joey" talked at one time about "burying" checks. This was explained by Stasiuk:

What he means by "burying" checks is hiding the money, hiding income, and [Butch] states why a person is willing to give up 10 percent if they're cashing a check—in the case of a \$5,000 check it would be \$500—and he says he's saving more than \$500. Yeah, he's giving up \$500 but he's saving more than that if he has to put it in his account and then declare it at the end of the year in taxes.

"Dummy Payrolls" Scam

Stasiuk also interpreted a part of the recording in which the informant and "Butch" talk about using false Social Security and W-2 identifications so they can be put on "dummy payrolls," another mob-concocted money making scheme:

Q. Would you please interpret what [Butch] discussed?

A. In this last segment our informant and Butch discuss giving out their Social Security numbers in order to be put on dummy payrolls. Our informant says, "Yeah, dummy payroll. I've been doing that for years. That's how I saved myself with the Internal Revenue, you know, you know that?" Well, in support of this, during the period the informant was working with us, he gave us W-2 [forms] from two different Gambino-associated construction companies. Now, these W-2s were given to him by his capo or captain in the Gambino family. [But] he never saw a check from either of these companies. Now, what the dummy payroll scheme does for the organized crime enterprise [is] it gives a benefit in two ways. First, it provides a way in which money can be siphoned out of the business by writing a check payable to an associate of organized crime and that check is, in turn, just cashed. If the organized crime associate is ever approached by law enforcement saying, "Did you ever work for this company," he's told to say, "Yes, I worked for that company," but it also by doing this gives a benefit to the organized crime associate himself because it gives him the appearance of a legitimate source of income, which in turn is going to be withheld for taxes—taxes will be withheld and paid and

meanwhile he goes on doing his illegal activities [while making] it appear that he has a legitimate source of income.

Q. Mr. Stasiuk, have you identified any other occasions where Gambino associates have had contacts with New Jersey check cashers?

A. Yes, we have had in New York toll analyses indicating that high-level Gambino associates have been making telephone calls to check cashers in New Jersey.

The \$300,000 "Tax Free" Transaction

Witness Mute on Mystery Check

Richard Doren has conducted from behind the scenes one of the biggest check cashing operations in New Jersey—but his wife, Maureen Doren, is the licensee for the three Doren establishments. These are Reliable Check Cashing Service, Inc., and Boulevard Check Cashing Service, Inc., both of Union City, and Passaic Check Cashing Service, Inc. Doren testified at a private session at the SCI that he and his wife have been in the check cashing business for a number of years, although he said he also is a construction contractor and a realtor. At the public hearing, however, he invoked his Fifth Amendment privilege against self-incrimination and refused to answer questions put to him by Counsel Gaal. The Commission thus was compelled to interrogate him, even in the face of his "same answer" refusal to testify, in order to put into the record significant sworn private testimony about a questionable \$300,000 "loan" as well as about the manner in which New York gangsters wheeled and dealt with his check-casher entity. The questions indicated that one reason his wife became the licensee for his check cashing outlets was that he has a criminal record.

Counsel Gaal tackled the \$300,000 issue first, her questions depicting how Doren's friend, John

Bertoli of North Bergen, "loaned" him \$300,000 without interest in the form of a check which the Commission utilized as an exhibit.* The testimony:

Q. *Mr. Doren, you have previously testified before this Commission that John Bertoli, whom you identified as a friend and business associate, lent you \$300,000 interest-free in the form of a \$300,000 check which you believed reflected the proceeds of a [real estate] closing. Is that correct?*

A. Same answer.

Q. *You further testified that you deposited that check in your check cashing account as a loan, held it for a few months and then purchased a certificate of deposit in the name of John Bertoli to repay the loan. Is that correct?*

A. Same answer.

Q. *Mr. Doren, would you please look at what has been marked as Exhibit C213?* Is this [an] enlargement of the check, front and back, that Mr. Bertoli gave you?*

A. Same answer.

A. *Please note the endorsement on the back of this check which reads "Diversico Incorporated, Diane Wahl, for deposit only." Mr. Doren, isn't it true that Diane Wahl, who is John Bertoli's daughter, never signed that check?*

A. Same answer.

Q. *Was that endorsement or portions thereof placed on the check by you or at your direction?*

A. Same answer.

Q. *Would you agree with us that by the nature of the endorsement, compounded by the lack of an identifiable check cashing endorsement stamp which Passaic Check Cashing routinely uses, one would assume looking at this check that it was deposited in an authorized corporate account of Diversico Incorporated?*

*See exhibit, p. 51.

A. Same answer.

Q. *A review of the records of Passaic Check Cashing does not reflect this transaction as a loan. Why not?*

A. Same answer.

Q. *A review of the records of Passaic Check Cashing reflects the \$300,000 sitting untouched in a non-interest-bearing account of Passaic or held as cash on hand for nine months. Is that true?*

A. Same answer.

Q. *After you received this check did you actually keep that quantity of money at the check cashing business over that period of time and why?*

A. Same answer.

More Unanswered Questions

John Bertoli, a politically prominent North Bergen businessman, submitted unsubstantiated evidence to the SCI in support of a contention that he had included the \$300,000 check loan to Doren in federal and state income tax returns. Nonetheless, he refused to answer questions about the transaction, including the validity of the check itself, invoking his Fifth Amendment privilege. The unanswered questions alone, however, suggested his role in the deal. Although he testified after the interrogation of Doren was completed, his appearance will be noted here, mid-way through Doren's testimony, in order to round out the \$300,000 check incident. At the conclusion of her questioning of Bertoli, Counsel Gaal emphasized the importance of the issue by revealing that it had been referred for investigation to the U.S. Internal Revenue Service and the State Division of Taxation. Counsel Gaal:

Q. *Please look at the exhibit.* Have you seen this check before, Mr. Bertoli?*

A. Same answer.

Q. *Isn't it true that Diversico Incorporated is nothing more than a paper company?*

DIVERSICO, INC. \$300,000 TAX FREE CHECK?

NEWARK BAY BUILDING SPECIALTIES, INC.
 357 WILSON AVENUE
 NEWARK, N.J. 07103

1689

MIDLANTIC NATIONAL BANK
 WILSON AVENUE OFFICE
 84 WILSON AVENUE
 NEWARK, N.J. 07103

85-1
 212

PAY 300000 DOLLARS

TO THE ORDER OF Diversico Inc.

DATE	CHECK NO	AMOUNT
1/23/86	1689	300,000
		DOLLARS
		CENTS



⑆02⑆2000⑆2⑆ 0835⑆07483⑆ ⑆0030000000⑆

Diversico Inc.
Irene Wahl
for deposit only

PAID JAN 23 1986 2:42

JAN 27
 PROCESSED
 85-1 85-1

⑆0000⑆1⑆

⑆31274097

A. Same answer.

Q. Was the check showing the endorsement, "Diversico Incorporated, Diane Wahl, for deposit only," negotiated through Passaic Check Cashing Services?

A. Same answer.

Q. Were the proceeds of that \$300,000 check depicted in that exhibit reported for income tax purposes and were taxes paid on that amount?

A. Same answer.

Q. Did you receive any of the proceeds of the check depicted in this exhibit directly or indirectly?

A. Same answer.

MS. GAAL: Mr. Chairman, this matter has been referred, because of the amount of the check, to the New Jersey State Division of Taxation and the Internal Revenue Service for their investigation.

Doren Cashed Checks for Mob

Returning to Doren, whose wife was the state-licensed front for his check cashing empire, Counsel Gaal's next series of questions to the still silent witness reflected his check cashing activities on behalf of Genovese crime family members and associates:

Q. Do you know Joseph Pagano or his wife of Monsey, New York, and have you ever cashed checks for or on behalf of the Paganos?

A. Same answer.

Q. Isn't it true, sir, that during testimony before this Commission in private session you identified Joseph Pagano as a customer and friend of yours, of the check cashing business, who cashed checks drawn on his wife's account?

A. Same answer.

Q. On January 23, 1987, and on February 6 of 1987, two checks made payable to cash total-

ing \$17,300 and drawn on the account of Joseph Pagano's wife were negotiated through Passaic Check Cashing. Do you recall these transactions?

A. Same answer.

Q. Isn't it also true that there are other Pagano checks that were cashed through Passaic?

A. Same answer.

Doren next was confronted with surveillance photographs showing him in the company of such known New York mob figures as John Masiello, Jr., and Serafino (Sal) Basilone, at Doren's Passaic Check Cashing entity. Doren was asked:

Q. Does this photograph depict them on one day when Masiello brought a check for Pagano to be cashed?

A. Same answer.

Doren was also asked about another mob figure whose check cashing needs he accommodated:

Q. Do you recognize the names Robert Ubriaco, [also known as] Bobby Bader or "Bobby Bumps," or the New York corporation, Colossal Foods?

A. Same answer.

Q. During the second week of February in 1987, Passaic Check Cashing cashed \$43,000 in checks made payable to the New York corporation, Colossal Foods, its president, Robert Ubriaco or Bobby Bader, an alias used by Ubriaco. Do you know Mr. Ubriaco as being an associate or employee of [the] Joseph Pagano mentioned earlier?

A. Same answer.

Clients Identified as Mob Figures

During SCI Intelligence Chief Dintino's testimony, he unequivocally identified Pagano, Masiello, Basilone and Ubriaco as organized crime figures. Counsel Gaal prefaced her questions to him with a summary of Doren's unsavory connections:

Q. *[A] check cashing scenario that was testified [to] during this hearing involves Passaic Check Cashing Services, Incorporated. Richard Doren, the husband of the owner of record for the Passaic Check Cashing Services, Incorporated, has indicated to the Commission that a Mrs. Pagano, the wife of Joseph Pagano, or Joseph Pagano himself, both of Westchester County, New York, would call Passaic Check Cashing and advise Richard Doren that they were sending down a check or checks and they wanted those checks cashed and that John Masiello, Jr., would be picking up the cash. In addition to that testimony, Doren has been observed during photographic surveillances engaged in conversations while walking outside his check cashing operation with two individuals identified as John Masiello, Jr., and Serafino (Sal) Basilone. We also have heard testimony that Robert Ubriaco was noted to have cashed \$43,000 in checks at Passaic Check Cashing Service in a one-week period either under the name Ubriaco, his alias, Bobby Bader, or a Congers, New York, [company] known as Colossal Foods, for which Ubriaco is listed as the corporate president. Do either John Masiello, Jr., or Serafino (Sal) Basilone mean anything to you and, if so, why?*

A. John Masiello, Jr., is a criminal associate of the Genovese crime family. He has convictions for assault, grand larceny, extortion. He's currently involved in gambling. Serafino (Sal) Basilone is also a criminal associate of the Genovese crime organization. He has a conviction for conspiracy involving grand larceny.

Q. *Do you know Joseph Pagano, Sr., of 287 Route 306, Westerly Hills, Monsey, New York; date of birth 8-28-28?*

A. Joseph Pagano, Sr., is a capo in the Genovese crime family. He has convictions for bankruptcy fraud, narcotics, gambling and weapons offenses. He's currently involved in gambling and labor racketeering.

Q. *Do you know Robert Ubriaco, who resides at 112 Laurder Lane, Monsey, New York; his date of birth 1-23-46?*

A. Yes, I do. He also is an associate of the Genovese crime organization and he has been and

still is a driver and bodyguard for capo Joseph Pagano. He has a conviction for narcotics offenses.

Mob-Connected City Check Cashier is NJ's Biggest

"Willing or Unwilling Front"

Any depiction of the role of New Jersey check cashers in the questionable trans-Hudson check cashing transactions of New Yorkers, many of them scoundrels if not actual mob members and associates, must highlight the machinations of organized crime-connected City Check Cashing, Inc., of Jersey City. This company's check processing volume is measured in the millions—of gross revenues and of checks—and its yearly fees in the hundred of thousands of dollars. As described at the Commission's public hearing, even the company's origin was so tainted by underworld influences that its operations were viewed with suspicion by law enforcement agencies from its outset in 1984-1985. The company was formed by Edwin Siegel of Clifton. His colleague in the venture, Robert Santoro of Wanamassa, a confirmed organized crime associate, had been fined \$25,000 for operating as an unlicensed check cashier and forever barred from licensure as an owner of a check cashing outlet. For some strange reason, however, Santoro was permitted thereafter to work as a licensed check cashier employee subject to the condition that his employer's business did not increase due to checks being processed for non-local clients, for third party endorsers, bounced checks and any other unusual check cashing activity. All of these restrictions have been violated since Siegel hired Santoro at the time of City Check Cashing's formal opening on March 11, 1985. That Siegel is a front for Santoro is suggested by City Check Cashing's major customers. Many of them were inherited from Santoro's previous, much-investigated check cashing entities. Furthermore, City Check Cashing utilizes the same telephone number that Santoro used at his outlets.

Thanks to scores of highly suspect transactions, City Check Cashing was an instant success—processing more than \$19.8 million worth of checks during the remainder of 1985 for fees that amounted to over \$202,000. Half of the checks, \$9.6 million worth, were drawn on out-of-state financial institutions, chiefly in New York. From then on, City Check Cashing's business mushroomed to \$61.5 million in checks, half out-of-state, and almost \$743,000 in fees in 1986, and to \$95.9 million in checks and \$1.1 million in fees in 1987. No other single licensed check casher in New Jersey did so much business. Pertinent to this phase of the hearing agenda was the SCI's investigative finding that New York transactions amounted to almost half the total volume at City Check Cashing and more than half of its fee revenues.

Head Check Cashier Santoro Mum

Since mob associate Santoro had become such an important factor in City Check Cashing's phenomenal financial success, even though his apparent direction of the company was masked by his employment as a so-called "head cashier," the Commission asked him a number of questions on that point. Santoro claimed his Fifth Amendment privilege against self-incrimination and refused to respond. Some of the questions will be noted here, nonetheless, to clarify his role in the City Check Cashing episode. Counsel Morley questioned Santoro who, having invoked the Fifth Amendment privilege at the start, replied most often with "same answer" or "same:"

Q. *Mr. Santoro, did you set up Edwin Siegel in business at City Check Cashing when you realized that you were going to be sanctioned by the Department of Banking?*

A. Same.

Q. *Isn't Edwin Siegel, in fact, merely a front for yourself in the operation of City Check Cashing?*

A. Same.

Q. *While you've been working at City Check Cashing, have you cashed checks payable to any of the following corporate entities—Packed Transport, Cardinal Container, Horizon Container Distribution, Drive Energy, A. Ambrosio and Son Demolition; County Delivery Service, Graf Air Services, Graf Air Transportation, Commodity Haulage, Sidney Bitterman, Incorporated; Split-End Limited, Outer Scene Limited, Corporate Mail Service, SJN Incorporated, Abato Truck Sales, West 51st Corp., Marshall Zolp, Pier Services?*

A. Same.

Q. *While working at City Check Cashing have you ever charged more than the fees allowed by law?*

A. Same.

Q. *Have you ever knowingly cashed checks payable to fictitious payees?*

A. Same.

Q. *Have you ever cashed checks payable to corporations without having the required [corporate] resolutions on file?*

A. Same.

Q. *Have you ever cashed checks for individuals knowing that they were cashing these checks in order to achieve some unlawful purpose?*

A. Same.

Q. *Have you ever made illegal loans by accepting checks which you knew would be dishonored but with the understanding that you would be paid interest, often at usurious rates, on any uncollected balances?*

A. Same.

Q. *Did you at one time maintain a file labeled "Bobby A to Z" which contained the records of loansharking activities?*

A. Same.

Siegel-Santoro's \$1.765 Million Customer

Edwin Siegel was questioned at the hearing about many of the customers who contributed to City Check Cashing's huge dollar volume. His responses, or lack of same, will be noted as testimony by or about these particular clients is reviewed in this summary.

One such client was Joseph Odorisio of Brooklyn, owner from 1982-87 of a relatively small company called Pier Services, a New York corporation that operated in New Jersey. This trucking business had only a handful of employees, mainly drivers, and eight or nine trucks—yet during a 15-month period between January, 1986, and March, 1987, Odorisio cashed more than \$1.765 million in checks on behalf of Pier Services at City Check Cashing.

SCI accountants checked Pier Services books and records but could not find any reference to at least one million dollars worth of the checks he cashed at the Siegel-Santoro outlet. The Commission's suspicions about his check cashing splurge were further stirred by Odorisio's peculiar pattern of cashing a large receivable at City Check Cashing at the same time he would cash a much smaller check. The origin of the larger checks also remained a mystery, largely because Odorisio invoked the Fifth Amendment privilege against self-incrimination at the hearing (contrary to his responsiveness during his executive session appearance earlier at the SCI). Whatever the source of the larger checks Odorisio cashed, the Commission has referred all evidence about them to prosecutorial authorities for criminal probes.

Despite Odorisio's refusal to respond, the series of questions put to him by Counsel Hoekje reflected how willing City Check Cashing was to accept any kind of business:

Q. Did the checks that you cashed represent income generated during the normal business operations of Pier Services?

A. Same answer.

Q. Did you also cash checks that did not represent income generated during the normal business operations of Pier Services?

A. Same answer.

Q. Mr. Odorisio, the books and records of Pier Services that were provided to the SCI under subpoena do reflect amounts that were actually deposited in your company's bank account. However, at least \$1,000,000 of the amount that you cashed at City Check Cashing is not reflected on your company's books and records. Can you explain this?

A. Same answer.

Q. Mr. Odorisio, when you testified before the Commission in private session on November 4, 1987, didn't you tell us, in explaining the source of checks, that you had "borrowed a lot of money"?

A. Same answer.

Q. How much money did you borrow, Mr. Odorisio?

A. Same answer.

Q. Do you recall your testimony, Mr. Odorisio, on November 4, [1987], that you paid no charges or fees for these loans?

A. Same answer.

Q. Mr. Odorisio, these loans appear to the SCI staff to be unrelated to the operation of the business of Pier Services. Would you agree?

A. Same answer.

Q. Didn't you agree, however, when you testified on November 4, 1987, that these loans were not for the trucking business?

A. Same answer.

Q. Didn't you also testify at that time that you paid most of the bills of your business by check and that the only cash needs that your business had were some payroll and some tips for the drivers when they went down to the piers?

A. Same answer.

Q. *Would you agree, Mr. Odorisio, that the million dollars that is absent from the books and records of Pier Services represents neither income received by the business during normal operations nor expenses paid by the business during normal operations?*

A. Same answer.

Q. *On June 20, 1987, a CTR, Currency Transaction Report, reflected that you cashed a \$25,000 check [and,] at the same check casher, a Pier Services' company check for \$1,200 payable to cash. Can you explain to us why you conducted a \$25,000 transaction and a \$1,200 transaction on the same day but in separate transactions?*

A. Same answer.

Q. *Mr. Odorisio, the SCI staff has found many occasions such as the above where after you cashed a large check you also cashed your own small company check to pay the expenses of your business. Can you explain this?*

A. Same answer.

Q. *To whom did you give the proceeds of the checks that you cashed that represented loans?*

A. Same answer.

Q. *Did you give any of the proceeds of the checks that you cashed that represented loans to anyone associated with organized crime or racketeering?*

A. Same answer.

Q. *Were any of the proceeds of the checks used in any loansharking operations?*

A. Same answer.

Q. *Were any of the proceeds of the checks that you cashed used for any illegal purpose?*

A. Same answer.

Q. *Mr. Odorisio, what happened to over \$1,000,000 in cash?*

A. Same answer.

Odorisio Was Santoro's Client

Counsel Gaal's questioning of Siegel about Odorisio's transactions revealed that Odorisio had previously been a customer of mob-connected Santoro's former check cashing business:

Q. *Mr. Siegel, prior to our advising you of this when you testified in December, were you aware of the fact that while Odorisio was cashing the \$1,765,000 worth of receivables, he was also bouncing many of his own checks at City Check Cashing?*

A. I wasn't aware of that.

Q. *Were you aware that Mr. Odorisio was a customer of Robert Santoro's at his unlicensed businesses before you hired him?*

A. No, I wasn't.

A \$1.3 Million NY Tax Evasion Case?

Another New York company, Corporate Mail Service, cashed \$1.3 million in checks at City Check Cashing between January, 1986, and March, 1987. However, since the books and records of this corporation were virtually non-existent, there was no indication that a record of the check cashing proceeds was kept. Law enforcement testimony indicated that, although the company may have had cash flow problems, it also may have been trying to evade Federal and New York State taxes. The possibility, if not probability, of tax evasion was an investigative finding of the New York State Investigation Commission (SIC), which had been requested by the New Jersey SCI to inquire about Corporate Mail Service and other cases. A special agent for the SIC, Raymond Hefernan, testified at the public hearing about a number of questionable aspects of the company's transactions. Counsel Hoekje conducted the discussion with him:

Q. *What [type] business is Corporate Mail Service?*

A. Corporate Mail Service is in the advertising business. They—what they do is they get bulk

mailings on advertising fliers and they—they're sort of experts on postal regulations and they put these bulk mailings together and mail them to selected types of clients that people want to reach.

Q. *Now, during its investigation was the New York SIC able to obtain testimony from any of the principals of Corporate Mail Service?*

A. Everyone who came in took the Fifth Amendment.

Q. *During its investigation was the New York SIC able to ascertain the condition of the books and records of Corporate Mail Service?*

A. They were virtually nonexistent.

Q. *Were you able to develop any information during your investigation as to why Corporate Mail Service was coming to New Jersey to cash its checks?*

A. There were conversations with the attorney representing the principals of Corporate Mail Service and they said it was very easy to cash the checks in New Jersey as opposed to New York.

Q. *Were you able during your investigation to determine what Corporate Mail Service did with the cash it obtained at the check casher?*

A. Yes. There are indications that Corporate Mail Service was paying employees with the money. They were getting cash directly for these checks and they were paying these people that they had putting these fliers all together in these printing places and other places, rented storefronts.

Q. *Were you able to determine from your investigation whether the payments to employees were recorded on the company's books and records?*

A. We didn't see the books and records but every indication was there that there was no record of these payments.

Q. *Mr. Heffernan, based upon your investigation into Corporate Mail Service and your experience in general, do you have any observa-*

tions or conclusions as to what was going on [with] Corporate Mail Service in this situation?

A. Yes. They could have had cash flow problems and, of course, there's always tax evasion. This would be the primary reason . . .

Another Santoro Client

Questioning of City Check Cashing's Siegel showed that Corporate Mail Services had been another of mob associate Santoro's customers, although Siegel continued to refuse to comment during his public hearing interrogation:

Q. *Mr. Siegel, your records show that the total for Corporate Mail Service is at least \$1,366,000 worth of checks cashed. Do you know anything about that?*

A. Same answer.

Q. *Did Robert Santoro ever tell you that Corporate Mail was a customer of his when he operated his unlicensed check cashing business before you hired him?*

A. Same answer.

Q. *Did you have any discussions or did you learn from anyone connected with Corporate Mail why they cashed over a million dollars worth of checks?*

A. Same answer.

NY Importer Was Embezzlement Victim?

Cashed Several Million Dollars in Checks in NJ

Special Agent Heffernan of the New York SIC testified also about a New York garment importer, Sidney Bitterman, Inc., cashing "over \$1 million" in checks at City Check Cashing in Jersey City. The activity involved a Richard Hecker of Long Island, a Bitterman executive. Hecker utilized two other New Yorkers, Claude Notar and Gene Goldstein, to transport the checks across the Hudson

for cashing at Siegel's outlet. Counsel Hoekje asked the SIC's Heffernan:

Q. *Are you familiar with the approximate amount that was cashed by these individuals?*

A. It was over a million dollars worth of checks.

Q. *Now, Mr. Heffernan, was the New York SIC able to obtain the testimony of Mr. Hecker?*

A. Mr. Hecker appeared at our office and took the Fifth Amendment.

Q. *Was the New York SIC able to speak to Mr. Notar and Mr. Goldstein?*

A. Their attorneys spoke to our attorneys and they indicated that they wished to take the Fifth Amendment.

Q. *Mr. Heffernan, based upon the New York SIC investigation, and these transactions and your experience in general, do you have any conclusions as to what was going on with these situations?*

A. Right. It could have been tax evasion.

Q. *Did you also try to locate any companies associated with [this case]?*

A. Yes, I did.

Q. *And can you describe what happened?*

A. One of the addresses was 350 Fifth Avenue, which is the Empire State Building, which I assume to be a very good address, and I went to the 11th floor and there was one room there . . . It was more like a telephone answering service in there and a mail drop, and there was clothing there, small jackets,—like sporting jackets on a rack in this room. One day I went up there and the office was shared with another individual who did not identify himself. He didn't know Notar and he does not know who his co-tenant was. And it was just one small room that they were sharing.

Q. *And Mr. Notar was an individual who was cashing over a million dollars of checks in New Jersey?*

A. Yes, he was.

When Counsel Gaal questioned Siegel about cashing a million dollars worth of Bitterman checks at his Jersey City facility, he continued to invoke his constitutional privilege to remain silent. He refused to answer even though he had done so in his lawyer's presence at a previous private hearing at the SCI.

Siegel was asked about the prior experiences of his head check cashier, Santoro, in cashing Bitterman checks:

Q. *Mr. Siegel, are you aware of the fact that checks drawn on the Bitterman companies were cashed at Robert Santoro's unlicensed check cashing places before you hired him?*

A. Same answer.

Q. *Mr. Siegel, were you contacted by a private investigator from New York concerning those checks?*

A. Same answer.

Q. *Did you tell this Commission in private session that a private investigator told you that [he had been] retained to investigate moneys that were allegedly missing from Bitterman and that he—"he" meaning Bitterman—had claimed that the checks had been improperly written and negotiated through a Mr. Hecker, his comptroller?*

A. Same answer.

Q. *Did Goldstein and Notar ever tell you that, in fact, Mr. Bitterman was wrong and that he had gotten some of the money back from Hecker?*

A. Same answer.

Q. *Mr. Siegel, we have reviewed many Currency Transaction Reports from City Check Cashing and we never found your name as a preparer of those reports. Is that because you did not prepare Currency Transaction Reports?*

A. Same answer.

Bitterman Says It Was Victimized

Leonard Bitterman of New York, corporate officer of Bitterman, Inc., and of Split-End, Ltd., importers of women's clothes, refused to testify but submitted a statement for the hearing record. This statement claimed the company was the "victim of a fraudulent embezzlement scheme perpetrated by an employee," namely Richard Hecker, whose role in the company was previously reviewed by New York SIC Agent Heffernan.

According to the statement, Hecker is alleged, in concert with other individuals not employed by Bitterman, to have issued checks payable to various third parties. The statement said the checks were cashed at City Check Cashing but the company did not get the proceeds. The company said it is investigating what it claimed was a \$1.5 million embezzlement. The statement also contended that various allegations against Bitterman and his companies were "false and spurious" and designed to "frustrate" the corporate inquiry. Because of that probe, Bitterman said, he invoked his Fifth Amendment privilege. However, some of the questions by SCI Counsel Clark will be noted here to depict the nature of the episode:

Q. *Are you aware that in 1986 checks in amounts totaling approximately \$1.5 million from your corporations made payable to approximately six companies, including some that were fictitious, were cashed at City Check Cashing in Jersey City by a Gene Goldstein and a Claude Notar?*

A. Same response, sir.

MR. CLARK: Mr. Chairman, I represent that the staff has determined that cash transaction reports identify Gene S. Goldstein, an importer, as the individual cashing all of the checks in question that were in amounts of over \$10,000. Other checks in lesser amounts were cashed by Mr. Goldstein and Mr. Notar at City Check Cashing Services.

Q. *Do you know whether these checks were issued in order to deceive tax authorities or to avoid taxes?*

A. With respect, same reply, sir.

Q. *Were any of these check amounts included as expense items on the State or Federal tax returns filed by you or your companies?*

A. With respect, same reply, sir.

Q. *Was any of this cash being used to make payments to U.S. customs officials or foreign officials to facilitate the importation of foreign goods into the United States?*

A. With respect, same reply, sir.

Q. *Did you report the alleged embezzlement of funds by Messrs. Hecker, Goldstein and Notar to law enforcement authorities?*

A. With respect, same reply, sir.

\$523,000 For Kickbacks?

About \$523,000 in checks were cashed at City Check Cashing in Jersey City by County Delivery Service, whose president was William Mitchell of Rockville Center, N.Y. He also asserted his constitutional privilege against self-incrimination, but some of the questions put to him by Counsel Hoekje are noted below to explain the episode:

Q. *Mr. Mitchell, the SCI has analyzed records held by City Check Cashing and those records show that for a 15-month period, that is from January, 1986, through March of 1987, you cashed checks on behalf of County Delivery Services at City Check Cashing in an amount of approximately \$523,000. Did you cash these checks?*

A. Same.

Q. *Were these checks customer receivables of County Delivery Services?*

A. Same.

Q. *Did you report the proceeds of the checks you cashed as income to Federal and State tax authorities?*

A. Same.

Q. Did you omit to report any proceeds of checks cashed as income to Federal and State tax authorities?

A. Same.

Q. Did you use proceeds from any checks cashed to pay kickbacks or bribes to anyone?

A. Same.

Q. Did you use proceeds from any checks cashed to pay anyone for labor protection?

A. Same.

Used Check Casher To Circumvent Judgments

Anthony R. Ambrosio, Jr., of Bayonne owned both Ambrosio & Sons Demolition and Excavating, Inc., and A. Ambrosio Jr. Trucking, Inc. The demolition company was the subject of about \$600,000 in judgments, including federal income tax liens. Ambrosio said he cashed checks at City Check Cashing and usually diverted the proceeds to Ambrosio Trucking because every time a deposit would be made in a bank for the demolition company, the "money was being confiscated by these judgments." In all, he estimated that he cashed checks worth more than \$500,000. Counsel Hoekje questioned him:

Q. Mr. Ambrosio, the SCI has analyzed records held by City Check Cashing and those records show that for a 15-month period, from January of 1986 until March of 1987, you cashed around \$345,000 of checks. Would you agree with those figures?

A. No. I would estimate it to be higher.

Q. How much higher?

A. I recall cashing a couple of checks that were in the \$100,000 range.

Q. And were those checks payable to the demolition business?

A. Yes.

Q. Now, what did you do with the cash that you received after cashing your accounts receivable checks? How did you use that cash?

A. To pay—to make payrolls and pay different creditors, keep the operation moving along.

Q. You also paid some of your debts off in cash?

A. Yes, we did.

Bounced Checks Equal \$1.3 Million in Loans

Check Casher Got Usurious Fees

While certain North Jersey check cashers accommodated many suspicious deals with New Yorkers, they of course were also processing similarly suspicious and lucrative transactions initiated by New Jersey-based clients. The public hearing testimony described a variety of examples of such New Jersey check cashing activities, including the following episodes.

Two Union County businessmen bounced more than \$1.3 million checks at check casher entities, mostly at the North Avenue East check casher in Elizabeth, over separate periods of time during the 1980s. As the SCI's organized crime intelligence chief, Justin Dintino, made clear during his public hearing testimony, a primary motive for the willingness of check cashers to accept a series of bad checks from a customer is to generate usurious fees.

One businessman, Joseph Damiano of Rahway, bounced more than \$911,000 in checks at Herb Siegel's North Avenue East outlet between 1983 and 1985. (There is no blood relationship between Herb Siegel and Edwin Siegel.) Another customer, Dennis Abato of Branchville, an auto scrap dealer, bounced checks worth more than \$200,000 at North Avenue East in 1984-85 and another \$204,000 at Ed Siegel's organized crime-connected City Check Cashing entity in Jersey City in 1986. In both episodes, whatever the reason for cashing and recashing so many bad checks, the check cashers were actually "lending" money at

loanshark rates. This was confirmed at the hearing with respect to both Damiano and Abato in the excerpted private session testimony of an unidentified check casher, who was familiar with their accounts at North Avenue East.

\$911,000 In Bad Checks Bounced

Joseph Damiano, owner of Dauman Pallets of Linden, claimed he needed large amounts of cash to operate because he pays cash for the pallets he buys but, when he sells them, is paid by checks that are often late and can't be drawn upon until they clear, if they do. Damiano recalled that he needed up to \$4,000 a day in cash to purchase pallets and that his outstanding receivables would run as high as \$400,000 from time to time. His cash flow was so tight, he told Counsel Saros, that he could not cope with the traditional limitations imposed on customers by banks:

Q. Why did you use a check casher as opposed to a bank?

A. Because [at] a bank when you make a deposit, you can't get the money.

Q. The bank has to wait till it collects the funds?

A. Yes.

Q. Did you use North Avenue East Check Cashing in Elizabeth which was owned by Herb Siegel?

A. Yes.

Q. Did you cash your company checks at North Avenue East Check Cashing?

A. Yes.

Q. And to whom were those checks made out?

A. Well, they were usually made out to cash because I needed that to buy pallets.

Q. What fee did Herb Siegel charge you to cash a check?

A. I think it was one point.

Q. That would be 1 percent?

A. Yes.

Q. It was always 1 percent?

A. Yes.

Q. Did you pay the fee or was it deducted from the amount of the check?

A. Well, if I wanted \$3,000, I made it \$3,030.

Q. Did you also cash personal checks at North Avenue East Check Cashing?

A. It may have been once in a while, yes.

Q. Were some of the company checks and personal checks that you cashed at North Avenue East Check Cashing returned for insufficient or uncollected funds?

A. Yes.

COUNSEL SAROS: For the record, the investigation and analysis conducted by the State Commission of Investigation reveals that from 1983 to 1985 approximately \$875,000 in Dauman Pallet checks that were cashed at North Avenue East Check Cashing were returned for insufficient or uncollected funds.

Q. During the same period of time, 1983 to 1985, approximately \$36,000 of your personal checks that were cashed at North Avenue East Check Cashing were also returned for insufficient or uncollected funds. When these checks were cashed at North Avenue East did you know that the checks would be returned?

A. No, not really.

Q. What do you mean by "not really"?

A. Well, a lot of times you put the check in and, you know, you cash a check and sometimes other checks would come in, you know. A lot of times he'd call to make sure the money was there, too. A lot of them were probably returned for uncollected funds, too. You know, I can't pinpoint, you know, the exact litany of what it really was.

Damiano's testimony wavered when he was pressed for details on whether Herb Siegel charged extra for redepositing bounced checks or for accepting replacement checks. He was "not sure" whether Herb Siegel made him pay the bank charges for bad checks but, whatever these trans-

actions cost him, he had to get financial assistance from his relatives:

Q. *At times did you have to borrow money from your family in order to make good on the checks?*

A. Absolutely.

Q. *Why did you stop using North Avenue East Check Cashing?*

A. Well, because the amount of bank charges and the 1 percent was just killing me so I just cut back on everything and I stopped using check cashers.

Q. *Have you used any check casher since the time that you stopped going to Herb Siegel's?*

A. No, I have not.

Charged 1 Percent a Week Interest

The unidentified check casher whose private testimony was read at the public hearing (his anonymity was promised by the SCI because of his fear of personal harm) said Dauman Pallets was one of the largest check bouncers at North Avenue East. That account, according to his recollection, was being charged interest at the rate of 52 percent a year (the SCI's investigative findings indicated an annual rate of more than 300 percent was common in some cases). Other excerpts from the unidentified check casher's executive session testimony elaborated on how accounts such as Damiano's were processed:

Q. *Now, were there instances where the customer could not make good immediately and you accepted payouts or paybacks over a period of time?*

A. Yes.

Q. *Now, in those instances did you charge the customers an additional amount of interest on those loans, if I can use that term?*

A. There were instances.

Q. *Did they come back to make good on that check with a new check at times?*

A. Yes.

Q. *What would the fee have been?*

A. Normally we would charge them 1 percent for cashing the check.

Q. *Were there instances where customers owed you money, and you charged them 1 percent on the unpaid balance?*

A. Yes.

Q. *Was that 1 percent a week?*

A. Yes.

Q. *Tell us how that was handled.*

A. Well, to give you an example, if a customer had a check for a thousand dollars that was returned and they could not make it good, there were times when—there were instances where they would pay us \$100 a week and 1 percent of the unpaid balance.

Q. *We know of instances where there are some entities or individuals who bounced a large volume of checks totaling a significant amount of money and they were continually bouncing checks. In other words, they weren't cut off as customers. For example, Dauman Pallets bounced \$875,000 worth of checks; Eastern Building Maintenance, \$592,000 worth of checks; International Maintenance, \$238,000; Scorpio Meats, \$235,000; Abato Truck Sales, \$200,000. There were many others, but these were the largest ones. What was the situation with these customers? Let's take Dauman Pallets.*

A. There were times that [Dauman Pallets] checks were returned by his bank and he always brought either cash or a—he brought the money in. He would bring me in new checks which we verified with the bank were good and the checks always were.

Q. *And what did you charge him?*

A. We charged him for cashing the replacement checks.

Q. *Was it 1 percent?*

A. Yes.

“You Paid What He Wanted”

Dennis Abato operates a scrap yard called Abato Truck Sales in Jersey City that has long had a serious “negative” cash flow, aggravated by financial setbacks caused by two fires. Such problems forced him to utilize check cashers, he testified, because they meant “instant cash versus a bank not paying . . . until the check clears.” Some years ago he was cashing checks through an organized crime-influenced check casher and through an apparent mob grapevine he was referred to Herb Siegel’s North Avenue East outlet in Elizabeth. This was where during 1984-85 he cashed a series of 41 company checks totaling \$200,000 that kept bouncing so regularly as to constitute a shylock loan. During questioning by Counsel Saros, he indicated more candidly than the previous witness, Damiano, that Herb Siegel’s charges were usurious:

Q. When a check was cashed at North Avenue East Check Cashing what fee was charged?

A. 1 percent.

Q. Were some of the company checks that you had cashed there returned for insufficient or uncollected funds?

A. Quite a few.

Q. When a check was returned what did Herb Siegel require you to pay?

A. The same 1 percent.

Q. If a check was returned a second time what did Herb Siegel charge?

A. The same thing again.

Q. And at that point you would have to give a replacement check?

A. You’d have to issue another check for the checks or check, whichever the case might have been, to cover the check which was returned for whatever reason.

Q. Did Herb Siegel assess an amount beyond the 1 percent?

A. Well, there was times he charged, you know, maybe more than that because if you need the money . . .

Q. You testified previously, Mr. Abato, that he might have charged you \$500 or a thousand dollars or \$1,500?

A. Well, depending on the amount of checks . . . the amount that [were] returned at one particular time. If it’s one point on a dollar—if he had gotten back, hypothetically-speaking, \$20,000 worth of checks, that’s one point of \$20,000 is \$200, so if you do that two times twice, that’s \$400; pay the fees on top of that, \$18 or \$20 per check, that becomes \$500 real quick.

COMMISSIONER ZAZZALI: There were, in fact, times when you paid him charges and fees of \$500 or a thousand or whatever?

WITNESS: Well I just gave you a for instance . . . If I cashed a check for \$500, if it bounced two times, twice, you’d have to pay double and pay the fees double.

COMMISSIONER ZAZZALI: And that, in fact, happened?

WITNESS: Yes, it did.

Q. Would you pay Herb Siegel whatever he demanded?

A. Well, it was never a demand. It was like—it was an understanding.

Q. That if you wanted your money you had to pay whatever he wanted?

A. Correct.

Q. And in order to get some cash you would pay him whatever he wanted?

A. Well, I had two fires which almost completely destroyed me. I had to keep my credibility good. At least if I got cash I could get money orders, pay bills, keep my phones turned on, keep my electricity there turned on, keep my payroll.

The executive session transcript of the unidentified check casher in connection with North Avenue East’s operation in Elizabeth recalled Abato Truck Sales as a customer:

Q. How did you handle the bounced checks?

A. Either [they were] redeposited or new checks were brought [in].

Q. And what [were the] charges?

A. We charged them--if it was redeposited, we charged them a fee for redepositing it. If they brought us a new check, we charged them a fee. If a check for \$2,000 had come back and they brought us a new check, we would want a check for \$2,020.

The anonymous testimony also revealed that North Avenue East assessed customers additional charges during any period when a bounced check was not made good. Speaking of a client other than Abato, the unidentified check casher testified:

Q. Now, is [this] an example of someone that you charged an additional fee when he came in, or additional interest?

A. There were times when we charged 1 percent for the week that he did not make the check good.

Q. Now, if that continued more than a week he would then have to pay another 1 percent the following week on the unpaid balance. Is that right?

A. Yes.

The unidentified check casher went on to say that he assessed similar extra charges against scrap dealer Abato:

Q. I'd like you to think back to Mr. Abato and see if you can recall any instances where you did charge him that extra amount.

A. You're asking me that if he had bounced a check for \$2,000 and he did not make it good for two weeks would I charge him \$20 the first week and \$20 the second week?

Q. Yes, or some other figure?

A. Yes.

Q. Now, there were customers obviously who never made good?

A. Yes.

Q. And how did you handle those situations?

A. We instituted lawsuits.

Another \$202,000 in Bounced Checks in Jersey City

When Herb Siegel at North Avenue East filed suit against Abato, the scrap dealer shifted his check cashing business back to Jersey City, to the notorious (and previously discussed) City Check Cashing entity and a different Siegel, Edwin, no relation to Herb Siegel. At Eddie Siegel's City Check Cashing, Abato cashed bad corporate checks amounting to \$202,000 during 1986. The pile-up of fees for processing bounced checks continued at City although on a less aggressive basis than at North Avenue East. However, the easier treatment may have resulted because City Check Cashing began to cash Abato's receivables that North Avenue East had rejected, at such a rate that more than \$1 million in receivables were processed during one year beginning March, 1986.

Q. Did you also cash customer checks [or] receivables at City Check Cashing?

A. Yes, I did.

Q. Eddie Siegel would take your receivables, then?

A. Yes, he would.

At this point in Abato's testimony, he revealed that he had not filed federal income taxes for three years and was trying to catch up:

Q. Investigation and analysis conducted by the State Commission of Investigation reveal that from March, 1986, through March, 1987, you cashed \$1,067,000 in customer checks at City Check Cashing. You did not file a 1986 income tax return. Are you and your accountant presently in the process of preparing a return for 1986?

A. '85, '86 and '87, ma'am.

Q. *You're preparing tax returns for those three years?*

A. That's correct.

Abato recalled that during his transactions at City Check Cashing, he dealt with Bobby Santoro (who had figured in earlier testimony about City Check Cashing), a long-time associate of the since murdered Hudson County mob leader John DiGilio. Abato, who had known Santoro for at least a decade, said he was cautioned by Santoro against bad check transactions but ignored that advice. He was questioned about this by Counsel Saros:

Q. *Did Bobby Santoro give you some advice about not letting your checks bounce?*

A. That's correct.

Q. *What did he tell you?*

A. I honestly don't remember.

Q. *Let me refresh your memory. At the time that you testified in executive session you stated that Bobby Santoro told you not to let your checks bounce because it makes the check casher look like a shylock?*

A. That's correct.

Q. *And makes the bounced checks appear to be illegal, even if they're not?*

A. That's correct.

Check Cashier Subterfuges

The transcript of the unidentified check casher was excerpted at the hearing by Counsel Hoekje and Special Agent Kurt Schmid. It referred to certain ploys that check cashers utilize on behalf of clients—for a price. For example:

Q. *Did you have customers for whom you did not utilize the stamp that reflected that you were a licensed check casher in the State of New Jersey?*

A. We had two stamps for the back of checks. One said North Avenue East, licensed check casher with our account number.

Q. *Which is a requirement, is it not, of the Department of Banking?*

A. Yes.

Q. *And what did the other one say?*

A. It just says deposit to account of, account number, but just the account number.

Q. *Now, were there occasions when you used that particular stamp?*

A. Yes.

Q. *For certain customers?*

A. Yes.

Q. *How did that happen or how did that come about?*

A. They requested, "was there any way that a check could be endorsed without showing North Avenue East Check Cashing on the back?" So we utilized this other stamp. It just said, "Deposit to account number so and so."

Q. *And this would be something that the customer would initiate?*

A. Yes.

Q. *Just so we're clear, so we all understand, why did you do that and what is it that the customer wanted when they asked for it?*

A. The customer requested that if the check was made out to his company, if a check was made out to ABC Company, ABC endorsed it on the back. They did not want, under ABC's name, North Avenue East Check Cashing, so if I just put our account number, it appeared that the check was going into their account.

Q. *But I'm sure you knew that this was a violation of the banking rules. The rules require that your stamp reflect that you are a licensed New Jersey check casher. Is that right?*

A. Yes.

Q. *Why did you do that for the customers?*

A. Just as a service to them.

Check Cashers Padded Payrolls

Check cashers also can facilitate profiteering from padded or otherwise fictitious payrolls:

Q. *Were there instances where you suspected [payroll padding] was the case?*

A. There were instances when I looked twice.

Q. *What did you look at twice?*

A. Just that I had made my doubts that there was such an employee.

Q. *Do you recall any instances where week after week there would be a check payable to the same individual?*

A. Yes, but I wouldn't know whether—I had no idea whether there was [such a person] or not.

Q. *What kind of verification did you have in those situations?*

A. All of the checks always came to us pre-endorsed and my reliability was on the company that was cashing them.

Q. *What was it that made you suspicious? Just the fact that they were pre-signed checks or was there sometimes or on occasion similarity in names or signatures, or something about those checks that caused you concern?*

A. I can't answer that. I don't know. It's just certain things that are just gut feelings.

Q. *But, nevertheless, you cashed the checks?*

A. Yes.

Q. *Why?*

A. Because I was concerned with who the maker—the payer was, not the payee.

Skirting Currency Transaction Law

Unscrupulous check cashers helped clients skirt the law requiring the filing of Currency Transaction Reports (CTRs) in handling amounts of more than \$10,000:

Q. *While you were operating as a check casher were there instances where you serviced customers who by various mechanisms attempted to avoid the currency transaction reporting laws?*

A. Yes.

Q. *And what kind of methods did they use?*

A. Instead of bringing one check . . . they might have brought five checks for \$2,000 or \$2,500 over a period of time.

Q. *Now, would there be in some instances, say, using your five checks, [where they were] made payable to different individuals or different payees?*

A. Yes.

Q. *Would those payees each come in or would you simply accept the checks from the one individual with the different names on them?*

A. I would be accepting the checks from [the] maker of the check.

Q. *Okay. The maker gives you five checks made payable to different payees.*

A. Yes.

Q. *And you cash them?*

A. Yes.

Q. *Without having a payee there before you?*

A. Yes.

Q. *Why did you do that?*

A. Because, again, I was more concerned with the check being [made] good by the payer than who the payee was.

Q. *It's possible, is it not, that those payees were all fictitious?*

- A. Possible.
- Q. *Were you asked to do that by the customers or did you suggest this as the way to handle that over-\$10,000 restriction?*
- A. It came from the customer, not from me.
- Q. *What about the situation where you've got the five \$2,000 checks payable to different payees?*
- A. There were times I cashed them all at one time and there were times when they were cashed over a period of five days.
- Q. *Would he or she come in on a variety of occasions and hand you one check each time?*
- A. Yes.
- Q. *Were there instances where you held the checks and then cashed them over a period of time?*
- A. That might have happened.

Baseball Bat Beating

The unidentified check casher also recalled he suffered a severe beating that occurred at about the time he stopped paying off a debt to the unlicensed Bayonne check casher, Anthony Gallagher:

- Q. *And what happened?*
- A. What happened is that eventually I wound up paying him but not collecting my money.
- Q. *Now, was there a time when you were assaulted or attacked?*
- A. Yes.
- Q. *Can you tell us what happened to you?*
- A. At that particular time I was operating two separate businesses, one check cashing business in Elizabeth and a metals business in Linden.
- Q. *Is that in '83 or thereabouts?*

A. Thereabouts as I recall. Approximately 3:30 in the afternoon on a Friday I went back to my Linden plant to take care of payroll and a few other things. I was told by my employees that there were two individuals who had come back two or three times during the day looking for me, and about five minutes or so after I was in, one of these individuals showed up, questioned me about metals, the metals business, and asked me if I would take a look at something outside. When I walked outside of my office I was assaulted by this individual with a baseball bat.

Q. *And what were the extent of your injuries?*

A. I was hospitalized. I had lacerations to the head and a fractured knee and I was in the hospital for about three days.

Helped Gallagher Floats

Claiming illness, check casher Anthony Castagna of Bayonne failed to appear at the hearing. However, his executive session testimony was read into the hearing record by Counsel Morley and Special Agent Dennis McGuigan to demonstrate how his licensed facility, Grand Street Check Cashing of Jersey City, helped Anthony Gallagher sustain check float schemes. His testimony also was significant because he candidly conceded he was concerned only that a check was good, no matter who cashed it. The testimony on this issue:

- Q. *Would you identify anything about the payee on the check?*
- A. Well, the maker is my concern because that's who I'm going to get the money from.
- Q. *You're concerned with the maker?*
- A. Yes.
- Q. *You're concerned that it's a good check?*
- A. Yes.

Q. *You're really not concerned about anything else?*

A. No.

Q. *One of the areas that has come up during this investigation is the question of fictitious payees; in other words, not real payees, either businesses or individuals, such as padded payrolls and things like that. I guess I'm just asking for your opinion as to how a control can be placed on that properly?*

A. It's impossible. I don't know how.

Mob Coveted an Atlantic City Check Casher Outlet

Pennsylvania Gangster Supplied Start-Up Cash

An illustration of organized crime's covetous eye on New Jersey's check cashing industry was provided by the testimony of Italo (Eddie) Baldassari of Hamilton Township about his ill-fated check cashing venture in Atlantic City in 1981. Now the operator of Eddie's Check Cashing in Trenton, Baldassari recalled, with some nervous lapses of memory, how two Bruno/Scarfo gangsters eagerly promoted his Atlantic City project—with an interest-free loan of \$5,000, free legal services and free check cashing business equipment. Baldassari's mob friends were Saul Kane of Atlantic City, now serving a 95-year sentence for a narcotics conviction at Lewisburg Federal Penitentiary, and Charles (Chickie) Warrington of Philadelphia, now serving a 10-year sentence for a gambling conviction at the Federal Correctional Facility at Tallahassee, Fla.

During Baldassari's interrogation by SCI Counsel Saros, he readily admitted knowing Warrington and Kane for more than 20 years—but disclaimed any recollection of their widely publicized organized crime connections. At the time he was planning on opening an Atlantic City check cashing business, he testified he discussed the project first with only Warrington at a gambling casino and that Kane was not present. However,

Baldassari had told the Commission in private session in late 1987 that both Kane and Warrington were present when he broached his Atlantic City project (but he insisted—contrary to the SCI's investigative findings—that the meeting was almost a coincidence). When he was reminded of his earlier statement that Kane also was present at the meeting, Baldassari commented, "Maybe I said it but I don't recall it."

Mob Favored AC Check Casher

Counsel Saros next questioned Baldassari about the warm reception his project got from Warrington and how the gangster helped to set the witness up as an Atlantic City check casher:

Q. *When you told Chickie about your idea of opening the business in Atlantic City did he tell you that he thought that was a good idea?*

A. Yes, he did.

Q. *Did you decide to name the Atlantic City check cashing business SW Check Cashing?*

A. Yes.

Q. *Did you file incorporation papers with the State of New Jersey with your name appearing as the sole incorporator?*

A. Yes, I think I did.

MS. SAROS: And for the record, SW Check Cashing, Inc., was incorporated in August, 1981.

Q. *You also filed an application with the New Jersey Department of Banking to operate SW Check Cashing in Atlantic City?*

A. Yes.

Q. *When you discussed the location that you had in mind with Chickie, did he tell you that he knew an attorney who knew real estate people who could help you out?*

A. Yes.

Q. *Were you put in touch with those real estate people as a result?*

A. Yes.

Q. Did Chickie also put you in touch with the same attorney to assist you in obtaining a lease for that location?

A. Yes.

Q. You spoke with that attorney several times on the telephone. Did you ever meet him?

A. No.

Q. Did the attorney tell you that he would take care of things for you?

A. Yes.

Q. And did the attorney, in fact, arrange the lease for you?

A. Yes.

Q. In September 1981, as a result of the attorney's work, did you sign a five-year lease at \$1,500 a month for the premises that you wanted?

A. Yes.

Q. How did you receive the lease?

A. I think Chickie brought it to me in Trenton.

Q. And the real estate people gave you the key?

A. Yes.

Q. Did you ever receive a bill from the attorney who assisted you with the lease?

A. I don't recall. I remember sending him money for the lease but—no, I don't think so.

Q. Do you recall again when you were in executive session you testified that you did not pay him any money?

A. Yes.

Q. Are you changing your testimony at this time?

A. No. I—I know I gave him a check for the lease.

Q. You never paid him then for the work that he did for you in arranging the lease?

A. No.

Q. In November, 1981, did you open a bank account for SW Check Cashing, Inc., in Atlantic City with a deposit of \$5,000 in cash?

A. Yes.

Q. From whom did you obtain the \$5,000 in cash?

A. I had a loan from Chickie.

Q. When did he give you that money?

A. I met him in Atlantic City at that time to go to the bank with him.

Q. And when you met him in Atlantic City he provided you \$5,000 in cash?

A. Yes.

Q. Was Saul present at that time?

A. Yes.

Q. Had you ever borrowed money from Chickie before that occasion?

A. Well, years ago when there was a club there used to be card games and a few hundred dollars maybe I borrowed off of him.

Q. When Chickie gave you the \$5,000 in cash in Atlantic City did he tell you, "Whatever you need let me know. I can help you out"?

A. Yes.

Q. Did you sign any paper or document in return for the \$5,000?

A. No.

Q. Did you have to provide any collateral for the \$5,000?

A. No.

Q. There was remodeling of the premises that you leased for your check cashing business. Did you do any of the remodeling on those premises?

A. I don't recall any remodeling being done there.

Q. Remodeling was done. Do you know who did it?

A. No.

Q. After you signed the lease for the location of SW Check Cashing, did Chickie tell you that he would be able to provide you with the equipment that you would need in the check cashing business, including bullet-proof glass and steel plating?

A. Yes, because he [had] had a check cashing business. He told me it closed up.

Q. Did you move that equipment onto the leased premises?

A. No. Chickie brought it there.

Q. Did you give Chickie a key to the premises?

A. He had a key, yes.

Q. Do you know how he obtained the key?

A. I don't recall whether I gave it to him or he got it.

Q. Do you know whether Saul [Kane] had a key to the premises?

A. I don't know.

State Police Cause Check Casher's Withdrawal

Baldassari was all but ensconced as an apparent Bruno/Scarfo gang check cashing front in Atlantic City when the deal suddenly was cancelled—by Baldassari himself. The collapse of the project was unexpected because Baldassari had filed for his check cashing license; he had signed the lease for the outlet; he had opened a bank account with a free mob loan; mob-supplied equipment was moved into the business, and the office was renovated. The reason for the cancellation of the project was a State Police disclosure to Baldassari of incriminating conversations that had been wiretapped between Chickie Warrington and Baldassari and between Warrington and Saul Kane. As the public hearing testimony indicated, an obviously frightened Baldassari immediately attempted to wipe out all business connections with the mobsters:

Q. . . . Did you decide not to go through with the check cashing business in Atlantic City?

A. Yes, I did.

Q. And why was that?

A. Because the State Police had a tape on Chickie talking to me on a phone and they come in and talked to me and I heard the tape and they told me that they were investigating him or stuff. When I heard that, I backed off of it.

Q. Did you tell Chickie that the reason you were not continuing with the check cashing business in Atlantic City was because of that visit by the State Police?

A. I might—might have, yes.

Q. Did you tell Chickie that you were not going to run the business there?

A. Yes.

Q. What was his response?

A. He said okay. I gave him his money back to him.

CHAIRMAN PATTERSON: Let me interrupt just a minute to make sure I understand. The State Police came to you and they had a tape of you talking to Chickie, right?

WITNESS: Yes.

CHAIRMAN PATTERSON: Chickie wasn't going to be your partner?

WITNESS: No.

CHAIRMAN PATTERSON: He wasn't going to have anything to do with the check cashing operation?

WITNESS: No.

CHAIRMAN PATTERSON: Why would a tape of you talking to Chickie influence you not to go ahead with the check cashing business there when you weren't going to have anything to do with Chickie?

WITNESS: He lent me the money. I didn't need his money. I could go to the bank and borrow money, but at that point in time I needed it to expedite the leasing and all and when I heard this, the State Police was investigating him, I

got worried that something was going on so I backed off.

CHAIRMAN PATTERSON: And I still can't quite understand if [nothing] was going on with Chickie—he wasn't going to be your partner and wouldn't have anything to do with the check cashing operation—why that caused you to go out and cease to be interested in a check cashing operation in Atlantic City.

WITNESS: Well, I don't recall what the State Police said to me but they said many things and what I heard I didn't like so I stayed away.

CHAIRMAN PATTERSON: Unless, of course—unless Chickie was going to be your partner.

WITNESS: No.

BY COMMISSIONER EVENCHICK:

Was there anything on the tape that the State Police played for you, conversation between yourself and Chickie, that had to do with the check cashing business?

WITNESS: There was a conversation about Chickie talking to Saul. I don't recall what the conversation was.

COMMISSIONER EVENCHICK: You have no recollection of the conversation?

WITNESS: No, I don't.

BY MS. SAROS:

Q. *After you decided not to continue with opening the business in Atlantic City for check cashing, did you withdraw your application from the Department of Banking?*

A. Yes.

Q. *Did you also return the \$5,000 to Chickie?*

A. Yes.

Q. *Did you pay him any interest on the \$5,000?*

A. No.

Q. *Did he ask you for any interest?*

A. No.

Q. *Did you also close the bank account that you had opened in the name of SW Check Cashing, Inc.?*

A. Yes.

Q. *Did you also speak to Chickie about talking to the attorney to get you out of the lease?*

A. Yes. I told him to have the lease broken.

Q. *And was the lease broken?*

A. I don't recall. I never spoke to Chickie again.

Q. *Did you ever have to pay any further money under the lease?*

A. No.

Q. *Have you to this date opened a check cashing business in Atlantic City?*

A. No.

Q. *Mr. Baldassari, as a result of the execution of a search warrant at the home of Saul Kane, a business card for Eddie's Check Cashing was found there. Have you given Saul Kane your business card?*

A. It's possible. I don't know.

Q. *You don't recall?*

A. I don't recall, no.

Q. *I'm going to question you now about two taped telephone conversations which occurred on December 16, 1981. At 9:30 a.m. on that date you had a telephone conversation with Chickie Warrington. At that time you stated, and I quote, "We need the lease and the key. I got to go to the bank. I just talked to the guy on the phone and I need the lease to go to the bank on Monday morning." Chickie then asked you: "I never gave you the lease?" You responded: "You never returned it to me." Do you recall having that conversation with Chickie?*

A. Yes, I think so.

Q. *A few minutes later, at 9:46 a.m. on the same date, a telephone call was placed from Chickie Warrington to Saul Kane. In that conversation Chickie told Saul Kane that he needed a copy*

of the lease and an extra key. Kane responded, "Okay." Did you know at that time that Chickie Warrington was going to call Saul Kane following your conversation with Chickie?

A. No.

Q. *Do you know any reason why Chickie would be asking Saul Kane for a copy of the lease and an extra key after you had just asked Chickie for those items?*

A. No.

Q. *Did you ever have a conversation with Chickie about either of those taped conversations?*

A. No. Not that I remember, anyway.

Why Atlantic City Check Casher?

The Commission expressed an interest in the witness' reason for locating a check casher outlet in Atlantic City, which is mob boss Nicodemo Scarfo's home base as well as the site of New Jersey's legalized gambling casinos. Commissioner W. Hunt Dumont questioned Baldassari on this point:

COMMISSIONER DUMONT: Why did you want to set up a check cashing business in Atlantic City?

WITNESS: I thought it would be very good there.

COMMISSIONER DUMONT: Why did you select Atlantic City over any other city in the State?

WITNESS: Well, because of Atlantic City gambling, a lot of people going there with checks and welfare was good there, too. I checked into the welfare.

COMMISSIONER DUMONT: So you were primarily interested, were you not, in the customers who would be going to the casinos as well as the low income welfare recipients in that town? Is that correct?

WITNESS: Well, more of the welfare recipients are there because I was looking for a location near the welfare.

COMMISSIONER DUMONT: Well, there are other cities in the State which have a large number of welfare recipients. Why did you select Atlantic City?

WITNESS: Because I thought it was good there.

COMMISSIONER DUMONT: Because of the casinos, did you not?

WITNESS: Well, casinos and the welfare there.

COMMISSIONER DUMONT: How long had you known Chickie Warrington?

WITNESS: About 25 years.

COMMISSIONER DUMONT: And how did you know him?

WITNESS: Through a bar on Calhoun Street, [Trenton], Columbus Bar and Grill. He used to go and play cards next door there.

COMMISSIONER DUMONT: And did you have any business dealings with him?

WITNESS: No.

COMMISSIONER DUMONT: Well, did you play cards with him at this bar?

WITNESS: No.

COMMISSIONER DUMONT: Well, I'm still trying to find out how you knew him.

WITNESS: It was a clubhouse next door to [the] bar and my brother owned the Columbus Bar and I used to be there and he used to be next door. He used to come next door and have a drink.

COMMISSIONER DUMONT: How long have you known Saul Kane?

WITNESS: 25 years, I guess.

COMMISSIONER DUMONT: And how do you know him?

WITNESS: Through the candy—chocolate

business. I'm in the donut business and he come over and sold us chocolate.

COMMISSIONER DUMONT: Now, do you know anything else about Warrington and Kane, about their past other than what you've just described?

WITNESS: No, except what—I think the last hearing I was at they told me he might have been in jail. I don't recall.

Although the association of Kane and Warrington with organized crime, and particularly with the Scarfo mob, was widely known, Baldassari claimed almost complete ignorance of their backgrounds:

COMMISSIONER DUMONT: Did you know anything about their association with organized crime?

WITNESS: No.

COMMISSIONER DUMONT: Had you ever heard this during the period of time that you had known them, some 20 to 25 years?

WITNESS: No.

COMMISSIONER DUMONT: When did you first learn that, if you did?

WITNESS: Just recently at a hearing. Maybe the State Police mentioned something to me. I don't recall.

COMMISSIONER DUMONT: Prior to the time that the State Police played the tapes, you did not know of any association they had with organized crime. Is that your testimony?

WITNESS: Not that I remember.

COMMISSIONER DUMONT: Now, didn't you find it a bit unusual that they arranged free legal services for you and an interest-free loan, equipment and a key to certain space in Atlantic City at no charge to you?

WITNESS: No.

COMMISSIONER DUMONT: How much money were you out as a result of this particular venture into Atlantic City? How much did it cost you?

WITNESS: About—I don't know—whatever the lease was.

COMMISSIONER DUMONT: Was that one month's rent, \$1,500?

WITNESS: Yes.

COMMISSIONER DUMONT: And you paid one month in advance?

WITNESS: Yes, I think so.

COMMISSIONER DUMONT: And that's the extent of the investment that you made on this Atlantic City venture. Is that correct?

WITNESS: Yes, sir.

COMMISSIONER DUMONT: And this venture was discontinued as a result of these tapes which were played by the State Police to you. Is that your testimony?

WITNESS: Yes.

COMMISSIONER DUMONT: Now, did the State Police at the time they played these tapes to you indicate that you were under investigation?

WITNESS: No, I don't think so.

COMMISSIONER DUMONT: But they did indicate that Chickie was under investigation—

WITNESS: Yes, sir.

COMMISSIONER DUMONT: Did they indicate what Chickie was under investigation for?

WITNESS: I don't remember.

Mob Would Profit from AC Check Casher

SCI Intelligence Chief Dintino, testifying on Baldassari's connection with mobsters Chickie Warrington and Saul Kane at the time he was setting up a check casher outlet in Atlantic City, told Counsel Gaal that such a commercial enterprise in a casino gambling mecca would be profitable for organized crime:

Mob Boss Scarfo's Driver Cashed \$222,000 in Checks

Organized Crime Associate Mum

Q. Chief, after hearing the involvement of Mr. Warrington and Mr. Kane in the behind-the-scenes formation of S & W Check Cashing Incorporated in Atlantic City with Mr. Baldassari applying for the license as the sole person involved, do you have any opinion as to Mr. Baldassari's role?

A. It's obvious to me that Mr. Baldassari was either a willing or unwilling front for Chickie Warrington and Saul Kane. If licensed, Mr. Baldassari would have been a licensed check casher ultimately controlled by Nicky Scarfo and his henchmen.

Q. I take it that it would be very beneficial for organized crime, especially in the illegal activities of Mr. Warrington and Mr. Kane, to be involved in a check cashing operation especially in Atlantic City New Jersey?

A. No question about it. It would have provided them with the opportunity to launder illegal money, evade taxes, conduct loansharking operations, collect gambling debts and commit numerous other crimes.

Q. Could either Mr. Warrington or Mr. Kane have obtained a license on their own?

A. No, because of their criminal backgrounds. So Mr. Baldassari, having no criminal background, would be a perfect person to front the check cashing operation for Warrington and Kane. I might add that this is routine in organized crime. They are always searching for individuals who they hope they can trust that have no criminal background so that they can subvert the regulatory process. Other examples would include the solid waste industry, liquor establishments and casino ancillary services.

Q. Chief Dintino, with all of your experiences in the organized crime intelligence field, is this check cashing scenario the classic example of an individual being used to front for organized crime?

A. Absolutely. I might add that at this hearing we have heard about many fronts.

As indicated in previous public hearing scenarios, check cashing outlets processed corporate checks without questioning their possibly illicit purposes. The check cashers' primary concern, when they were not converting bad checks into usurious loans, was that the corporate checks would not bounce. That assured, it meant nothing to them if the proceeds were hidden from tax collectors, converted into bribes or kickbacks; put on the street for loansharking, or used for payroll padding, embezzlement or any other fraud. With this history of illegality, the check cashing process becomes even more suspect when a confirmed Atlantic City mob associate, notorious for his own connections to underworld perversion, utilizes a check cashing facility to cash at least \$222,000 in checks. The check casher outlet was Island Check Cashing of Atlantic City and the client was Edward J. (Rick) Casale of Margate, owner of Resort Roofing Co. and Rick Casale Roofing, Inc.—and one of beleaguered crime boss Nicky Scarfo's confidants, according to SCI Intelligence Chief Dintino. Despite the SCI's investigative findings confirming Casale's misuse of a licensed check cashing outlet, he invoked his Fifth Amendment privilege to avoid self-incrimination at both his executive session appearance at the Commission's office and at the public hearing.

SCI Counsel Hoekje questioned Casale at length about possibly illicit use of the cash proceeds from his massive check cashing spree at Island Check Cashing in the heart of the Atlantic City gaming casinos:

Q. Mr. Casale, were these checks that you cashed at Island Check Cashing in payment for roofing work?

A. I exercise my Fifth Amendment.

Q. Have you reported for state and federal income purposes all moneys received from your roofing business?

A. I exercise my Fifth Amendment.

Q. Did you turn over proceeds of any of the checks that you cashed at Island Check Cashing to anyone else?

A. I exercise my Fifth Amendment.

Q. Why did you cash checks at Island Check Cashing that were marked as donations or benefits?

A. I exercise my Fifth Amendment.

Q. Have you given any of the proceeds of check cashing at Island Check Cashing to anyone as payoffs or kickbacks?

A. I exercise my Fifth Amendment.

Q. To the extent that you cashed checks at Island Check Cashing that represented payment for work done, have you paid all the [labor union] health, welfare and pension benefits for that work done?

A. I exercise my Fifth Amendment.

Q. Mr. Casale, were any of the checks that you cashed at Island Check Cashing extorted from anyone in return for any kind of protection?

A. I exercise my Fifth Amendment.

Casale Check Cashing Confirmed

Marvin Herman, who died in April, just two weeks before the SCI's public hearing, had confirmed in his private testimony at the SCI that he cashed Casale's checks without question, even though he otherwise made it a practice not to cash business receivables. Indeed, Herman's Island Check Cashing operation in Atlantic City appeared to be adhering to all regulatory standards. However, the episode suggests that in an atmosphere of high stakes wagering and mob frauds, no one escapes being soiled. The deceased Herman's private hearing transcript—excerpted at the hearing by Counsel Hoekje and Special Agent Michael Hoey—explained why he dealt with Casale:

Q. One particular customer of Island Check Cashing was a customer named Edward or Rick Casale. Do you recognize the name?

A. Yes. He's a roofing man.

Q. Have you ever cashed checks for him? Do you know him?

A. Yes. I know him personally over the years when I was at the store and he's coming in and cashing checks made payable to himself.

Q. Can you tell us anything about the kinds of checks he cashes?

A. Well, personal checks which I usually don't take from other customers but I take from him. He does repairs and roofing and whatever checks he gets from different jobs I cash and we verify it. Sometimes we'll call up and spot check a check. We've had checks that come back short or come back stopped but he's always taken care of [these].

Dintino Pins Mob Label on Casale

Intelligence Chief Dintino was asked at the hearing to define the underworld associations that characterized Casale as a mob-trusted roofing entrepreneur:

Q. Chief, I'd like to turn your attention to an individual cashing checks at a check cashing business called Island Check Cashing in Atlantic City. We've heard testimony from the check casher which was read here that an individual named Rick Casale cashed checks at the check casher. Are you familiar with the name Rick Casale and, if so, who is he?

A. Yes, I am. Casale is considered a close confidante of Nicodemo Scarfo, boss of the Bruno/Scarfo LCN organization. Scarfo has employed Casale as an enforcer and bodyguard and driver. Casale has been a member of Roofers Local 30 out of Philadelphia and has provided parolees with fraudulent paychecks from Local 30 to satisfy their [prison] work release programs. He owns and operates two roofing companies in the Margate area. Casale's criminal history reflects charges for assault and battery, mail fraud and extortion. His criminal associates include the notorious Nicodemo Scarfo, Stephen Traitz, Jr., ex-business manager of Roofers Local 30-30B (recently convicted for conspiracy to bribe judges and embezzlement), and Phillip Leonetti (recently indicted for racketeering and other crimes).

PUBLIC HEARING—THIRD/FINAL DAY (April 28, 1988)

SCI Accountants Spotlight Probe Findings

The SCI's investigative accountants played a significant role in the check cashing probe because of the necessity to review not only the books and records of check cashing entities but also the records of their customers. Many customers were corporations, a number of which were out-of-state and thus beyond the Commission's jurisdiction. As noted, the books and records that were available were often inadequate for auditing purposes—so much so that the "condition of records" was made a part of a chart compiled by the SCI to highlight "Examples of Questionable Transactions by Customers of Check Cashers."* This exhibit, which reflected only a portion of the Commission's findings, was posted during the joint testimony of the check cashing investigation team's Investigative Accountants Arthur A. Cimino, Michael R. Czyzyk and William V. Miller. They were responsible for scanning literally thousands of cancelled checks as part of the Commission's dissection of a multitude of questionable transactions. In addition, the SCI's accountants and special agents, as Miller noted in his testimony, "reviewed the records of the Department of Banking, federal court records, state court files, bankruptcy files, local, county, state and federal agency files." The team also conducted background investigations on dozens of check cashers, "past and present, licensed and unlicensed," as well as on their customers. According to the testimony of the accountants, many of the customers of check cashing entities were corporations who, Cimino said, "for the most part had bank accounts" but were nonetheless cashing receivables (checks payable to their businesses) at check cashing outlets. Earlier testimony had suggested that certain marginal companies could not cope with check clearance restrictions imposed by banks and had to utilize check cashers to maintain a cash flow essential to their oper-

*See chart, p. 78.

ation. However, Cimino said the Commission's investigative findings indicated that "the potential for public harm outweighs those isolated cases." Indeed, Cimino testified, so many companies were utilizing check cashers, for whatever reason, that in one case alone he "stopped counting" when the number reached 500.

\$26 Million in Corporate Checks

Asked by Counsel Gaal to comment on the suspiciously large volume of checks payable to businesses that were cashed at check cashing outlets, Cimino cited as an example the auditing of client transactions at City Check Cashing in Jersey City.

MR. CIMINO: Let me just cite some statistical data from one check casher. Over a 15-month period, from January, 1986, to March of 1987 we identified \$26 million in checks payable to businesses. We can say 70 companies each cashed at least \$30,000 worth of those checks. Of [these 70 companies], 34 cashed over a hundred thousand dollars each . . . We had eight go over a million and in that group there was one which cashed almost four and a half million dollars in checks payable to three companies.

MS. GAAL: Mr. Cimino, how many companies did you find in that \$26 million worth of business checks? Were you able to get a total number of companies?

MR. CIMINO: We stopped counting at 500 although some were not—you know, not into it with a lot of checks, but we found at least 500 companies involved in that activity.

MS. GAAL: Mr. Czyzyk, was this type of activity found in our review of other check casher records?

MR. CZYZYK: Yes, definitely but on a much smaller scale.

MS. GAAL: And on the other hand, Mr. Miller,

were there instances that we found [of] check cashers who did handle the ordinary type of business expected of check cashers?

MR. MILLER: Yes, there were. They handled the normal welfare, unemployment and pay-rol' type checks, yes.

Customers Could Not Be Located

Counsel Gaal's questioning of the three accountants elicited comments on some of the difficulties of investigating New Jersey's check cashing industry. One problem was the inability of the SCI to locate and identify certain check casher customers:

MS. GAAL: Mr. Cimino, did the staff run into problems trying to identify and locate the customers?

MR. CIMINO: Yes. Some we still haven't located. Some are known now to be fictitious, the payees were fictitious.

Graf Air's \$4 Million Check Spree

Utilizing the Commission's chart on "examples of questionable transactions,"* Counsel Gaal asked the accountants to indicate what had become suspect in the check cashing activities of the companies listed on the exhibit. The company with the biggest dollar amount of checks cashed during the 15 months between January of 1986 and March of 1987 was Graf Air (and its subsidiaries), a New York trucking entity that was involved in an extortion conspiracy to assure labor peace at John F. Kennedy Airport. The company's owner, George L. Parker, is under indictment for labor racketeering and extortion. Two others in the case, Salvatore J. Reale, a Gambino/Gotti associate, and Frank Calese, a teamsters union leader, are in prison after pleading guilty to Federal indictments charging extortion and conspiracy. Counsel Gaal asked accountant Miller about this case:

*See chart, p. 78.

MS. GAAL: Mr. Miller, let's take a look at the chart starting with the first entity, Graf Air. What can you tell us about that entity and what our investigation revealed?

MR. MILLER: The correct name is Graf Air Associates and its affiliated company is Commodity Haulage, Incorporated. Both companies are located in Jamaica, New York. They presented problems for us since we couldn't get witnesses and records because of a jurisdictional problem. What we did find out was that, during the 15-month period, some \$4 million dollars worth of checks were cashed through City Check Cashing and that the person who cashed the checks was a Richard Ramhap. He's the son-in-law of the owner, George L. Parker. Now, Mr. Parker, we determined later, had been a defendant in a federal indictment in 1986 with two other individuals, namely, Salvatore J. Reale, who was at the time head of security, and a Frank Calese, who was then a president of Local 295 of the Teamsters. The indictment indicated that they used the firm of Commodity Haulage to generate a source of extortion. The payments were handled from [a] third party into Commodity Haulage concerning labor peace at the John F. Kennedy Airport. The period covered in the indictment was from September, 1985, through April of '86, and by some coincidence the cashing of the checks at City [Check Cashing] began in May of '86 and continued to March of '87. Also curious is that on May 22, 1987, which is approximately a month or so after our records indicated that the checks stopped, George L. Parker petitioned the Bankruptcy Court in Brooklyn for involuntary bankruptcy . . .

MS. GAAL: Mr. Miller, this particular scenario illustrates one point I think we ought to bring out at this time. Did you notice during this investigation that although many of the customers were out-of-state customers and had access to New Jersey check cashers, we were unable to secure the principals in terms of asking them questions or to obtain their records? In fact, [were not] many of the largest customers beyond the jurisdiction of this Commission?

MR. MILLER: Yes.

EXAMPLES OF QUESTIONABLE TRANSACTIONS BY CUSTOMERS OF CHECK CASHERS

<u>ENTITY</u>	<u>\$ AMOUNT CHECKS CASHED JAN. '86-MARCH '87</u>	<u>CONDITION OF RECORDS SUBPOENAED</u>	<u>TAX RETURN FILED/STATUS</u>
Graf Air, et al	\$ 4,478,000	Not available*	Bankrupt, under probe
Pier Services	1,765,000	Incomplete	Yes, under probe
Corporate Mail Service	1,366,000	Not available	Under probe
Abato Truck Sales	1,067,000	Inadequate	No
Split-End, et al	1,048,000	Questionable	Yes, under probe
Cardinal Container	904,000	Incomplete	No, insolvency
L.A.T. Transportation	847,000	Incomplete	Yes, delinquent
First Street Textile	728,000	Incomplete	No
Mallory Truck Repair	593,000	None	No
County Delivery Service	523,000	Inadequate	Yes, under probe
A. Ambrosio & Sons	345,000	Incomplete	Referred for probe
Companies Transport	238,000	Incomplete	Bankrupt, referred for probe
Rick Casale	218,000		Referred for probe
SJN, Inc.	191,000	Not available	Under probe
LACNY	171,000		
TOTAL	<u>\$14,482,000</u>		

*"Not available" refers to records located outside of the jurisdiction of the Commission

Graf Air's Organized Crime Taint

The SCI's intelligence chief, Justin Dintino, was asked by Counsel Gaal to comment on some of the principals in the federal government's prosecution of the Graf Air case:

Chief, during this investigation the Commission has found that George Parker, a principal in Graf Air, Incorporated, an air freight trucking service in the New York area and owner of Commodity Haulage operating at J.F.K. International Airport, hired a Salvatore J. Reale as his director of security, with Frank Calese . . . [Parker and Reale were indicted] for extortion of money to insure labor peace. On January 15 of '88, Parker was indicted on four additional counts of violating the Federal Hobbs Act relating to racketeering in interstate travel. Does the name Salvatore J. Reale mean anything to you in the area of organized crime?

- A. Yes. Salvatore Reale is a significant associate of the Gambino/Gotti crime family [and] was John Gotti's representative at Kennedy Airport. Reale has convictions on federal RICO charges involving gambling, loansharking and extortion. His criminal associates include John Gotti, capo Anthony Ruggiano and soldiers Leonard DeMaria and Anthony Garrio, all of the Gambino/Gotti crime family.
- Q. *Since he was hired as director of security for Mr. Parker's firm at the JFK International Airport, does that hold any meaning to you based upon his organized crime associations?*
- A. Obviously, Mr. Reale was Gambino boss John Gotti's representative at the Kennedy Airport. As director of security for Mr. Parker's firm, [he was] in a position to perform criminal acts for the Gambino group, such as labor racketeering, theft and other illegal activities.

Pier Services' Cash "Disappears"

Counsel Gaal next asked the SCI accountants about Pier Services, whose president, Joseph Odorisio, cashed \$1.765 million in checks:

MS. GAAL: Mr. Cimino, what did the investigation reveal concerning Pier Services?

MR. CIMINO: This is a small trucking company that works the piers. The president is Joseph Odorisio, and that individual cashed \$1,765,000 worth of checks over the period of time we're talking about. Significantly, we estimate—and I examined his records myself—that approximately \$1 million of that amount simply disappeared. It's not recorded in his books and records and the cash disappeared. Mr. Odorisio asserted his Fifth Amendment privilege on what happened to the cash.

Corporate Mail Lacked Records

Accountant Cimino recalled that Corporate Mail Services of New York, another company listed on the chart, had cashed at least \$1.366 million in receivables—but its books and records were not available to the SCI. Cimino noted that this company's attorney "represented [to the New York SIC] that they now have real tax problems due to this activity." He also recalled that the company utilized its check cashing proceeds to pay its employees "off the books," which he indicated was an "underground economy" ploy to avoid paying taxes. Counsel Gaal noted that the chart showed that no records were available from Corporate Mail Services. She asked Accountant Miller to comment on that part of the exhibit:

MS. GAAL: Mr. Miller, before I ask you about the next entity, I know that one of the categories on our chart is "Condition Of Records Subpoenaed." Why did the staff feel that that was [such] a significant category that we should put it on the chart? What did you find generally when you went out to the customers?

MR. MILLER: Almost consistently we found that there was an absence of adequate records. In fact, there were indications where tax returns had not been filed [and] the records that were submitted to us were wholly inadequate.

MS. GAAL: Were there instances where there were no records.

MR. MILLER: Yes. I was going to say—there were no records—what little records were produced were, obviously, of no benefit to us as accountants.

Cardinal Container: "Unusual" Case

Earlier in the hearing, it had been revealed that the assets of Cardinal Container, a trucker, were siphoned off—a "bust-out" in mob parlance—mostly by means of a fraudulent scheme involving a factoring company, Rutherford Commercial, and the cashing of checks based on phony invoices. Counsel Gaal asked Miller for comments on this case:

MR. MILLER: It is an unusual scenario. We heard from Donald Sanns, [on the hearing's] first day, and he demonstrated how he fell prey to manipulation by a party by the name of Vince Murphy. What we found was this: About \$904,000 of checks were cashed at City Check Cashing during the period up to October of '86, and it's interesting that Vince Murphy was the person who cashed the majority of those checks. An attempt to obtain the records of Cardinal was [found to be] almost impossible because there were disputes between them as to which person had the records, and the end result was [that] we had no access to any of the records. I doubt very much whether any tax returns were ever filed. What's interesting is that when we got into the factoring situation, where Sanns claimed . . . [it was] unknown to him that Vince Murphy was both a principal in his company and also a principal in the factor [company] . . . apparently a bulk of these checks, the \$900,000, came from the factor and . . . about \$300,000 worth of the factoring invoices were determined to be false or fraudulent.

First Street Textile Scheme

Accountant Czyzyk testified that First Street Textile, another company on the SCI chart, had apparently conspired with a New Jersey check

casher to circumvent the law requiring the filing of Currency Transaction Reports (CTRs) when amounts over \$10,000 were involved:

MS. GAAL: Mr. Czyzyk, the next [company] is First Street Textile. What is their business and what did the investigation reveal?

MR. CZYZYK: They were a manufacturer of ladies apparel in Union City, New Jersey, and the investigation revealed that they cashed approximately \$728,000 in checks through a check casher in that area.

MS. GAAL: What was the amount?

MR. CZYZYK: \$728,000 worth—a little over \$600,000 was made payable to First Street directly and the remainder was made payable to a subcontractor that [it] controlled. The checks were presented to the people at First Street and the people at First Street were the ones who negotiated the checks at the check casher.

MS. GAAL: In connection with this aspect of the investigation, were Currency Transaction Report violations revealed?

MR. CZYZYK: It appears that there were. The checks that we examined were consecutively numbered, were made out on the same day from the same maker. If you took the checks individually each would be under the \$10,000 CTR limit but collectively they were well over that limit, requiring a Currency Transaction Report. We found about 35 instances of possible CTR violations with this company.

No Access to Books and Records

MS. GAAL: Mr. Czyzyk, the next customer, Mallory Truck Repair, [is it] in the truck repair business?

MR. CZYZYK: Yes.

MS. GAAL: And what did the investigation reveal concerning that company?

MR. CZYZYK: Through one check casher, City Check Cashing, [it] cashed \$593,000 worth of checks. The company president, Gabriel

Gnudi, was the individual who negotiated those checks. When we asked for books and records of the company, the answer was that they were in the hands of the accountant who had just passed away and we couldn't get access to them. In addition, no tax returns were filed for that company.

"Underreported Their Earnings"

Accountant Cimino testified that another company, County Delivery Services, had cashed \$523,000 in receivables at City Check Cashing in Jersey City and that, based on his scrutiny of available books and records, "I believe they underreported their earnings."

Diverted Funds From Creditors

As for another trucker in the public hearing spotlight, A. Ambrosio & Sons, accountant Czyzyk testified:

The one important point that was brought out in investigating this company was that the reason Ambrosio used the check casher was to divert funds from one company that had liens and judgments filed against it to another company, an affiliated company, which was free of those problems.

Bankrupt—But Still Cashed Checks

Accountant Miller recalled how another company filed for voluntary bankruptcy but continued to cash checks at a check cashing outlet. Finally it had to file for involuntary bankruptcy:

MS. GAAL: Mr. Miller, Companies Transport Incorporated? Same questions.

MR. MILLER: Companies Transport is also a trucking company. The records indicated there were about \$238,000 worth of checks

cashed at City Check Cashing during the period April of '86 to October of '86. The bulk of the checks that were cashed occurred in about May of '86 and . . . [on] June 17, '86, the company went into voluntary bankruptcy. Now [it] proceeded to cash checks after that period of time and on October 7, 1987, was forced into involuntary bankruptcy.

Check Cashers Violate Regulations

The Commission's accountants testified about a number of infractions of regulations by check cashers:

MS. GAAL: Were obvious violations of the New Jersey Department of Banking rules and regulations found?

MR. CIMINO: Yes.

MS. GAAL: Were [there] violations of the rule requiring that corporate resolutions be on file before corporate customers cash checks?

MR. CIMINO: Yes. There were many of those violations although I think they're significant only because they show that the check casher really doesn't follow the rules.

MS. GAAL: Are you saying that the requirement for the corporate resolution is not a significant requirement?

MR. CIMINO: I don't think it is. I mean, it really doesn't protect much.

MS. GAAL: Mr. Miller, did the staff find instances where check cashers did not deposit checks into their check cashing accounts?

MR. MILLER: Yes.

MS. GAAL: What did they do with the checks?

MR. MILLER: There are several instances where the checks [were] deposited into other accounts. In fact, there are situations where the checks would find themselves in separate accounts and other accounts in other banks. We can only find that the endorsement stamps

that normally are affixed to checks that are cashed indicate a licensed check casher. There were cases where the checks for the endorsement were "for deposit only" with an account number [and] with no indication that it was cashed. There's a requirement by the Department of Banking that the stamp [of] licensed check cashers [be] affixed on every check they cash and that's apparently an attempt to avoid that regulation.

MS. GAAL: Mr. Miller, did we discover one check casher who was operating without a checking account at all?

MR. MILLER: That's true.

MS. GAAL: How did he do it?

MR. MILLER: Well, he claimed that he went to his "friendly banker" and that person was able to take the checks in bulk and give him cash for them.

MS. GAAL: Right at the window?

MR. MILLER: Right at the window.

MS. GAAL: Mr. Czyzyk, does the investigation reveal the under-reporting of fees by check cashers to the Department of Banking?

MR. CZYZYK: That's correct. The Department of Banking requires annually the reporting of the number of checks cashed, the face values and the fees collected. We found situations where there was under-reporting to Banking and that followed through for tax purposes also.

MS. GAAL: Mr. Miller, the Public Advocate has issued a report on this subject, but with respect to our findings did we find evidence of check cashers charging excessive fees; that is, gouging customers?

MR. MILLER: I believe we heard testimony about the excessive fees and the gouging of the customers.

MS. GAAL: What about illegal loans in any form?

MR. MILLER: There were references to the holding of the checks, bouncing of the checks and of procedures where the check casher

would accept checks, knowing that the checks were going to bounce in a short time.

MS. GAAL: Mr. Miller, we heard testimony at this hearing about floating or kiting of checks. Did we find such activity in a check casher's records and by that I mean [by] someone other than Tony Gallagher?

MR. MILLER: Yes. We found a licensed check casher who operated ostensibly a normal check cashing operation, that he maintained what we considered a kite between his facility and an out-of-state check casher to the extent of \$5.7 million over a 10-month period of time.

MS. GAAL: Mr. Miller, again, one of the issues that's come up in the hearing is the use of fictitious payees, and by that I would include fictitious payroll and fictitious business names. What evidence was deduced concerning that during the investigation?

MR. MILLER: There's been a number of persons testifying [about that]. In fact, we had one episode here about Mr. Castagna and his contempt for the necessity of having an accurate payee . . . It would seem that the check cashers are more concerned with whether or not the check is good than whether or not the payee's name is of an existing person or a fictitious person.

MS. GAAL: Mr. Czyzyk, were instances found where the check cashers endorsed customers' names on checks or supplied endorsements?

MR. CZYZYK: Yes, definitely.

MS. GAAL: Mr. Cimino, throughout the investigation evidence was found of checks being received in batches from other check cashers, licensed or unlicensed, in or out of the State?

MR. CIMINO: Yes.

MS. GAAL: Is that something that was relatively prevalent?

MR. CIMINO: Yes. What that really accomplishes is that you can have someone operating unlicensed and cashing checks and then they have access to a licensed check casher's account to facilitate the unlicensed operation.

NJ Check Cashers' Association

Accountant Miller indicated that the New Jersey Check Cashers Association, whose books and records also were examined, spent almost 94 percent of its budget over a five-year period for political contributions and legal fees. As Banking Commissioner Mary Little Parell had noted, the Association customarily litigated against most of the Department's licensure approvals, apparently in an effort to limit competition against existing licensees:

MS. GAAL: Mr. Miller, did you examine the records of the New Jersey Check Cashers Association and can you summarize your findings?

MR. MILLER: Yes, I did and can, and to briefly summarize the records, there were 93.9 percent of expenditures over a period of time for both political contributions and legal fees.

Expert Reviews Probe's Organized Crime Aspects

Intelligence Chief Dintino Hits Mob Incursion

Although the SCI's chief of organized crime intelligence, Justin Dintino, testified on this final day of the public hearing, many of his individual observations have been incorporated into this report with the testimony of previous witnesses for the sake of clarity and relevance. However, his commentary was extensive and what has not already been cited on pertinent organized crime issues will be noted here.

Dintino's qualifications as an expert witness were put into the hearing record by Counsel Gaal. In 1985, he retired as deputy superintendent of the New Jersey State Police after 33 years of service, during 18 years of which he was involved with organized crime investigations and assembling and utilizing organized crime intelligence. He served on the President's Commission on Organized

Crime during 1983-86 and is past general and national chairman of the Law Enforcement Intelligence Unit, an international organization which exchanges crime intelligence data.

New Jersey's Mob Burden

At the outset Dintino summarized the organized crime elements most active in and near New Jersey:

Q. *Chief Dintino, regarding the traditional organized crime families known by the various names of La Cosa Nostra, Mafia and so forth, what organized crime families operate within New Jersey or exercise considerable influence on this State?*

A. You have the Bruno/Nicodemo Scarfo family and they operate basically in Trenton and south Jersey, with the exception of a segment in Essex and Union County and Atlantic City. You have the Gambino/John Gotti organization, which primarily operates in the north and central New Jersey. You have the Genovese/Vincent Gigante family which operates primarily in north and central Jersey. You have the Colombo [family with] Joseph Russo, Victor Oreno [and Benedetto] Alois. That is unusual but those are three individuals that are acting bosses at the present time and they basically operate in north Jersey. You have the Bonanno/Anthony Spero organization which operates basically in north Jersey. You have the DeCavalcante/John Riggi organization which operates in north and central New Jersey. And you have the Lucchese/Victor Amuso organization, which operates in north and central New Jersey, basically in the Ocean and Monmouth areas of central Jersey.

Who Constitutes Crime Group

Counsel Gaal asked Dintino to describe who constitutes an organized crime group. The testimony on this topic:

Q. *Could you describe the organizational structure of an organized crime family of La Cosa Nostra?*

A. At the top of the organization you have the boss, such as Nicodemo Scarfo, and you must understand that he is a complete despot. He has absolute powers over the organization, including life and death. All policy decisions are made by him. He normally receives a piece of the action from each individual connected with that organization, whether they be members or associates or whatever, including both legitimate and illegitimate businesses. Under him you have the underboss. The underboss is known as a buffer. Anyone wishing an audience with the boss would go through the underboss and more than likely wouldn't receive that audience unless he were someone in close standing with the boss. The consiglieri has no command function in the organization. He would be an advisor, a mediator. He would [be the] historian, a face saver, [and] mediate disputes. Below the underboss [are] capos or caporegimes, depending on the size of the organization. You may have five in a small organization. You could have as many as 15 or 20 in a large organization. The capos in some organizations control a specific criminal activity such as loansharking or gambling or labor racketeering. In other organizations, the capos would be in [charge of] a variety of criminal activities. Under the capo would be the soldiers and normally there would be an average of ten soldiers under each capo. It could be as few as three or four soldiers or as high as 20. Under the soldiers we have associates, and I might point out here that we're talking about criminal associates. I want to emphasize that when we're speaking about associates, a number of them are much more important to the organization than the members.

Greed Spurs Organized Crime

Dintino next described how an insatiable greed for money drives organized crime members and associates into any kind of a violent or non-violent crime that will produce cash or booty that can be converted into cash:

Q. What illegal activities are organized crime families involved in?

A. They are involved in illegal gambling, narcotics, loansharking, labor racketeering, murder, public corruption, white collar crimes, extortion, money laundering—you name it, they're involved in it. Their objective is making money. They'll do just about anything to make money.

Q. Are the proceeds from organized crime's illegal operations used to infiltrate and control legitimate businesses?

A. Yes, they are. Organized crime members and associates are always looking for places to invest illegal money. They want to legitimize cash so they're constantly looking for places to invest in legitimate businesses.

Q. Does organized crime have a need to launder or make legitimate the cash generated from illegal operations?

A. Yes, absolutely. It's very important that illegal income be run through a business so it becomes legitimate income. Organized crime would have a problem if they had nothing but illegal income. They have to show some legitimate income; otherwise, they could run afoul of the IRS in a net worth case. I might point out that they never forget Al Capone; he was imprisoned on an IRS net worth case.

Q. What are some of the ways that cash can be laundered?

A. Money laundering—an example would be someone purposely buys a tavern that's losing money and then they invest their drug money into the tavern, run it through the books, and the tavern now shows a large profit and they legitimize the money. They pay taxes on it. That's very important, pay taxes on it . . . make it legitimate income. Another example would be to [divert funds to] off-shore banks and then to legitimate businesses in that country and then transfer [the funds] to a legitimate business in this country. In other examples, many use legitimate businesses such as casinos, banks and stock exchanges, all of which have been used extensively, usually with someone on the inside. Another place to launder money is obviously check cashers.

Check Cashers Ripe For Scams

As three days of public hearing testimony amply confirmed, check cashing outlets offer fertile locales for almost every type of criminal enterprise. Intelligence Chief Dintino described how such establishments, licensed or unlicensed, are attractive to crooks and swindlers:

Q. Would having access to a check casher facilitate organized crime figures in their illegal enterprises?

A. It certainly would because it would allow them to embezzle funds, collect extortion payments, collect gambling debts, conduct loanshark operations, evade taxes and undertake many other crimes.

Q. Does a check casher also give organized crime a way to hide legitimate income to evade taxes?

A. Yes, by inflating expenses, by issuing checks for services never rendered and goods never received, thereby reducing taxable income; by issuing checks to fictitious individuals and businesses, by phony invoices and ghost employees, by receivables that are not reported on the books but cashed at check cashers.

“Wise Guys” Versus “Squares”

The SCI's investigation confirmed payoffs, kickbacks or extortion of usurious interest by means of disbursements to a certain “WGA”—meaning Wise Guy Association. These initials, found among certain books and records, described—or disguised—the organized crime recipient of illicit payments, as Dintino explained in his testimony:

Q. Chief Dintino, during the investigation of one business involved in the check cashing investigation we discovered handwritten notes of payments that had been made to an entity identified as WGA. We have been able to establish through testimony during the public hearing and in private session from those involved in the writing—the writing of the notes with the initials WGA—that this actually stood

for Wise Guy Association. From your experience in the field of organized crime have you ever heard the term “wise guy”?

A. Yes, I have. In my experience it means someone connected to an organized crime organization. The individuals within the organized crime group think of themselves as wise guys and they think people like ourselves as squares or straight people.

Siegel-Santoro Connection, Again

The names of Edwin Siegel of Clifton, Robert Santoro of Wanamassa and their City Check Cashing entity in Jersey City were cited in various episodes of misconduct during the Commission's hearing. As these episodes evolved in this report, Dintino's confirmation of their relationship to organized crime figures or frauds was noted. However, because of the Siegel-Santoro connection's significance in the SCI's probe findings, additional excerpts from Dintino's testimony on these individuals and their check cashing company are provided here:

BY MS. GAAL: Chief, during this hearing we've learned that Robert Santoro of Wanamassa, New Jersey, and his since-deceased father, Cono, had been involved in unlicensed check cashing businesses since the mid-1970s. Robert Santoro began working at City Check Cashing in Jersey City when Edwin L. Siegel of Clifton, the owner and a licensed check casher, opened his business in March of 1985. Robert Santoro presently works for Edwin Siegel at City Check Cashing. Robert and Cono operated unlicensed check cashing businesses at 1033 Communipaw Avenue in Jersey City, Colony Plaza, and associated with Robert Brandon's check cashing business at the same location which used the name Abob. The Santoro operations have been the target of federal, state and local law enforcement investigations for years. The Department of Banking has tried without success to curtail the Santoro check cashing activities. Do you know Robert Santoro . . . ?

A. Yes.

Q. *Does he have any connections with organized crime?*

A. Yes. Robert Santoro has a long involvement in the check cashing business. He was brought into the business by his since deceased father, Cono Santoro. Both Santoros have had a long relationship with Edwin L. Siegel through check cashing and other business operations. Robert Santoro is connected to organized crime through John DiGilio, a soldier from the Genovese crime organization; Anthony Gallagher, a significant associate of the Genovese group, and Robert Brandon, a known Genovese associate. He is also an associate of Richard D'Agostino, who is serving a life sentence in Trenton State Prison for a double homicide. City Check Cashing has always been and is today a front for the DiGilio faction of the Genovese operation to facilitate extortion payments, pay off usurious loans and [for] money laundering.

Q. *Do you know the name of Edwin L. Siegel, date of birth March 19, 1935?*

A. Yes, I do.

Q. *Does he have any connections to organized crime?*

A. Edwin Siegel owns City Check Cashing. He employs Robert Santoro who manages the business and [is] a known associate of DiGilio and Gallagher. City Check Cashing is a facility that has been utilized by the DiGilio faction of the Genovese organization for criminal activity such as loansharking, gambling, debt collections. Edwin Siegel is either a willing or unwilling front for the Genovese organized crime group. It has been documented in the past that Edwin Siegel had business relationships with Pasquale A. Macchiarole, a Genovese LCN, who was murdered May 22, 1978, and Phillip (Brother) Moscato, a known associate of the Genovese organization.

Q. *Chief, during this hearing we have demonstrated that major organized crime figures and their associates from the major organized crime families operating both in and out of the State of New Jersey are using the services of New Jersey check cashers. In several instances we've seen high-level members of or-*

ganized crime families traveling from another state. We have heard them on court-authorized electronic surveillance tapes discussing organized crime business and profits and about providing this service of cashing checks for other parties and many times paying considerably more for this service than if they simply deposited the check into their respective bank accounts and drew upon the check. Do you have an opinion as to why check cashing operations are so attractive to organized crime?

A. Certainly. It provides organized crime with a vehicle to conduct numerous criminal activities.

Q. *Does organized crime's infiltration of New Jersey check cashers for [utilization as] fronts give you any concern as to what they are being used for by organized crime?*

A. Without question it concerns me. I know [that] the check casher enterprises are being used by organized crime to facilitate a number of criminal activities.

Jailed Former Leader of Check Cashers Testifies

Alan Strober of Union, a principal in New Jersey's largest licensed check cashing conglomerate, was brought to the public hearing from the federal prison in Morgantown, West Virginia, to provide testimony from the viewpoint of a former president of the New Jersey Check Cashers Association (NJCCA). He was a cooperative witness, who was serving a prison term imposed after he pled guilty to charges he violated the federal law requiring the filing of Currency Transaction Reports (CTRs) on transactions involving more than \$10,000. He became president of the NJCCA in June, 1987, but did not resign that office until February 10, 1988, more than seven months after his guilty plea to the federal crime. No effort to oust him from office was initiated during that period by the NJCCA. More importantly, the State Banking Department as of the time of his public hearing testimony had not revoked his license. Such inaction unfortunately suggests to the pub-

lic, and to the check cashing industry, that neither the state regulatory agency nor the professional association of check cashers is unduly concerned that a major check cashing licensee and leader of other such licensees is a convicted felon who remained completely free of regulatory or professional sanctions for a prolonged period of time. As noted in the questioning of various other witnesses on the subject of CTRs, the violation of the filing requirement for these forms was crucial to the successful commission of massive embezzlements, tax evasions and other frauds in the check cashing industry.

Gallagher a "Very Bad Customer"

In his early days as a licensed check casher, Strober said, he had been befriended by Anthony Gallagher—whose questionable activities were described during the public hearing—and he had touted Gallagher as a worthy business associate. However, that assessment of Gallagher turned out to be a mistake, as Strober recalled in response to questions by SCI Counsel Clark:

Q. When you first went into the check cashing business and bought a business from another check casher, you recommended Anthony Gallagher as a good customer. Is that correct?

A. That's correct.

Q. And was Mr. Gallagher a good customer?

A. No. Mr. Gallagher was a very bad customer.

Q. In what respect?

A. Well, I was victimized by his [check] kiting techniques.

Q. How so?

A. Mr. Gallagher at that time was operating a check cashing establishment in Elizabeth under his brother's name and he didn't have a banking facility, so he would cash his checks at our place of business. Interspersed within the batches of checks that he brought were what turned out to be fake checks and those fake checks turned out to be a kite.

Q. Approximately when did that occur?

A. That occurred in my first couple of months of business 11 years ago when I was a neophyte in the industry.

Q. About 1977?

A. Yes.

Penitent Convict Urges Reforms

Strober discussed a number of reform proposals, several relating to his own misconduct as a licensee, as he was questioned by Counsel Clark:

Q. Based on your experiences, do you have some recommendations for the Commission as to how to prevent, identify or deal with illicit activities in the check cashing industry?

A. Yes, I do. I [would] propose seven or eight new laws or regulations which I don't believe are on the books at this time which would very much thwart the efforts of would-be [money] launderers. There's no requirement at this time that there be mandatory regiscoping of a transaction. There is a mandatory requirement for microfilming, but I think in addition to that requirement there should be regiscoping, certainly of all transactions over a thousand dollars.

Q. What would regiscoping include?

A. Okay. Regiscoping is the process of taking a picture of the customer cashing the check simultaneously with the check and with the identification that that person presented in order to cash the check. It would tell the whole story.

Q. Continue.

A. I also think that there should be a law explicitly [providing] that only the payee of the check can cash that check. There's nothing in the law at this time which states that only the payee can cash the check which allows a launderer to possibly cash a check payable to a fictitious payee. I think that customers of check cashing establishments should only cash checks if they

present valid IDs. That valid ID should be [a] government-issued ID . . . A very reliable ID would be a driver's license, voter's registration, alien card, passport, welfare ID, hall of records ID. I think that only this kind of ID should be accepted by a check casher with the one exception that, perhaps, if an ID was issued by the customer's employer, that should also be considered reliable, responsible ID. That would stop people from cashing checks payable to fictitious payees.

Against Check Bouncing Loans

I also think that there should be a law against habitual bouncers of checks. I think that if a maker of a check bounces a check at a check cashing store more than three times in one year, that maker should not be allowed to have his checks cashed at a licensed check cashing store. If that law is not on the books, it will allow unscrupulous check cashers and their unscrupulous customers to use the check cashing mechanism for disguised lending, being that if a guy cashes a check at a store and it's an out-of-state check, it takes about ten business days for that check to come back to the check casher, so they can easily make a two-week loan. The check casher may know that that check is not good for cashing. It's a disguised loan.

Customers Should Get Receipts

WITNESS (continuing): I also feel that there should be a law posted at all check cashing stores that a customer has a right to a receipt of a transaction. That's also protection to the casher. An honorable check casher wants to have his customer know that he got every penny back. It should be posted; it should be the law; it should be the customer's right. I also feel that there should be a law, also posted at the check cashing store, that [customers] have a right to make a toll free call on a consumer complaint hot line; that if they feel they've been dealt with unfairly or dishonestly, they can air

their grievance immediately. I think there should be one further law that should be posted at a check cashing store, that [it] is not a payee's right, a customer's right, inalienable right, invincible right to cash a check—that obviously he can't be turned down on the basis of race or religion but he should be turned down if his identification is not sufficient . . . A lot of people feel that it's their absolute right to get their check cashed whether they have identification or not. I also [note] that when a person violates a check cashing law they're subject to a thousand dollars' fine. I think that law is behind the times. In New York it's a \$5,000 fine to violate the statute. I think our own state should update [its] statute to \$5,000. That would put more teeth in the law.

BY MR. CLARK:

- Q. *What about the problem of money laundering through check cashers?*
- A. I think the standards of the check cashers should be raised. And I think that anyone who cashes a substantial amount of checks through a check casher per day or per week, per quarter, per year should, once again, go on a list that should be sent down to the Banking Department for governmental scrutiny, once again, be it the IRS, the Treasury Department, the FBI, the U.S. Attorney, the Attorney General.

Statements Submitted

As in the past, and as provided for by the SCI's enabling statute, statements were presented at the hearing for inclusion in the public record. Such statements were submitted by Anthony Gallagher of Bayonne, the unlicensed check casher who had testified previously at the forum, and by Gerald Goldman, counsel to the NJCCA. Despite the Commission's emphasis at the hearing that a majority of licensed check cashers were law-abiding individuals and entities, and that the SCI's objective was to eliminate the misconduct of a relative few check cashers who were shaming the industry, Goldman's and the NJCCA statements criticized the public hearing process for clouding

the "credibility of the entire industry." Gallagher's statement represented primarily an extension of his public hearing testimony that also criticized the Commission's public hearing procedure. These statements are on file at the SCI and are available for public inspection.

IRS Concerned About "Untraceable Cash"

Check Cashers Provide Mechanism for Tax Evasion

As the Commission approached the conclusion of its three-day hearing, the testimony focused increasingly on specific problems in the check cashing industry and on what reform proposals could best resolve these problems. As emphasized throughout the public hearing, the role of check cashing outlets as a mechanism for tax evasion and other frauds highlighted the Commission's investigative findings. The secretive conversion of checks into cash through such entities particularly interested the U.S. Internal Revenue Service, to which a number of cases uncovered by the SCI's probe had been referred even before the hearing began. The IRS assisted the SCI during the inquiry and not only closely monitored the public proceedings but also assigned a representative to testify about the agency's overall reaction to the litany of fiscal misconduct that had been put into the record. The IRS spokesman, James J. Lane, the north Jersey branch chief in the IRS Criminal Investigation Division and a 25-year IRS veteran, testified that check cashing companies offered unusual opportunities for income tax frauds:

BY MS. GAAL:

Q. During your tenure at IRS have you come into contact with check cashers in New Jersey who have violated the law?

A. Yes, we have.

Q. Have you also come in contact with individuals or businesses who utilize New Jersey check cashers to violate the law?

A. Yes. It's a perfect marriage. The check cashers provide the opportunity for legitimate business entities as well as illegal entities to generate cash.

CTR Law Key Monitoring Tool

Lane, testifying from the viewpoint of an IRS enforcement chief for north Jersey, described the importance of compliance with the federal law requiring all financial institutions, including check cashers, to file Currency Transaction Reports (CTRs) when more than \$10,000 in cash is involved. He testified that the IRS has made a "concerted effort" to enforce the law since the early 1980s, with such vigor, in fact, that CTR filings in New Jersey alone soared from a mere 13,500 in 1982 to close to 150,000 in 1987. Chief Lane explained that the upward trend for CTR filings is nationwide in scope. He also indicated that, 1) as a result of the increased CTR filings, money laundering probes by the IRS have multiplied to such an extent that his agency now has a "full group involved in money laundering type of investigations," and 2) that increased compliance with the CTR law by banks and other traditional financial institutions has apparently been a factor in the huge rise in check cashing activity at check cashing outlets. Lane expanded on these topics in response to questions by Counsel Gaal:

Q. Sir, our investigation has revealed that with respect to the check cashing industry in New Jersey there is a marked increase in the total number of checks being cashed as well as an increase in the dollar amount of checks cashed at check cashers. Also the average dollar amount of checks is on the rise. To what would you attribute that?

A. Well, I think it's a direct result of the vigilance we've maintained with some of the other financial institutions. As I indicated, we were very aggressive in the early 1980s as far as banks [were concerned]. In May of 1985 the casino industry came on . . . and we did have a number of specific instances during that period where money launderers did use banks and the casinos as well as other financial institutions. I think [money launderers are] look-

ing for the type of accommodation that the check cashers provide, and it's not surprising at all that the volume that is going through the check cashers now has increased to that extent.

Q. *Will banks typically refuse to cash checks that are made payable to corporations and businesses?*

A. Yes.

Q. *Do they generally require that those checks be deposited into a business account?*

A. That is the normal way of doing business, yes.

Q. *Have CTR cases [been] developed either from information obtained from check cashers or because check cashers themselves failed to comply with the CTR requirements?*

A. We have initiated investigations on CTR violations involving check cashers but primarily they [are] criminal investigations . . . Requirements from the check cashers are minimal, so, by and large, we have penetrated the check cashing industry through our criminal investigations involving tax evasion and/or money laundering.

Q. *Are there cases in New Jersey where individuals use check cashers to evade the income tax?*

A. Oh, there's no question, yes.

Q. *Are there cases where check cashers have been used by people who wish to generate cash for payoffs?*

A. Yes.

Q. *Are you familiar with any particular political payoffs or payoffs to political officials, elected officials?*

A. The specific case I have in mind has that potential, I guess.

Q. *Is this something current that you're working on?*

A. Well, yes, there is [a] continuing investigation that really has evolved through the check cashing phase. It's my understanding

that—and this is going back a few years—in connection with the Musto case, the former mayor of Union City, that check cashers were involved to generate cash, but it's a natural sequence. To the extent that business checks are diverted and cashed or fictitious checks are used and cashed, the cash loses its identity and the paper trail comes to an end so that the cash can be used for any purpose; for payoffs, for pure tax evasion, to fund an illegal operation, [such as] gambling, to purchase narcotics. Once the cash gets into [an] individual's hand, he can use it for a variety of purposes.

Q. *Does [any] past investigation concerning an unlicensed check casher come to mind?*

A. Yes, it does. During the early 1980s we investigated an unlicensed check casher [as well as] factors and note buyers. Basically we determined, once we zeroed in on that check casher, that they had generated approximately 14 million dollars in cash in violation of the currency reporting requirements. As a result of that investigation of the check casher, we were able to identify a contractor who cashed in excess of \$600,000 in checks through that check casher.

Organized Crime and Tax Frauds

Chief Lane conceded that organized crime members and associates had figured in a number of IRS inquiries involving check cashers. Responding to Counsel Gaal's questions:

Q. *Have you seen or suspected the presence of organized crime in connection with any of your check cashing investigations?*

A. Yes. We did have a situation [when] one individual by the name of John Bilotti was involved with check cashing through a bank in North Jersey. Ultimately when the heat was brought on that bank, he utilized the services of [a] check casher and the indication was that the bulk of the checks that he was negotiating were checks from New York City. Ultimately, what our investigation zeroed in on, he was subpoenaed by the Organized Crime Task

Force in North Jersey. Unfortunately, before he was brought to the Grand Jury, he was killed and his body was found, I think, a couple of blocks from our office in New York, but the subpoena was still in his pocket.

Q. What can organized crime use check cashers for?

A. Well, basically the primary purpose is to generate untraceable cash. Once they accomplish that, either through diversion of income checks or through fictitious checks or the laundering of small denomination bills, they can use [the cash] for whatever purpose they deem appropriate. In effect, [money] loses its identity. There's no paper trail and they can use [the proceeds] for whatever purpose they want—kickbacks, narcotic trafficking, loansharking, gambling. The sky's the limit.

Disguising Check Cashers' Identity

Some clients of check cashers do not, for questionable reasons, want their checks to bear the endorsement of a check casher, as required by the check casher law. Chief Lane described how this requirement is circumvented:

Q. One of the issues that has come up in our investigation involves the use of a stamp that disguises the transaction as having gone through a check casher. In other words, the endorsement stamp does not bear the words "licensed check casher." Have you seen any instances of that in your investigations by the IRS?

A. Yes, we have, and, in effect, that [violation] provides us with a tremendous problem in trying to follow the paper trail. To the extent that we see the check go through and it has the endorsement, "For Deposit Only" of the check casher, there's an indication to us that the check has been cashed but, you know, that could be legitimate. But if the "For Deposit Only" stamp doesn't indicate it went through the check casher, then it wouldn't raise a suspicion, so when they use that type of a disguise to hide the transaction, it certainly

thwarts the paper trail as far as following through to see what actually happened with the check.

Bankruptcy Fraud, Bust-Outs

Q. One of the other issues that's come up during the hearing is bankruptcy fraud. Can that be facilitated through the use of check casher?

A. Very definitely, to the extent that they're dissipating assets and generating checks to fictitious entities or diverting receivables or income checks, the check casher provides a natural service to provide cash back in the hands of the individuals that are perpetrating the bankruptcy.

Q. Another activity is one which has been described during this hearing, a bust-out. Can a check casher be used to facilitate bust-outs?

A. Very definitely . . . [a check casher] provides an excellent vehicle to generate the cash that they can do whatever they want with—to the extent that the reporting requirements are not met. Even beyond that, they can structure transactions in low amounts and get beyond our reporting requirements.

Q. In other words, keep the amount of the transaction under \$10,000?

A. Right.

Q. Another scenario that's been described during this hearing is the use of check cashers to avoid tax liens or liens and judgments placed upon bank accounts. Again, could a check casher be utilized to facilitate that?

A. Yes, very definitely, to the extent that we had a lien on the known assets of all the bank accounts, once an individual gets an incoming check, diverts that to a check casher, generates cash which he can put in his pocket as opposed to going into an account that we would have control of, so by all means they can avoid any type of a lien—including federal.

Loansharking and Other Issues

Q. *What about the use of check cashers to facilitate loansharking or gambling, and I'm speaking in particular about using checks for payment?*

A. Well, again, it's a natural to the extent that they can provide that service to convert the instrument to cash and for loansharking purposes . . . in that they can create [a situation] where an individual can, in effect, pay off his personal gambling debts by making a check payable to a fictitious entity, write it off on his books, cash the check and then pay off his gambling debt. It provides a number of opportunities for individuals to generate cash to make illegal payments, either shylock payments or gambling payments.

IRS Chief Suggests Reforms

Chief Lane acknowledged that the increasing use of check casher outlets as an alternative to traditional banking institutions provided opportunities for generating cash that could also promote frauds and other crimes:

Q. *What is your opinion concerning the increasing importance, if there is an increasing importance, of check cashers in this state?*

A. Well, I feel that with the regulations [governing] other financial institutions and the increased compliance, [required], that check cashers, in effect, have become the only game in town to generate cash—not to say that, from an isolated situation a bank where you had an officer [to permit you to] accomplish the same thing—but they have ready access to the money, they provide a ready means to generate cash for whatever purpose and because of the restrictions on the various other financial institutions check cashers have, in effect, taken on all this additional activity from legitimate business entities that are looking to avoid income, evade income [taxes and] any number of illegal activities [for which it is necessary] to generate cash.

Q. *Have you given any thought to some recommendations that you would like to present to the Commission?*

A. Yes. We've had a number of discussions regarding the problems that have been created . . . with our investigations once they get to that level of the check cashers. Obviously, in New York State they do not cash checks in excess of \$2,500. Normally, check cashers . . . act as an accommodation for individuals who don't maintain bank accounts so it would seem inappropriate that they would need to cash checks in those ranges over \$2,500. That dollar limit is something that, I guess, would have to be looked at. I'm not sure how long that has been in effect in New York . . . I think the primary role of the check casher is to accommodate people who don't use the banking industry and that would seem to [require] some maximum on the amount of the check that can be negotiated. Obviously, the cashing of corporate checks creates a tremendous problem for us, particularly to the extent that they use, you know, the bogus [endorsement] stamps. It has all the aura of a real transaction, so I definitely recommend that they be precluded from cashing corporate checks. Realistically, I would say that there should be a positive ID on the payee of the check. They should make every effort to identify that if John Jones comes in with a check made out to him, that he is, in effect, John Jones and not someone else using [a] fictitious identity. I strongly recommend that a positive ID of the individual who is negotiating a check [be obtained].

IRS Reform Proposals Reviewed

As Chief Lane concluded his observations reflecting the IRS reaction to SCI probe findings, the Commission questioned him about his reform proposals:

BY COMMISSIONER DUMONT: Mr. Lane, with respect to corporate checks, apparently in New York the check casher [cannot] cash corporate checks. Is that correct?

WITNESS: That's correct. That's my understanding.

COMMISSIONER DUMONT: Are you saying that New Jersey should adopt that same standard?

WITNESS: Yes.

COMMISSIONER DUMONT: You also are indicating that New Jersey should put a limit on the amount of the checks cashed so that the check cashing service is still available to low-income people who do not use banks but not available to the abusers that we've discussed. Is that correct?

WITNESS: That's correct.

COMMISSIONER DUMONT: Are there any other regulations in New York that you think New Jersey should adopt?

WITNESS: Basically those are the ones we've been exposed to because, based on our investigations, that [is what] has caused the people from New York to come to New Jersey to negotiate checks. Those are the ones that go to the heart of our investigations and we feel that, to the extent that those same regulations were to be put into effect in New Jersey, it would be a great boon to us in the conduct of our criminal cases.

COMMISSIONER DUMONT: I take it, due to the efforts of IRS in the early 1980s with respect to banks, that there has been, as you testified, greater compliance in the banking industry. Has that driven people to check cashers as a means of evading the CTR requirement?

WITNESS: Yes. I think very definitely it has.

COMMISSIONER DUMONT: Let me ask you: You referred to the Musto case. Would you tell me how check cashers were used in that case to facilitate the crimes that were involved?

WITNESS: That was in response to a specific request, I guess, about payoffs, and I'm not totally familiar with that investigation but . . . bogus checks were cashed through a check casher [which] generated the cash used to make the specific payoffs.

COMMISSIONER DUMONT: There were payoffs then to politicians?

WITNESS: Political payoffs, yes.

COMMISSIONER DUMONT: But the cash generated through the check cashers was used, as far as you could tell from your review of the file, for illegal payoffs. Is that correct?

WITNESS: That's correct.

COMMISSIONER DUMONT: Now, just one final area: You indicated that through the use of check cashers the paper trail is lost. Could you tell me how this is different than through using a bank?

WITNESS: Well, by and large with a bank all checks are deposited and if anybody looks at that check they can see that the check actually went into the bank account both by the endorsement and through the deposits in the account, the account statement, so there is a specific paper trail. If I have expenditures, I deposit the income check . . . it's reflected as income and then I generate the checks to make payments for the expenditures. With a check casher that whole system, to the extent that they don't report, goes out of whack because the individual comes in, the check doesn't go through his account. That doesn't necessarily mean it isn't reported but anybody looking at that check would see that the check, in fact, was cashed so it would raise a question. But to the extent that the check casher used the "Deposit Only" stamp and [had] not referenced that it was cashed through him, then it [would] look like a legitimate transaction [as] if the check went into the account of the payee. I guess the real problem is fictitious checks. If we saw a series of income checks going through a check casher, we'd have a serious question . . . to the extent that you've got fictitious checks.

BY CHAIRMAN PATTERSON:

Just to make sure the record is clear, I don't believe New York has any regulation against cashing corporate checks through a check casher. What happens is there is one bank in New York City that accepts checks from the check casher but they will not accept corporate checks from the check casher, which effectively blocks the cashing of corporate checks in New York. I point that out because in order

to prevent it in New Jersey you'll have to have a regulation saying you can't—a check cashing company can't accept such a check or can't cash such a check or you'll have to work through the banks in such a way that they won't clear such checks or won't accept such checks.

BY COMMISSIONER EVENCHICK:

I gather, sir, from your testimony that since 1986 the effectiveness of the Federal law on cash transaction reporting has been enhanced by virtue of increased civil and criminal penalties for the failure to make such reports. Is that correct?

WITNESS: That is correct, yes.

COMMISSIONER EVENCHICK: Would you then predict, on the basis of your experience with the federal law as it pertains to the CTRs, that New Jersey's ability to control abuses in the check cashing industry might be enhanced if there were new and more stringent civil and criminal penalties associated with the failure to comply with the regulations?

WITNESS: Yes, by all means. As I indicated, in 1986 the new money laundering law went into effect and criminal as well as civil sanctions were raised substantially and that did certainly increase compliance.

COMMISSIONER EVENCHICK: I understand that at the moment there are no criminal penalties in New Jersey for failure to comply with the regulatory scheme and if that's true, I would not be surprised to find recommendations coming out of these hearings that consideration be given to adopting criminal legislation.

Banking Commissioner Parell Sums Up

The Commission's final witness after three days of testimony on the check cashing industry was Mary Little Parell, the state banking commissioner. Ms. Parell and her staff had monitored the proceedings closely since the outset. As noted when she testified earlier as the hearing's opening

witness, Ms. Parell and her staff were cooperative and forthcoming throughout the SCI inquiry. Her reaction to the investigative findings—and her contribution to the public discussion of them—impressed the Commission as an indication that its proposed resolutions of the industry's problems would receive strong departmental support. As for specific reform proposals, Ms. Parell's second appearance as a witness was considered significant because she provided valuable insight that materially assisted the Commission in projecting its formal recommendations for regulatory and statutory improvements. These appear at the conclusion of this report (beginning on p. 99).

Before Ms. Parell presented her views on regulatory reforms, she outlined her department's efforts, despite the limitation of a civil (rather than criminal) enforcement process, to oversee the check cashing industry. She gave official chronologies of her department's activities in coping with examples of criminal and regulatory misconduct by check cashers and their clients that were revealed at the hearing. Her presentation indicated to the Commission that the regulatory system's purely civil law framework was inadequate and that certain check casher activities had to be proscribed as activities subject to criminal law sanctions.

Wants More Than "Fine-Tuning"

Ms. Parell told the Commission her department hoped that more than mere "fine-tuning" recommendations would result from the SCI probe and hearing. Although she conceded that law revisions to prohibit check cashers from handling checks payable to businesses and a limitation on the amount of a check that they could process could be "really major" changes, she said that she—along with Deputy Bank Commissioner Robert Wagner, Consumer Credit Bureau Chief Joseph Lanigan and the departmental deputy attorneys general and staff lawyers—were "prepared to offer a conceptual framework," including several options, upon which to base regulatory and statutory revisions. Her prefatory comments generated an exchange of views with the SCI panel. For example, Commissioner Barry H. Evenchick recalled that Gerald Goldman, counsel

to the New Jersey Check Cashers Association, had claimed in his statement to have submitted a number of complaints to the Banking Department about the prevalence of unlicensed check cashers:

COMMISSIONER EVENCHICK: . . . I recognize that much of what Mr. Goldman says . . . predated your time [in office], but have you had the opportunity to look into the records to see whether such complaints had been dealt with and, if so, in what way?

WITNESS: Yes. I don't think that I can give a totally complete answer but I am aware of at least one occasion where the check cashing association identified for us five or six names which they alleged to be conducting unlicensed check cashing activities. Two of those were licensed, two of them were Gallagher operations and one of them—I believe one—was an unlicensed location that we were not aware of . . . Then we asked the complaining licensee, a member of the association, to assist us in coming up with some provable stuff, but it didn't go anywhere. Most recently, several weeks ago we did a sweep, I guess you would say, of six locations alleged by a licensed check casher in their vicinity to be conducting unlicensed check cashing activities. Two thousand dollars' worth of examiner time produced not one single indicator that any check cashing for a fee was going on . . . I'm sure there have been other instances where Mr. Goldman and his association indeed have communicated with us.

“The Hard Work of Reform”

Ms. Parell proposed a number of options for reforms of the regulatory system, “the hard work of reform,” as she put it, beginning with the conception that check cashers should be licensed only “to serve individuals.”

WITNESS: Option one—concentrate regulatory attention on licensees to serve individuals. Here you would prohibit licensees from cashing checks payable to business and checks above a certain dollar amount. I would

prefer a lower dollar amount than \$2,500, maybe \$1,500, with specified exceptions like the New York law has. You would make licensing of [a check cashing] business much easier. It wouldn't take me a year and a half to process those licenses if you reduced the entry criteria. However, you have to answer the question that for the other checks floating around in this State that aren't going to be presented at banks, those above \$1,500 and those payable to businesses, where are they going to go? And should we ignore it, deregulate it or criminalize it? It's very difficult to decide whether just to push those checks into the underworld and ignore them or to address that before decriminalizing it—and it will be difficult to detect once you have, as a matter of public policy, written them out of the New Jersey check cashing statute.

CHAIRMAN PATTERSON: Another thing that would happen is you [would divert] them from New York [and] New Jersey to Pennsylvania, where they have no regulations.

WITNESS: And certainly, though, something is happening in New York which is causing the problem to get pushed into New Jersey . . . Another option I think that even responsible people must consider is full deregulation of the function of cashing a check for a fee. You know, 47 states do not regulate this area and much of the testimony that we have heard has been directed to the fact that if you legitimize check cashing for a fee, then you are providing a legitimate vehicle for the unscrupulous to abuse, pervert, and perpetrate criminal acts. It's really something to consider. I don't think it would be in the best interests of the citizens of this State, though, especially not those who have a legitimate need for a check cashing service in their neighborhoods at a reasonable fee.

COMMISSIONER EVENCHICK: May I interject a question at this point? Is it within the authority of your Department to require the banks of New Jersey to provide a check cashing service for the consumer that everybody agrees needs that kind of service from some place?

MS. PARELL: No . . . [A] bill comes up in our

legislature every year as it does in the Congress to require banks to cash government checks for nondepositors. Here in New Jersey, if we should do it, it would affect only the State-chartered institutions . . . So there's no easy solution to this problem . . .

Ms. Parell only briefly mentioned her third option, which would be such a "heavy handed regulation of check cashing" that she probably would never be able to issue a license. From this extreme she moved to what she described as a "two-tiered style of regulation:"

WITNESS: The first tier would be your average retail-type check cashing service—limited size of checks that could be paid, no business payees, and we would—we would streamline the licensing criteria, make it easy to [be licensed] . . . No question [but] that we can regulate for consumer compliance and we can prevent the overcharging by the use of receipts and [use of a] hot line, which we have already installed . . . Then on the second tier would be the full license category such as we have now. We would still be regulating every single transaction of cashing a check for a fee in the State . . . and that [process would involve] strengthened licensing criteria and civil and criminal penalties.

"Create a New Category of Crime"

WITNESS (continuing): . . . a fourth option that might get at this widespread problem of the utilization of check cashing for criminal purposes [would be] to create a new category of crime in New Jersey which would be written into our criminal code and actually made a part of our law enforcement process . . . My Department could do what it does well, which is to examine, and when we would see one of these indicators of criminal activity, we would get criminal law enforcement authorities involved. I would use my Special Investigation Unit, which I am installing for the purpose of developing to the point where it [and] criminal enforcement authorities would work together in [an] investigation. Now, if the criminal aspect could be addressed in that manner,

then the licensing policy it seems to me could be addressed in terms of the consumer, which is where it belongs. We would ask what would promote maximum availability of check cashing services in communities at minimum cost? Well, at that point, we could actually encourage people to take out licenses to cash checks for a fee and in order to encourage them we would simplify the licensing criteria and weed out a lot of our record keeping requirements . . .

Commissioners Seek More Details

As Ms. Parell's presentation ended, the Commission sought additional data on some of the specific proposals she cited, including a limitation on the amount of a check that could be processed through a licensed check casher:

CHAIRMAN PATTERSON: Thank you, Commissioner Parell. I want to explore just for a minute the possibility of putting a dollar limit on a check to be cashed. Is there in your mind some figure where any check over that amount is clearly not the kind of a check that should be taken to a check casher to be cashed?

WITNESS: Yes, indeed, the average check in this state is \$250. Most government benefits checks vary in a range from \$200 to \$400. A payroll check submitted by a person likely to use a check casher would probably be in the \$250 to maybe a \$500 range, if that. The New York law has exceptions for insurance checks, bank checks, government checks of all sorts and certified checks. I would like to see [the limitation] really quite low. I think \$1,500 with those exceptions would be good . . .

BY COMMISSIONER EVENCHICK:

It strikes me from what I've heard during these three days that, except for those situations that you've just alluded to, it isn't the business that needs the check casher, it's the individual who needs to be able to cash his \$200, \$100 check quickly and conveniently. It wouldn't trouble me in the least to see a regulation that would simply bar the cashing of business checks or checks made out to businesses.

WITNESS: They're considering that in New York right now to make it part of their statute.

COMMISSIONER EVENCHICK: That would take New Jersey out of the realm of the attractive place to go . . .

WITNESS: Would you be willing to criminalize that? It would [otherwise] be very hard for a regulator to enforce.

COMMISSIONER EVENCHICK: Well, it would seem to me that, when we listened to Chief Dintino and the IRS people and so forth, the organized crime problems need to be addressed in every way we can, and I'm all for criminalizing violations of the law . . . There is nothing in the criminal law right now [to permit prosecution of] people who are doing the things that we've heard are going on.

WITNESS: I'm quoting the testimony that was quoted by Mr. Dintino." They are the "wise guys."

COMMISSIONER EVENCHICK: And I'm all for getting a law on the books as soon as possible that will enable the appropriate prosecuting authorities to go after those people.

Summary and Conclusions

The SCI concluded its public hearing with a statement by Chairman Patterson that summarized the three-day forum's highlights but emphasized the Commission's intention to propose reforms of the check casher regulatory system only after a review of the hearing record and exhibits. Patterson said that this record "leaves no doubt that organized crime has taken profitable advantage of New Jersey check cashers and that illegal and otherwise questionable transactions have become commonplace." His statement will be excerpted here as a recapitulation that should promote an understanding of the basis for the formal reform recommendations that follow:

CHAIRMAN PATTERSON: A recital at this point of merely a few of the revelations disclosed by witnesses confirms that the New Jersey check cashing industry's huge cash flow—it is a billion-dollar business conducted by only 80 or so licensed entrepreneurs—is being tapped at will by mobsters and other unscrupulous individuals, a number from New York, whose objectives include such notorious activities as money laundering, income tax evasion, embezzlement, loansharking, "bust-outs" and other frauds.

For example, we have heard testimony about a factor facing bankruptcy because check cashers cashed phony business receivables amounting to over a million dollars that the factor purchased at a 10 per cent discount.

. . . We have heard witnesses describe how corporate checks cashed at check cashers were used to make kickbacks to a so-called WGA—the abbreviation for "wise guy association," wise guys being underworld jargon for organized crime operatives.

. . . We have heard witnesses describe how corporate checks were cashed at check cashers for the purpose—proven by the SCI's examination of books and records—of diverting "vigorish," the mob word for usurious interest, to underworld loansharks either in this state or across the Hudson River in New York.

. . . We have heard an organized crime associate concede that he has operated for almost 20 years as an unlicensed check casher, all the while promoting schemes through friendly licensed check cashers that had all the elements of check kiting, money laundering and/or loansharking.

. . . We have identified through sworn testimony the operation of at least three State-licensed check cashing outlets which are controlled by an individual with close ties to the Genovese organized crime family in New York.

. . . We have heard testimony linking New Jersey check cashing transactions to possible frauds by importing-exporting companies of a magnitude of a million dollars or more.

. . . We have heard New York mobsters talking—by means of tapes of their conversations

that were recorded during law enforcement surveillances—about utilizing New Jersey check cashers for certain fraudulent purposes and the need to enlist the assistance of a New Jersey check casher confederate.

... We have heard a witness concede that a known mob figure apparently tried to gain control of a check cashing entity by granting him a no-interest, no-pay-back loan and giving him office equipment with which to get started.

... Also, there was the case of the unlicensed check casher, a known organized crime associate, who exploited the State regulatory system as an employee of a licensed check casher.

These and other scenarios that were described under oath at this public forum belied a generally accepted view that the check cashing industry exists only to process the small transactions of people who need to cash government benefit checks or payroll checks but who don't use banks or other financial institutions. Instead, the testimony has confirmed the widespread use of licensed check

cashers' facilities by corporations and obviously cash-loaded individuals who want to avoid the more stringent—and more thoroughly enforced—regulations and laws that govern transactions at banks and other major financial institutions.

And almost all of the large transactions at check cashers spotlighted by public hearing testimony have been tainted by questions of impropriety at best and outright fraud at worst. Indeed, bad checks were accepted on such a repeated basis that some customers obtained easy loans amounting to hundreds of thousands of dollars, which could have been used to finance such mob activities as loansharking or kickbacks. And countless checks for more than \$10,000 were processed without the submission of Currency Transaction Reports, or CTRs, which are required by law primarily to halt money laundering and income tax evasion. Further, countless corporate and other third-party checks have been cashed, an activity that has opened the door to embezzlement and other frauds.

RECOMMENDATIONS FOR REFORMS

As the Commission promised in Chairman Paterson's concluding statement, considerable study took place of the public hearing testimony and the numerous technical and clarifying exhibits upon which certain testimony focused.

While developing its recommendations for improving the regulatory system governing check cashing, the Commission considered a number of approaches that included the possibility, even, of total deregulation. That alternative, however, was quickly abandoned in view of the Commission's investigative findings and public hearing testimony that confirmed the misuse of check cashing entities by organized crime and other unscrupulous elements. The Commission felt that, in view of the circumstances revealed by its hearing record, deregulation might promote rather than stifle such law breaking activities as embezzlement, money laundering, tax evasion, involuntary or "bust-out" bankruptcies, check kiting and other evils involving certain check cashers that have unfairly blackened the reputation of the entire industry.

Following the example set by State Banking Commissioner Parell in her concluding statement on regulatory reforms, the Commission also reviewed other alternatives. These included, as Ms. Parell noted, the possibility of partial deregulation or a two-tier regulatory system that would emphasize State Government's concern that check cashers efficiently and honestly serve their large but special constituency—people who must cash government benefit checks or payroll checks but who don't, won't or can't utilize banks or other established financial institutions for this purpose.

The Commission ultimately decided that its corrective proposals should be designed to 1) protect this traditional, almost captive, non-banking clientele of the check cashing industry, 2) improve the regulatory muscle of the State, and 3) criminalize certain activities in order to enhance law enforcement efforts against the incursion of the industry by organized crime.

The following recommendations for statutory and regulatory reform of the system governing

check cashers are therefore proposed, with one all-important prefacing request: Grant the State Department of Banking sufficient funding to enlarge its inspection and investigation staffs so that, at the very least, a more thorough review of licensing applications can be made and more spot audits of individual check cashing entities can be conducted. The corrective steps proposed by the Commission can be successfully implemented only if the Department is able to monitor the industry more closely than has been the practice.

To curtail the insidious impact of organized crime and fiscal swindlers on the industry, the Check Cashing Law should be strengthened by the enactment of a number of new provisions in the New Jersey Code of Criminal Justice. The Commission urges that the following transactions be made criminal offenses:

1. Any cashing of checks for a fee or gratuity by an unlicensed check casher. (This offense should be graded according to the dollar amount of the checks cashed).
2. Cashing of any check made payable to a payee other than a natural person, thereby eliminating any checks made payable to a business, trade name, trade logo, etc.
3. Operating or utilizing a licensed check casher to further any unlawful activity, including check kiting or other abuses of the float period required by traditional financial institutions for the clearance of checks in transit.
4. Any activity by a person or entity, including banks, which facilitates the commission of a criminal act by a licensed or unlicensed check casher.
5. To further strengthen anti-crime controls over the industry, a criminal money laundering statute should be enacted that would also prohibit check cashing transactions which facilitates criminal activity.

The Legislature should also authorize the Department of Banking to adopt regulations to:

1. Prohibit the cashing of any check in a dollar amount exceeding a specified limit, subject to

exceptions for instruments such as government, certified and insurance checks.

2. Increase penalties for "fee gouging" and strengthen their enforcement.

In addition, the following corrective actions of an administrative nature should be taken:

1. Increase the Banking Department's fees for investigations from the present \$200 per diem for each examiner, depending upon the complexity of an inquiry and the size of the entity under scrutiny.

2. Require that all transactions be either photographed (regiscope) or microfilmed.

3. Require that the check cashing privileges of any customer who presents checks that

bounce more than three times within a year, or who presents bad checks totaling more than \$3,000 during the same period, be suspended and that such incidents be reported in writing to the Department of Banking.

4. Require that licensed check cashers keep books and records, including Currency Transaction Report (CTRs), for a minimum of five years. Require that copies of CTRs be filed with the N.J. Division of Taxation.

5. Require that receipts be given to customers showing the check cashing fee paid and amount of the transaction.

6. Simplify the licensing procedure, primarily to increase the number of check casher licenses.

The SCI investigative team for the inquiry into the check cashing industry was headed by Counsel Charlotte K. Gaal and included Special Agents Marilyn D. Cichowski, Richard S. Hutchinson and William P. Rooney, and Investigative Accountants Arthur A. Cimino, Michael R. Czyzyk and William V. Miller.